

No. 2001-9

AN ACT

HB 26

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for public school employees' retirement and State employees' retirement; defining terms; providing for additional optional classifications for existing members, for new classifications for prospective members and for health insurance for retired school employees; and further providing for creditable school and State service, for creditable nonschool and nonstate service, for eligibility, for vesting, for regular member contributions, for return to service, for payments by employers and the Commonwealth, for termination of annuities, for actuarial cost methods, for member options, for funding of supplemental annuities, for administration, for reports to agencies and members, for applications and elections, for the composition of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, for investment powers of the boards, for management of funds and accounts and for enforcement officers' benefit and supplemental annuity accounts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The General Assembly finds and declares as follows:

(1) This act contains both benefit and administrative pension changes. The benefit changes include an enhancement to the basic benefit formula, a reduction in the vesting requirement, the addition of a new class of benefits for legislators and a change to the current arrangement by which members can combine service credit with both the State Employees' Retirement System and the Public School Employees' Retirement System.

(2) Over the past two decades, both pension funds have experienced investment returns well in excess of expectations. As a result, State and school district contributions have decreased dramatically to less than 1% of payroll for next year. At the same time, employee contributions range from 5% to 6.25% of payroll. The outstanding investment performance has resulted in the pension funds being over 123% funded, compared to current needs. The 4% statutory interest rate the employees receive on their pension accounts has consistently been eclipsed by the actual average returns of the funds over the last two decades and also has been less than available private market interest rates. The fact that employees have been and are projected to continue to contribute at a rate that is materially greater than the employers due to the more than 100% funded status of the plans raises the issue of the extent to which employees should be provided additional benefits. The increase in benefits for State and school employees provided herein will in effect allow them for the first time to share in the outstanding investment performance of the funds. To date, that experience has only benefited the employers through

reduced contributions to the funds. Even with the increases in benefits provided herein, both pension funds are projected to maintain minimal employer contribution rates and at the same time maintain a fully funded status. For at least the next decade, members are projected to continue to contribute at a rate substantially in excess of that required from the employers.

(3) A major change in the manner in which benefits are funded is warranted. Currently, gains or losses related to the funding for benefits are spread over a 20-year time frame. Under this proposed change, these gains or losses will now be spread over a shorter time frame, that being ten years, increasing intergenerational equity by reducing the time elapsed between the service of the members of the systems and the related funding. A similar policy was enacted in 1991 when 30-year funding for the two funds was reduced to 20-year funding.

(4) Participation in the enhanced benefit accrual rate should not be mandatory for current members. Members who elect to participate should have to agree, as provided herein, to increase employee contributions as consideration for their future receipt of enhanced benefits after the termination of service.

(5) The approach set out heretofore was cited as reasonable public pension policy by the Public Employee Retirement Commission in a report released on May 7 of this year. As the commission further noted, certain provisions herein will result in the systems being more closely aligned with similar plans in the private sector and further strengthen the systems' positions relative to Internal Revenue Code compliance.

Section 1.1. The definitions of "active member," "basic contribution rate," "class of service multiplier," "credited service," "inactive member," "salary deductions," "standard single life annuity," "superannuation or normal retirement age" and "vestee" in section 8102 of Title 24 of the Pennsylvania Consolidated Statutes are amended to read:

§ 8102. Definitions.

The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Active member." A school employee for whom pickup contributions are being made to the fund or for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the [limitation] *limitations* under section 401(a)(17) *or 415(b)* of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) *or 415(b)*).

* * *

"Basic contribution rate." [The] *For Class T-A, T-B and T-C service, the rate of 6 1/4%. For Class T-D service, the rate of 7 1/2%. For all*

active members on the effective date of this provision who are currently paying 5 1/4% and elect Class T-D service, the rate of 6 1/2%.

* * *

“Class of service multiplier.”

Class of service	Multiplier
T-A	.714
T-B	.625
T-C	1.000
<i>T-D</i>	<i>1.000</i>

* * *

“Credited service.” School or creditable nonschool service for which the required contributions have been made, or for which the contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) *or 415(b)* of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) *or 415(b)*), or for which salary deductions or lump sum payments have been agreed upon in writing.

* * *

“Inactive member.” A member for whom no pickup contributions are being made, except in the case of an active member for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the ~~[limitation]~~ *limitations* under section 401(a)(17) *or 415(b)* of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) *or 415(b)*), who has accumulated deductions standing to his credit in the fund and for whom contributions have been made within the last two school years or a multiple service member who is active in the State Employees’ Retirement System.

* * *

“Salary deductions.” The amounts certified by the board, deducted from the compensation of an active member *or the State service compensation of a multiple service member who is an active member of the State Employees’ Retirement System* and paid into the fund.

* * *

“Standard single life annuity.” ~~[An]~~ *For Class T-A, T-B and T-C credited service of a member, an annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-D credited service of a member, an annuity equal to 2.5% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service.*

* * *

“Superannuation or normal retirement age.”

Class of service	Age
T-A	62 or any age upon accrual

	of 35 eligibility points
T-B	62
T-C and T-D	62 or age 60 provided the member has at least 30 eligibility points or any age upon accrual of 35 eligibility points

* * *

“Vestee.” A member with [ten] *five* or more eligibility points who has terminated school service, has left his accumulated deductions in the fund[,] and is deferring filing of an application for receipt of an annuity.

Section 1.2. Sections 8302(a), 8303(c), 8304(a) and 8305 of Title 24 are amended to read:

§ 8302. Credited school service.

(a) Computation of credited service.—In computing credited school service of a member for the determination of benefits, a full-time salaried school employee shall receive one year of credit for each school year or the corresponding fraction thereof, in accordance with the proportion of the full school year for which the required regular member contributions have been made, or for which such contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the [limitation] *limitations* under IRC § 401(a)(17) or *415(b)*. A per diem or hourly school employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months in which he is employed and for which contributions are made, or would have been made but for such [limitation] *limitations* under the IRC, for at least 180 full-day sessions or 1,100 hours of employment. If such member was employed and contributions were made for less than 180 full-day sessions or 1,100 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of full-day sessions or hours of service actually rendered to 180 full-day sessions or 1,100 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the service actually rendered in relation to the service required as a comparable full-time salaried employee. In no case shall a member receive more than one year of credited service for any 12 consecutive months or a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

* * *

§ 8303. Eligibility points for retention and reinstatement of service credits.

* * *

(c) Purchase of previous creditable service.—Every active member of the system or a multiple service member who is an active member of the State Employees’ Retirement System on or after the effective date of this part may purchase credit and receive eligibility points:

(1) as a member of Class T-C for previous school service or creditable nonschool service; *or*

(2) *as a member of Class T-D for previous school service, provided the member elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member);*

upon written agreement by the member and the board as to the manner of payment of the amount due for credit for such service; except, that any purchase for reinstatement of service credit shall be for all service previously credited.

§ 8304. Creditable nonschool service.

(a) Eligibility.—An active member or a multiple service member who is an active member of the State Employees' Retirement System shall be eligible to receive Class T-C service credit for creditable nonschool service *and Class T-D service for intervening military service, provided the member elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member)*, as set forth in subsection (b) provided that he is not entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer, or a retirement program approved by the employer in accordance with section 8301(a)(1) (relating to mandatory and optional membership), and further provided that such service is certified by the previous employer and the manner of payment of the amount due is agreed upon by the member, the employer, and the board.

* * *

§ 8305. Classes of service.

(a) Class T-C membership.—A school employee who is a member of Class T-C on the effective date of this part or who becomes a member of the system subsequent to the effective date of this part shall be classified as a Class T-C member, *provided the school employee does not become a member of Class T-D pursuant to subsection (c).*

(b) Other class membership.—A school employee who is a member of a class of service other than Class T-C on the effective date of this part may elect to become a member of Class T-C *or Class T-D* or may retain his membership in such other class until the service is discontinued or he elects to become a full coverage member or elects to purchase credit for previous school or creditable nonschool service. *Any service thereafter shall be credited as Class T-C or T-D service as applicable.*

(c) *Class T-D membership.—*

(1) *A person who becomes a school employee and an active member, or a person who becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection shall be classified as a Class T-D member upon payment of regular member*

contributions. Any prior school service credited as Class T-C service shall be credited as Class T-D service, subject to the limitations contained in paragraph (4).

(2) A school employee who, on the day before and on the effective date of this subsection, is either an active member or an inactive member shall be classified as a Class T-D member and receive credit for Class T-D service performed on or after the effective date of this subsection upon payment of regular member contributions, provided the school employee elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member). A school employee who becomes a Class T-D member shall also receive Class T-D service credit for all Class T-C school service performed before the effective date of this subsection, subject to the limitations contained in paragraph (4).

(3) A former school employee who, on the effective date of this subsection, is a multiple service member who is a State employee and a member of the State Employees' Retirement System shall receive Class T-D service credit for all Class T-C school service performed before the effective date of this subsection, subject to the limitations contained in paragraph (4), provided the former school employee elects to become a Class T-D member pursuant to section 8305.1.

(4) (i) School service performed as Class T-C service before the effective date of this subsection shall be credited as Class T-D service only upon completion of all acts necessary for the school service to be credited as Class T-C service had this subsection not been enacted.

(ii) A person who is not a school employee or a State employee on June 30, 2001, and July 1, 2001, and who has previous school service shall not receive Class T-D service credit for school service performed before July 1, 2001, until the person becomes an active member or an active member of the State Employees' Retirement System and a multiple service member and earns three eligibility points by performing credited school service or State service after June 30, 2001. This subparagraph does not apply to a disability annuitant who returns to school service after June 30, 2001, upon termination of the disability annuity.

Section 1.3. Title 24 is amended by adding a section to read:

§ 8305.1. Election to become a Class T-D member.

(a) General rule.—A person who is:

(1) a member of the system; or

(2) a multiple service member who is a State employee and a member of the State Employees' Retirement System;

and who, on the effective date of this subsection, is eligible for Class T-D membership may elect to become a member of Class T-D.

(b) Time for making election.—*The member must elect to become a Class T-D member by filing a written notice with the board on or before December 31, 2001, or before the termination of school service or State service as applicable, whichever first occurs.*

(c) Effect of election.—*An election to become a Class T-D member shall remain in effect until the termination of employment and shall result in all service which could have been credited as Class T-C service being credited as Class T-D service. Those members who, on the effective date of this section, contribute at the rate of 5 1/4% shall be deemed to have accepted the basic contribution rate of 6 1/2% for all Class T-D service performed on or after January 1, 2002. Those members who, on the effective date of this section, contribute at the rate of 6 1/4% shall be deemed to have accepted the basic contribution rate of 7 1/2% for all Class T-D service performed on or after January 1, 2002.*

(d) Effect of failure to make election.—*If the member fails to timely file an election to become a Class T-D member, then all of the member's Class T-C school service shall be credited as Class T-C service, and said service shall not be eligible for Class T-D service credit upon termination of service and subsequent employment as an active member.*

Section 2. Sections 8306, 8307(b), 8308, 8321, 8323(a), (c), (c.1) and (d), 8324(b), (c) and (d), 8325, 8327(b) and 8328(b), (c), (d) and (e) of Title 24 are amended to read:

§ 8306. Eligibility points.

(a) General rule.—*An active member of the system shall accrue one eligibility point for each year of credited service as a member of the school or State retirement system. A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service under the State Employees' Retirement System. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of an eligibility point.*

(b) Transitional rule.—*For the purposes of the transition:*

(1) *In determining whether a member, other than a disability annuitant who returns to school service after June 30, 2001, upon termination of the disability annuity, who is not a school employee or a State employee on June 30, 2001, and July 1, 2001, and who has previous school service, has the five eligibility points required by the definition of "vestee" in sections 8102 (relating to definitions), 8307 (relating to eligibility for annuities), 8308 (relating to eligibility for vesting) and 8345 (relating to member's options), only eligibility points earned by performing credited school service or credited State service after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited school service or credited State service after June 30, 2001, at which time all eligibility points as determined under subsection (a) shall be counted.*

(2) A member subject to paragraph (1) shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member has at least ten eligibility points determined under subsection (a).

§ 8307. Eligibility for annuities.

(b) **Withdrawal annuity.**—A vestee with [ten] *five* or more eligibility points or an active or inactive member who terminates school service having [ten] *five* or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

§ 8308. Eligibility for vesting.

Any member who terminates school service with [ten] *five* or more eligibility points shall be entitled to vest his retirement benefits until attainment of superannuation age.

§ 8321. Regular member contributions for current service.

Regular member contributions shall be made to the fund on behalf of each active member for current service except for any period of current service in which the making of such contributions has ceased solely by reason of any provision of this part relating to the [limitation] *limitations* under IRC § 401(a)(17) *or 415(b)*.

§ 8323. Member contributions for creditable school service.

(a) **Previous school service, sabbatical leave and full coverage.**—The contributions to be paid by an active member or an eligible State employee for credit for reinstatement of all previously credited school service, school service not previously credited, sabbatical leave as if he had been in full-time daily attendance, or full-coverage membership shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as Class T-C service *or Class T-D service if the member is a Class T-D member* and had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent school and State service up to the date of purchase.

(c) **Approved leave of absence other than sabbatical leave and activated military service leave.**—The contributions to be paid by an active member for credit for an approved leave of absence, other than sabbatical leave and activated military service leave, shall be sufficient to transfer his membership to Class T-C *or to Class T-D if the member is a Class T-D member* and further to provide an annuity as a Class T-C member *or Class T-D member if the member is a Class T-D member* for such additional credited service. Such amount shall be the sum of the amount required in accordance with the provisions of subsection (b) and an amount determined

as the sum of the member's basic contribution rate and the normal contribution rate as provided in section 8328 (relating to actuarial cost method) during such period multiplied by the compensation which was received or which would have been received during such period and with statutory interest during all periods of subsequent school and State service up to the date of purchase.

(c.1) Activated military service leave.—The contributions to be paid by an active member for credit for all activated military service leave as if he had been in regular attendance in the duties for which he is employed shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as *Class T-C service or Class T-D service if the member is a Class T-D member* and had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent State and school service up to the date of purchase. In the case of activated military service leave beginning after the date of enactment of this subsection, contributions due from the member shall be made as if he is in regular attendance in the duties for which he is employed.

(d) Certification and payment of contributions.—

(1) In all cases other than for the purchase of credit for sabbatical leave and activated military service leave beginning before the effective date of paragraph (2), the amount payable shall be certified by the board in accordance with methods approved by the actuary and may be paid in a lump sum within 90 days or[,] in the case of an active member[,] *or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions [or by personal checks] in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.*

(2) In the case of activated military service leave beginning before the effective date of this paragraph, the amount payable may be paid according to this subsection or subsection (c.1), but all lump sum payments must be made [and all amortization payments commenced] within one year of the termination of activated military service leave.

§ 8324. Contributions for purchase of credit for creditable nonschool service.

* * *

(b) Nonintervening military service.—The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 (relating to actuarial cost method) at the time of entry of the member into school service subsequent to such military service to one-third of his total compensation received during the first three years of such subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member *or an eligible State employee who is an active member of the State Employees' Retirement System* it may be amortized with statutory interest through salary deductions [or by personal checks] in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.* Application may be filed for all such military service credit upon completion of three years of subsequent credited school service and shall be credited as Class T-C service.

(c) Intervening military service.—Contributions on account of credit for intervening military service shall be determined by the member's basic contribution rate and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon application for such credit the amount due shall be certified in the case of each member by the board, in accordance with methods approved by the actuary, and contributions may be made by one of the following methods:

- (1) Regular monthly payments during active military service.
- (2) A lump sum payment within 90 days of certification of the amount due.
- (3) Salary deductions [or personal checks] in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by the members and the board may include a deferral of payment amounts and statutory interest until the termination of school*

service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(d) Other creditable nonschool service.—Contributions on account of Class T-C credit for creditable nonschool service other than military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's entry into school service subsequent to such creditable nonschool service to his total compensation received during the first year of subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonschool service being purchased together with statutory interest during all periods of subsequent school or State service to the date of purchase, except that in the case of purchase of credit for creditable nonschool service as set forth in section 8304(b)(5) (relating to creditable nonschool service) the member shall pay only the employee's share unless otherwise provided by law. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member *or an eligible State employee who is an active member of the State Employees' Retirement System* it may be amortized with statutory interest through salary deductions [or by personal checks] in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by the members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.*

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§ 8325. Incomplete payments.

In the event that a member terminates school service *or a multiple service member who is an active member of the State Employees' Retirement System terminates State service* before any agreed upon payments *or return of benefits on account of returning to school service or entering State service and electing multiple service* have been completed, the member *or multiple service member who is an active member of the State Employees' Retirement System* shall have the right to pay within 30 days of termination of school service *or State service* the balance due, including interest, in a lump sum, and the annuity shall be

calculated including full credit for the previous school service, creditable nonschool service, or full-coverage membership. In the event a member does not pay the balance due within 30 days of termination of school service or in the event a member dies in school service or within 30 days of termination of school service *or in the case of a multiple service member who is an active member of the State Employees' Retirement System does not pay the balance due within 30 days of termination of State service or dies in State service or within 30 days of termination of State service* and before the agreed upon payments have been completed, the present value of the benefit otherwise payable shall be reduced by the balance due, including interest, and the benefit payable shall be calculated as the actuarial equivalent of such reduced present value.

§ 8327. Payments by employers.

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(b) Deduction from appropriations.—

(1) To facilitate the payment of amounts due from any employer to the fund through the State Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund from the amount of any moneys due to any employer on account of any appropriation for schools or other purposes [such amount due] *amounts equal to the employer and pickup contributions which an employer is required to pay to the fund*, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the employer[, and such]. *Such* amount shall be credited to the [employer's account] *appropriate accounts* in the fund.

(2) *To facilitate the payments of amounts due from any charter school, as defined in Article XVII-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, to the fund through the State Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund from any funds appropriated to the Department of Education for basic education of the chartering school district of a charter school and public school employees' retirement contributions amounts equal to the employer and pickup contributions which a charter school is required to pay to the fund, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the chartering school district or charter school. Such amounts shall be credited to the appropriate accounts in the fund. Any reduction in payments to a chartering school district made pursuant to this section shall be deducted from the amount due to the charter school district pursuant to the Public School Code of 1949.*

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§ 8328. Actuarial cost method.

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(b) Normal contribution rate.—The normal contribution rate shall be determined after each actuarial valuation. Until all accrued liability contributions have been completed, the normal contribution rate shall be determined, on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board in accordance with generally accepted actuarial principles, as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through the entire period of active school service, would be sufficient to fund the liability for any prospective benefit payable to him, in excess of that portion funded by his prospective member contributions, except for the supplemental benefits provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities) [and], 8348.3 (relating to supplemental annuities commencing 1994), *8348.4 (relating to special supplemental postretirement adjustment) and 8348.5 (relating to supplemental annuities commencing 1998)*.

(c) Accrued liability contribution rate.—For the fiscal year beginning July 1, [1991] *2002*, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of [20] *ten* years from July 1, [1991] *2002*, the present value of the liabilities for all prospective benefits of active members, except for the supplemental benefits provided in sections 8348, 8348.1, 8348.2 [and], 8348.3, *8348.4 and 8348.5*, in excess of the total assets in the fund, excluding the balance in the annuity reserve account, and of the present value of normal contributions and of member contributions payable with respect to all active members on July 1, [1991] *2002*, during the remainder of their active service. Thereafter, the amount of each annual accrued liability contribution shall be [5% *greater than*] *equal to* the amount of such contribution for the [previous] fiscal year, *beginning July 1, 2002*, except that, if the accrued liability is increased by legislation enacted subsequent to [July 1, 1991] *June 30, 2002*, such additional liability shall be funded over a period of [20] *ten* years from the first day of July, coincident with or next following the effective date of the increase[, *provided that the liability for any additional benefits created by this act, except for the health insurance premium assistance program established in section 8509 (relating to health insurance premium assistance program), shall be funded over a period of 20 years commencing July 1, 1992*]. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be [5% *greater than*] *equal to* the amount of such contribution for the [previous fiscal year] *first annual payment*.

(d) Supplemental annuity contribution rate.—Contributions from the Commonwealth and other employers required to provide for the payment of the supplemental annuities provided for in sections 8348, 8348.1 [and], 8348.2, 8348.4 and 8348.5 shall be paid over a period of [20] *ten* years from July 1, [1991] *2002*. The amount of each annual supplemental annuities contribution shall be [5% greater than] *equal to* the amount of such contribution for the [previous] fiscal year *beginning July 1, 2002*. In the event that supplemental annuities are increased by legislation enacted subsequent to [July 1, 1991] *June 30, 2002*, the additional liability for the increased benefits shall be funded in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years from the July 1, coincident with or next following the effective date of such legislation. [Notwithstanding the preceding, the funding for the supplemental annuities commencing 1994 provided for in section 8348.3 shall be as provided in section 8348.3(f).]

(e) Experience adjustment factor.—For each year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, [1991] *2002*, any increase or decrease in the accrued liability (including liability for supplemental annuities) due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years beginning with the July 1 second succeeding the actuarial valuation.

* * *

Section 2.1. Sections 8342 and 8344 of Title 24 are amended by adding subsections to read:

§ 8342. Maximum single life annuity.

* * *

(c) *Limitation regarding annual benefit under IRC § 415(b).*—*Notwithstanding any provision of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415(b) in effect with respect to governmental plans, as such term is defined in IRC § 414(d), on the date the benefit payment becomes effective.*

§ 8344. Disability annuities.

* * *

(e) *Limitation regarding annual benefit under IRC § 415(b).*—*Notwithstanding any provision of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415(b) in effect with respect to governmental plans, as such term is defined in IRC § 414(d), on the date the benefit payment becomes effective.*

Section 2.2. Section 8345(a) of Title 24 is amended to read:
§ 8345. Member's options.

(a) General rule.—Any vestee with ~~[ten]~~ *five* or more eligibility points or any other eligible member upon termination of school service who has not withdrawn his accumulated deductions as provided in section 8341 (relating to return of accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 8342 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options, except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse or alternate payee of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity.

(1) Option 1.—A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.—A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.—A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.—Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) Any annuity shall be payable without reduction during the lifetime of the member.

(ii) The sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member.

(iii) A portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 8342(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) of this paragraph.

* * *

Section 3. Section 8346(a) and (d) of Title 24 are amended and the section is amended by adding a subsection to read:

§ 8346. Termination of annuities.

(a) General rule.—If an annuitant returns to school service or enters *or has entered* State service and elects multiple service membership, any annuity payable to him under this part shall cease *effective upon the date of his return to school service or entering State service* and in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. An annuitant who is credited with an additional 10% of membership service as provided in section 8302(b.2) (relating to credited school service) and who returns to school service, except as provided in subsection (b), shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979, occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service.

(a.1) Return of benefits.—In the event an annuitant whose annuity ceases pursuant to this section receives any annuity payment, including a lump sum payment pursuant to section 8345 (relating to member's options) on or after the date of his return to school service or entering State service, the annuitant shall return to the board the amount so received plus statutory interest. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 90 days or in the case of an active member or a State employee who is an active member of the State Employees' Retirement System may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. In the case of a State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(d) Elimination of the effect of frozen present value.—

(1) An annuitant who returns to school service and earns three eligibility points by performing credited school service following the most recent period of receipt of an annuity under this part, or an annuitant who enters State service and:

(i) is a multiple service member; or

(ii) who elects multiple service membership, and

earns three eligibility points by performing credited State service or credited school service following the most recent period of receipt of an

annuity under this part, and who had the present value of his annuity frozen in accordance with subsection (a), shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct.

(2) Upon subsequent discontinuance of service and the filing of an application for an annuity, a former annuitant who qualifies to have the effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:

(i) an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred, *adjusted by crediting Class T-C school service as Class T-D service as provided for in section 8305(c) (relating to classes of service) and further* adjusted according to paragraph (3), provided that a former annuitant of the system or a former annuitant of the State Employees' Retirement System who retired under a provision of law granting additional service credit if termination of school or State service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement; or

(ii) an annuity (prior to optional modification) calculated as if the former annuitant did not qualify to have the effect on the frozen present value eliminated,

unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement that the former annuitant wishes to receive the lower annuity.

(3) In addition to any other adjustment to the present value of the maximum single life annuity that a member may be entitled to receive that occurs as a result of any other provision of law, the present value of the maximum single life annuity shall be reduced by all amounts paid or payable to him during all previous periods of retirement plus interest on these amounts until the date of subsequent retirement. The interest for each year shall be calculated based upon the annual interest rate adopted for that school year by the board for the calculation of the normal contribution rate pursuant to section 8328(b) (relating to actuarial cost method).

Section 4. Sections 8348.1(f), 8348.2(f), 8348.3(f), 8348.5(f), 8501(a) and (b), 8502(m) and 8502.1 of Title 24 are amended to read:

§ 8348.1. Additional supplemental annuities.

* * *

(f) Funding.—The actuary shall annually certify the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of [20] *ten* years from July 1, [1991] 2002, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's certification to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1984, the amount certified is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 8348.2. Further additional supplemental annuities.

* * *

(f) Funding.—The actuary shall annually estimate the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of [20] *ten* years from July 1, [1991] 2002, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's estimation to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1988, the amount estimated is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 8348.3. Supplemental annuities commencing 1994.

* * *

(f) Funding.—[Notwithstanding section 8328(d) (relating to actuarial cost method), the] *The* additional liability for the increase in benefits provided in this section shall be funded in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years beginning July 1, [1995] 2002.

* * *

§ 8348.5. Supplemental annuities commencing 1998.

* * *

(f) Funding.—[Notwithstanding section 8328 (relating to actuarial cost method), the] *The* additional liability for the increase in benefits provided in this section shall be funded in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years beginning July 1, [1998] 2002. Notwithstanding the provisions of section 212 of the act of April 22, 1998 [(P.L. , No.6A)] (*P.L.1341, No.6A*), known as the General Appropriation Act of 1998, regarding payment for cost-of-living

increases for annuitants, payments for cost-of-living increases for annuitants shall be made under section 8535 (relating to payments to school entities by Commonwealth).

* * *

§ 8501. Public School Employees' Retirement Board.

(a) Status and membership.—The board shall be an independent administrative board and shall consist of 15 members: the Secretary of Education, ex officio; the State Treasurer, ex officio; two Senators; two members of the House of Representatives; the executive secretary of the Pennsylvania School Boards Association, ex officio; two to be appointed by the Governor, at least one of whom shall not be a school employee or an officer or employee of the State; three to be elected by the active professional members of the system from among their number; one to be elected by annuitants from among their number; one to be elected by the active nonprofessional members of the system from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and nonlegislative elected members shall be three years. The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of [the terms for which they were elected.] *their legislative terms and shall continue to serve until 30 days after the convening of the next regular session of the General Assembly after the expiration of their respective legislative terms or until a successor is appointed for the new term, whichever occurs first.* The chairman of the board shall be elected by the board members. Each ex officio member of the board and each legislative member of the board may appoint a duly authorized designee to act in his stead.

(b) [Appointment and terms of initial members.—For the purposes of securing an orderly transition and staggered terms, the elected members of the board serving on the effective date of this part shall serve until the expiration of their respective terms. The board member initially elected by members of Pennsylvania public school boards shall serve until January 1, 1976. The board member initially elected by the active nonprofessional members of the system shall serve until January 1, 1977. One of the initial board members appointed by the Governor after the effective date of this part shall serve until January 1, 1976 and the second appointed board member shall serve until January 1, 1977.] *Vacancies.*—A vacancy occurring during the term of any member shall be

filled for the unexpired term by a successor appointed or elected as the case may be in the same manner as his predecessor.

* * *

§ 8502. Administrative duties of board.

* * *

(m) Member contributions and interest.—The board shall cause each member's contributions, including payroll deductions, pickup contributions and all other payments, *including, but not limited to, amounts collected by the State Employees' Retirement System for the reinstatement of previous school service or creditable nonschool service and amounts paid to return benefits paid after the date of return to school service or entering State service representing lump sum payments made pursuant to section 8345(a)(4)(iii) (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 8346(a.1) (relating to termination of annuities)*, to be credited to the account of such member and shall pay all such amounts into the fund. Such contributions shall be credited with statutory interest until date of termination of service, except in the case of a vestee, who shall have such interest credited until the effective date of retirement or until the return of his accumulated deductions, if he so elects; and in the case of a multiple service member who shall have such interest credited until termination of service in both the school and the State systems.

* * *

[§ 8502.1. Health insurance.

(a) Authority.—The board may sponsor a participant-funded group health insurance program for annuitants, spouses of annuitants, survivor annuitants and their dependents. The board may promulgate regulations regarding the prudent and efficient operation of the program, including, but not limited to:

- (1) Establishment of an annual budget and disbursements in accordance with the budget.
- (2) Determination of the benefits structure.
- (3) Determination of enrollment procedures.
- (4) Establishment of premium rates sufficient to fully fund the program, including administrative expenses.
- (5) Contracting for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

(b) Separate account.—All funds related to the health insurance program shall be maintained and accounted for separately from the Public School Employees' Retirement Fund.

(c) Operation.—The board may establish and operate the program through a lawfully authorized entity.

(d) Additional requirements.—The assets of the fund shall not be liable or utilized for payment of any expenses or claims incurred by the health insurance program. The program shall be an approved health

insurance program for purposes of section 8505(i) (relating to duties of board regarding applications and elections of members) and an approved insurance carrier for purposes of section 8509 (relating to health insurance premium assistance program). The program shall not be subject to the provisions of section 8531 (relating to State guarantee).]

Section 4.1. Title 24 is amended by adding a section to read:

§ 8502.2. Health insurance.

(a) Authority.—*The board may sponsor a participant-funded group health insurance program for annuitants, spouses of annuitants, survivor annuitants and their dependents. The board may promulgate regulations regarding the prudent and efficient operation of the program, including, but not limited to:*

(1) Establishment of an annual budget and disbursements in accordance with the budget.

(2) Determination of the benefits structure.

(3) Determination of enrollment procedures.

(4) Establishment of premium rates sufficient to fully fund the program, including administrative expenses.

(5) Contracting for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

(b) Separate account.—*All funds related to the health insurance program shall be maintained and accounted for separately from the Public School Employees' Retirement Fund.*

(c) Operation.—*The board may establish and operate the program through a lawfully authorized entity.*

(d) Additional requirements.—*The assets of the fund shall not be liable or utilized for payment of any expenses or claims incurred by the health insurance program. The program shall be an approved health insurance program for purposes of section 8505(i) (relating to duties of board regarding applications and elections of members) and an approved insurance carrier for purposes of section 8509 (relating to health insurance premium assistance program). The program shall not be subject to the provisions of section 8531 (relating to State guarantee).*

Section 4.2. Sections 8503(a) and 8504(b) of Title 24 are amended to read:

§ 8503. Duties of board to advise and report to employers and members.

(a) Manual of regulations.—*The board shall, with the advice of the Attorney General and the actuary, prepare, within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part for the employers who shall make information contained therein available to the general membership. The board shall thereafter advise the employers within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. As soon as practicable after the commissioner's*

publication with respect thereto, the board shall also advise the employers as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a)(17) *and the dollar amounts of the limitations under IRC § 415(b)*.

* * *

§ 8504. Duties of board to report to State Employees' Retirement Board.

* * *

(b) Multiple service membership of State employees.—Upon receipt of notification from the State Employees' Retirement Board that a former school employee has become an active member in the State Employees' Retirement System and has elected to receive credit for multiple service, the board shall certify to the State Employees' Retirement Board and concurrently to the member:

(1) The total credited service in the system and the number of years and fractional part of a year of service credited in each class of service.

(2) The annual compensation received each school year by the member for credited school service.

(3) *The amount of the deductions and the period over which they are to be made if the member has elected payroll deductions pursuant to section 8323 (relating to member contributions for creditable school service) or 8324 (relating to contributions for purchase of credit for creditable nonschool service).*

* * *

Section 5. Section 8505(b) of Title 24 is amended and the section is amended by adding a subsection to read:

§ 8505. Duties of board regarding applications and elections of members.

* * *

(b) State employees electing multiple service status.—Upon receipt of notification from the State Employees' Retirement Board that a former school employee has become an active member in the State Employees' Retirement System and has elected to become a member with multiple service status, the board shall:

(1) In case of a member who is receiving an annuity from the system[, **discontinue**]:

(i) *Discontinue* payments, transfer the present value[, **at that time,**] of the member's annuity *at the time of entering State service, plus the amount withdrawn in a lump sum payment, on or after the date of entering State service, pursuant to section 8345 (relating to member's options), with statutory interest to date of transfer, minus the amount to be returned to the board on account of return to service that the board has determined is to be credited in the members' savings account,* from the annuity reserve account to the members' savings account and resume crediting of statutory interest on the amount restored to his credit [**and transfer**].

(ii) *Transfer the balance of the present value of the total annuity, minus the amount to be returned to the board on account of return to service that the board has determined is to be credited in the State accumulation account, from the annuity reserve account to the State accumulation account.*

(iii) *Certify to the member the amount of lump sum and annuity payments with statutory interest the member is to return to the board and, of those amounts, which amount shall be credited to the members' savings account and credited with statutory interest as such payments are returned and which amount shall be credited to the State accumulation account.*

(2) In case of a member who is not receiving an annuity from the system and who has not withdrawn his accumulated deductions, continue or resume the crediting of statutory interest on his accumulated deductions.

(3) In case of a member who is not receiving an annuity from the system and his accumulated deductions were withdrawn, certify to the member the accumulated deductions as they would have been at the time of his separation had he been a full coverage member together with statutory interest for all periods of subsequent State and school service to the date of repayment. Such amount shall be restored by him and shall be credited with statutory interest as such payments are restored.

* * *

(k) School employees electing multiple service status.—Upon receipt of notification from the State Employees' Retirement Board that a member who has elected multiple service membership has elected to restore State service or purchase creditable nonstate service in the State Employees' Retirement System or is obligated to return benefits to the State Employees' Retirement Board on account of electing multiple service membership has elected to pay all or part of the amount due to the State Employees' Retirement Board by salary deductions, the board shall collect from the employee the amounts certified by the State Employees' Retirement Board as due and owing by the member and shall certify and transfer to the State Employees' Retirement Board the amounts so collected.

Section 6. Sections 8506(c), (g) and (h), 8507(c) and (g), 8509(b), 8521(h), (i) and (j) and 8525(a) of Title 24 are amended to read:

§ 8506. Duties of employers.

* * *

(c) Member and employer contributions.—The employer shall certify to its treasurer the required member contributions picked up and any other contributions, *including, but not limited to, amounts collected for the State Employees' Retirement Board for the reinstatement of previous State service or creditable nonstate service and amounts paid to return benefits paid after the date of return to State service or entering school*

service, deducted from each payroll. On July 1, 1996, and upon any later effective date of employment of any noneligible member to whom [limitation] *limitations* under IRC § 401(a)(17) *or 415(b)* applies or is expected to apply, the employer shall identify to its treasurer or other payroll administrator the member or members to whom such limit applies or may apply and shall cause any such member's contributions deducted from payroll and the employer's contribution on his behalf to cease at the [limitation] *limitations* under IRC § 401(a)(17) *or 415(b)* on the payroll date if and when such limit shall be reached. The treasurer shall remit to the secretary of the board each month the total of the member contributions and the amount due from the employer determined in accordance with section 8327 (relating to payments by employers). If, upon crediting the remittance of a noneligible member's contributions to the member's savings account, the board shall determine that such account shall have been credited with pickup contributions attributable to compensation which is in excess of the annual compensation limit under IRC § 401(a)(17) *or 415(b)*, or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation on contributions or benefits under IRC § 401(a)(17) *or 415(b)*, the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions not to exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

* * *

(g) Former State employee contributors.—The employer shall, upon the employment of a former member of the State Employees' Retirement System who is not an annuitant of the State Employees' Retirement System, advise such employee of his right to elect multiple service membership within [30] 365 days of entry into the system and, in the case any such employee who so elects has withdrawn his accumulated deductions, require him to restore his accumulated deductions as they would have been at the time of his separation had he been a full coverage member, together with statutory interest for all periods of subsequent State and school service to date of repayment. The employer shall advise the board of such election.

(h) Former State employee annuitants.—The employer shall, upon the employment of an annuitant of the State Employees' Retirement System who applies for membership in the system, advise such employee that he may elect multiple service membership within [30] 365 days of entry into the system and that if he so elects his annuity from the State Employees' Retirement System will be discontinued *effective upon the date of his return to school service* and, upon termination of school service and application for an annuity, the annuity will be adjusted in accordance with section 8346 (relating to termination of annuities). The employer shall advise the board of such election.

* * *

§ 8507. Rights and duties of school employees and members.

* * *

(c) Multiple service membership.—Any active member who was formerly an active member in the State Employees' Retirement System may elect to become a multiple service member. Such election shall occur no later than [30] 365 days after becoming an active member in this system.

* * *

(g) Vesting of retirement rights.—If a member elects to vest his retirement rights, he shall nominate a beneficiary by written designation filed with the board and he may anytime thereafter withdraw the accumulated deductions standing to his credit or, if he has [ten] five or more eligibility points, apply for an annuity.

* * *

§ 8509. Health insurance premium assistance program.

* * *

(b) Amount of premium assistance.—[Effective July 1, 1992, participating] *Participating* eligible annuitants shall receive premium assistance payments [of \$55 per month or the actual monthly premium, whichever is less] *as provided in paragraphs (1) and (2)*. Such payments shall be made by the board to the participating eligible annuitants for their payment directly to their approved insurance carriers. Such payments may also be paid by the board, at the board's discretion, directly to the participating eligible annuitants' approved insurance carriers. The board shall have the right to verify the application and receipt of the payments by the participating eligible annuitants and their approved insurance carriers. *The premium assistance payments are as follows:*

(1) *Effective July 1, 1992, \$55 per month or the actual monthly premium, whichever is less.*

(2) *Effective January 1, 2002, \$100 per month or the actual monthly premium, whichever is less.*

* * *

§ 8521. Management of fund and accounts.

* * *

(h) Venture capital[.—Venture capital investments shall be limited to not more than 2% of the book value of the total assets of the fund as determined for financial statement purposes as of June 30 next preceding the date of investment. An investment shall be deemed a venture capital investment if it results in the acquisition of equity interests or a combination of debt and equity interests in a business which is expected to grow substantially in the future and in which the expected return on investment is to come predominantly from an increase in value of the equity interests and are not interests in or secured by real estate. A venture capital investment may be made only if, in the judgment of the board, the investment is reasonably likely to

enhance the general welfare of this Commonwealth and its citizens and meets the standard of prudence set forth in subsection (a). In determining whether the investment meets the standard of prudence, the board may consider, together with the expected return on and the risk characteristics of the particular investment, the actual and expected future returns and the risk characteristics of the total venture capital investments held by the board at the time and the degree to which the proposed new investment would promote further diversification within the venture capital asset class.], *private placement and alternative investments.*—*The board in its prudent discretion may make any venture capital investment, private placement investment or other alternative investment of any kind, structure or manner which meets the standard of prudence set forth in subsection (a).*

(i) Vehicles for authorized investments.—The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by [becoming a limited partner in partnerships that will hold such investments, or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the separate accounts of any insurance company authorized to do business in this Commonwealth, or by acquiring stocks or shares or units of participation or otherwise participating beneficially in the fund of any corporation or trust organized or created and existing under the laws of the United States or of any state, district or territory thereof which fund is maintained for and consists of assets of employees' benefit trusts, including governmental plans as defined in IRC § 414(d) or which meet the requirements for qualification under IRC § 401] *acquiring any type of interest in a business organization existing under the laws of any jurisdiction*, provided that, in any such case, the liability of the Public School Employees' Retirement Fund shall be limited to the amount of its investment.

(j) Legislative declaration concerning certain authorized investments.—The General Assembly finds and declares that authorized investments of the fund made by or on behalf of the board under this section whereby the board becomes a joint owner or stockholder in any company, corporation [or], association *or other lawful business organization* are outside the scope of the original intent of and [therefor] *therefore* do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

§ 8525. Annuity reserve account.

(a) Credits and charges to account.—The annuity reserve account shall be the ledger account to which shall be credited the reserves held for the payment of annuities and death benefits on account of all annuitants and the contributions from the Commonwealth and other employers as determined in accordance with section 8328 (relating to actuarial cost method) for the payment of the supplemental annuities provided in sections 8348 (relating

to supplemental annuities), 8348.1 (relating to additional supplemental annuities) [and], 8348.2 (relating to further additional supplemental annuities), *8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment) and 8348.5 (relating to supplemental annuities commencing 1998)*. The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 8523 (relating to members' savings account) and 8524 (relating to State accumulation account), all annuity and death benefit payments shall be charged to the annuity reserve account and paid from the fund.

* * *

Section 7. Title 24 is amended by adding a part to read:

PART V
HEALTH INSURANCE FOR RETIRED SCHOOL EMPLOYEES

Chapter

- 87. Preliminary Provisions
- 89. Group Health Insurance Program
- 91. Miscellaneous Provisions

CHAPTER 87
PRELIMINARY PROVISIONS

Sec.

- 8701. Short title of part.
- 8702. Definitions.

§ 8701. Short title of part.

This part shall be known and may be cited as the Public School Retirees' Health Insurance Act.

§ 8702. Definitions.

(a) General rule.—Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Eligible person.” An individual who is an annuitant or survivor annuitant or the spouse or dependent of an annuitant or survivor annuitant.

“Fund.” The Public School Retirees' Health Insurance Fund.

“Plan year.” The period July 1, 2001, through December 31, 2001, shall be the first plan year. After December 31, 2001, the plan year shall be the calendar year.

“Program.” The group health insurance program that may be sponsored by the Public School Employees' Retirement Board under this part.

“Reserve account.” The restricted receipt account established in section 8902(b) (relating to Public School Retirees' Health Insurance Fund).

(b) Additional terms.—Any term used in this part not defined in subsection (a) shall be governed by the definitions given in Part IV (relating to retirement for school employees), and the definitions set forth in Part IV shall be deemed to be incorporated into this part.

CHAPTER 89
GROUP HEALTH INSURANCE PROGRAM

Sec.

8901. Administration.

8902. Public School Retirees' Health Insurance Fund.

8903. Management of fund.

§ 8901. Administration.

The board may sponsor a group health insurance program to be funded by and for eligible persons. The board may administer the program itself or through any legal entity authorized by law to do so. The program may also be administered in whole or in part on a fully insured or self-funded basis at the board's sole discretion. In addition to the powers granted by other provisions of this part, the board shall have the powers necessary or convenient to carry out this part, including, but not limited to, the power to:

(1) Set and adjust premium rates sufficient to maintain the adequacy of the reserve established by this part and to fully fund the benefits offered by and to pay for the administrative expenses related to the program.

(2) Determine and make necessary changes to the benefit structure for the program.

(3) Determine enrollment procedures.

(4) Impose and collect necessary fees and charges.

(5) Establish an annual budget for the program and make disbursements from the fund that are consistent with the budget.

(6) Contract for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

(7) Provide for an annual audit of the fund and the program by an independent certified public accounting firm.

(8) Terminate the program or any portion of the program at any time if, in the board's discretion, it is prudent to do so.

(9) Solicit and accept gifts, grants, loans and other aid from any person, corporation or other legal entity or from the Federal, State or local government and participate in any Federal, State or local government program if necessary for prudent management of the program.

(10) Hear and determine any claims and controversies under this part under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). The board's jurisdiction under this paragraph shall be exclusive.

(11) Promulgate rules and regulations regarding the program.

§ 8902. Public School Retirees' Health Insurance Fund.

(a) Establishment of fund.—The Public School Retirees' Health Insurance Fund is established in the State Treasury. The moneys of the fund are appropriated on a continuing basis and shall be used exclusively for the purposes set forth in this part. All of the assets of the fund shall be maintained and accounted for, separate from all other funds and moneys of the Commonwealth and the Public School Employees' Retirement Fund identified in section 8522 (relating to Public School Employees' Retirement Fund).

(b) Reserve account.—

(1) A restricted reserve account is established within the fund for the purpose of establishing and maintaining a reserve sufficient to pay the expected claims experience of the program in the event the board elects to self-fund all or a portion of the program for any plan years. For the plan year 2002 and each plan year thereafter, the board shall annually establish through an actuary retained by the board the amount necessary, if any, to maintain this reserve in the event the board elects to self-fund all or a portion of the program for any plan years. Any moneys needed to maintain the reserve established by this subsection shall be collected through the adjustment of premium rates or through other available sources.

(2) The moneys in the reserve account may be invested by the board separate from other moneys of the fund. All earnings derived from investment of the assets of the reserve account shall be credited to the reserve account.

(c) Transfers.—The board may transfer moneys among the various accounts of the fund, including the reserve account established by subsection (b), as may be necessary to satisfy the provisions of this part. Transfers from the reserve account may be made only for the payment of claims or expected claims as determined by the actuary retained by the board.

(d) Administration.—The assets of the fund shall be preserved, invested and expended solely pursuant to and for the purposes set forth in this part.

(e) Composition.—The fund shall consist of:

(1) All payments made by eligible persons or received from the health insurance account established by section 8526 (relating to health insurance account) and all interest, earnings and additions thereto.

(2) Any other money, public or private, appropriated or made available to the board for the fund or the reserve account from any source and all interest, earnings and additions thereto.

§ 8903. Management of fund.

(a) Control and management of fund.—The members of the board shall be the trustees of the fund. Regardless of any other provisions of law governing the investment of funds under the control of an administrative

board of the State government, the trustees shall have exclusive control and management of the fund and full power to invest the fund in accordance with the provisions of this section, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the fund, considering the probable income to be derived therefrom as well as the probable safety of their capital. The trustees shall have the power to hold, purchase, sell, lend, assign, transfer or dispose of any of the securities and investments in which any of the moneys in the fund shall have been invested as well as of the proceeds of the investments, including, but not limited to, directed commissions which have accrued to the benefit of the fund as a consequence of the investments and of the moneys belonging to the fund, subject in every case to meeting the standard of prudence set forth in this section.

(b) Custodian of fund.—The State Treasurer shall be the custodian of the fund.

(c) Payment from fund.—All payments from the fund shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the board or the secretary's designees and ratified by resolution of the board. The board shall reimburse the State Treasurer for the cost of making disbursements from the fund in the manner provided by law.

CHAPTER 91 MISCELLANEOUS PROVISIONS

Sec.

9101. Status of program relative to Public School Employees' Retirement Code.

9102. Construction of part.

§ 9101. Status of program relative to Public School Employees' Retirement Code.

(a) General rule.—The program shall be an approved health insurance program for purposes of section 8505(i) (relating to duties of board regarding applications and elections of members) and shall be an approved insurance carrier for purposes of section 8509 (relating to health insurance premium assistance program).

(b) State guarantee.—The program shall not be subject to the provisions of section 8531 (relating to State guarantee).

(c) Hold harmless.—Neither the Commonwealth nor the board, including their respective officers, directors and employees, shall be liable for any claims, demands, actions or liability of any nature, including, but not limited to, attorney fees and court costs, based upon or arising out of the operation of the program, whether incurred directly or indirectly. The eligible participants who enroll and participate in the program shall be

deemed to agree, on behalf of themselves and their heirs, successors and assigns, to hold harmless the Commonwealth and the board, including their respective officers, directors and employees, from any claims, demands, actions or liability of any nature, whether directly or indirectly, including attorney fees and court costs, based upon or arising out of the operation of the program.

(d) No recourse.—Under no circumstances shall the assets of the Commonwealth or those that comprise the Public School Employees' Retirement Fund as set forth in section 8522 (relating to Public School Employees' Retirement Fund) be liable for or used to pay any claims, demands, actions or liability of any nature, whether directly or indirectly, including, but not limited to, attorney fees and court costs, based upon or arising out of the operation of the program.

(e) Reservation of immunities.—Nothing contained in this part shall be construed as a waiver of the Commonwealth's or board's immunities, defenses, rights or actions arising out of their sovereign status or from the Eleventh Amendment to the Constitution of the United States.

§ 9102. Construction of part.

(a) General rule.—No provision of this part shall be construed as a cancellation of any existing health insurance program operated by the board or referenced in section 32 of the act of August 5, 1991 (P.L.183, No.23), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for the Public School Employees' Retirement System and the State Employees' Retirement System; adding and amending certain definitions; further providing for membership in the systems, for creditable nonschool and nonstate service and the purchase of credit, for incentives for special early retirement, for contributions to the retirement funds, for annuities and the rights and duties of annuitants, for health insurance premium assistance, for board membership and for the re-amortization and management of the retirement funds."

(b) Nature of rights.—Any termination or other modification of the program, including, but not limited to, a change in premium rates, benefit options or structure or insurance providers, shall not give rise to any contractual rights or claims by any eligible persons or any other person claiming an interest, either directly or indirectly, in the program. No provision of this part nor any rule or regulation adopted pursuant to this part shall create in any person a contractual right in that provision.

Section 8. The definitions of "active member," "class of service multiplier," "credited service," "inactive member," "salary deductions" and "vestee" in section 5102 of Title 71 are amended and the section is amended by adding definitions to read:

§ 5102. Definitions.

The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

“Active member.” A State employee, or a member on leave without pay, for whom pickup contributions are being made to the fund or for whom such contributions otherwise required for current State service are not being made solely by reason of *section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions)* or any provision of this part relating to the [limitation] *limitations* under section 401(a)(17) or *section 415(b)* of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or *415(b)*).

“Actuarial increase factor.” A factor calculated at the member’s birthday by dividing the cost of a dollar annuity based on the age of the member on the member’s immediately previous birthday by the cost of a one-year deferred dollar annuity calculated at that same age. Unless the member terminates State or school service on the member’s birthday, the actuarial increase factor for the year of termination shall be adjusted by:

- (1) *subtracting one from the calculated factor; then*
- (2) *dividing the difference by twelve; then*
- (3) *multiplying the resulting quotient by the number of whole months between the member’s immediately previous birthday and the date of termination of service; then*
- (4) *adding one to the resulting product.*

* * *

“Class of service multiplier.”

Class of Service	Multiplier
A	1
AA	1.25
<i>for all purposes except calculating regular member contributions on compensation paid prior to January 1, 2002</i>	
AA	1
<i>for purposes of calculating regular member contributions on compensation paid prior to January 1, 2002</i>	
B	.625
C	1

D		1.25	
D-1	prior to January 1, 1973	1.875	
D-1	on and subsequent to January 1, 1973	1.731	
D-2	prior to January 1, 1973	2.5	
D-2	on and subsequent to January 1, 1973	1.731	
D-3	prior to January 1, 1973	3.75	
D-3	on and subsequent to January 1, 1973	1.731	except prior to December 1, 1974 as applied to any additional legislative compensation as an officer of the General Assembly
<i>D-4</i>	<i>for all purposes except calculating regular member contributions on compensation paid prior to July 1, 2001</i>	3.75	
<i>D-4</i>	<i>for purposes of calculating regular member contributions on compensation paid prior to July 1, 2001</i>	1.5	
E, E-1	prior to January 1, 1973	2	for each of the first ten years of judicial service, and
		1.5	for each subsequent year of judicial service
E, E-1	on and subsequent to January 1, 1973	1.50	for each of the first

			ten years of judicial service and
		1.125	for each subsequent year of judicial service
E-2	prior to September 1, 1973	1.5	
E-2	on and subsequent to September 1, 1973	1.125	
G		0.417	
H		0.500	
I		0.625	
J		0.714	
K		0.834	
L		1.000	
M		1.100	
N		1.250	
T-C (Public School Employees' Retirement Code)		1	

“Credited service.” State or creditable nonstate service for which the required contributions have been made[,] or for which the contributions otherwise required for such service were not made solely by reason of *section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions)* or any provision of this part relating to the [limitation] *limitations* under section 401(a)(17) or 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415(b)), or for which salary deductions or lump sum payments have been agreed upon in writing.

“Inactive member.” A member for whom no pickup contributions are being made, except in the case of an active member for whom such contributions otherwise required for current State service are not being made solely by reason of *section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions)* or any provision of this part relating to the [limitation] *limitations* under section 401(a)(17) or 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415(b)), but who has accumulated deductions standing to his credit in the fund and who is not eligible to become or has not elected to become a vestee or has not filed an application for an annuity.

“Salary deductions.” The amounts certified by the board, deducted from the compensation of an active member, *or the school service compensation*

of a multiple service member who is an active member of the Public School Employees' Retirement System, and paid into the fund.

* * *

“State police officer.” Any officer or member of the Pennsylvania State Police who, on or after July 1, 1989, shall have been subject to the terms of a collective bargaining agreement or binding interest arbitration award established pursuant to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

* * *

“Vestee.” A member with [ten] five or more eligibility points, or a member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with [eight] five or more eligibility points, who has terminated State service and has elected to leave his total accumulated deductions in the fund and to defer receipt of an annuity.

Section 9. Sections 5302(a), 5303(b), 5304(a) and 5305(b) of Title 71 are amended to read:

§ 5302. Credited State service.

(a) Computation of credited service.—In computing credited State service of a member for the determination of benefits, a full-time salaried State employee, including any member of the General Assembly, shall receive credit for service in each period for which contributions as required are made, or for which contributions otherwise required for such service were not made solely by reason of *section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions)* or any provision of this part relating to the [limitation] *limitations* under IRC § 401(a)(17) or 415(b), but in no case shall he receive more than one year's credit for any 12 consecutive months or 26 consecutive biweekly pay periods. A per diem or hourly State employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months or 26 consecutive biweekly pay periods in which he is employed and for which contributions are made or would have been made but for such [limitation] *waiver under section 5502.1 or limitations* under the IRC for at least 220 days or 1,650 hours of employment. If the member was employed and contributions were made for less than 220 days or 1,650 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of days or hours of service actually rendered to 220 days or 1,650 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the number of hours or days of service actually rendered in relation to 1,650 hours or 220 days, as the case may be. In no case shall a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

* * *

§ 5303. Retention and reinstatement of service credits.

* * *

(b) Eligibility points for prospective credited service.—

(1) Every active member of the system or a multiple service member who is a school employee and a member of the Public School Employees' Retirement System on or after the effective date of this part shall receive eligibility points in accordance with section 5307 for current State service, previous State service, or creditable nonstate service upon compliance with sections 5501 (relating to regular member contributions for current service), 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member), 5505 (relating to contributions for the purchase of credit for creditable nonstate service), 5505.1 (relating to additional member contributions) or 5506 (relating to incomplete payments). [The] *Subject to the limitations in sections 5306.1 (relating to election to become a Class AA member) and 5306.2 (relating to elections by members of the General Assembly), the class or classes of service in which the member may be credited for previous State service prior to the effective date of this part shall be the class or classes in which he was or could have at any time elected to be credited for such service. The class of service in which a member shall be credited for service subsequent to the effective date of this part shall be determined in accordance with section 5306 (relating to classes of service).*

(1.1) Every active member of the system who elects to convert county service to State service pursuant to section 5303.1 (relating to election to convert county service to State service) shall receive eligibility points in accordance with section 5307 for converted county service upon compliance with section 5303.1(b). The class or classes of service in which the member may be credited for converted county service shall be determined in accordance with section 5306(c).

(2) A special vestee or person otherwise eligible to be a special vestee who returns to State service or withdraws his accumulated deductions pursuant to section 5311 (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) shall receive or retain eligibility points in accordance with paragraph (1) but upon subsequent termination of State service shall only be eligible to be an annuitant vestee or inactive member without regard to previous status as a special vestee and without regard to the provisions of this part providing for special vestees.

(3) A special vestee or person otherwise eligible to be a special vestee who becomes an active member of the Public School Employees' Retirement System and elects multiple service shall receive or retain eligibility points as otherwise provided for in this part and 24 Pa.C.S. Pt. IV (relating to retirement for school employees) but upon subsequent termination of school service shall only be eligible to be an annuitant, vestee or inactive member as otherwise eligible as a multiple service

member without regard to previous status as a special vestee and without regard to the provisions of this part providing for special vestees.

* * *

§ 5304. Creditable nonstate service.

(a) Eligibility.—An active member or a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A service credit for creditable nonstate service as set forth in subsections (b) and (c) except that intervening military service shall be credited in the class of service for which the member was eligible at the time of entering into military service and for which he makes the required contributions *and except that a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall not be eligible to purchase service credit for creditable nonstate service set forth in subsection (c)(5).*

* * *

§ 5305. Social security integration credits.

* * *

(b) Accrual of subsequent credits.—Any member who has social security integration accumulated deductions to his credit or is receiving a benefit on account of social security integration credits may accrue one social security integration credit for each year of service as a State employee on or subsequent to March 1, 1974 and a fractional credit for a corresponding fractional year of service provided that contributions are made, *or would have been made but for section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or the limitations under IRC § 401(a)(17) or 415(b),* in accordance with section 5502 (relating to [social security] *Social Security* integration member contributions), and he:

- (1) continues subsequent to March 1, 1974 as an active member in either the State or school system;
- (2) terminates such continuous service in the State or school system and returns to active membership in the State system within six months; or
- (3) terminates his status as a vestee or an annuitant and returns to State service.

* * *

Section 10. Title 71 is amended by adding a section to read:

§ 5305.1. *Eligibility for actuarial increase factor.*

A person who is:

- (1) *an active member;*
- (2) *an inactive member on leave without pay; or*
- (3) *a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System;*

who terminates State service or school service, as the case may be, after attaining age 70 and who applies for a superannuation annuity with an effective date of retirement the day after the date of termination of State service or school service shall have that person's maximum single life annuity calculated pursuant to section 5702(a.1) (relating to maximum single life annuity).

Section 11. Section 5306(a) and (b) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5306. Classes of service.

(a) Class A membership.—A State employee who is a member of Class A on the effective date of this part or who becomes a member of the system subsequent to the effective date of this part shall be classified as a Class A member and receive credit for Class A service upon payment of regular and additional member contributions for Class A service[.], *provided that the State employee does not become a member of Class AA pursuant to subsection (a.1) or a member of Class D-4 pursuant to subsection (a.2).*

(a.1) Class AA membership.—

(1) A person who becomes a State employee and an active member of the system after June 30, 2001, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit for Class AA State service upon payment of regular member contributions for Class AA service and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(2) A person who is a State employee on June 30, 2001, and July 1, 2001, but is not an active member of the system because membership in the system is optional or prohibited pursuant to section 5301 (relating to mandatory and optional membership) and who becomes an active member after June 30, 2001, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit for Class AA State service upon payment of regular member contributions for Class AA service and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State Police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(3) Provided that an election to become a Class AA member is made pursuant to section 5306.1 (relating to election to become a Class AA member), a State employee, other than a State employee who is a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is:

(i) a member of Class A, other than a member of Class A who could have elected membership in a Class C, Class D-3, Class E-1 or Class E-2; or

(ii) an inactive member on a leave without pay from a position in which the State employee would be a Class A active member if the employee was not on leave without pay, other than a position in which the State employee could elect membership in Class C, Class D-3, Class E-1 or Class E-2;

shall be classified as a Class AA member and receive credit for Class AA State service performed after June 30, 2001, upon payment of regular member contributions for Class AA service and, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position for which the member could have elected membership in Class C, Class D-3, Class E-1 or Class E-2, performed before July 1, 2001.

(4) Provided that an election to become a Class AA member is made pursuant to section 5306.1, a former State employee, other than a former State employee who was a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is a multiple service member and a school employee and a member of the Public School Employees' Retirement System, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the former State employee could have elected a class of service other than Class A, performed before July 1, 2001.

(5) A former State employee, other than a former State employee who was a State police officer on or after July 1, 1989, who is a school employee and who on or after July 1, 2001, becomes a multiple service member, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service other than State service performed as a State employee in a position in which the former State employee could have elected a class of service other than Class A.

(6) A State employee who after June 30, 2001, becomes a State police officer or who is employed in a position in which the member could elect membership in a class of service other than Class AA or Class D-4 shall retain any Class AA service credited prior to becoming a State police officer or being so employed but shall be ineligible to

receive Class AA credit thereafter and instead shall receive Class A credit unless a class of membership other than Class A is elected.

(7) (i) State service performed as Class A service before July 1, 2001, and State service for which Class A service could have been credited but was not credited because membership in the system was optional or prohibited pursuant to section 5301 shall be credited as Class AA service only upon the completion of all acts necessary for the State service to be credited as Class A service had this subsection not been enacted and upon payment of required Class AA member contributions as provided in section 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member).

(ii) A person who is not a State employee or a school employee on June 30, 2001, and July 1, 2001, and who has previous State service (except a disability annuitant who returns to State service after June 30, 2001, upon termination of the disability annuity) shall not receive Class AA service credit for State service performed before July 1, 2001, until such person becomes an active member, or an active member of the Public School Employees' Retirement System and a multiple service member, and earns three eligibility points by performing credited State service or credited school service after June 30, 2001.

(a.2) Class of membership for members of the General Assembly.—

(1) A person who:

(i) becomes a member of the General Assembly and an active member of the system after June 30, 2001; or

(ii) is a member of the General Assembly on July 1, 2001, but is not an active member of the system because membership in the system is optional pursuant to section 5301 and who becomes an active member after June 30, 2001;

and who was not a State police officer on or after July 1, 1989, shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service as a member of the General Assembly upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in subsection (a.1)(7), if previously a member of Class A or employed in a position for which Class A service could have been earned, shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or for which a class of service other than Class A or Class D-4 was or could have been elected or credited.

(2) Provided an election to become a Class D-4 member is made pursuant to section 5306.2 (relating to elections by members of the General Assembly), a State employee who was not a State police officer on or after July 1, 1989, who on July 1, 2001, is a member of the General Assembly and an active member of the system and not a

member of Class D-3 shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service performed as a member of the General Assembly not credited as another class other than Class A upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in paragraph (a.1)(7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the member could have elected a class of service other than Class A, performed before July 1, 2001.

(3) A member of the General Assembly who after June 30, 2001, becomes a State police officer shall retain any Class AA service or Class D-4 service credited prior to becoming a State police officer or being so employed but shall be ineligible to receive Class AA or Class D-4 credit thereafter and instead shall receive Class A credit.

(b) Other class membership.—A State employee who is a member of a class of service other than Class A on the effective date of this part shall retain his membership in that class until such service is discontinued; any service thereafter shall be credited as Class A service, Class AA service or Class D-4 service as provided for in this section.

** * **

Section 12. Title 71 is amended by adding sections to read:

§ 5306.1. Election to become a Class AA member.

(a) General rule.—A person who is:

(1) a member of the system; or

(2) a multiple service member who is a school employee and a member of the Public School Employees' Retirement System;

who on July 1, 2001, is eligible for Class AA membership may elect to become a member of Class AA.

(b) Time for making election.—The election to become a Class AA member must be made by the member filing written notice with the board before January 1, 2002, or before the member terminates State service or, if a school employee, terminates school service, whichever occurs first.

(c) Effect of election.—An election to become a Class AA member shall become effective the later of July 1, 2001, or the date when the election is filed with the board and shall remain in effect until the termination of employment. Upon termination and subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part.

(d) Effect of failure to make election.—Failure to elect to become a Class AA member within the election period set forth in subsection (b) shall result in all of the member's Class A State service, other than service performed as a State police officer or in a position in which the member could elect a class of membership other than Class A, being

credited as Class A service and not subject to further election or crediting as Class AA service upon termination and subsequent employment.

§ 5306.2. Elections by members of the General Assembly.

(a) General rule.—A member of the General Assembly who on the effective date of this section is eligible for Class D-4 membership may elect to become a member of Class D-4. The election to become a Class D-4 member must be made by the member of the General Assembly by filing written notice with the board before July 1, 2001, or before the member terminates State service as a member of the General Assembly, whichever occurs first.

(b) Effect of election.—Membership as a Class D-4 member shall become effective on July 1, 2001, and shall remain in effect until the termination of service as a member of the General Assembly. Upon termination and subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part.

(c) Effect of failure to make election.—A member of the General Assembly who is a member of Class A as a result of failure to elect to become a member of another class or who is a member of another class other than Class D-4 as a result of electing membership in such class for legislative service shall not be eligible to receive or elect a different class of service for such legislative service either during the period of legislative service or upon termination and subsequent employment.

Section 13. Sections 5307, 5308(b), 5309, 5501 and 5502 of Title 71 are amended to read:

§ 5307. Eligibility points.

(a) General rule.—An active member of the system shall accrue one eligibility point for each year of credited service as a member of the State or the Public School Employees' Retirement System. A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of eligibility points to which the class of service entitles him.

(b) Transitional rule.—

(1) In determining whether a member who is not a State employee or school employee on June 30, 2001, and July 1, 2001, and who has previous State service (except a disability annuitant who returns to State service after June 30, 2001, upon termination of the disability annuity) has the five eligibility points required by sections 5102 (relating to definitions), 5308(b) (relating to eligibility for annuities), 5309 (relating to eligibility for vesting), 5704(b) (relating to disability annuities) and 5705(a) (relating to member's options), only eligibility points earned by performing credited State service or credited school service after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited State service or credited

school service after June 30, 2001, at which time all eligibility points as determined pursuant to subsection (a) shall be counted.

(2) Any member to whom paragraph (1) applies shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member:

(i) has ten or more eligibility points as determined pursuant to subsection (a); or

(ii) has Class G, Class H, Class I, Class J, Class L, Class M or Class N service and has eight or more eligibility points as determined pursuant to subsection (a).

§ 5308. Eligibility for annuities.

* * *

(b) Withdrawal annuity.—Any vestee or any active member or inactive member on leave without pay who terminates State service having [ten] five or more eligibility points, or who has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service and terminates State service having [eight] five or more eligibility points, upon compliance with section 5907(f), (g) or (h) shall be entitled to receive an annuity.

* * *

§ 5309. Eligibility for vesting.

Any member who terminates State service with [ten] five or more eligibility points, or any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with [eight] five or more eligibility points, shall be eligible until attainment of superannuation age to vest his retirement benefits.

§ 5501. Regular member contributions for current service.

Regular member contributions shall be made to the fund on behalf of each active member for current service except for any period of current service in which the making of such contributions has ceased solely by reason of *section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions)* or any provision of this part relating to the [annual compensation limit under IRC § 401(a)(17)] *limitations under IRC § 401(a)(17) or 415(b)*.

§ 5502. Social Security integration member contributions.

[Contributions] *Except for any period of current service in which the making of regular member contributions has ceased solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to limitations under IRC § 401(a)(17) or 415(b), contributions shall be made on behalf of a member of any class who prior to March 1, 1974, has elected Social Security integration coverage. The amount of such contributions shall be 6 1/4% of that portion of his compensation in excess of the maximum wages taxable under the provisions of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), in addition to the regular member contributions which, after such election,*

shall be determined on the basis of the basic contribution rate of 5% and the additional member contribution of 1 1/4%: Provided, That a member may elect to discontinue Social Security integration coverage and shall thereafter be ineligible to accrue any further Social Security integration credits or any additional benefits on account of Social Security integration membership.

Section 14. Title 71 is amended by adding a section to read:

§ 5502.1. Waiver of regular member contributions and Social Security integration member contributions.

Notwithstanding the provisions of sections 5501 (relating to regular member contributions for current service) and 5502 (relating to Social Security integration member contributions), no regular member contributions or Social Security integration member contributions shall be made by an active member for the period from July 1 to the following June 30 if the maximum single life annuity to which the member would have been entitled to receive had the member retired with an effective date of retirement on the preceding January 1 is greater than 110% of the highest calendar year compensation of the member, provided the member files a written election as prescribed by the board.

Section 15. Sections 5504(b), 5505(b), (c) and (d), 5506, 5507(b) and 5508(b), (c), (e) and (f) of Title 71 are amended to read:

§ 5504. Member contributions for the purchase of credit for previous State service or to become a full coverage member.

* * *

(b) Certification and method of payment.—The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member *or eligible school employee who is an active member of the Public School Employees' Retirement System* may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit the salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.*

§ 5505. Contributions for the purchase of credit for creditable nonstate service.

* * *

(b) Nonintervening military service.—

(1) The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying

the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry, subsequent to such military service, of the member into State service to his average annual rate of compensation over the first three years of such subsequent State service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for credit for such service, payment shall be made in a lump sum within 30 days or in the case of an active member *or eligible school employee who is an active member of the Public School Employees' Retirement System* it may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.* Application may be filed for all such military service credit upon completion of three years of subsequent State service and shall be credited as Class A service.

(2) Applicants may purchase credit as follows:

- (i) one purchase of the total amount of creditable nonintervening military service; or
- (ii) one purchase per 12-month period of a portion of creditable nonintervening military service.

The amount of each purchase shall be not less than one year of creditable nonintervening military service.

(c) Intervening military service.—Contributions on account of credit for intervening military service shall be determined by the member's contribution rate, the additional contribution rate which shall be applied only to those members who began service on or after the effective date of this amendatory act and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for such credit the amount due shall be certified in the case of each member by the board in accordance with methods approved by the actuary, and contributions may be made by:

- (1) regular monthly payments during active military service; or
- (2) a lump sum payment within 30 days of certification; or

(3) salary deductions in amounts agreed upon by the member *or eligible school employee who is an active member of the Public School Employees' Retirement System* and the board.

The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(d) Nonmilitary and nonmagisterial service.—Contributions on account of credit for creditable nonstate service other than military and magisterial service shall be determined by applying the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry subsequent to such creditable nonstate service of the member into State service to his compensation at the time of entry into State service and multiplying the result by the number of years and fractional part of a year of creditable nonstate service being purchased together with statutory interest during all periods of subsequent State and school service to the date of purchase. Upon application for credit for such service payment shall be made in a lump sum within 30 days or in the case of an active member *or eligible school employee who is an active member of the Public School Employees' Retirement System* it may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. *The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deduction shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.*

* * *

§ 5506. Incomplete payments.

In the event that a member terminates State service *or a multiple service member who is an active member of the Public School Employees' Retirement System terminates school service* before the agreed upon payments for credit for previous State service, creditable nonstate service, social security integration, [or] full coverage membership *or return of*

benefits on account of returning to State service or entering school service and electing multiple service have been completed, the member ***or multiple service member who is an active member of the Public School Employees' Retirement System*** shall have the right to pay within 30 days of termination of State service ***or school service*** the balance due, including interest, in a lump sum and the annuity shall be calculated including full credit for the previous State service, creditable nonstate service, social security integration, or full coverage membership. In the event a member does not pay the balance due within 30 days of termination of State service or in the event a member dies in State service or within 30 days of termination of State service ***or in the case of a multiple service member who is an active member of the Public School Employees' Retirement System does not pay the balance due within 30 days of termination of school service or dies in school service or within 30 days of termination of school service*** and before the agreed upon payments have been completed, the present value of the benefit otherwise payable shall be reduced by the balance due, including interest, and the benefit payable shall be calculated as the actuarial equivalent of such reduced present value.

§ 5507. Contributions by the Commonwealth and other employers.

* * *

(b) Contributions on behalf of annuitants.—The Commonwealth shall make contributions on behalf of annuitants in such amounts as shall be certified by the board as necessary to fund the liabilities for supplemental annuities in accordance with the actuarial cost method provided in [sections] ***section 5508(e) (relating to actuarial cost method), 5708.3(f) (relating to supplemental annuities commencing 1994) and 5708.5(f) (relating to supplemental annuities commencing 1998).***

* * *

§ 5508. Actuarial cost method.

* * *

(b) Employer normal contribution rate.—The employer normal contribution rate shall be determined after each actuarial valuation on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board in accordance with generally accepted actuarial principles. The employer normal contribution rate shall be determined as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through his entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to him, except for the supplemental benefits provided for in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities) [and], 5708.3 (relating to supplemental annuities commencing 1994), ***5708.4 (relating to special supplemental postretirement adjustment) and***

5708.5 (relating to supplemental annuities commencing 1998), in excess of that portion funded by his prospective member contributions.

(c) **Accrued liability contribution rate.**—For the fiscal year beginning July 1, [1991] **2002**, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of [20] **ten** years from July 1, [1991] **2002**, the present value of the liabilities for all prospective benefits, except for the supplemental benefits as provided in sections 5708, 5708.1, 5708.2 [and], 5708.3, **5708.4 and 5708.5**, in excess of the total assets in the fund (calculated recognizing all investment gains and losses over a five-year period), excluding the balance in the supplemental annuity account, and the present value of employer normal contributions and of member contributions payable with respect to all active members on July 1, [1991,] **2002**, and **excluding contributions to be transferred by county retirement systems or pension plans pursuant to section 5507(c) (relating to contributions by the Commonwealth and other employers)**. The amount of each annual accrued liability contribution shall be [5% greater than] **equal to** the amount of such contribution for the [previous] fiscal year **beginning July 1, 2002**, except that, if the accrued liability is increased by legislation enacted subsequent to [July 1, 1991] **June 30, 2002**, such additional liability shall be funded over a period of [20] **ten** years from the first day of July, coincident with or next following the effective date of the increase[, provided that the liability for any additional benefits created by this act shall be funded over a period of 20 years commencing July 1, 1992]. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be [5% greater than] **equal to** the amount of such contribution for the [previous fiscal year] **first annual payment**.

* * *

(e) **Supplemental annuity contribution rate.**—Contributions from the Commonwealth required to provide for the payment of supplemental annuities as provided in sections 5708, 5708.1 [and], 5708.2, **5708.3, 5708.4 and 5708.5** shall be paid over a period of [20] **ten** years from July 1, [1991] **2002**. The amount of each annual supplemental annuities contribution shall be [5% greater than] **equal to** the amount of such contribution for the [previous] fiscal year **beginning July 1, 2002**. In the event that supplemental annuities are increased by legislation enacted subsequent to [July 1, 1991] **June 30, 2002**, the additional liability for the increase in benefits shall be funded in **equal dollar** annual installments [increasing by 5% each year] over a period of [20] **ten** years from the July first, coincident with or next following the effective date of such legislation. [Notwithstanding the preceding, the funding for the supplemental annuities commencing 1994 provided for in section 5708.3 shall be as provided in section 5708.3(f).]

(f) Experience adjustment factor.—For each year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, [1991] 2002, any increase or decrease in the accrued liability, including liability for supplemental annuities, due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years beginning with the July 1 succeeding the actuarial valuation.

* * *

Section 16. Sections 5702(a) and (c) and 5704(b) and (f) of Title 71 are amended and the sections are amended by adding subsections to read:

§ 5702. Maximum single life annuity.

(a) General rule.—Any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 5308(a) or (b) (relating to eligibility for annuities) *who terminates State service, or if a multiple service member who is a school employee who is an active member of the Public School Employees' Retirement System who terminates school service, before attaining age 70* shall be entitled to receive a maximum single life annuity attributable to his credited service and equal to the sum of the following single life annuities beginning at the effective date of retirement:

(1) A standard single life annuity multiplied by the sum of the products, determined separately for each class of service, obtained by multiplying the appropriate class of service multiplier by the ratio of years of service credited in that class to the total credited service. In case the member on the effective date of retirement is under superannuation age for any service, a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age shall be applied to the product determined for that service. The class of service multiplier for any period of concurrent service shall be multiplied by the proportion of total State and school compensation during such period attributable to State service. In the event a member has two multipliers for one class of service the class of service multiplier to be used for calculating benefits for that class shall be the average of the two multipliers weighted by the proportion of compensation attributable to each multiplier during the three years of highest annual compensation in that class of service: Provided, That in the case of a member of Class E-1, a portion but not all of whose three years of highest annual judicial compensation is prior to January 1, 1973, two class of service multipliers shall be calculated on the basis of his entire judicial service, the one applying the judicial class of service multipliers effective prior to January 1, 1973 and the second applying the class of service multipliers effective

subsequent to January 1, 1973. The average class of service multiplier to be used for calculating benefits for his judicial service shall be the average of the two calculated multipliers weighted by the proportion of compensation attributable to each of the calculated multipliers during the three years of highest annual compensation in that class of service.

(2) If eligible, a single life annuity of 2% of his average noncovered salary for each year of social security integration credit as provided for in section 5305 (relating to social security integration credits) multiplied, if on the effective date of retirement the member is under superannuation age for any service, by the actuarially determined reduction factor for that service.

(3) If eligible, a single life annuity which is actuarially equivalent to the regular and additional accumulated deductions attributable to contributions as a member of Class C, but not less than such annuity determined as if the member were age 60 on the effective date of retirement, actuarially reduced in the event the member is under superannuation age on the effective date of retirement.

(4) If eligible, a single life annuity which is actuarially equivalent to the amount by which his regular and additional accumulated deductions attributable to any credited service other than as a member of Class C are greater than one-half of the actuarially equivalent value on the effective date of retirement of the annuity as provided in paragraph (1) attributable to service other than Class C for which regular or joint coverage member contributions were made.

(5) If eligible, a single life annuity which is actuarially equivalent to the amount by which his social security integration accumulated deductions are greater than one-half of the actuarially equivalent value on the effective date of retirement of the annuity provided for under paragraph (2).

(6) If eligible, a single life annuity sufficient together with the annuity provided for in paragraph (1) as a Class A *and* Class AA member and the highest annuity provided for in paragraph (2) to which he is entitled, or at his option could have been entitled, to produce that percentage of a standard single life annuity on the effective date of retirement as determined by his total years of credited service as a member of Class A *and* Class AA and by the following table:

Total Years of Credited Service as a Member of Class A <i>and</i> Class AA	Percentage of Standard Single Life Annuity
35-40	100%
41	102%
42	104%

43	106%
44	108%
45 or more	110%

(a.1) Rule for terminations after attaining age 70.—

(1) Any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 5308(a) who terminates State service, or if a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System who terminates school service, on or after attaining age 70 and who applies for a superannuation annuity to be effective the day after the termination of State service or school service, as the case may be, shall be entitled to receive a maximum single life annuity as of a determination date that is equal to the greater of subparagraph (i) or (ii):

(i) the sum of the annuities provided in subsection (a)(1) through (6) calculated as of the determination date; and

(ii) the greater of clause (A) or (B):

(A) the sum of the annuities provided in subsection (a)(1), (3), (4) and (6) as of the preceding determination date adjusted by the actuarial increase factor, plus the annuities provided in subsection (a)(2) and (5) as of the determination date; and

(B) the maximum single life annuity as of the preceding determination date adjusted by the actuarial increase factor.

The maximum single life annuity shall be calculated for each determination date.

(2) For purposes of this subsection, the determination date shall be:

(i) the member's birthday, provided that as of such date the member qualifies for a maximum single life annuity under this subsection; or

(ii) if the member's maximum single life annuity is being determined as of the member's effective date of retirement, then the determination date shall be the member's effective date of retirement.

(3) In the event an active member, an inactive member on leave without pay or a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System has attained age 70 before the effective date of this subsection, or enters State service or school service, as the case may be, after attaining age 70, then section 5305.1 (relating to eligibility for actuarial increase factor) and subsections (a) and (a.1) shall be effective prospectively with respect to such member at the member's next birthday after the effective date of this subsection, entry into State service, or school service.

Nothing in this subsection shall be construed to provide an actuarial increase factor for any period of service prior to the effective date of this subsection.

* * *

(c) Limitation on amount of annuity.—The annuity paid to a member under subsection (a) and reduced in accordance with the option elected under section 5705 (relating to member's options) shall not exceed the highest compensation received during any period of twelve consecutive months of credited service; **Provided, That the portion of any annuity paid to a member on account of Class D-3 service under subsection (a)(1) and reduced in accordance with the option elected under section 5705 shall not exceed the greater of \$12,000 or his highest annual compensation as a member of the General Assembly].** No limit *on the total annuity paid to a member with Class D-3 service* shall be applied in the case of a member who served as a constitutional officer of the General Assembly [prior to January 1, 1973].

(d) *Limitation regarding annual benefit under IRC § 415.—Notwithstanding any provision of this part to the contrary, including, but not limited to, subsection (c), no benefit shall be payable to the extent that such benefit exceeds any limitations under IRC § 415(b) in effect with respect to governmental plans as such term is defined in IRC § 414(d) on the date the benefit payment becomes effective.*

§ 5704. Disability annuities.

* * *

(b) Benefit attributable to social security integration credit.—If the member has been found to be eligible for a disability annuity and has social security integration credits as provided in section 5305 (relating to social security integration credits), he may elect to withdraw his social security integration accumulated deductions or if he has [ten] *five* or more eligibility points to his credit and does not withdraw his social security integration accumulated deductions he may execute an application to be filed with the board to receive, in addition to his disability annuity, an annuity calculated in accordance with section 5702(a)(2).

* * *

(f) Supplement for service connected disability.—If a member has been found to be eligible for a disability annuity and if the disability has been found to be a service connected disability, such member shall receive a supplement equal to 70% of his final average salary less the sum of the annuity as determined under subsection (a) and any payments paid or payable on account of such disability under the act of June 2, 1915 (P.L.736, No.338), known as [*“The Pennsylvania Workmen’s Compensation Act”*] *the Workers’ Compensation Act*, the act of June 21, 1939 (P.L.566, No.284), known as [*“*The Pennsylvania Occupational Disease Act[*“*, and the [Federal] Social Security Act[, 42 U.S.C.A. § 301 et seq.] (*49 Stat. 620, 42 U.S.C. § 301 et seq.*). Such supplement shall continue as long as he

is determined to be disabled on account of his service connected disability in accordance with [“The Pennsylvania Workmen’s] *the Workers’ Compensation Act*[”], or [“]The Pennsylvania Occupational Disease Act[”].

(g) Limitation regarding annual benefit under IRC § 415.—Notwithstanding any provisions of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415(b) as in effect with respect to governmental plans as such term is defined in IRC § 414(d) on the date the benefit payment becomes effective.

Section 17. Section 5705(a) of Title 71 is amended to read:
§ 5705. Member’s options.

(a) General rule.—Any special vestee who has attained superannuation age, any vestee having [ten] *five* or more eligibility points, any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service having [eight] *five* or more eligibility points or any other eligible member upon termination of State service who has not withdrawn his total accumulated deductions as provided in section 5701 (relating to return of total accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options; except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse or alternate payee of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity:

(1) Option 1.—A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.—A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.—A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.—Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) any annuity shall be payable without reduction during the lifetime of the member;

(ii) the sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member; and

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) under this option.

* * *

Section 18. Section 5706(a), (a.1) and (c) of Title 71 are amended and the section is amended by adding a subsection to read:

§ 5706. Termination of annuities.

(a) General rule.—If the annuitant returns to State service or enters *or has entered* school service and elects multiple service membership, any annuity payable to him under this part shall cease *effective upon the date of his return to State service or entering school service* and in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. An annuitant who is credited with an additional 10% of Class A and Class C service as provided in section 5302(c) (relating to credited State service) and who returns to State service shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979 occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service. This subsection shall not apply in the case of any annuitant who may render services to the Commonwealth in the capacity of an independent contractor or as a member of an independent board or commission or as a member of a departmental administrative or advisory board or commission when such members of independent or departmental boards or commissions are compensated on a per diem basis for not more than 150 days per calendar year[.] *or as a member of an independent board or commission requiring appointment by the Governor, with advice and consent of the Senate, where the annual salary payable to the member does not exceed \$35,000 and where the member has been an annuitant for at least six months immediately preceding the appointment. Such service shall not be subject to member contributions or be eligible for qualification as creditable State service.*

(a.1) Return to State service during emergency.—When, in the judgment of the employer, an emergency creates an increase in the work

load such that there is serious impairment of service to the public, an annuitant may be returned to State service for a period not to exceed 95 days in any [fiscal] *calendar* year without loss of his annuity. In computing the number of days an annuitant has returned to State service, any amount of time less than one-half of a day shall be counted as one-half of a day. For agencies, boards and commissions under the Governor's jurisdiction, the approval of the Governor that an emergency exists shall be required before an annuitant may be returned to State service.

(a.2) Return of benefits.—In the event an annuitant whose annuity ceases pursuant to this section receives any annuity payment, including a lump sum payment pursuant to section 5705 (relating to member's options) on or after the date of his return to State service or entering school service, the annuitant shall return to the board the amount so received plus statutory interest. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. In the case of a school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(c) Elimination of the effect of frozen present value.—

(1) An annuitant who returns to State service and earns three eligibility points by performing credited State service following the most recent period of receipt of an annuity under this part, or an annuitant who enters school service and:

(i) is a multiple service member; or

(ii) who elects multiple service membership, and

earns three eligibility points by performing credited State service or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity frozen in accordance with subsection (a), shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct.

(2) Upon subsequent discontinuance of service and the filing of an application for an annuity, a former annuitant who qualifies to have the

effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:

(i) an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred, *adjusted by crediting Class A State service as Class AA service as provided for in section 5306(a.1) (relating to classes of service) and further* adjusted according to paragraph (3), provided that a former annuitant of the system or a former annuitant of the Public School Employees' Retirement System who retired under a provision of law granting additional service credit if termination of State or school service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement; or

(ii) an annuity (prior to optional modification) calculated as if the former annuitant did not qualify to have the effect of the frozen present value eliminated,

unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement that the former annuitant wishes to receive the lower annuity.

(3) In addition to any other adjustment to the present value of the maximum single life annuity that a member may be entitled to receive that occurs as a result of any other provision of law, the present value of the maximum single life annuity shall be reduced by all amounts paid or payable to him during all previous periods of retirement plus interest on these amounts until the date of subsequent retirement. The interest for each year shall be calculated based upon the annual interest rate adopted for that fiscal year by the board for the calculation of the normal contribution rate pursuant to section 5508(b) (relating to actuarial cost method).

Section 18.1. Section 5707 of Title 71 is amended by adding a subsection to read:

§ 5707. Death benefits.

* * *

(f) Members subject to limitations under section 5702(c).—Subject to the limitations contained in section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)), the present value of any annuity in excess of that payable under section 5702 (relating to maximum single life annuity) that is not subject to the limitations under section 415(b) of the Internal Revenue Code of 1986 shall be paid in a lump sum to the beneficiary designated by the member after the death of the member. A beneficiary receiving a benefit under this subsection shall not be able to elect a payment method otherwise allowed under section 5709(b)(2) and (3) (relating to payment of benefits).

Section 19. Sections 5708.1(f), 5708.2(f), 5708.3(f), 5708.5(f), 5901(a) and (b), 5902(l), 5903(a) and 5904(b) of Title 71 are amended to read:
§ 5708.1. Additional supplemental annuities.

* * *

(f) Funding.—The actuary shall annually certify the amount of appropriations for the next fiscal year needed to fund, over a period of [20] *ten* years from July 1, [1991] 2002, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's certification to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1984, the amount certified is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 5708.2. Further additional supplemental annuities.

* * *

(f) Funding.—The actuary shall annually estimate the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of [20] *ten* years from July 1, [1991] 2002, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's estimation to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1988, the amount estimated is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 5708.3. Supplemental annuities commencing 1994.

* * *

(f) Funding.—[Notwithstanding section 5508(e) (relating to actuarial cost method), the] *The* additional liability for the increase in benefits provided in this section shall be funded in *equal dollar* annual installments [increasing by 5% each year] over a period of [20] *ten* years beginning July 1, [1995] 2002.

* * *

§ 5708.5. Supplemental annuities commencing 1998.

* * *

(f) Funding.—[Notwithstanding section 5508(e) (relating to actuarial cost method), the] *The* additional liability for the increase in benefits provided in this section shall be funded in *equal dollar* annual installments

[increasing by 5% each year] over a period of [20] *ten* years beginning July 1, [1998] *2002*.

* * *

§ 5901. The State Employees' Retirement Board.

(a) Status and membership.—The board shall be an independent administrative board and consist of 11 members: the State Treasurer, ex officio, two Senators [or former Senators], two members [or former members] of the House of Representatives and six members appointed by the Governor, one of whom shall be an annuitant of the system, for terms of four years, subject to confirmation by the Senate. At least five board members shall be active members of the system, and at least two shall have ten or more years of credited State service. The chairman of the board shall be designated by the Governor from among the members of the board. Each member of the board who is a member of the General Assembly may appoint a duly authorized designee to act in his stead.

(b) Appointments and terms.—The two members elected by the board and serving on the effective date of this title shall continue to serve until the expiration of their respective terms. The members [or former members] of the Senate shall be appointed by the President pro tempore of the Senate and shall consist of a majority and a minority member [or former member]. The members [or former members] of the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of a majority and a minority member [or former member]. The legislative members shall serve on the board for the duration of [the terms for which they were elected and former legislative members shall serve a term of two years.] *their legislative terms and shall continue to serve until 30 days after the convening of the next regular session of the General Assembly after the expiration of their respective legislative terms or until a successor is appointed for the new term, whichever occurs first*. Of the remaining four appointees, one shall be appointed for an initial term of two years, one for an initial term of three years, and two for an initial term of four years. A vacancy occurring during the term of an appointed member shall be filled for the unexpired term by the appointment and confirmation of a successor in the same manner as his predecessor.

* * *

§ 5902. Administrative duties of the board.

* * *

(l) Member contributions.—The board shall cause all pickup contributions made on behalf of a member to be credited to the account of the member and credit to his account any other payment made by such member, *including, but not limited to, amounts collected by the Public School Employees' Retirement System for the reinstatement of previous State service or creditable nonstate service and amounts paid to return benefits paid after the date of return to State service or entering school*

service representing lump sum payments made pursuant to section 5705(a)(4)(iii) (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 5706(a.2) (relating to termination of annuities), and shall pay all such amounts into the fund.

* * *

§ 5903. Duties of the board to advise and report to heads of departments and members.

(a) Manual of regulations.—The board shall, with the advice of the Attorney General and the actuary, prepare and provide, within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part to the heads of departments who shall make the information contained therein available to the general membership. The board shall thereafter advise the heads of departments within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. As soon as practicable after the commissioner's announcement with respect thereto, the board shall also advise the heads of departments as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a)(17)[.] *and the dollar amounts of the limitations under IRC § 415(b). As soon as practicable after January 1 of each year, the board shall also advise the heads of departments of the employees for whom, pursuant to section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions), pickup contributions are not to be made.*

* * *

§ 5904. Duties of the board to report to the Public School Employees' Retirement Board.

* * *

(b) Multiple service membership of school employees.—Upon receipt of notification from the Public School Employees' Retirement Board that a former State employee has become an active member in the Public School Employees' Retirement System and has elected to receive credit for multiple service, the board shall certify to the Public School Employees' Retirement Board and concurrently to the member:

- (1) the total credited service in the system and the number of years and fractional part of a year of service credited in each class of service;
- (2) the annual compensation received each calendar year by the member for credited State service; [and]
- (3) the social security integration credited service to which the member is entitled and the average noncovered salary upon which the single life annuity attributable to such service will be computed[.]; *and*
- (4) *the amount of the deductions and the period over which they are to be made if the member has elected payroll deductions pursuant to section 5504 (relating to member contributions for the purchase of*

credit for previous State service or to become a full coverage member) or 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

* * *

Section 20. Section 5905(b) of Title 71 is amended and the section is amended by adding a subsection to read:

§ 5905. Duties of the board regarding applications and elections of members.

* * *

(b) School employees electing multiple service status.—Upon receipt of notification from the Public School Employees' Retirement Board that a former State employee has become an active member in the Public School Employees' Retirement System and has elected to become a member with multiple service status the board shall:

(1) in case of a member receiving an annuity from the system[, **discontinue**]:

(i) *discontinue* payments, transfer the present value[, **at that time,**] of the member's annuity *at the time of entering school service, plus the amount withdrawn in a lump sum payment, on or after the date of entering school service, pursuant to section 5705 (relating to member's options), with statutory interest to date of transfer, minus the amount to be returned to the board on account of return to service, that the board has determined is to be credited in the members' savings account,* from the annuity reserve account to the members' savings account and resume crediting of statutory interest on the amount restored to his credit [**and transfer**];

(ii) *transfer* the balance of the present value of the total annuity, *minus the amount to be returned to the board on account of return to service that the board has determined is to be credited in the State accumulation account,* from the annuity reserve account to the State accumulation account; [**or**] *and*

(iii) *certify to the member the amount of lump sum and annuity payments with statutory interest the member is to return to the board and, of those amounts, which amount shall be credited to the members' savings account and credited with statutory interest as such payments are returned and which amount shall be credited to the State accumulation account; or*

(2) in case of a member who is not receiving an annuity and has not withdrawn his total accumulated deductions, continue or resume the crediting of statutory interest on his total accumulated deductions during the period his total accumulated deductions remain in the fund; or

(3) in case of a former State employee who is not receiving an annuity from the system and his total accumulated deductions were withdrawn, certify to the former State employee the accumulated deductions as they would have been at the time of his separation had he

been a full coverage member together with statutory interest for all periods of subsequent State and school service to the date of repayment. Such amount shall be restored by him and shall be credited with statutory interest as such payments are restored.

* * *

(j) State employees electing multiple service status.—Upon receipt of notification from the Public School Employees' Retirement Board that a member who has elected multiple service membership has elected to restore school service or purchase creditable nonschool service in the Public School Employees' Retirement System or is obligated to return benefits to the Public School Employees' Retirement Board on account of electing multiple service membership has elected to pay all or part of the amount due to the Public School Employees' Retirement Board by salary deductions, the board shall collect from the employee the amounts certified by the Public School Employees' Retirement Board as due and owing by the member and certify and transfer to the Public School Employees' Retirement Board the amounts so collected.

Section 21. Sections 5906(c), (g) and (h), 5931(h), (i) and (j), 5937 and 5938 of Title 71 are amended to read:

§ 5906. Duties of heads of departments.

* * *

(c) Member contributions.—The head of department shall cause the required pickup contributions for current service to be made and shall cause to be deducted any other required member contributions, including, but not limited to, contributions owed by an active member with multiple service membership for school service and creditable nonschool service in the Public School Employees' Retirement System and amounts certified by the Public School Employees' Retirement Board as due and owing on account of termination of annuities, from each payroll. The head of department shall notify the board at times and in a manner prescribed by the board of the compensation of any noneligible member to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and shall cause such member's contributions deducted from payroll to cease at the limitation under IRC § 401(a)(17) on the payroll date if and when such limit shall be reached. The head of department shall certify to the State Treasurer the amounts picked up and deducted and shall send the total amount picked up and deducted together with a duplicate of such voucher to the secretary of the board every pay period. The head of department shall pay pickup contributions from the same source of funds which is used to pay other compensation to the employee. On or before January 31, 1997, and on or before January 31 of each year thereafter, the head of department shall, at the time when the income and withholding information required by law is furnished to each member, also furnish the amount of pickup contributions made on his behalf and notify the board, if it has not been previously notified, of any noneligible member whose compensation in the preceding

year exceeded the annual compensation limit under IRC § 401(a)(17). If the board shall determine that the member's savings account shall have been credited with pickup contributions for a noneligible member in the preceding year which are attributable to compensation in excess of the limitation under IRC § 401(a)(17), or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation under IRC § 401(a)(17) *or 415(b)*, the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions in the preceding year not to exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

* * *

(g) Former school employee contributors.—The head of department shall, upon the employment of a former contributor to the Public School Employees' Retirement System who is not an annuitant of the Public School Employees' Retirement System, advise such employee of his right to elect within [30] 365 days of entry into the system to become a multiple service member, and in the case of any such employee who so elects and has withdrawn his accumulated deductions, require him to reinstate his credit in the Public School Employees' Retirement System. The head of the department shall advise the board of such election.

(h) Former school employee annuitants.—The head of department shall, upon the employment of an annuitant of the Public School Employees' Retirement System who applies for membership in the system, advise such employee that he may elect multiple service membership within [30] 365 days of entry into the system and if he so elects his public school employee's annuity will be discontinued *effective upon the date of his return to State service* and, upon termination of State service and application for an annuity, the annuity will be adjusted in accordance with section 5706 (relating to termination of annuities). The head of department shall advise the board of such election.

* * *

§ 5931. Management of fund and accounts.

* * *

(h) Venture capital[.—Venture capital investments shall be limited to not more than 2% of the book value of the total assets of the fund as determined for financial statement purposes as of December 31 next preceding the date of investment. An investment shall be deemed a venture capital investment if it results in the acquisition of equity interests or a combination of debt and equity interests in a business which is expected to grow substantially in the future and in which the expected return on investment is to come predominantly from an increase in value of the equity interests and are not interests in or secured by real estate. A venture capital investment may be made only

if, in the judgment of the board, the investment is reasonably likely to enhance the general welfare of this Commonwealth and its citizens and meets the standard of prudence set forth in subsection (a). In determining whether the investment meets the standard of prudence, the board may consider, together with the expected return on and the risk characteristics of the particular investment, the actual and expected future returns and the risk characteristics of the total venture capital investments held by the board at the time and the degree to which the proposed new investment would promote further diversification within the venture capital asset class.], *private placement and alternative investments.*—*The board in its prudent discretion may make any venture capital investment, private placement investment or other alternative investment of any kind, structure or manner which meets the standard of prudence set forth in subsection (a).*

(i) Vehicles for authorized investments.—The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by [becoming a limited partner in partnerships that will hold such investments; or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the separate accounts of any insurance company authorized to do business in this Commonwealth; or by acquiring stocks or shares or units of participation or otherwise participating beneficially in the fund of any corporation or trust organized or created and existing under the laws of the United States or of any state, district or territory thereof, which fund is maintained for and consists of assets of employees' benefit trusts, including governmental plans as defined in IRC § 414(d) or which meet the requirements for qualification under IRC § 401] *acquiring any type of interest in a business organization existing under the laws of any jurisdiction*, provided that, in any such case, the liability of the State Employees' Retirement Fund shall be limited to the amount of its investment.

(j) Legislative declaration concerning certain authorized investments.—The General Assembly finds and declares that authorized investments of the fund made by or on behalf of the board under this section whereby the board becomes a joint owner or stockholder in any company, corporation [or], association *or other lawful business organization* are outside the scope of the original intent of and therefore do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

§ 5937. Enforcement officers' benefit account.

(a) Credits and charges to account.—The enforcement officers' benefit account shall be the ledger account to which shall be credited moneys transferred from the enforcement officers' retirement account in the State Stores Fund according to the provisions of the [Liquor Code,] act of April 12, 1951 (P.L.90, No.21), *known as the Liquor Code*, and any additional

Commonwealth or other employer contributions provided for in section 5507 (relating to contributions by the Commonwealth and other employers) which are creditable to the enforcement officers' benefit account. The enforcement officers' benefit account shall be credited with the required interest. In addition, upon the filing of an application for an annuity by a member who is an enforcement officer of the Pennsylvania Liquor Control Board, the total accumulated deductions standing to the credit of the member in the members' savings account and the necessary reserves from the State accumulation account shall be transferred to the enforcement officers' benefit account. Thereafter, the total annuity of such annuitant shall be charged to the enforcement officers' benefit account and paid from the fund.

(b) Transfers from account.—Should the said annuitant be subsequently restored to active service, the present value of the member's annuity at the time of reentry into State service shall be transferred from the enforcement officers' benefit account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity calculated as if he had been a member of Class A *if the annuitant does not have any Class AA service credited and calculated as if he had been a member of Class AA if the annuitant does have Class AA service credited* less the amount transferred to the members' savings account shall be transferred from the enforcement officers' benefit account to the State accumulation account. Upon subsequent retirement other than as an enforcement officer the actuarial reserve remaining in the enforcement officers' benefit account shall be transferred to the appropriate reserve account.

§ 5938. Supplemental annuity account.

The supplemental annuity account shall be the ledger account to which shall be credited all contributions from the Commonwealth in accordance with [sections] *section 5507(b) (relating to contributions by the Commonwealth and other employers)[, 5708.3(f) (relating to funding for supplemental annuities commencing 1994) and 5708.5(f) (relating to funding for supplemental annuities commencing 1998)]* for the payment of the supplemental annuities provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (*relating to supplemental annuities commencing 1994*), 5708.4 (*relating to special supplemental postretirement adjustment*) and 5708.5 (*relating to supplemental annuities commencing 1998*). The supplemental annuity account shall be credited with valuation interest. The reserves necessary for the payment of such supplemental annuities shall be transferred from the supplemental annuity account to the annuity reserve account as provided in section 5935 (relating to annuity reserve account).

Section 22. (a) Service performed by a member of the Public School Employees' Retirement System prior to December 31, 2001, shall not be

included when calculating the 95 days an annuitant may return to service under 24 Pa.C.S. § 8346(b).

(b) Service performed by a member of the State Employees' Retirement System prior to July 1, 2001, shall not be included when calculating the 95 days an annuitant may return to service in a calendar year without loss of annuity pursuant to 71 Pa.C.S. § 5706.

Section 23. (a) A member whose most recent period of employment began before the effective date of this section shall not have benefits from the Public School Employees' Retirement System reduced by the limitations on benefits under section 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415), as amended, to less than the member otherwise would have received had this act not been enacted.

(b) A member whose most recent period of employment began before the effective date of this section shall not have his or her benefits from the State Employees' Retirement System reduced by the limitations on benefits under section 415 of the Internal Revenue Code of 1986, as amended, to less than he or she otherwise would have received had this act not been enacted.

Section 24. Any and all investments of the Public School Employees' Retirement Board and the State Employees' Retirement Board which on the effective date of this section are owned or held through a vehicle as described in 24 Pa.C.S. § 8521(i) or 71 Pa.C.S. § 5931(i), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

Section 25. If the Public School Employees' Retirement Board determines that its authority over health insurance is impaired because of a judicial decision relating to 24 Pa.C.S. Part V which has become final, the board shall transmit notice of its determination to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Section 26. Except as may be otherwise specifically provided, references in this act to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), including for this purpose administrative regulations promulgated thereunder, are intended to include such laws and regulations in effect on the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.

Section 27. (a) Notwithstanding the provisions of 24 Pa.C.S. § 8503(b), the statement for each member prepared by the Public School Employees' Retirement Board for the periods ending June 30, 2001, and June 30, 2002, and any other statements or estimates of benefits prepared by the board pursuant to the Public School Employees' Retirement Code from the effective date of this section to June 30, 2002, need not reflect provisions of this act.

(b) Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the period ending December 31, 2001, and any other statements or estimates of benefits prepared by the board pursuant to the State

Employees' Retirement Code from the effective date of this section to June 30, 2002, need not reflect provisions of this act.

Section 28. (a) Notwithstanding the provisions of 24 Pa.C.S. Pt. IV, the obligation of the Public School Employees' Retirement Board to make payments within specified time periods of the receipt of applications for benefits or other information shall not apply from the effective date of this section to July 2, 2002.

(b) Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State Employees' Retirement Board to make payments within specified time periods of the receipt of applications for benefits or other information shall not apply from the effective date of this section to June 30, 2002.

Section 29. Notwithstanding the limitation contained in 24 Pa.C.S. § 8507(c), any active member of the Public School Employees' Retirement System who was formerly an active member in the State Employees' Retirement System and whose service credit in the State Employees' Retirement System has not been converted to service credited in another public pension plan or retirement system in this Commonwealth may elect to become a multiple service member on or before December 31, 2003.

Section 30. Notwithstanding the limitation contained in 71 Pa.C.S. § 5907(c), any active member of the State Employees' Retirement System who was formerly an active member of the Public School Employees' Retirement System and whose service credit in the Public School Employees' Retirement System has not been converted to service credited in another public pension plan or retirement system in this Commonwealth may elect to become a multiple service member on or before December 31, 2003.

Section 31. Notwithstanding any other provisions of law, the Public School Employees' Retirement Board shall, effective for the fiscal year beginning July 1, 2001, recertify to the Secretary of the Budget and the employers, within 15 days of the effective date of this section, the contributions, rates, factors and amounts set forth in 24 Pa.C.S. § 8502(k) to reflect the impact of the amendment of 24 Pa.C.S. § 8509(b). The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to the effective date of this section for the fiscal year beginning July 1, 2001, required to comply with 24 Pa.C.S. § 8328, caused by the amendment of 24 Pa.C.S. § 8509(b). This recertification shall supersede the prior certification for all purposes.

Section 32. Notwithstanding any other provision of law, the liability for any additional benefits established by this act shall be funded in equal dollar annual payments over a period of ten years commencing July 1, 2002.

Section 33. (a) Nothing in this act which amends or supplements provisions of 24 Pa.C.S. Pt. IV in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26

U.S.C. § 401(a) or 415(b)), as amended, nor any construction of such provisions as so amended or supplemented or any rules or regulations adopted under such part shall create in any member of the system or in any other person claiming an interest in the account of any member a contractual right, either express or implied, in such provision. Such provision shall remain subject to the Internal Revenue Code of 1986, as amended, and regulations thereunder as the same may hereafter be amended, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required to maintain the qualification of such system as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986.

(b) Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for qualification of the State Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)) nor any construction of 71 Pa.C.S. Pt. XXV, as so amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV shall create in any member of the system or in any other person claiming an interest in the account of any such member a contractual right, either express or implied. The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986, as amended, and regulations thereunder as the same may hereafter be amended, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required in order to maintain the qualification of such system as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986.

Section 34. (a) Nothing in this act shall be construed or deemed to imply that, but for the expressed applications of the limitations on benefits under section 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415), as amended, those limitations would not otherwise apply to members of the Public School Employees' Retirement System and the benefits payable pursuant to 24 Pa.C.S. Pt. IV.

(b) Nothing in this act shall be construed or deemed to imply that, but for the expressed applications of the limitations on benefits under section 401(a) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401 or 415), those limitations would not otherwise apply to members of the State Employees' Retirement System and the benefits payable pursuant to 71 Pa.C.S. Pt. XXV.

Section 35. (a) Except as provided in section 23(a), this act shall be construed and administered in such manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(b)).

(b) Except as provided in section 23(b), this act shall be construed and administered in such manner that the State Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(b)).

Section 36. Severability of this act shall be as follows:

(1) Except as set forth in paragraph (2), if any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

(2) If any of the following provisions of this act is held invalid, independent of its application to any person or circumstance, all of the following provisions of this act are void:

(i) The amendment of the definitions of "basic contribution rate," "class of service multiplier," "standard single life annuity" and "superannuation or normal retirement age" in 24 Pa.C.S. § 8102.

(ii) The amendment or addition of 24 Pa.C.S. §§ 8303; 8304; 8305 except for subsection (c)(4)(ii); 8305.1; 8323(a), (c) and (c.1); 8328; 8346(d)(2)(i); 8348.1; 8348.2; 8348.3; 8348.5; and 8525.

(iii) Except insofar as relates to section 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), the amendment of the definitions of "active member," "class of service multiplier," "credited service" and "inactive member" in 71 Pa.C.S. § 5102.

(iv) Except insofar as relates to section 415(b) of the Internal Revenue Code of 1986, the amendment of 71 Pa.C.S. §§ 5302, 5305, 5501 and 5502.

(v) The amendment or addition of 71 Pa.C.S. §§ 5303; 5306 except for subsection (a.1)(7)(ii); 5306.1; 5306.2; 5502.1; 5507; 5508; 5702(c); 5706(c)(2)(i); 5707(f); 5708.1; 5708.2; 5708.3; 5708.5; 5937; and 5938.

Section 36.1. The amendment of the definition of "vestee" in 24 Pa.C.S. § 8102 and 24 Pa.C.S. §§ 8307, 8308, 8345(a) and 8507(g) shall apply to all members of the School Employees' Retirement System who are active or inactive on leave without pay on the effective date of this section and to any former school employee who is a multiple service member, is a State employee and is a member of the State Employees' Retirement System on the effective date of this section.

Section 37. The amendment of the definition of "vestee" in 71 Pa.C.S. § 5102 and 71 Pa.C.S. §§ 5308(b), 5309, 5704(b) and 5705(a) shall apply to all members of the State Employees' Retirement System who are active or inactive on leave without pay on July 1, 2001, and to any former State employee who is a multiple service member, is a school employee and is a member of the Public School Employees' Retirement System on July 1, 2001.

Section 38. (a) Elections to become a Class T-D member may be filed with the Public School Employees' Retirement Board before July 1, 2001, but will not be effective until July 1, 2001, and will be effective only if the member is eligible to make the election on July 1, 2001.

(b) Elections to become a Class AA member may be filed with the State Employees' Retirement Board before July 1, 2001, but will not be effective until July 1, 2001, and will be effective only if the member is eligible to make the election on July 1, 2001.

Section 39. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

- (i) Section 1 of this act.
- (ii) The amendment of the definitions of "active member," "credited service" and "inactive member" in 24 Pa.C.S. § 8102.
- (iii) The amendment of 24 Pa.C.S. § 8302(a).
- (iv) The amendment of 24 Pa.C.S. § 8321.
- (v) The amendment or addition of 24 Pa.C.S. § 8327(b)(1) and (2).
- (vi) The addition of 24 Pa.C.S. § 8342(c).
- (vii) The addition of 24 Pa.C.S. § 8344(e).
- (viii) The amendment of 24 Pa.C.S. § 8501(a) and (b).
- (ix) The repeal of 24 Pa.C.S. § 8502.1.
- (x) The amendment of 24 Pa.C.S. § 8503(a).
- (xi) The amendment of 24 Pa.C.S. § 8506(c).
- (xii) The amendment of 24 Pa.C.S. § 8509(b).
- (xiii) The amendment of 24 Pa.C.S. § 8521(h), (i) and (j).
- (xiv) The addition of 24 Pa.C.S. Pt. V.
- (xv) The amendment of the definitions of "active member," "credited service" and "inactive member" in 71 Pa.C.S. § 5102.
- (xvi) The amendment of 71 Pa.C.S. § 5302(a).
- (xvii) The amendment of 71 Pa.C.S. § 5304(a).
- (xviii) The amendment of 71 Pa.C.S. § 5305(b).
- (xix) The addition of 71 Pa.C.S. § 5306.2.
- (xx) The amendment of 71 Pa.C.S. § 5501.
- (xxi) The amendment of 71 Pa.C.S. § 5502.
- (xxii) The addition of 71 Pa.C.S. § 5502.1.
- (xxiii) The amendment or addition of 71 Pa.C.S. § 5702(c) and (d).
- (xxiv) The amendment or addition of 71 Pa.C.S. § 5704(f) and (g).
- (xxv) The addition of 71 Pa.C.S. § 5707(f).
- (xxvi) The amendment of 71 Pa.C.S. § 5901(a) and (b).
- (xxvii) The amendment of 71 Pa.C.S. § 5903(a).
- (xxviii) As much of the amendment of 71 Pa.C.S. § 5906(c) as relates to section 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415).
- (xxix) The amendment of 71 Pa.C.S. § 5931(h), (i) and (j).
- (xxx) The amendment of 71 Pa.C.S. § 5937.
- (xxx) Section 23 of this act.

- (xxxii) Section 24 of this act.
 - (xxxiii) Section 25 of this act.
 - (xxxiv) Section 26 of this act.
 - (xxxv) Section 27 of this act.
 - (xxxvi) Section 28 of this act.
 - (xxxvii) Section 31 of this act.
 - (xxxviii) Section 32 of this act.
 - (xxxix) Section 33 of this act.
 - (xl) Section 34 of this act.
 - (xli) Section 35 of this act.
 - (xlii) Section 36 of this act.
 - (xlili) Section 38 of this act.
 - (xliv) This section.
- (2) The following provisions shall take effect September 1, 2001:
- (i) The addition of the definition of “actuarial increase factor” in 71 Pa.C.S. § 5102.
 - (ii) The addition of 71 Pa.C.S. § 5305.1.
 - (iii) The amendment or addition of 71 Pa.C.S. § 5702(a) introductory paragraph and (a.1).
- (3) The following provisions shall take effect July 1, 2002:
- (i) The amendment of 71 Pa.C.S. § 5507(b).
 - (ii) The amendment of 71 Pa.C.S. § 5508(b), (c), (e) and (f).
 - (iii) The amendment of 71 Pa.C.S. § 5708.1(f).
 - (iv) The amendment of 71 Pa.C.S. § 5708.2(f).
 - (v) The amendment of 71 Pa.C.S. § 5708.3(f).
 - (vi) The amendment of 71 Pa.C.S. § 5708.5(f).
 - (vii) The amendment of 71 Pa.C.S. § 5938.
- (4) The addition of 24 Pa.C.S § 8502.2 shall take effect upon publication of the notice under section 25.
- (5) The remainder of this act shall take effect July 1, 2001, or immediately, whichever is later.

APPROVED—The 17th day of May, A.D. 2001.

THOMAS J. RIDGE