

No. 2002-234

AN ACT

SB 315

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities, for retention and reinstatement of service credits and for supplemental annuities commencing 2003; and providing for benefits completion plan.

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

Section 1. Section 8346 of Title 24 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:

§ 8346. Termination of annuities.

* * *

(b.1) Return to school service in an extracurricular position.—An annuitant may be employed under separate contract by a school entity or charter school in an extracurricular position outside regular instructional hours and not part of mandated curriculum without loss of annuity. Neither the annuitant nor the employer shall make contributions to the member's savings account or State accumulation account respectively for such service. Further, such contract shall contain a waiver whereby the annuitant waives any potential retirement benefits that could arise from the contract and releases the employer and the board from any liability for such benefits.

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Section 2. Section 5303 of Title 71 is amended by adding a subsection to read:

§ 5303. Retention and reinstatement of service credits.

* * *

(h) Purchase of certain service credit; Delaware River Joint Free Bridge Commission.—

(1) An active member who is an employee of the Delaware River Joint Toll Bridge Commission on the effective date of this subsection shall be eligible to obtain State service credit for the other one-half of the member's service as an employee of the former Delaware River Joint Free Bridge Commission after September 1, 1973, and before July 1, 1987, for which the member has received one-half year of State service credit for each year of service upon payment of the required contribution by the member.

(2) In order to elect the service credit, an active member shall file an application with the board no later than three years after the effective date of this subsection.

(3) The contribution to be paid by a member for the service credit shall be determined by the board to be equal to the amount paid as

employee contributions to the fund by the member as an employee of the former Delaware River Joint Free Bridge Commission during the time period for which service credit is being purchased together with statutory interest to date of purchase.

(4) Upon application for the service credit, the member shall pay the contribution to the board in a lump sum within 30 days or the contribution may be amortized with statutory interest through salary deductions over a period not to exceed three years as agreed upon by the member and the board.

(5) In no event shall the service be creditable if the member has received, is entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service or has retirement credit or has now or acquires in the future retirement credit 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 5301(a)(12). In the event that State service credit is granted for the service and the member subsequently receives credit for the service that is prohibited by this paragraph, the State service credited shall be canceled and any member contributions and interest paid by the member under paragraphs (3) and (4) shall be refunded to the member by the board.

Section 3. Section 5708.7(g) of Title 71 is amended to read:

§ 5708.7. Supplemental annuities commencing 2003.

(g) Eligible benefit recipient.—As used in this section, the term “eligible benefit recipient” means a person:

- (1) who is receiving a superannuation, withdrawal or disability annuity on July 1, 2003;
- (2) whose most recent effective date of retirement is prior to [January 1,] July 2, 2002; and
- (3) whose credited service does not include any service credited as either Class AA, Class D-4 or Class T-D service.

Notwithstanding the above, the supplemental annuities provided under this section shall not be payable to an annuitant receiving a superannuation or withdrawal annuity prior to the first day of July coincident with or following the annuitant’s attainment of superannuation age.

Section 4. Title 71 is amended by adding a section to read:

§ 5941. *Benefits completion plan.*

Notwithstanding any other law to the contrary, the board shall establish and serve as trustee of a retirement benefit plan within the meaning of, in conformity with and then only to the extent and so long as permitted by IRC § 415(m) for the purpose of providing such retirement benefits as would otherwise have been payable under this part to annuitants of the system on or after July 2, 2001, but for the application

of the limitations on benefits of IRC § 415. The board may, in its sole discretion and within the limits of IRC § 415(m) and this section, determine all terms and provisions of the plan, including, but not limited to, the cost of and procedures for funding the plan as provided in this section. The Commonwealth and other employers whose employees are members of the system shall make contributions to the plan on behalf of all members in such amounts as shall be certified by the board.

Section 5. The addition of 24 Pa.C.S. § 8346(b.1) shall apply retroactively to July 1, 2001.

Section 6. No payments from the plan authorized by 71 Pa.C.S. § 5941 shall be made until the first calendar month beginning 90 days following the receipt by the State Employees' Retirement Board of a determination by the Internal Revenue Service that the plan established by the State Employees' Retirement Board conforms with section 415(m) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(m)) and such regulations as may have been promulgated thereunder and until the assets of the plan as provided in 71 Pa.C.S. § 5941 are sufficient to satisfy the plan's projected liabilities in the following year.

Section 7. This act shall take effect as follows:

- (1) The addition of 71 Pa.C.S. § 5303(h) shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 30th day of December, A.D. 2002.

MARK S. SCHWEIKER