

**PUBLIC EMPLOYEE RETIREMENT COMMISSION****ACTUARIAL NOTE TRANSMITTAL**

Bill ID: Senate Bill Number 797, Printer's Number 817

System: Public School Employees' Retirement System

Subject: Compliance with HEART Act, USERRA and IRC §414(u)

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**SYNOPSIS**

Senate Bill Number 797, Printer's Number 817, would amend Titles 51 (Military Affairs) and 24 (Public School Employees' Retirement Code) to bring the Public School Employees' Retirement System (PSERS) into compliance with the following Federal laws: 1) the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"); 2) the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"); and 3) Internal Revenue Code Section 414(u) [IRC §414(u)]. Senate Bill Number 797, Printer's Number 817, is a companion bill to Senate Bill Number 798, Printer's Number 818, which would further bring PSERS into compliance with Federal law by amending the act of March 10, 1949, (P. L. 30, No. 14), known as the Public School Code of 1949, to entitle members of the System who are granted leave for military service on or after July 1, 2013, to receive credit in PSERS and to purchase the service as "nonintervening" military service, as provided in the Retirement Code.

The key provisions of the bill that would bring the PSERS Code into compliance with the Federal statutes include:

- 1) Beginning on July 1, 2013, the PSERS Code and Pennsylvania Military Code rules for PSERS service credit for "intervening military service" and military leaves of absence would be replaced by the USERRA rules for military service leaves.
- 2) Under the HEART Act, PSERS members who die on military leave will be granted vesting credit for the period of military service prior to their death for the purpose of qualifying for benefits and applying early retirement reduction factors, even though no retirement contributions are made.
- 3) Under USERRA, PSERS members who return to school service but do not make the employee contributions to purchase credit for the USERRA covered military leave will still be granted vesting credit for the period of military service for the purpose of qualifying for benefits and applying early retirement reduction factors.

**SYNOPSIS (CONT'D)**

- 4) IRC §414(u) requires that PSERS members (and consequently employers) actually make the contributions for credit for USERRA-covered military leave within the shorter of three times the length of the leave or five years after returning to school service, unless the member dies or retires during that time. The longer payment periods and payment by actuarial debt currently allowed under the PSERS Code will no longer be available, except under very specific and limited conditions.
- 5) USERRA prohibits charging interest on member contributions paid for USERRA leave.
- 6) PSERS members on military leave will not be permitted to make contributions until after they return to school service. Currently under the Military Code, members must make contributions while on leave.
- 7) In general, employer payments to compensate school employees on military leave will not be included in retirement covered compensation and no employee or employer contributions will be collected. However, in some circumstances, particularly when employees are on school military leave under §4102 of the Military Code, the payments that they receive will be included in the calculation of Final Average Salary and for other benefit calculation purposes.
- 8) Military leave that does not qualify for PSERS credit under USERRA, but would otherwise be creditable in PSERS under current definitions of creditable military service, intervening military service and military service leave can be purchased as nonintervening military service credit.

**DISCUSSION**

**The Retirement Code and System**

The Public School Employees' Retirement Code (Code) is a governmental, cost-sharing, multiple-employer pension plan. The designated purpose of the Public School Employees' Retirement System (PSERS) is to provide retirement allowances and other benefits, including disability and death benefits to public school employees. As of June 30, 2012, there were approximately 773 participating employers, generally school districts, area vocational-technical schools, and intermediate units in PSERS.

## **DISCUSSION (CONT'D)**

Membership in PSERS is mandatory for most school employees. Certain other employees are not required but are given the option to participate. As of June 30, 2012, there were 273,504 active members and 202,015 annuitant members of PSERS.

For most members of the System, the basic benefit formula used to determine the normal retirement benefit is equivalent to the product of 2.5% multiplied by the member's years of accumulated service credit ("eligibility points") multiplied by the member's final average (highest three years) salary. Since the passage of Act 9 of 2001 (which increased the accrual rate for most members from 2.0% to 2.5%), most members of PSERS are Class T-D members and contribute 7.5% of pay to the System. Within PSERS, there are a number of additional membership classes with corresponding benefit accrual and employee contribution rates that differ from the majority of school employees.

Act 120 of 2010 implemented major pension reform that affected the System, including the establishment of new benefit tiers applicable to most new members. Effective July 1, 2011, new members of PSERS are required to become members of one of two membership classes, known as "Class T-E" and "Class T-F." Most new members of PSERS are required to become members of Class T-E beginning July 1, 2011. Class T-E members are eligible for an annuity based upon an annual benefit accrual rate of 2% and have a corresponding employee contribution of 7.5% of compensation. As an alternative to Class T-E, an employee who becomes a member of PSERS on or after July 1, 2011, may elect Class T-F membership within 45 days of becoming a member of PSERS. A Class T-F member is eligible for an annuity based upon an annual benefit accrual rate of 2.5% with a corresponding employee contribution requirement equal to 10.3% of compensation.

Under the Public School Employees' Retirement Code, superannuation or normal retirement age is age 62 with at least one full year of service, age 60 with 30 or more years of service, or any age with 35 years of service. For most members of PSERS who first became members after the effective date of Act 120, the superannuation requirement is age 65 with a minimum of three years of service credit, or any combination of age and service that totals 92 with at least 35 years of credited service.

### **Service Credit Purchase**

Active members of both PSERS and the State Employees' Retirement System (SERS) may purchase certain types of service credit for retirement purposes. The types of service that may be purchased include prior school and State service. Additionally, various types of nonschool and nonstate service may be purchased by members and credited to them for retirement

## DISCUSSION (CONT'D)

purposes. Historically, service purchases of all types have been paid for, in part or in full, by active members through either payroll deductions or in lump-sum payments.

One of the most common service purchase authorizations provided by public employee retirement systems is for periods of military service which interrupt (intervening military service) or delay (nonintervening military service) the commencement of a career with the public employer. Permitting a member to receive retirement service credit for military service is of benefit to the member because the member's retirement benefit can be enhanced through the acquisition of additional service credit, and in some cases, retirement eligibility can be accelerated.

PSERS credit for military leave service is governed by several bodies of law: 1) the Public School Employees' Retirement Code, Title 24 Pa. C. S. §8101 *et seq.* (Retirement Code); 2) the Pennsylvania Military and Veterans Code, Title 51, Pa. C. S. §§4102, 7301-7309 (Military Code); 3) the Public School Code, 24 P.S. §11-1178 (School Code); and 4) Federal law, primarily the HEART Act, USERRA and the IRC. These bodies of law have different and sometimes inconsistent terms, conditions, requirements and PSERS benefit consequences pertaining to PSERS credit for military leave service. Senate Bill Number 797, Printer's Number 817, brings PSERS into compliance with the HEART Act, USERRA and IRC by removing inconsistencies in the law through amendments to the Military Code and the Retirement Code. Likewise, Senate Bill Number 798, Printer's Number 818, the companion bill to Senate Bill Number 797, Printer's Number 817, brings PSERS into compliance through an amendment to the School Code.

### **Uniformed Services Employment and Reemployment Rights Act**

In 1994, the United States Congress passed the Uniformed Services Employment and Reemployment Rights Act (USERRA), which replaced the former Veterans' Reemployment Rights Law (VRRL). All private and governmental employers must comply with USERRA, which provides special employment and benefit rights to individuals who leave employment to perform "qualified military service." Qualified military service is service in the "uniformed services" while on active or inactive duty, including training periods. Uniformed services include the Army, Navy, Air Force, Marines, Coast Guard, Reserves, Army and Air National Guard, the commissioned corps of the Public Health Service, and any other persons designated by the President.

To ensure that they are not held at a disadvantage in their employment rights, USERRA requires that all employees rendering intervening military service (service that interrupts employment) be considered as having been on leave of absence during that time, a policy that

## DISCUSSION (CONT'D)

is also reflected in the Commonwealth of Pennsylvania's Military Code and in most state pension plan statutes (USERRA does not address the issue of *nonintervening* military service.). Specifically, 38 U. S. C. § 4318(a)(2)(A) provides that the employee "shall be treated as not having incurred a break in service . . . by reason of such person's period or periods of service." Further, § 4318(b)(1) provides that "[a]n employer . . . shall . . . be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) . . .," and that "[n]o such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer" (§ 4318(b)(2)).

### **The Heroes Earnings Assistance and Relief Tax Act**

The Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") was signed into law by the President on June 17, 2008, to provide additional tax and pension benefits to individuals who are absent from work due to duty in the uniformed military service. While USERRA was enacted to protect the reemployment rights of those who leave employment to serve in the military, the HEART Act clarified and expanded USERRA to provide benefits and vesting protection for those who could not return to work because of death or disability while performing military service.

The HEART Act imposes several mandatory provisions on all private and governmental retirement plans, with private plans in general being required to amend their plans by the last day of the first plan year beginning on or after January 1, 2010. For governmental retirement plans, the plans must be amended to reflect the mandatory provisions of the HEART Act by the last day of the first plan year beginning on or after January 1, 2012. The following is a description of the mandatory provisions required to be adopted by governmental retirement plans to be in compliance with the HEART Act.

Qualified plans must treat members who die on or after January 1, 2007, while performing qualified military service as having died during covered employment for purposes of entitlement to certain additional benefits under the plan. These additional benefits include accelerated vesting, ancillary life insurance benefits, and other benefits that are contingent upon the participant's termination of employment due to death. The HEART Act does not require plans to pay any benefit that a member who dies or becomes disabled would have accrued during the period of military service — though plans may do so voluntarily.

## **DISCUSSION (CONT'D)**

Some employers make differential wage payments to their employees who are called to active duty in the uniformed services. “Differential wage payments” (or “differential pay”) are typically the difference between the individual’s normal pay from the employer and his military pay. Employers are not required to make these wage payments, but for those that do, the HEART Act changed their tax treatment. Under the HEART Act, differential wage payments made after December 31, 2008, are considered W-2 wages. As a result, individuals receiving such payments are considered to be active employees of the employer.

Upon the death of a member while performing qualified military service, surviving beneficiaries receive payment under the Servicemembers’ Group Life Insurance (SGLI) program. The HEART Act provides for the rollover of a military death gratuity or SGLI payment into an individual retirement account (IRA), Roth IRA or an education savings account with no annual limit on the contribution.

### **Internal Revenue Code Section 414(u)**

Section 414(u) of the Internal Revenue Code [IRC §414(u)] provides rules regarding the interaction of USERRA with the rules governing tax-qualified retirement plans. Section 414(u)(8) provides, in part, that an employer maintaining a plan is treated as meeting the requirements of USERRA only if: 1) an employee re-employed under USERRA is treated as not having incurred a break in service because of the period of military service; 2) the employee’s military service is treated as service with the employer for vesting and benefit accrual purposes; 3) the employee is permitted to make additional elective deferrals and employee contributions in an amount not exceeding the maximum amount the employee would have been permitted or required to contribute during the period of military service if the employee actually had been employed by the employer during that period; and 4) the employee is entitled to any accrued benefits that are contingent on employee contributions or elective deferrals to the extent the employee pays the contributions or elective deferrals to the plan.

## **SUMMARY OF ACTUARIAL COST IMPACT**

The Commission’s consulting actuary has reviewed the bill and the actuarial cost estimate provided to the Commission by the consulting actuary for PSERS. Despite the many changes required to bring PSERS into compliance with the HEART Act, USERRA and IRC §414(u), the Commission’s consulting actuary does not expect these changes to materially impact the future funding requirements of PSERS.

## **SUMMARY OF ACTUARIAL COST IMPACT (CONT'D)**

There is no additional cost to the System associated with a member's purchase of benefit accrual service since the full cost is paid for by the member and the employer. There may be future additional costs associated with granting eligibility service while on USERRA leave. However, the System does not currently make any assumptions with respect to members returning from military leave or dying while on military leave.

## **POLICY CONSIDERATIONS**

In reviewing the bill, the Commission identified the following policy considerations:

Substantial Compliance with Federal Law. (+) The bill attempts to bring the PSERS Code and Military Code into conformance with Federal Law by making amendments that are consistent with the mandatory provisions of the HEART Act, USERRA and IRC §414(u).

Tax Qualification. ( ) The bill should be reviewed by qualified legal counsel specializing in tax-qualification issues to ensure IRC compliance.

## **COMMISSION RECOMMENDATION**

The Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified above.

## **ATTACHMENTS**

Actuarial cost estimate provided by Buck Consultants, consulting actuary for the Public School Employees' Retirement System.

Actuarial Note provided by David H. Killick of Conrad Siegel Actuaries.

Senate Bill Number 797, Printer's Number 817.





May 10, 2013

Mr. Francis Ryder  
Director, Government Relations Office  
Pennsylvania Public School Employees' Retirement System  
5 North 5<sup>th</sup> Street  
Harrisburg, PA 17101

**Re: *Actuarial Impact of Senate Bill No. 797 (Printer's No. 817) and  
Senate Bill No. 798 (Printer's No. 818)***

Dear Frank:

As requested, we are writing with regard to Senate Bill No. 797 (Printer's No. 817) and Senate Bill No. 798 (Printer's No. 818) which amend the Public School Employees Retirement System's (PSERS) Retirement Code with respect to military leaves of absence to conform to amendments to federal law known as the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and IRC §414(u). The Senate Bills incorporate the federal law requirements for USERRA leaves effective July 1, 2013 and are proposed in order to maintain PSERS' tax qualified status.

Under Senate Bill No. 797, a member may elect to receive credit, for benefit accrual purposes, for service while on USERRA leave by contributing the required member contributions the member would have made had the member not gone on a USERRA leave. Further, the employer shall make the employer contributions that would have been made on behalf of the member. In addition, a member returning to PSERS covered employment from a USERRA leave or who dies while on USERRA leave must be granted service for benefit eligibility purposes for the time while the member was on USERRA leave.

There is no additional System cost associated with a member's purchase of benefit accrual service since the full cost is paid for by the member and employer. There may be future additional costs associated with granting eligibility service while on USERRA leave. However, the annual valuation of the System currently makes no assumptions with respect to members returning from military leave or dying while on military leave. Nevertheless, it is our opinion that the additional liability incurred due to this amendment would have an immaterial effect on the System's annual actuarial valuation.

The remaining amendatory language contained in the Senate Bills is administrative in scope and presents no additional cost to PSERS.

Mr. Francis Ryder  
May 10, 2013  
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The proposed amendments should be reviewed by legal counsel for compliance with the HEART Act, USERRA and IRC §414(u) and maintenance of PSERS' tax qualified status.

If you have any questions, please call.

Very truly yours,



Dana Spangher, FSA, EA, MAAA, FCA  
Principal, Consulting Actuary

Pc: Jeff Clay  
Brian Carl  
David Driscoll

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ConradSiegel.com

May 14, 2013

Mr. James L. McAneny  
Executive Director  
Public Employee Retirement Commission  
P.O.Box 1429  
Harrisburg, PA 17105-1429

Re: Senate Bill No. 797, Printer's No. 817  
PSERS Code

Dear Jim:

Pursuant to engagement, I have reviewed Senate Bill No. 797 and am hereby providing an actuarial note on such bill. The bill would amend Titles 24 (Public School Employees' Retirement Code) and 51 (Military Affairs) of the Pennsylvania Consolidated Statutes to incorporate amendments to certain Federal laws into the Public School Employees' Retirement System (PSERS). Such laws are the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), and Internal Revenue Code section 414(u). These changes are necessary for PSERS to maintain its tax-qualified status.

HEART has been in effect since the first plan year beginning on or after January 1, 2007. Due to mandatory employee contributions and Pennsylvania paid leave laws, the application of HEART to school employees has been unclear. The proposed law will be effective July 1, 2013.

Under the bill, compensation paid under the Pennsylvania paid military leave laws will be taken into account in determining final average salary, but any other payments to compensate school employees on military leave will not be taken into account and no employee or employer contributions will be collected on such compensation. If the employee returns timely and timely repays his missed employee contributions, final average salary is to include his deemed compensation. Federal USERRA rules apply for determining timeliness and deemed compensation.

Eligibility points are credited upon return from military leave or upon death while on such leave. These points are not held up for employee contributions. If a PSERS member returns to employment but only makes partial repayment, such member receives partial credit. If the PSERS member dies before full contributions are made, the remaining amount is treated as an actuarial debt. If the member terminates employment before making the full contribution, the shortfall is treated as an incomplete payment. If the member returns to employment, the contributions not made are treated as if he had received them as a lump sum payment. The period of repayment is three times the period of military service, but no longer than five years.

Military service that does not qualify for PSERS credit under USERRA, but would otherwise be creditable under current definitions of creditable military service, intervening

Mr. James L. McAneny  
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military service and military service leave can be purchased as nonintervening military service credit by the member.

I have also reviewed a letter dated May 10, 2013, from Dana Spangher, the consulting actuary for PSERS, to Mr. Francis Ryder of PSERS which provides Mr. Ryder with an actuarial cost estimate for the bill. I agree with the consulting actuary for PSERS that any actuarial liability incurred as a result of passage of Senate Bill No. 797 will not be material when included in the annual actuarial valuation for PSERS.

With best regards,

Yours sincerely,



David H. Killick, F.S.A.  
Consulting Actuary

DHK:smf

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 797 Session of  
2013

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INTRODUCED BY BROWNE, FARNESE, SCARNATI, BRUBAKER, TEPLITZ,  
VANCE, MENSCH, FONTANA, RAFFERTY, FERLO, ERICKSON, BREWSTER,  
YUDICHAK, WASHINGTON, BAKER, TARTAGLIONE, WHITE, SOLOBAY AND  
WOZNIAK, APRIL 1, 2013

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REFERRED TO FINANCE, APRIL 1, 2013

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AN ACT

1 Amending Titles 24 (Education) and 51 (Military Affairs) of the  
2 Pennsylvania Consolidated Statutes, further providing for the  
3 calculation of military members' Public School Employees  
4 Retirement System benefits.

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

7 Section 1. Section 8102 of Title 24 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 8102. Definitions.

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

13 "Accumulated deductions." The total of pickup contributions  
14 and the contributions paid into the fund by the member on  
15 account of current school service, previous school service, or  
16 creditable nonschool service and the statutory interest credited  
17 on all such contributions.

18 "Activated military service." Military service by a member

1 of a reserve component of the armed forces, pursuant to an order  
2 on or after July 1, 1990, and prior to July 1, 2013, to enter  
3 into active military service, other than an order to enter into  
4 active duty to meet periodic training requirements, who was an  
5 active member of the system immediately preceding the order into  
6 active military service and to whom the military leave  
7 provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of  
8 absence) do not apply.

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

16 "Actuarially equivalent." Equal present values, computed on  
17 the basis of statutory interest and the mortality tables adopted  
18 by the board.

19 "Actuary." The consultant to the board who shall be:

20 (1) a member of the American Academy of Actuaries;

21 (2) an individual who has demonstrated to the  
22 satisfaction of the Insurance Commissioner of Pennsylvania  
23 that he has the educational background necessary for the  
24 practice of actuarial science and has had at least seven  
25 years of actuarial experience; or

26 (3) a firm, partnership, or corporation of which at  
27 least one member meets the requirements of paragraph (1) or  
28 (2).

29 "Alternate payee." Any spouse, former spouse, child or  
30 dependent of a member who is recognized by a domestic relations

1 order as having a right to receive all or a portion of the  
2 moneys payable to that member under this part.

3 "Alternative investment." An investment in a private equity  
4 fund, private debt fund, venture fund, real estate fund, hedge  
5 fund or absolute return fund.

6 "Alternative investment vehicle." A limited partnership,  
7 limited liability company or any other legal vehicle for  
8 authorized investments under section 8521(i) (relating to  
9 management of fund and accounts) through which the system makes  
10 an alternative investment.

11 "Annuitant." Any member on or after the effective date of  
12 retirement until his annuity is terminated.

13 "Approved domestic relations order." Any domestic relations  
14 order which has been determined to be approved in accordance  
15 with section 8533.1 (relating to approval of domestic relations  
16 orders).

17 "Approved leave of absence." A leave of absence for  
18 activated military service or which has been approved by the  
19 employer for sabbatical leave, service as an exchange teacher,  
20 service with a collective bargaining organization or  
21 professional study.

22 "Basic contribution rate." For Class T-A, T-B and T-C  
23 service, the rate of 6 1/4%. For Class T-D service, the rate of  
24 7 1/2%. For all active members on the effective date of this  
25 provision who are currently paying 5 1/4% and elect Class T-D  
26 service, the rate of 6 1/2%. For Class T-E service, the rate of  
27 7 1/2%. For Class T-F service, the rate of 10.30%.

28 "Beneficiary." The person or persons last designated in  
29 writing to the board by a member to receive his accumulated  
30 deductions or a lump sum benefit upon the death of such member.

1 "Board." The Public School Employees' Retirement Board or  
2 the Public School Employees' Retirement Board.

3 "Class of service multiplier."

4	Class of service	Multiplier
5	T-A	.714
6	T-B	.625
7	T-C	1.000
8	T-D	1.000
9	T-E	1.000
10	T-F	1.000

11 "Commissioner." The Commissioner of the Internal Revenue  
12 Service.

13 "Compensation." Pickup contributions plus any remuneration  
14 received as a school employee excluding reimbursements for  
15 expenses incidental to employment and excluding any bonus,  
16 severance payments, any other remuneration or other emolument  
17 received by a school employee during his school service which is  
18 not based on the standard salary schedule under which he is  
19 rendering service, payments for unused sick leave or vacation  
20 leave, bonuses or other compensation for attending school  
21 seminars and conventions, payments under health and welfare  
22 plans based on hours of employment or any other payment or  
23 emolument which may be provided for in a collective bargaining  
24 agreement which may be determined by the Public School  
25 Employees' Retirement Board to be for the purpose of enhancing  
26 compensation as a factor in the determination of final average  
27 salary[, provided]; and excluding payments for military leave  
28 and any other payments made by an employer while on USERRA  
29 leave, leave of absence granted under 51 Pa.C.S. § 4102  
30 (relating to leaves of absence for certain government



1 employees), military leave of absence granted under 51 Pa.C.S. §  
2 7302 (relating to granting military leaves of absence), leave  
3 granted under section 1178 of the act of March 10, 1949 (P.L.30,  
4 No.14), known as the Public School Code of 1949, or other types  
5 of military leave, including other types of leave payments,  
6 stipends, differential wage payments as defined in IRC § 414(u)  
7 (12) and any other payments: Provided, however, that the  
8 limitation under section 401(a)(17) of the Internal Revenue Code  
9 of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into  
10 account for the purpose of member contributions, including  
11 regular or joint coverage member contributions, regardless of  
12 class of service, shall apply to each member who first became a  
13 member of the Public School Employees' Retirement System on or  
14 after July 1, 1996, and who by reason of such fact is a  
15 noneligible member subject to the application of the provisions  
16 of section 8325.1 (relating to annual compensation limit under  
17 IRC § 401(a)(17)).

18 "Concurrent service." Simultaneously credited school and  
19 State service.

20 "Creditable nonschool service." Service other than service  
21 as a school employee for which an active member may obtain  
22 credit.

23 "Credited service." School or creditable nonschool service  
24 for which the required contributions have been made, or for  
25 which the contributions otherwise required for such service were  
26 not made solely by reason of any provision of this part relating  
27 to the limitations under section 401(a)(17) or 415(b) of the  
28 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
29 401(a)(17) or 415(b)), or for which salary deductions or lump  
30 sum payments have been agreed upon in writing.

1 "Date of termination of service." The last date of service  
2 for which pickup contributions are made for an active member or,  
3 in the case of an inactive member, the effective date of his  
4 resignation or the date his employment is formally discontinued  
5 by his employer or two years following the last day of service  
6 for which contributions were made, whichever is earliest.

7 "Disability annuitant." A member on or after the effective  
8 date of disability until his disability annuity or the portion  
9 of his disability annuity payments in excess of any annuity to  
10 which he may otherwise be entitled is terminated.

11 "Distribution." Payment of all or any portion of a person's  
12 interest in the Public School Employees' Retirement Fund which  
13 is payable under this part.

14 "Domestic relations order." Any judgment, decree or order,  
15 including approval of a property settlement agreement, entered  
16 on or after the effective date of this definition by a court of  
17 competent jurisdiction pursuant to a domestic relations law  
18 which relates to the marital property rights of the spouse or  
19 former spouse of a member, including the right to receive all or  
20 a portion of the moneys payable to that member under this part  
21 in furtherance of the equitable distribution of marital assets.  
22 The term includes orders of support as that term is defined by  
23 23 Pa.C.S. § 4302 (relating to definitions) and orders for the  
24 enforcement of arrearages as provided in 23 Pa.C.S. § 3703  
25 (relating to enforcement of arrearages).

26 "Effective date of retirement." The first day following the  
27 date of termination of service of a member if he has properly  
28 filed an application for an annuity within 90 days of such date  
29 or:

30 (1) In the case of a member who applies for an annuity

1 subsequent to 90 days after termination of service, the date  
2 of filing such application or the date specified on the  
3 application, whichever is later.

4 (2) In the case of a vestee who files an application for  
5 an annuity within 90 days of his superannuation age, the  
6 attainment of such age.

7 (3) In the case of a vestee who defers the filing of an  
8 application for an annuity to a date later than 90 days  
9 following attainment of superannuation age, the date of  
10 filing or the date specified on the application, whichever is  
11 later.

12 (4) In the case of a finding of disability, the date  
13 certified by the board as the effective date of disability.

14 "Eligible annuitants." All current and prospective  
15 annuitants with 24 1/2 or more eligibility points and all  
16 current and prospective disability annuitants. Beginning January  
17 1, 1995, "eligible annuitants" shall include members with 15 or  
18 more eligibility points who terminated or who terminate school  
19 service on or after attaining superannuation retirement age and  
20 who are annuitants with an effective date of retirement after  
21 superannuation age.

22 "Eligibility points." Points which are accrued by an active  
23 member [or], a multiple service member who is an active member  
24 of the State Employees' Retirement System for credited service  
25 or by a member who has been reemployed from USERRA leave or dies  
26 while performing USERRA leave and are used in the determination  
27 of eligibility for benefits as provided in section 8306  
28 (relating to eligibility points).

29 "Employer." Any governmental entity directly responsible for  
30 the employment and payment of the school employee and charged

1 with the responsibility of providing public education within  
2 this Commonwealth, including but not limited to: State-owned  
3 colleges and universities, the Pennsylvania State University,  
4 community colleges, area vocational-technical schools,  
5 intermediate units, the State Board of Education, Scotland  
6 School for Veterans' Children, Thaddeus Stevens College of  
7 Technology, and the Western Pennsylvania School for the Deaf.

8 "Final average salary." The highest average compensation  
9 received as an active member during any three nonoverlapping  
10 periods of 12 consecutive months with the compensation for part-  
11 time service being annualized on the basis of the fractional  
12 portion of the school year for which credit is received; except,  
13 if the employee was not a member for three such periods, the  
14 total compensation received as an active member annualized in  
15 the case of part-time service divided by the number of such  
16 periods of membership; in the case of a member with multiple  
17 service credit, the final average salary shall be determined by  
18 reference to compensation received by him as a school employee  
19 or a State employee or both; and, in the case of a noneligible  
20 member, subject to the application of the provisions of section  
21 8325.1 (relating to annual compensation limit under IRC § 401(a)  
22 (17)). Final average salary shall be determined by including in  
23 compensation, payments deemed to have been made to a member  
24 reemployed from USERRA leave to the extent member contributions  
25 have been made as provided in section 8302(d)(2) (relating to  
26 credited school service) and payments made to a member on leave  
27 of absence under 51 Pa.C.S. § 4102 (relating to leaves of  
28 absence for certain government employees) as provided in section  
29 8302(d)(6).

30 "Full coverage member." Any member for whom regular member

1 pickup contributions are being picked up or who has paid or has  
2 agreed to pay to the fund the actuarial equivalent of regular  
3 member contributions due on account of service prior to January  
4 1, 1983.

5 "Fund." The Public School Employees' Retirement Fund.

6 "Governmental entity." Board of school directors, board of  
7 public education, intermediate unit board of directors, area  
8 vocational-technical board, any governing board of any agency or  
9 authority created by them, and the Commonwealth.

10 "Inactive member." A member for whom no pickup contributions  
11 are being made, except in the case of an active member for whom  
12 such contributions otherwise required for current school service  
13 are not being made solely by reason of any provision of this  
14 part relating to the limitations under section 401(a)(17) or  
15 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514,  
16 26 U.S.C. § 401(a)(17) or 415(b)) or because the member is on  
17 USERRA leave, who has accumulated deductions standing to his  
18 credit in the fund and for whom contributions have been made  
19 within the last two school years or a multiple service member  
20 who is active in the State Employees' Retirement System.

21 "Intervening military service." Active military service of a  
22 member who was a school employee immediately preceding his  
23 induction into the armed services or forces of the United States  
24 in order to meet a draft obligation excluding any voluntary  
25 extension of such obligational service and who becomes a school  
26 employee within 90 days of the expiration of such service.

27 "IRC." The Internal Revenue Code of 1986, as designated and  
28 referred to in section 2 of the Tax Reform Act of 1986 (Public  
29 Law 99-514, 100 Stat. 2085, 2095). A reference in this part to  
30 "IRC § " shall be deemed to refer to the identically numbered

1 section and subsection or other subdivision of such section in  
2 26 United States Code (relating to Internal Revenue Code).

3 "Irrevocable beneficiary." The person or persons permanently  
4 designated by a member in writing to the board pursuant to an  
5 approved domestic relations order to receive all or a portion of  
6 the accumulated deductions or lump sum benefit payable upon the  
7 death of such member.

8 "Irrevocable survivor annuitant." The person permanently  
9 designated by a member in writing to the board pursuant to an  
10 approved domestic relations order to receive an annuity upon the  
11 death of such member.

12 "Joint coverage member." Any member who agreed prior to  
13 January 1, 1966 to make joint coverage member contributions to  
14 the fund and has not elected to become a full coverage member.

15 "Joint coverage member contributions." Regular member  
16 contributions reduced for a joint coverage member.

17 "Leave for service with a collective bargaining  
18 organization." Paid leave granted to an active member by an  
19 employer for purposes of working full time for or serving full  
20 time as an officer of a Statewide employee organization or a  
21 local collective bargaining representative under the act of July  
22 23, 1970 (P.L.563, No.195), known as the Public Employe  
23 Relations Act: Provided, That greater than one-half of the  
24 members of the employee organization are active members of the  
25 system; that the employer shall fully compensate the member,  
26 including, but not limited to, salary, wages, pension and  
27 retirement contributions and benefits, other benefits and  
28 seniority, as if he were in full-time active service; and that  
29 the employee organization shall fully reimburse the employer for  
30 such salary, wages, pension and retirement contributions and

1 benefits and other benefits and seniority.

2 "Maternity leave of absence." An involuntary leave of  
3 absence required by the employer because of the pregnancy of the  
4 member and commencing prior to May 17, 1975.

5 "Member." Active member, inactive member, annuitant, or  
6 vestee.

7 "Member's annuity." The single life annuity which is  
8 actuarially equivalent on the effective date of retirement to  
9 the sum of the accumulated deductions and the shared-risk member  
10 contributions and statutory interest credited on the deductions  
11 and contributions standing to the member's credit in the  
12 members' savings account.

13 "Military service." All active military service for which a  
14 member has received a discharge other than an undesirable, bad  
15 conduct, or dishonorable discharge.

16 "Multiple service." Credited service of a member who has  
17 elected to combine his credited service in both the Public  
18 School Employees' Retirement System and the State Employees'  
19 Retirement System.

20 "Noneligible member." For the purposes of section 8325.1  
21 (relating to annual compensation limit under IRC § 401(a)(17)),  
22 a member who first became a member on or after July 1, 1996.

23 "Participating eligible annuitants." All eligible annuitants  
24 who are enrolled or elect to enroll in a health insurance  
25 program approved by the Public School Employees' Retirement  
26 Board.

27 "Pickup contributions." Regular or joint coverage member  
28 contributions and shared-risk member contributions which are  
29 made by the employer for active members for current service on  
30 and after January 1, 1983.

1 "Previous school service." Service rendered as a school  
2 employee including service in any summer school conducted by a  
3 school district of the Commonwealth prior to the member's most  
4 recent entrance in the system.

5 "Public school." Any or all classes or schools within this  
6 Commonwealth conducted under the order and superintendence of  
7 the Department of Education including, but not limited to: all  
8 educational classes of any employer charged with the  
9 responsibility of public education within this Commonwealth as  
10 well as those classes financed wholly or in part by the Federal  
11 Government, State-owned colleges and universities, the  
12 Pennsylvania State University, community colleges, area  
13 vocational-technical schools, intermediate units, the State  
14 Board of Education, Scotland School for Veterans' Children,  
15 Thaddeus Stevens State School of Technology, and the  
16 Pennsylvania State Oral School for the Deaf.

17 "Public School Code." The act of March 10, 1949 (P.L.30,  
18 No.14), known as the Public School Code of 1949.

19 "Reemployed from USERRA leave." Resumption of active  
20 membership as a school employee after a period of USERRA leave,  
21 if the resumption of active membership was within the time  
22 period and under conditions and circumstances such that the  
23 school employee was entitled to reemployment rights under 38  
24 U.S.C. Ch. 43 (relating to employment and reemployment rights of  
25 members of the uniformed services).

26 "Regular member contributions." The product of the basic  
27 contribution rate and the compensation of the member.

28 "Reserve component of the armed forces." The United States  
29 Army Reserve, United States Navy Reserve, United States Marine  
30 Corps Reserve, United States Coast Guard Reserve, United States



1 Air Force Reserve, Pennsylvania Army National Guard and  
2 Pennsylvania Air National Guard.

3 "Salaried employee." A school employee who is compensated on  
4 the basis of an annual salary.

5 "Salary deductions." The amounts certified by the board,  
6 deducted from the compensation of an active member or the State  
7 service compensation of a multiple service member who is an  
8 active member of the State Employees' Retirement System and paid  
9 into the fund.

10 "School employee." Any person engaged in work relating to a  
11 public school for any governmental entity and for which work he  
12 is receiving regular remuneration as an officer, administrator  
13 or employee excluding, however, any independent contractor or a  
14 person compensated on a fee basis.

15 "School entity." A school district of any class,  
16 intermediate unit or an area vocational-technical school, as  
17 provided for under the act of March 10, 1949 (P.L.30, No.14),  
18 known as the Public School Code of 1949.

19 "School service." Service rendered as a school employee.

20 "School year." The 12-month period which the governmental  
21 entity uses for purposes of administration regardless of the  
22 actual time during which a member renders service.

23 "Severance payments." Any payments for unused vacation or  
24 sick leave and any additional compensation contingent upon  
25 retirement including payments in excess of the scheduled or  
26 customary salaries provided for members within the same  
27 governmental entity with the same educational and experience  
28 qualifications who are not terminating service.

29 "Shared-risk contribution rate." The additional contribution  
30 rate that is added to the basic contribution rate for Class T-E

1 and T-F members, as provided for in section 8321(b) (relating to  
2 regular member contributions for current service).

3 "Standard single life annuity." For Class T-A, T-B and T-C  
4 credited service of a member, an annuity equal to 2% of the  
5 final average salary, multiplied by the total number of years  
6 and fractional part of a year of credited service of a member.  
7 For Class T-D credited service of a member, an annuity equal to  
8 2.5% of the final average salary, multiplied by the total number  
9 of years and fractional part of a year of credited service. For  
10 Class T-E credited service of a member, an annuity equal to 2%  
11 of the final average salary, multiplied by the total number of  
12 years and fractional part of a year of credited service of a  
13 member. For Class T-F credited service of a member, an annuity  
14 equal to 2.5% of the final average salary, multiplied by the  
15 total number of years and fractional part of a year of credited  
16 service of a member.

17 "State Employees' Retirement System." The retirement system  
18 established by the act of June 27, 1923 (P.L.858, No.331) and  
19 codified by the act of June 1, 1959 (P.L.392, No.78) and by Part  
20 XXV of Title 71 (relating to retirement for State employees and  
21 officers), added March 1, 1974 (P.L.125, No.31).

22 "State service." Service rendered as a State employee and  
23 credited as service in the State Employees' Retirement System.

24 "Statutory interest." Interest at 4% per annum, compounded  
25 annually.

26 "Superannuation annuitant." An annuitant whose annuity first  
27 became payable on or after the attainment of superannuation age  
28 and who is not a disability annuitant.

29 "Superannuation or normal retirement age."

30 Class of service Age

1           T-A                           62 or any age upon accrual of  
2   35 eligibility points  
3           T-B                           62  
4           T-C and T-D                 62 or age 60 provided the  
5   member has at least 30  
6   eligibility points or any  
7   age upon accrual of 35  
8   eligibility points  
9           T-E and T-F                 65 with accrual of at least  
10   three eligibility points  
11   or a combination of age  
12   and eligibility points  
13   totaling 92, provided the  
14   member has accrued at  
15   least 35 eligibility  
16   points

17         "Survivor annuitant." The person or persons last designated  
18 by a member under a joint and survivor annuity option to receive  
19 an annuity upon the death of such member.

20         "System." The Public School Employees' Retirement System of  
21 Pennsylvania as established by the act of July 18, 1917  
22 (P.L.1043, No.343), and codified by the act of June 1, 1959  
23 (P.L.350, No.77).

24         "Total member contribution rate." The sum of the basic  
25 contribution rate and the shared-risk contribution rate.

26         "USERRA." The Uniformed Services Employment and Reemployment  
27 Rights Act, 38 U.S.C. Ch. 43 (relating to employment and  
28 reemployment rights of members of the uniformed services).

29         "USERRA leave." Any period of time for service in the  
30 uniformed services as defined in 38 U.S.C. Ch. 43 (relating to

1 employment and reemployment rights of members of the uniformed  
2 services) by a school employee or former school employee who  
3 terminated school service to perform the service in the  
4 uniformed services, if the current or former school employee is  
5 entitled to reemployment rights under 38 U.S.C. Ch. 43 with  
6 respect to the uniformed service.

7 "Valuation interest." Interest at 5 1/2% per annum,  
8 compounded annually and applied to all accounts other than the  
9 members' savings account.

10 "Vestee." A member with five or more eligibility points who  
11 has terminated school service, has left his accumulated  
12 deductions in the fund and is deferring filing of an application  
13 for receipt of an annuity. For Class T-E and Class T-F members,  
14 a member with ten or more eligibility points who has terminated  
15 school service, has left his accumulated deductions in the fund  
16 and is deferring filing of an application for receipt of an  
17 annuity.

18 Section 2. Section 8302(b.1) of Title 24 is amended by  
19 adding a paragraph and the section is amended by adding a  
20 subsection to read:

21 § 8302. Credited school service.

22 \* \* \*

23 (b.1) Optional credit for leave of absence for activated  
24 military service.--

25 \* \* \*

26 (4) This subsection shall apply to leaves of absence for  
27 activated military service that commence on or before June  
28 30, 2013.

29 \* \* \*

30 (d) Credit for military service.--

1       (1) For purposes of determining whether a member is  
2 eligible to receive credited service for a period of active  
3 military service, other than active duty service to meet  
4 periodic training requirements, rendered after August 5, 1991  
5 and that began before the effective date of this paragraph,  
6 the provisions of 51 Pa.C.S. Ch. 73 (relating to military  
7 leave of absence) shall apply to all individuals who were  
8 active members of the system when the period of military  
9 service began, notwithstanding if the member is not defined  
10 as an employee under 51 Pa.C.S. § 7301 (relating to  
11 definitions). School employees may not receive service credit  
12 or exercise the options under 51 Pa.C.S. § 7306(a), (b) and  
13 (c) (relating to retirement rights) for military leaves that  
14 begin on or after the effective date of this subsection,  
15 except otherwise provided under this subsection.

16       (2) A school employee who has performed USERRA leave may  
17 receive credit as provided by this paragraph.

18       (i) A school employee who is reemployed from USERRA  
19 leave shall be treated as not having incurred a break in  
20 school service by reason of the USERRA leave and shall be  
21 granted eligibility points as if the school employee had  
22 not been on the USERRA leave. If a school employee who is  
23 reemployed from USERRA leave subsequently makes regular  
24 member contributions, shared risk member contributions  
25 and any other member contributions in the amounts and in  
26 the time periods required by 38 U.S.C. Ch. 43 and IRC §  
27 414(u) as if the school employee had continued in his  
28 school office or employment and performed school service  
29 and been compensated during the period of USERRA leave,  
30 the school employee shall be granted school service

1 credit for the period of USERRA leave. The employee shall  
2 have his benefits, rights and obligations determined  
3 under this part as if he was an active member who  
4 performed creditable school service during the USERRA  
5 leave in the job position that he would have held had he  
6 not been on USERRA leave and received the compensation on  
7 which the member contributions to receive school service  
8 credit for the USERRA leave were determined.

9 (ii) For purposes of determining whether a school  
10 employee has made the required employee contributions for  
11 School service credit for USERRA leave, if an employee  
12 who is reemployed from USERRA leave terminates school  
13 service or dies in school service before the expiration  
14 of the allowed payment period, school service credit for  
15 the USERRA leave shall be granted as if the required  
16 member contributions were paid the day before termination  
17 or death. The amount of the required member contributions  
18 shall be treated as an incomplete payment subject to the  
19 provisions of section 8325 (relating to incomplete  
20 payments). Upon a subsequent return to school service or  
21 to State service as a multiple service member, the  
22 required member contributions treated as incomplete  
23 payments shall be treated as member contributions that  
24 were either withdrawn in a lump sum at termination, or  
25 paid as a lump sum under section 8345(a)(4) (relating to  
26 member's options).

27 (iii) A school employee who is reemployed from  
28 USERRA leave and who does not make the required member  
29 contributions or makes only part of the required member  
30 contributions within the allowed payment period shall not

1           be:

2                   (A) Granted credited service for the period of  
3                   USERRA leave for which the required member  
4                   contributions were not timely made

5                   (B) Eligible to subsequently make contributions.

6                   (C) Granted either school service credit or  
7                   nonschool service credit for the period of USERRA  
8                   leave for which the required member contributions  
9                   were not timely made.

10           (3) A school employee who performs USERRA leave from  
11           which the employee could have been reemployed from USERRA  
12           leave had the School employee returned to school service in  
13           the time frames required by 38 U.S.C. Ch. 43 for reemployment  
14           rights, but did not do so, shall be able to receive  
15           creditable nonschool service as nonintervening military  
16           service for the period of USERRA leave if the employee later  
17           returns to school service and is otherwise eligible to  
18           purchase the service as nonintervening military service.

19           (4) A school employee who, on or after the effect date  
20           of this subsection, is granted a leave of absence under  
21           section 1178 of the act of March 10, 1949 (P.L.30, No.14),  
22           known as the Public School Code of 1949, a leave of absence  
23           under 51 Pa.C.S. § 4102 (relating to leaves of absence for  
24           certain government employees) or a military leave under the  
25           51 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to  
26           receive creditable nonschool service as nonintervening  
27           military service should the employee return to school service  
28           and is otherwise eligible to purchase the service as  
29           nonintervening military service.

30           (5) If a member dies while performing USERRA leave, the

1 beneficiaries or survivor annuitants of the deceased member  
2 shall be entitled to any additional benefits, including  
3 eligibility points, other than benefit accruals relating to  
4 the period of qualified military service, provided under this  
5 part as if the member resumed and then terminated employment  
6 on account of death.

7 (6) A school employee who is on a leave of absence from  
8 his duties as a school employee and for which 51 Pa.C.S. §  
9 4102 provides that he is not to suffer a loss of pay, time or  
10 efficiency shall not be an active member, receive service  
11 credit or make member contributions for the leave of absence  
12 except as provided for in this part. Notwithstanding this  
13 paragraph, any pay the member receives under section 1178 of  
14 the Public School Code of 1949 or 51 Pa.C.S. § 4102 shall be  
15 included in the determination of final average salary and  
16 other calculations utilizing compensation as if the payments  
17 were compensation under this part.

18 Section 3. Section 8303 of Title 24 is amended by adding a  
19 subsection to read:

20 § 8303. Eligibility points for retention and reinstatement of  
21 service credits.

22 \* \* \*

23 (b.1) USERRA leave.--A member who is reemployed from USERRA  
24 leave or who dies while performing USERRA leave shall receive  
25 eligibility points in accordance with section 8306 for the  
26 school service that would have been performed had the member not  
27 performed USERRA leave.

28 \* \* \*

29 Section 4. Sections 8304(b) and 8305.2(b) of Title 24 are  
30 amended to read:



1 § 8304. Creditable nonschool service.

2 \* \* \*

3 (b) Limitations on nonschool service.--Creditable nonschool  
4 service credit shall be limited to:

5 (1) Intervening military service, if the member returned  
6 to school service before July 1, 2013.

7 (2) Military service other than intervening military  
8 service [and], activated military service or service  
9 performed during USERRA leave not exceeding five years  
10 provided that a member with multiple service may not purchase  
11 more than a total of five years of military service in both  
12 the system and the State Employees' Retirement System.

13 (3) Service in any public school or public educational  
14 institution in any state other than this Commonwealth or in  
15 any territory or area under the jurisdiction of the United  
16 States. This paragraph includes service, prior to July 1,  
17 1965, at a community college established under the act of  
18 August 24, 1963 (P.L.1132, No.484), known as the Community  
19 College Act of 1963.

20 (4) Service as an administrator, teacher, or instructor  
21 in the field of public school education for any agency or  
22 department of the government of the United States whether or  
23 not such area was under the jurisdiction of the United  
24 States.

25 (5) Previous service as an employee of a county board of  
26 school directors which employment was terminated because of  
27 the transfer of the administration of such service or of the  
28 entire agency to a governmental entity.

29 (6) Previous service as a county employee as a nurse.  
30 For every three years or major fraction thereof in previous

1 work experience, an individual may buy one year of creditable  
2 service, not to exceed a total of five years. The purchase of  
3 this service shall begin within three years of the employee's  
4 eligibility to purchase this creditable service.

5 (7) (i) Service for the period of time spent on a  
6 maternity leave of absence required by the employer,  
7 which creditable service shall not exceed two years per  
8 leave and shall be applicable only to a maternity leave  
9 which was mandatory prior to May 17, 1975. The purchase  
10 of this service shall begin within one year of the  
11 employee's eligibility to purchase the creditable service  
12 under this subparagraph as originally enacted by the act  
13 of August 5, 1991 (P.L.183, No.23), entitled "An act  
14 amending Titles 24 (Education) and 71 (State Government)  
15 of the Pennsylvania Consolidated Statutes, further  
16 providing for the Public School Employees' Retirement  
17 System and the State Employees' Retirement System; adding  
18 and amending certain definitions; further providing for  
19 membership in the systems, for creditable nonschool and  
20 nonstate service and the purchase of credit, for  
21 incentives for special early retirement, for  
22 contributions to the retirement funds, for annuities and  
23 the rights and duties of annuitants, for health insurance  
24 premium assistance, for board membership and for the re-  
25 amortization and management of the retirement funds."

26 (ii) Service for the period of time spent on a  
27 maternity leave of absence required by the employer,  
28 which creditable service shall not exceed two years per  
29 leave and shall be applicable only to a maternity leave  
30 that was mandatory and began after May 16, 1975, and

1 prior to November 1, 1978. The purchase of this service  
2 shall begin within one year of the employee's eligibility  
3 to purchase the creditable service under this  
4 subparagraph.

5 (8) Service in the Cadet Nurse Corps with respect to any  
6 period of training as a student or graduate nurse under a  
7 plan approved under section 2 of the act of June 15, 1943  
8 (Public Law 78-73, 57 Stat. 153), if the total period of  
9 training under the plan was at least two years, the credit  
10 for such service not to exceed three years.

11 \* \* \*

12 § 8305.2. Election to become a Class T-F member.

13 \* \* \*

14 (b) Time for making election.--A member must elect to become  
15 a Class T-F member by filing a written election with the board  
16 within 45 days of notification by the board that such member is  
17 eligible for such election. A school employee who is eligible to  
18 elect to become a Class T-F member who begins USERRA leave  
19 during the election period without having elected Class T-F  
20 membership may make the election within 45 days after being  
21 reemployed from USERRA leave.

22 \* \* \*

23 Section 5. Section 8306(b) of Title 24 is amended and the  
24 section is amended by adding a subsection to read:

25 § 8306. Eligibility points.

26 \* \* \*

27 (a.1) USERRA leave.--A member who is reemployed from USERRA  
28 leave or who dies while performing USERRA leave shall be granted  
29 the eligibility points that he would have accrued had he  
30 continued in his school office or employment instead of

1 performing USERRA leave. If a school employee who is reemployed  
2 from USERRA leave makes the member contributions to be granted  
3 school service credit for the USERRA leave, no additional  
4 eligibility points may be granted.

5 (b) Transitional rule.--For the purposes of the transition:

6 (1) In determining whether a member, other than a  
7 disability annuitant who returns to school service after June  
8 30, 2001, upon termination of the disability annuity, who is  
9 not a school employee or a State employee on June 30, 2001,  
10 and July 1, 2001, and who has previous school service, has  
11 the five eligibility points required by the definition of  
12 "vestee" in sections 8102 (relating to definitions), 8307  
13 (relating to eligibility for annuities), 8308 (relating to  
14 eligibility for vesting) and 8345 (relating to member's  
15 options), only eligibility points earned by performing  
16 credited school service, USERRA leave or credited State  
17 service after June 30, 2001, shall be counted until such  
18 member earns one eligibility point by performing credited  
19 school service or credited State service after June 30, 2001,  
20 at which time all eligibility points as determined under  
21 subsection (a) shall be counted.

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

27 Section 6. Section 8325 of Title 24 is amended to read:

28 § 8325. Incomplete payments.

29 In the event that a member terminates school service or a  
30 multiple service member who is an active member of the State

1 Employees' Retirement System terminates State service before any  
2 agreed upon payments for USERRA leave or return of benefits on  
3 account of returning to school service or entering State service  
4 and electing multiple service have been completed, the member or  
5 multiple service member who is an active member of the State  
6 Employees' Retirement System shall have the right to pay within  
7 30 days of termination of school service or State service the  
8 balance due, including interest, in a lump sum, and the annuity  
9 shall be calculated including full credit for the previous  
10 school service, creditable nonschool service, or full-coverage  
11 membership. In the event a member does not pay the balance due  
12 within 30 days of termination of school service or in the event  
13 a member dies in school service or within 30 days of termination  
14 of school service or in the case of a multiple service member  
15 who is an active member of the State Employees' Retirement  
16 System does not pay the balance due within 30 days of  
17 termination of State service or dies in State service or within  
18 30 days of termination of State service and before the agreed  
19 upon payments have been completed, the present value of the  
20 benefit otherwise payable shall be reduced by the balance due,  
21 including interest, and the benefit payable shall be calculated  
22 as the actuarial equivalent of such reduced present value.

23 Section 7. Section 8326 of Title 24 is amended by adding a  
24 section to read:

25 § 8326. Contributions by the Commonwealth.

26 \* \* \*

27 (d) Contributions resulting from members reemployed from  
28 USERRA leave.--When a school employee reemployed from USERRA  
29 leave makes the member contributions required to be granted  
30 School service credit for the USERRA leave, either by actual

1 payment or by actuarial debt under section 8325 (relating to  
2 incomplete payments), the Commonwealth employer or other  
3 employer by whom the School employee is employed at the time the  
4 member contributions are made, or the last employer before  
5 termination in the case of payment under sections 8327 (relating  
6 to payments by employers) and 8535 (relating to payments to  
7 school entities by Commonwealth), shall make any employer  
8 contributions that would have been made under this section as if  
9 the employee making the member contributions after being  
10 reemployed from USERRA leave continued to be employed in his  
11 school office or position instead of performing USERRA leave.

12 Section 8. Section 8346(d) of Title 24 is amended and the  
13 section is amended by adding a subsection to read:

14 § 8346. Termination of annuities.

15 \* \* \*

16 (a.2) Return of benefits paid during USERRA leave.--If a  
17 former school employee is reemployed from USERRA leave who had  
18 received any payments or annuity from the system during the  
19 USERRA leave, the employee shall return to the board the amount  
20 received plus statutory interest. The amount payable shall be  
21 certified by the board in accordance with methods approved by  
22 the actuary and:

23 (1) shall be paid in a lump sum within 30 days; or

24 (2) in the case of an active member, may be amortized  
25 with statutory interest through salary deductions in amounts  
26 agreed upon by the member and the board for not longer than a  
27 period that starts with the date of reemployment and  
28 continuing for up to three times the length of the member's  
29 immediate past period of USERRA leave. A repayment period  
30 under this paragraph may not exceed five years or a longer

1 time as agreed to between the board and the member.

2 \* \* \*

3 (d) Elimination of the effect of frozen present value.--

4 (1) An annuitant who returns to school service and earns  
5 three eligibility points by performing credited school  
6 service or reemployment from USERRA leave following the most  
7 recent period of receipt of an annuity under this part, or an  
8 annuitant who enters State service and:

9 (i) is a multiple service member; or

10 (ii) who elects multiple service membership, and  
11 earns three eligibility points by performing credited State  
12 service, reemployment from USERRA leave or credited school  
13 service following the most recent period of receipt of an  
14 annuity under this part, and who had the present value of his  
15 annuity frozen in accordance with subsection (a), shall  
16 qualify to have the effect of the frozen present value  
17 resulting from all previous periods of retirement eliminated,  
18 provided that all payments under Option 4 and annuity  
19 payments payable during previous periods of retirement plus  
20 interest as set forth in paragraph (3) shall be returned to  
21 the fund in the form of an actuarial adjustment to his  
22 subsequent benefits or in such form as the board may  
23 otherwise direct.

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

29 (i) an annuity (prior to optional modification)

30 calculated as if the freezing of the former annuitant's

1 account pursuant to subsection (a) had not occurred,  
2 adjusted by crediting Class T-C school service as Class  
3 T-D service as provided for in section 8305(c) (relating  
4 to classes of service) and further adjusted according to  
5 paragraph (3), provided that a former annuitant of the  
6 system or a former annuitant of the State Employees'  
7 Retirement System who retired under a provision of law  
8 granting additional service credit if termination of  
9 school or State service or retirement occurred during a  
10 specific period of time shall not be permitted to retain  
11 the additional service credit under the prior law when  
12 the annuity is computed for his most recent retirement;  
13 or

14 (ii) an annuity (prior to optional modification)  
15 calculated as if the former annuitant did not qualify to  
16 have the effect on the frozen present value eliminated,  
17 unless the former annuitant notifies the board in writing by  
18 the later of the date the application for annuity is filed or  
19 the effective date of retirement that the former annuitant  
20 wishes to receive the lower annuity.

21 (3) In addition to any other adjustment to the present  
22 value of the maximum single life annuity that a member may be  
23 entitled to receive that occurs as a result of any other  
24 provision of law, the present value of the maximum single  
25 life annuity shall be reduced by all amounts paid or payable  
26 to him during all previous periods of retirement plus  
27 interest on these amounts until the date of subsequent  
28 retirement. The interest for each year shall be calculated  
29 based upon the annual interest rate adopted for that school  
30 year by the board for the calculation of the normal



1 contribution rate pursuant to section 8328(b) (relating to  
2 actuarial cost method).

3 Section 9. Sections 8347(a) and (b), 8502(m) and 8505(h) of  
4 Title 24 are amended to read:

5 § 8347. Death benefits.

6 (a) Members eligible for annuities.--Any member or former  
7 member on USERRA leave, other than an annuitant, who dies and  
8 was eligible for an annuity in accordance with section 8307(a)  
9 or (b) (relating to eligibility for annuities) shall be  
10 considered as having applied for an annuity to become effective  
11 the day before his death; and, in the event he has not elected  
12 an option, it shall be assumed that he elected Option 1 and  
13 assigned as beneficiary that person last designated in writing  
14 to the board.

15 (b) Members ineligible for annuities.--In the event of the  
16 death of any member or former member on USERRA leave, other than  
17 an annuitant, who is not entitled to a death benefit as provided  
18 in subsection (a), his designated beneficiary shall be paid the  
19 full amount of his accumulated deductions.

20 \* \* \*

21 § 8502. Administrative duties of board.

22 \* \* \*

23 (m) Member contributions and interest.--The board shall  
24 cause each member's contributions, including payroll deductions,  
25 pickup contributions and all other payments, including, but not  
26 limited to, amounts collected by the State Employees' Retirement  
27 System for the reinstatement of previous school service or  
28 creditable nonschool service and amounts paid to return benefits  
29 paid after the date of return to school service or entering  
30 State service representing lump sum payments made pursuant to

1 section 8345(a)(4)(iii) (relating to member's options) and  
2 member's annuity payments, but not including other benefits  
3 returned pursuant to section 8346(a.1) (relating to termination  
4 of annuities) and section 8346(a.2), to be credited to the  
5 account of such member and shall pay all such amounts into the  
6 fund. Such contributions shall be credited with statutory  
7 interest until date of termination of service, except in the  
8 case of a vestee, who shall have such interest credited until  
9 the effective date of retirement or until the return of his  
10 accumulated deductions, if he so elects; and in the case of a  
11 multiple service member who shall have such interest credited  
12 until termination of service in both the school and the State  
13 systems.

14 \* \* \*

15 § 8505. Duties of board regarding applications and elections of  
16 members.

17 \* \* \*

18 (h) Death benefits.--Upon receipt of notification of the  
19 death of a member or former member on USERRA leave, the board  
20 shall notify the designated beneficiary or survivor annuitant of  
21 the benefits to which he is entitled and shall make the first  
22 payment to the beneficiary under the plan elected by the  
23 beneficiary within 60 days of receipt of certification of death  
24 and other necessary data. If no beneficiary designation is in  
25 effect at the date of the member's death or no notice has been  
26 filed with the board to pay the amount of such benefits to the  
27 member's estate, the board is authorized to pay such benefits to  
28 the executor, administrator, surviving spouse or next-of-kin of  
29 the deceased member, and payment pursuant hereto shall fully  
30 discharge the fund from any further liability to make payment of

1 such benefits to any other person. If the surviving spouse or  
2 next-of-kin of the deceased member cannot be found for the  
3 purpose of paying such benefits for a period of seven years from  
4 the date of death of the member, then such benefits shall be  
5 escheated to the Commonwealth for the benefit of the fund.

6 \* \* \*

7 Section 10. Section 8506 of Title 24 is amended by adding a  
8 subsection to read:

9 § 8506. Duties of employers.

10 \* \* \*

11 (k) School employees performing USERRA or military-related  
12 leave of absence.--The employer shall report to the board all of  
13 the following:

14 (1) Any school employee who:

15 (i) ceases to be an active member to perform USERRA  
16 service; or

17 (ii) is granted a leave of absence under 51 Pa.C.S.  
18 § 4102 (relating to leaves of absence for certain  
19 government employees) or a military leave of absence  
20 under 51 Pa.C.S. § 7302 (relating to granting military  
21 leaves of absence).

22 (2) The date on which the USERRA service, leave of  
23 absence or military leave of absence under began.

24 (3) The date on which the school employee is reemployed  
25 from USERRA leave or returns after the leave of absence or  
26 military leave of absence, if applicable.

27 (4) Any other information the board may require.

28 Section 11. Section 8507(c) of Title 24 is amended and the  
29 section is amended by adding a subsection to read:

30 § 8507. Rights and duties of school employees and members.

1 \* \* \*

2 (c) Multiple service membership.--Any active member who was  
3 formerly an active member in the State Employees' Retirement  
4 System may elect to become a multiple service member. Such  
5 election shall occur no later than 365 days after becoming an  
6 active member in this system. A school employee who is eligible  
7 to elect to become a multiple service member and who begins  
8 USERRA leave during the election period without having elected  
9 multiple service membership may make the election within 365  
10 days after being reemployed from USERRA leave.

11 \* \* \*

12 (d.1) School service for USERRA leave.--Any active member or  
13 inactive member on leave without pay who was reemployed from  
14 USERRA leave and who desires to receive school service credit  
15 for his USERRA leave shall notify the board within the time  
16 period required under 38 U.S.C. Chapter 43 (relating to  
17 employment and reemployment rights of members of the uniformed  
18 services) and IRC §414(u) of his desire to make the required  
19 member contributions. Upon making the required member  
20 contributions within the allowed time period, the member shall  
21 receive credit for the service as of the date the contributions  
22 are made.

23 \* \* \*

24 Section 12. Section 7306(a) of Title 51, amended October 24,  
25 2012 (P.L.1436, No.181), is amended and the section is amended  
26 by adding a subsection to read:

27 § 7306. Retirement rights.

28 (a) Options available to employees.--Any employee who is a  
29 member of a retirement system other than an active member or  
30 inactive member on leave without pay of the State Employees'

1 Retirement System or an active or inactive member of the Public  
2 School Employees' Retirement System at the time he is granted a  
3 military leave of absence shall be entitled to exercise any one  
4 of the following options in regard thereto:

5 (1) He may continue to make regular payments into the  
6 fund during the period of his military leave of absence. The  
7 amount of such payments shall be the same as they would have  
8 been, had he not been granted a military leave of absence,  
9 but had instead remained actively in his employment. The time  
10 of making such payments shall be mutually agreed upon by the  
11 employee and the retirement association of which he is a  
12 member, but in no event shall be less frequent than  
13 semiannually. The employer shall make its contributions on  
14 the same basis as is used to compute the employee's  
15 contributions. In this case, his retirement rights shall be  
16 determined on the basis that he was in the active, continuous  
17 and uninterrupted employ of his employer for the period  
18 during which he was on military leave of absence.

19 (2) He may discontinue making payments into the fund  
20 during the period of his military leave of absence. In such  
21 event, the employer shall also discontinue making its  
22 contributions during this period. In this case, his  
23 retirement rights shall be determined by completely  
24 disregarding the period of his military leave of absence for  
25 all purposes.

26 \* \* \*

27 (e) Members of Public School Employees' Retirement System.--  
28 An employee who is an active member or inactive member of the  
29 Public School Employees' Retirement System at the time he is  
30 granted a military leave of absence shall be entitled to receive

1 credit in the Public School Employees' Retirement System for the  
2 leave as provided under 24 Pa.C.S. Pt. IV (relating to  
3 retirement for school employees).

4 Section 13. This act shall apply as follows:

5 (1)(i) Except as provided under subparagraph (ii), the  
6 amendment of 24 Pa.C.S. Pt. IV shall apply to leaves of  
7 absence, military leaves of absence and leaves pursuant to 38  
8 U.S.C. Ch. 43 that are granted on or after the effective date  
9 of this section.

10 (ii) If a member died performing uniformed service  
11 under 38 U.S.C. Ch. 43, the amendment of 24 Pa.C.S. Pt.  
12 IV shall apply to leaves of absence, military leaves of  
13 absence and leaves pursuant to 38 U.S.C. Ch. 43 that were  
14 granted on or after December 31, 2006.

15 (2) The amendment or addition of 51 Pa.C.S. § 7306(a)  
16 and (e) shall apply to leaves of absence or military leaves  
17 of absence that are granted on or after the effective date of  
18 this section.

19 Section 14. Notwithstanding the provisions of 24 Pa.C.S. §  
20 8503(b), the statement for each member prepared by the Public  
21 School Employees' Retirement Board for the period ending June  
22 30, 2013, and any other statements or estimates of benefits  
23 prepared by the board under 24 Pa.C.S. Pt. IV from the effective  
24 date of this section to June 30, 2014, shall not be required to  
25 reflect the provisions of this act.

26 Section 15. Notwithstanding the provisions of 24 Pa.C.S. Pt.  
27 IV, the obligation of the Public School Employees' Retirement  
28 Board to make payments to any individual whose rights, benefits  
29 and obligations are affected by this act within specified time  
30 periods of the receipt of applications for benefits or other

1 information shall not apply from the effective date of this  
2 section to June 30, 2014.

3 Section 16. The board shall have the authority to:

4 (1) Implement the requirements of 24 Pa.C.S. Pt IV.  
5 pertaining to school employees on USERRA leave or who have  
6 been granted a leave of absence under 51 Pa.C.S. § 4102, a  
7 leave of absence under 24 Pa.C.S. Pt IV or a military leave  
8 of absence under 51 Pa.C.S. § 7302.

9 (2) Establish administrative, reporting and payment  
10 requirements and processes pertaining to the leaves  
11 applicable to employers and members.

12 Section 17. Nothing under this act shall be deemed to permit  
13 the restoration of service credit or retirement benefits which  
14 were or are subject to 42 Pa.C.S. § 3352 or the subject of an  
15 order of forfeiture pursuant to the act of July 8, 1978  
16 (P.L.752, No.140), known as the Public Employee Pension  
17 Forfeiture Act.

18 Section 18. Nothing under this act shall be construed or  
19 deemed to imply that any interpretation or application of the  
20 provisions of 24 Pa.C.S. Pt. IV or benefits available to members  
21 of the Public School Employees' Retirement System was not in  
22 accordance with the provisions of 24 Pa.C.S. Pt. IV or other  
23 applicable law, including the Internal Revenue Code of 1986  
24 (Public Law 99-514, 26 U.S.C. § 1 et seq.) prior to the  
25 effective date of this section. It is the express intent of the  
26 General Assembly that nothing under this act shall be construed  
27 to grant to or be deemed to imply that this act expands,  
28 contracts or otherwise affects any contractual rights, either  
29 expressed or implied, or any other constitutionally protected  
30 rights, in the terms and conditions of the Public School

1 Employees' Retirement System or other pension or retirement  
2 benefits as a State employee, including, but not limited to,  
3 benefits, options, rights or privileges established by 24  
4 Pa.C.S. Pt. IV for any current or former public school  
5 employees.

6 Section 19. This act shall be construed and administered in  
7 such a manner that the Public School Employees' Retirement  
8 System will satisfy the requirements necessary to qualify as a  
9 qualified pension plan under section 401(a) and other applicable  
10 provisions of the Internal Revenue Code of 1986 (Public Law 99-  
11 514, 26 U.S.C. § 1 et seq.) and 38 U.S.C. Ch. 43. The rules,  
12 regulations and procedures adopted and promulgated by the State  
13 Employees' Retirement Board under 24 Pa.C.S. § 8502(h) may  
14 include those necessary to accomplish the purpose of this  
15 section.

16 Section 20. The following shall apply:

17 (1) The amendment of 51 Pa.C.S. § 7306 or 24 Pa.C.S. Pt.  
18 IV shall not:

19 (i) Create in any member of the Public School  
20 Employees' Retirement System or in any other person  
21 claiming an interest in the account of any member a  
22 contractual right, either expressed or implied, in  
23 relation to requirements for qualification of the Public  
24 School Employees' Retirement System as a qualified  
25 pension plan under the Internal Revenue Code of 1986  
26 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

27 (ii) Establish compliance with or affect any  
28 construction of:

29 (A) 38 U.S.C. Ch. 43.

30 (B) 24 Pa.C.S. Pt. IV or any rules or



1 regulations adopted under 24 Pa.C.S. Pt. IV.

2 (2) The provisions of 24 Pa.C.S. Pt. IV shall remain  
3 subject to the Internal Revenue Code of 1986, and the General  
4 Assembly reserves to itself the further exercise of its  
5 legislative power to amend or supplement the provisions as  
6 may be required in order to maintain the qualification of the  
7 system as a qualified pension plan under section 401(a) and  
8 other applicable provisions of the Internal Revenue Code of  
9 1986 and 38 U.S.C. Ch. 43.

10 Section 21. References in this act to the Internal Revenue  
11 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et. Seq.) or 38  
12 U.S.C. Ch. 43, including for this purpose administrative  
13 regulations promulgated under those acts, are intended to  
14 include laws and regulations in effect on the effective date of  
15 this section and as they may be amended or supplemented or  
16 supplanted by successor provisions after the effective date of  
17 this section.

18 Section 22. This act shall take effect July 1, 2013, or  
19 immediately, whichever is later.