

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1982 Session of 2019

INTRODUCED BY BENNINGHOFF, EVERETT, BERNSTINE, BOYLE, BRADFORD, DUNBAR, HERSHEY, JONES, MILLARD, MOUL, PICKETT, SAYLOR, SCHMITT, SCHWEYER, TOBASH, LAWRENCE, B. MILLER, GLEIM, GREINER AND CIRESI, OCTOBER 25, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 18, 2019

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, IN PRELIMINARY PROVISIONS, FURTHER <--
3 PROVIDING FOR DEFINITIONS; in membership, credited service,
4 classes of service, and eligibility for benefits, further
5 providing for credited State service; in contributions,
6 further providing for shared-risk member contributions and
7 shared-gain adjustments to regular member contributions, for
8 contributions to the system by the Commonwealth and other
9 employers and for actuarial cost method and providing for
10 advance payment of accrued liability contributions; in
11 administration, funds, accounts and general provisions,
12 further providing for administrative duties of the board, for
13 duties of heads of departments and for State accumulation
14 account; providing for obligations of the board, for exercise
15 of legislative power and for liability.

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

18 Section 1. Sections 5302(b)(2) and 5501.1(b)(4), (7) and <--
19 (8), (c)(4), (e)(4), (7) and (8) and (f)(4) of Title 71 of the
20 Pennsylvania Consolidated Statutes are amended to read:

21 SECTION 1. SECTION 5102 OF TITLE 71 OF THE PENNSYLVANIA <--
22 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:
23 § 5102. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES AS USED IN THIS PART, UNLESS
2 A DIFFERENT MEANING IS PLAINLY REQUIRED BY THE CONTEXT, SHALL
3 HAVE THE FOLLOWING MEANINGS:

4 * * *

5 "ELIGIBLE EMPLOYER." ANY EMPLOYING UNIT, AGENCY OR
6 DEPARTMENT THAT EMPLOYS STATE EMPLOYEES, OTHER THAN THE
7 PENNSYLVANIA TURNPIKE COMMISSION, THE DELAWARE RIVER PORT
8 AUTHORITY, THE PORT AUTHORITY TRANSIT CORPORATION, THE
9 PHILADELPHIA REGIONAL PORT AUTHORITY, THE DELAWARE RIVER JOINT
10 TOLL BRIDGE COMMISSION, THE STATE PUBLIC SCHOOL BUILDING
11 AUTHORITY, THE DEPARTMENT OF GENERAL SERVICES, THE STATE HIGHWAY
12 AND BRIDGE AUTHORITY, THE DELAWARE VALLEY REGIONAL PLANNING
13 COMMISSION, THE DELAWARE RIVER BASIN COMMISSION, THE SUSQUEHANNA
14 RIVER BASIN COMMISSION AND ANY SEPARATE INDEPENDENT PUBLIC
15 CORPORATION CREATED BY STATUTE, NOT INCLUDING ANY MUNICIPAL OR
16 QUASI-MUNICIPAL CORPORATION.

17 * * *

18 SECTION 2. SECTIONS 5302(B)(2) AND 5501.1(B)(4), (7) AND
19 (8), (C)(4), (E)(4), (7) AND (8) AND (F)(4) OF TITLE 71 ARE
20 AMENDED TO READ:

21 § 5302. Credited State service.

22 * * *

23 (b) Creditable leaves of absence.--

24 * * *

25 (2) An active member or active participant on paid leave
26 granted by an employer for purposes of serving as an elected
27 full-time officer for a Statewide employee organization which
28 is a collective bargaining representative under the act of
29 June 24, 1968 (P.L.237, No.111), referred to as the Policemen
30 and Firemen Collective Bargaining Act, or the act of July 23,

1 1970 (P.L.563, No.195), known as the Public Employe Relations
2 Act, and up to 14 full-time business agents appointed by an
3 employee organization that represents correction officers
4 employed at State correctional institutions: Provided, That
5 for elected full-time officers such leave shall not be for
6 more than three consecutive terms of the same office and for
7 up to 14 full-time business agents appointed by an employee
8 organization that represents correction officers employed at
9 State correctional institutions no more than three
10 consecutive terms of the same office; that the employer shall
11 fully compensate the member or participant, including, but
12 not limited to, salary, wages, pension and retirement
13 contributions and benefits, other benefits and seniority, as
14 if he were in full-time active service; and that the
15 Statewide employee organization shall fully reimburse the
16 employer for all expenses and costs of such paid leave,
17 including, but not limited to, contributions and payment in
18 accordance with sections 5501, 5501.1, 5505.1, 5507, 5804
19 (relating to participant contributions), 5805 (relating to
20 mandatory pickup participant contributions) and 5806
21 (relating to employer defined contributions), if the employee
22 organization either directly pays, or reimburses the
23 Commonwealth or other employer for, contributions made in
24 accordance with sections 5507, 5804, 5805 and 5806. The
25 determination of the contributions that an employee
26 organization pays or reimburses the Commonwealth or other
27 ELIGIBLE employer under this paragraph shall be made without <--
28 regard to any setoff the Commonwealth or any ELIGIBLE <--
29 employer receives for advance payment of accrued liability
30 contributions under section 5507(h).

1 * * *

2 § 5501.1. Shared-risk member contributions and shared-gain
3 adjustments to regular member contributions.

4 * * *

5 (b) Determination of shared-risk contribution rate for Class
6 A-3 and Class A-4 service.--The shared-risk contribution for
7 Class A-3 and Class A-4 service shall be determined as follows:

8 * * *

9 (4) Notwithstanding paragraphs (2) and (3), the shared-
10 risk contribution rate shall not be less than zero and shall
11 not be more than the experience adjustment factor resulting
12 from investment gains or losses during the determination
13 period in effect on the first day when the new rate would be
14 applied, determined without regard to any setoff the
15 Commonwealth or any ELIGIBLE employer receives for advance <--
16 payment of accrued liability contributions under section
17 5507(h) (relating to contributions to the system by the
18 Commonwealth and other employers), and expressed as a
19 percentage of member compensation, and shall not be more than
20 2%. For the determination of the shared-risk contribution
21 rate to be effective July 1, 2017, the determination period
22 shall be January 1, 2011, through December 31, 2016. For the
23 determination of the shared-risk contribution rate to be
24 effective July 1, 2020, the determination period shall be
25 January 1, 2011, through December 31, 2019.

26 * * *

27 (7) For any fiscal year in which the actual
28 contributions, plus any annual setoff for that fiscal year
29 resulting from advance payment of accrued liability
30 contributions under section 5507(h), by the Commonwealth or

1 an employer are lower than the actuarially required
2 contributions, the prospective shared-risk contribution rate
3 for those employees whose employers are not making the
4 actuarially required contributions shall be zero and shall
5 not subsequently be increased, except as otherwise provided
6 in this section. For purposes of this paragraph, the
7 actuarially required contribution shall be no less than the
8 normal cost plus the cost to fully amortize the unfunded
9 actuarial accrued liability calculated using actuarial
10 methods and assumptions that are consistent with generally
11 accepted actuarial standards and generally accepted
12 accounting principles, including professional actuarial
13 standards of practice.

14 (8) If the actuary certifies that the accrued liability
15 contributions calculated in accordance with the actuarial
16 cost method provided in section 5508(b) (relating to
17 actuarial cost method) and without regard to any setoff the
18 Commonwealth or any ELIGIBLE employer receives for advance <--
19 payment of accrued liability contributions under section
20 5507(h), as adjusted by the experience adjustment factor, are
21 zero or less, then the shared-risk contribution rate for the
22 next fiscal year shall be zero and shall not subsequently be
23 increased, except as otherwise provided in this section.

24 * * *

25 (c) Determination of shared-gain adjustment to regular
26 member contributions for Class A-3 and Class A-4 service.--The
27 regular member contributions for Class A-3 and Class A-4 service
28 shall be determined as follows:

29 * * *

30 (4) Notwithstanding paragraphs (2) and (3), the regular

1 member contribution rate may not be greater than the product
2 of the basic contribution rate and the class of service
3 multiplier; and the amount of the adjustment to a lower
4 regular member contribution rate may not be greater than the
5 reduction in the actuarially required contribution rate by
6 the experience adjustment factor resulting from investment
7 gains or losses during the determination period in effect on
8 the first day when the new rate would be applied, determined
9 without regard to any setoff the Commonwealth or any ELIGIBLE <--
10 employer receives for advance payment of accrued liability
11 contributions under section 5507(h), and expressed as a
12 percentage of member compensation. In no event may the
13 adjustment to the regular member contribution rate be more
14 than 2%. For the determination of the regular member
15 contribution rate to be effective July 1, 2020, the
16 determination period shall be January 1, 2011, through
17 December 31, 2019.

18 * * *

19 (e) Determination of shared-risk contribution rate for Class
20 A-5 and Class A-6 service.--The shared-risk contribution for
21 Class A-5 or Class A-6 service shall be determined as follows:

22 * * *

23 (4) Notwithstanding paragraphs (2) and (3), the shared-
24 risk contribution rate may not be less than zero and may not
25 be more than the experience adjustment factor resulting from
26 investment gains or losses during the determination period in
27 effect on the first day when the new rate would be applied,
28 determined without regard to any setoff the Commonwealth or
29 any ELIGIBLE employer receives for advance payment of accrued <--
30 liability contributions under section 5507(h), and expressed

1 as a percentage of member compensation, and shall not be more
2 than 3%. For the determination of the shared-risk
3 contribution rate to be effective July 1, 2026, the
4 determination period shall be January 1, 2020, through
5 December 31, 2025. For the determination of the shared-risk
6 contribution rate to be effective July 1, 2029, the
7 determination period shall be January 1, 2020, through
8 December 31, 2028.

9 * * *

10 (7) For any fiscal year in which the actual
11 contributions, plus any annual setoff for that fiscal year
12 resulting from advance payment of accrued liability
13 contributions under section 5507(h), by the Commonwealth or
14 an employer are lower than the actuarially required
15 contributions, the prospective shared-risk contribution rate
16 for those employees whose employers are not making the
17 actuarially required contributions shall be zero and shall
18 not subsequently be increased, except as otherwise provided
19 in this section. For purposes of this paragraph, the
20 actuarially required contribution shall be no less than the
21 normal cost plus the cost to fully amortize the unfunded
22 actuarial accrued liability calculated using actuarial
23 methods and assumptions that are consistent with generally
24 accepted actuarial standards and generally accepted
25 accounting principles, including professional actuarial
26 standards of practice.

27 (8) If the actuary certifies that the accrued liability
28 contributions calculated in accordance with the actuarial
29 cost method provided in section 5508(b) and without regard to
30 any setoff the Commonwealth or any ELIGIBLE employer receives <--

1 for advance payment of accrued liability contributions under
2 section 5507(h), as adjusted by the experience adjustment
3 factor, are zero or less, then the shared-risk contribution
4 rate for the next fiscal year shall be zero and shall not
5 subsequently be increased, except as otherwise provided in
6 this section.

7 * * *

8 (f) Determination of shared-gain adjustment to regular
9 member contributions for Class A-5 or Class A-6 service.--The
10 regular member contributions for Class A-5 or Class A-6 service
11 shall be determined as follows:

12 * * *

13 (4) Notwithstanding paragraphs (2) and (3), the regular
14 member contribution rate may not be greater than the product
15 of the basic contribution rate and the class of service
16 multiplier; and the amount of the adjustment to a lower
17 regular member contribution rate may not be greater than the
18 reduction in the actuarially required contribution rate by
19 the experience adjustment factor resulting from investment
20 gains or losses during the determination period in effect on
21 the first day when the new rate would be applied, determined
22 without regard to any setoff the Commonwealth or any ELIGIBLE <--
23 employer receives for advance payment of accrued liability
24 contributions under section 5507(h), expressed as a
25 percentage of member compensation. In no event may the
26 adjustment to the regular member contribution rate be more
27 than 3%. For the determination of the regular member
28 contribution rate to be effective July 1, 2026, the
29 determination period shall be January 1, 2020, through
30 December 31, 2025. For the determination of the regular

1 member contribution rate to be effective July 1, 2029, the
2 determination period shall be January 1, 2020, through
3 December 31, 2028.

4 * * *

5 Section ~~2~~ 3. Section 5507(d) and (g) of Title 71 are <--
6 amended, subsection (b.1) is amended by adding a paragraph and
7 the section is amended by adding a subsection to read:

8 § 5507. Contributions to the system by the Commonwealth and
9 other employers.

10 * * *

11 (b.1) Payment of employer contributions to the system.--

12 * * *

13 (3) The amount of employer contributions determined and
14 payable as a percentage of compensation under this subsection
15 may be offset by a dollar amount as established in an
16 agreement between the board and the head of department THAT <--
17 IS AN ELIGIBLE EMPLOYER as a result of advance payment of
18 accrued liability contributions under subsection (h).

19 * * *

20 (d) Payment of final contribution rate.--Notwithstanding the
21 calculation of the actuarially required contribution rate and
22 the provisions of subsections (a) and (b), the Commonwealth and
23 other employers whose employees are members of the system or
24 participants in the plan shall make contributions to the fund on
25 behalf of all active members and annuitants in such amounts as
26 shall be certified by the board in accordance with section
27 5508(i). The certified amount and actual contributions may
28 include any setoff for advance payment of accrued liability
29 contributions.

30 * * *

1 (g) Payment of additional accrued liability contributions.--
2 In addition to all other contributions required or made under
3 this section and [sections 5508 and] section 5508, 5508.1
4 (relating to advance payment of accrued liability contributions)
5 or 5941, the Commonwealth and other employers whose employees
6 are members of the system or participants in the plan shall make
7 contributions as certified by the board as a percentage of the
8 compensation of each active member and each active participant
9 as provided in this subsection, unless the actuary certifies
10 that the accrued liability contribution rate determined under
11 section 5508(c) is zero or less for that fiscal year. Additional
12 accrued liability contributions received by the board as a
13 result of this subsection shall be recognized as part of the
14 experience adjustment factor under section 5508(f).

15	Fiscal year	Additional accrued liability
16	beginning date	contribution rate
17	July 1, 2018	0.00%
18	July 1, 2019	0.71%
19	July 1, 2020	0.66%
20	July 1, 2021	0.62%
21	July 1, 2022	0.00%
22	July 1, 2023	0.00%
23	July 1, 2024	0.00%
24	July 1, 2025	0.00%
25	July 1, 2026	0.00%
26	July 1, 2027	0.00%
27	July 1, 2028	0.00%
28	July 1, 2029	0.00%
29	July 1, 2030	0.00%
30	July 1, 2031	0.00%

1	July 1, 2032	0.10%
2	July 1, 2033	0.22%
3	July 1, 2034	0.33%
4	July 1, 2035	0.43%
5	July 1, 2036	0.53%
6	July 1, 2037	0.62%
7	July 1, 2038	0.71%
8	July 1, 2039	0.79%
9	July 1, 2040	0.86%
10	July 1, 2041	0.93%

11 (h) Advance payment of accrued liability contributions.--In
12 addition to all other contributions required under this section
13 and sections 5508 and 5941, the Commonwealth and other ELIGIBLE <--
14 employers whose employees are members of the system may make,
15 and the board may accept, advance payment of accrued liability
16 contributions in a lump sum as agreed by the board and the head
17 of department as provided under section 5508.1. Advance payment
18 of accrued liability contributions received by the board as a
19 result of this subsection shall be recognized as a setoff
20 against future accrued liability contributions as provided under
21 section 5508.1.

22 Section 3 4. Section 5508(c) (3) and (4) and (f) (1) of Title <--
23 71 are amended to read:

24 § 5508. Actuarial cost method.

25 * * *

26 (c) Accrued liability contribution rate.--

27 * * *

28 (3) For the fiscal year beginning July 1, 2010, the
29 accrued liability contribution rate shall be computed as the
30 rate of total compensation of all active members which shall

1 be certified by the actuary as sufficient to fund in equal
2 dollar installments over a period of 30 years from July 1,
3 2010, the present value of the liabilities for all
4 prospective benefits calculated as of the immediately prior
5 valuation date, including the supplemental benefits as
6 provided in sections 5708, 5708.1, 5708.2, 5708.3, 5708.4,
7 5708.5, 5708.6, 5708.7 and 5708.8, but excluding the benefits
8 payable from the retirement benefit plan established pursuant
9 to section 5941 (relating to benefits completion plan), in
10 excess of the actuarially calculated assets in the fund
11 (calculated recognizing all realized and unrealized
12 investment gains and losses each year in level annual
13 installments over five years), including the balance in the
14 supplemental annuity account, and the present value of
15 employer normal contributions determined without regard to
16 any setoff the Commonwealth or any ELIGIBLE employer will <--
17 receive for advance payment of accrued liability
18 contributions under section 5507(h), and of member
19 contributions payable with respect to all active members,
20 inactive members on leave without pay, vestees and special
21 vestees on December 31, 2009. If the accrued liability is
22 changed by legislation enacted subsequent to December 31,
23 2009, such change in liability shall be funded in equal
24 dollar installments over a period of ten years from the first
25 day of July following the valuation date coincident with or
26 next following the date such legislation is enacted.

27 (4) For fiscal years beginning on or after July 1, 2018,
28 the accrued liability contribution rate shall be computed as
29 provided for under this section, except that the rate shall
30 be computed as a rate of total compensation of all active

1 members and active participants for the applicable period[.]
2 and the accrued liability shall be determined and the rate
3 shall be computed without regard to the portion of any
4 advance payment of accrued liability contributions made by
5 the Commonwealth or any ELIGIBLE employer under section <--
6 5507(h) for which an annual setoff has not been credited or
7 recognized in a prior fiscal year. If the accrued liability
8 is changed by legislation enacted subsequent to December 31,
9 2016, such change in liability shall be funded in equal
10 dollar installments as a percentage of compensation of all
11 active members and active participants over a period of ten
12 years from the first day of July following the valuation date
13 coincident with or next following the date such legislation
14 is enacted. In addition to any employer defined contributions
15 made to the trust, the Commonwealth and other employers of
16 participants shall make the accrued liability contributions
17 to the fund certified by the board.

18 * * *

19 (f) Experience adjustment factor.--

20 (1) For each fiscal year after the establishment of the
21 accrued liability contribution rate and the supplemental
22 annuity contribution rate for the fiscal year beginning July
23 1, 2010, any increase or decrease in the unfunded accrued
24 liability and any increase or decrease in the liabilities and
25 funding for supplemental annuities, due to actual experience
26 differing from assumed experience (recognizing all realized
27 and unrealized investment gains and losses over a five-year
28 period), changes in contributions caused by the final
29 contribution rate being different from the actuarially
30 required contribution rate, State employees making shared-

1 risk member contributions or having shared-gain adjustments
2 to their regular member contributions, payment of additional
3 accrued liability contributions under section 5507(g),
4 changes in actuarial assumptions or changes in the terms and
5 conditions of the benefits provided by the system by
6 judicial, administrative or other processes other than
7 legislation, including, but not limited to, reinterpretation
8 of the provisions of this part, shall be amortized in equal
9 dollar annual contributions as a percentage of compensation
10 of all active members and active participants over a period
11 of 30 years beginning with the July 1 succeeding the
12 actuarial valuation determining said increases or decreases.
13 The experience adjustment factor calculated under this
14 paragraph shall be determined without regard to any advance
15 payment of accrued liability contributions made by the
16 Commonwealth or any ELIGIBLE employer under section 5507(h). <--

17 * * *

18 Section 4 5. Title 71 is amended by adding a section to <--

19 read:

20 § 5508.1. Advance payment of accrued liability contributions.

21 (a) Authorization.--The board and the head of department of
22 an ELIGIBLE employer of members of the system may enter into an <--
23 agreement by which the ~~employing unit, agency or department~~ <--
24 ELIGIBLE EMPLOYER agrees to make one lump sum payment of all or <--
25 a part of the ELIGIBLE employer's portion of the present value <--
26 of future accrued liability contributions determined under
27 section 5508(c)(4) (relating to actuarial cost method) as
28 modified by the cumulative experience adjustment factors
29 calculated under section 5508(f)(1). The amount shall be
30 calculated by the actuary in a manner and using actuarial

1 factors and assumptions as the board, after obtaining the advice
2 of the board's actuary, shall determine, and shall be certified
3 by the board.

4 (b) Terms of lump sum payment.--The terms of an advance
5 payment of accrued liability contributions shall be set forth in
6 the agreement between the board and the head of department and
7 subject to the following restrictions:

8 (1) Each ~~employing unit, agency or department~~ ELIGIBLE <--
9 EMPLOYER may make only one lump sum advance payment of
10 accrued liability contributions.

11 (2) The lump sum may be based on not less than 75% and
12 not more than 100% of the portion of the unfunded actuarial
13 accrued liability of the system allocated to the ~~employing~~ <--
14 ~~unit, agency or department~~ ELIGIBLE EMPLOYER. <--

15 (3) The calculation of the unfunded actuarial accrued
16 liability of the system and the portion allocated to the
17 ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER shall <--
18 be made by the actuary and approved by the board.

19 (4) The allocation of the unfunded actuarial accrued
20 liability to the ~~employing unit, agency or department~~ <--
21 ELIGIBLE EMPLOYER must be made using a methodology, and the <--
22 setoff schedule and other terms and conditions of the
23 agreement must be such that if all ~~employing units, agencies~~ <--
24 ~~and departments~~ ELIGIBLE EMPLOYERS that employ members of the <--
25 system simultaneously enter into agreements to make 100%
26 advance payments of accrued liability contributions using the
27 same date to calculate and allocate the unfunded actuarial
28 accrued liability contributions and the same date to make
29 lump sum payments, the total of the lump sum payments would
30 equal the unfunded actuarial accrued liability on the

1 calculation date.

2 (5) The agreement must establish a schedule of dollar-
3 denominated annual setoffs against the future contributions
4 of the ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER <--
5 to amortize the lump sum advance payment of actuarial accrued
6 liability contributions.

7 (6) The following shall apply:

8 (i) The agreement must provide a schedule of annual
9 setoffs to provide for not less than 75% and not more
10 than 100% of the anticipated future accrued liability
11 contributions of the ~~employing unit, agency or department~~ <--
12 ELIGIBLE EMPLOYER as determined by the actuary and <--
13 approved by the board as of the determination date. The
14 schedule of setoffs of anticipated future accrued
15 liability contributions:

16 (A) must be in dollar amounts that are
17 consistent with the system's amortization bases that
18 exist as of the determination date; and

19 (B) cannot be for a time period longer than the
20 longest remaining amortization period for any initial
21 actuarial accrued liability or experience adjustment
22 factor included in the calculation of the advance
23 payment of accrued liability contributions.

24 (ii) A good faith determination, calculation and
25 payment of the lump sum that produces an annual setoff
26 that is less than 75% or more than 100% of the
27 anticipated future accrued liability contribution by a de
28 minimis amount shall not be a violation of this
29 subsection.

30 (7) The agreement shall provide a mechanism or method of

1 recognizing or crediting the setoff against the actual
2 contributions of the ~~employing unit, agency or department~~ <--
3 ELIGIBLE EMPLOYER, which may include recognizing or crediting <--
4 the setoff in monthly, semi-monthly, biweekly or other
5 periodic or reconciling increments to correspond to the
6 schedule by which the ~~employing unit, agency or department~~ <--
7 ELIGIBLE EMPLOYER makes employer contributions to and to <--
8 account for and reflect changes in the schedule of
9 compensation payments to the members.

10 (8) After the lump sum payment is made, the annual
11 setoff schedule and amounts established in the agreement
12 cannot be changed except that:

13 (i) in no fiscal year can the recognized setoff be
14 larger than the contributions by the ELIGIBLE employer <--
15 that are eligible for the setoff. If in any fiscal year
16 the available setoff amount is larger than the actual
17 contributions by the ELIGIBLE employer that are eligible <--
18 to be setoff, the excess setoff for that fiscal year
19 shall be added to the next fiscal year's setoff amount as
20 provided under subsection (c); and

21 (ii) if the General Assembly changes the actuarial
22 cost method under section 5508, the board may change the
23 schedule or amount of annual setoffs to conform to the
24 amended actuarial cost method, as determined actuarially
25 by the board, with the agreement of the head of the
26 department.

27 (9) The board may not be involved in the issuance,
28 service or administration of any bonds or financial
29 instruments or any obligations of an ~~employing unit, agency~~
30 or ~~department~~ ELIGIBLE EMPLOYER, the proceeds of which are <--

1 used in total or in part to make any part of the lump sum
2 advance payment of accrued liability contributions. The board
3 may not provide financial advice or in any way act as a
4 broker, banker, financial advisor, investment manager or in a
5 similar capacity to the ~~employing unit, agency or department~~ <--
6 ELIGIBLE EMPLOYER. Any money received as a result of a lump
7 sum payment of advance payment of accrued liability
8 contributions shall be part of the general assets of the
9 funds and may not be segregated or invested separately for
10 the account of or benefit of the ~~employing unit, agency or~~ <--
11 ~~department~~ ELIGIBLE EMPLOYER that made the payment.

12 (10) An amount paid into the fund as an advance payment
13 of accrued liability contributions may not be refunded or
14 repaid to any ~~employing unit, agency or department~~ ELIGIBLE <--
15 EMPLOYER except as a setoff against future employer
16 contributions.

17 (11) Advance payment of accrued liability contributions
18 made prior to the execution of an agreement that, in the sole
19 determination of the board or in the determination of the
20 commissioner, could result in the system failing to satisfy
21 the requirements necessary to be a qualified pension plan
22 under IRC § 401(a) and other applicable provisions of the
23 IRC, shall not be permitted.

24 (c) Effect of payment.--The effect of a payment shall be as
25 follows:

26 (1) Any ~~employing unit, agency or department~~ ELIGIBLE <--
27 EMPLOYER that makes a lump sum payment of advance accrued
28 liability contributions shall receive an annual setoff on a
29 fiscal year basis against the payment of future accrued
30 liability contributions in an amount and for the time period

1 provided in the agreement. If the amount of the annual setoff
2 exceeds the accrued liability contributions of the ~~employing~~ <--
3 ~~unit, agency or department~~ ELIGIBLE EMPLOYER for that fiscal <--
4 year, the remaining setoff amount shall be applied against
5 any supplemental annuity contributions determined under
6 section 5508(e)(2). If no supplemental annuity contributions
7 are due, or if the remaining annual setoff exceeds the amount
8 of the supplemental annuity contributions, any remaining
9 annual setoff shall be applied against the employer normal
10 contributions of the ~~employing unit, agency or department~~ <--
11 ELIGIBLE EMPLOYER. Any annual setoff amount in excess of the <--
12 actual accrued liability contributions, supplemental annuity
13 contributions and employer normal contributions for that
14 fiscal year shall be deferred without interest and made part
15 of the scheduled annual setoff amount of the ~~employing unit,~~ <--
16 ~~agency or department~~ ELIGIBLE EMPLOYER for the next <--
17 subsequent year as determined by the actuary and certified by
18 the board. In no event shall a setoff for advance payments
19 reduce or be used to pay additional accrued liability
20 contributions under section 5507(g) (relating to
21 contributions to the system by the Commonwealth and other
22 employers), benefits completion plan contributions under
23 section 5507(e), employer defined contributions paid into the
24 trust on account of a participant's State service, or any
25 member or participant contributions to the system or the
26 plan. A lump sum amount or annual excess setoff of advance
27 accrued liability contributions may not be paid from the fund
28 by the board to the ELIGIBLE employer. <--

29 (2) Advance payment of accrued liability contributions
30 results only in a dollar amount setoff against actual future

1 contributions as set forth in the agreement between the board
2 and ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER <--
3 and determined by the actuary and certified by the board. An
4 ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER shall <--
5 be subject to all changes in employer contributions rates and
6 actual contribution amounts caused by any reason, including
7 actual recognition of investment returns, changes in economic
8 or demographic actuarial assumptions, including the assumed
9 rate of investment return, actual experience being different
10 from the economic or demographic assumptions, including the
11 number of State employees who are members of the system and
12 their compensation, changes in benefits and changes in the
13 actuarial cost method.

14 (d) Payment of costs and fees.--

15 (1) The costs incurred by the board after the effective
16 date of this section, including any fees charged by the
17 actuary, to estimate, determine, calculate or administer the
18 amount of any lump sum payment and annual setoff potentially
19 or actually resulting from advance payment of accrued
20 liability contributions shall be paid by the ~~employing unit,~~ <--
21 ~~agency or department~~ ELIGIBLE EMPLOYER on whose behalf the <--
22 costs were incurred, in amounts certified by the board.
23 Notwithstanding this paragraph, costs may not be paid by the
24 ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER until <--
25 the board provides a written estimate of the costs to the
26 ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER and <--
27 receives written approval from the ~~employing unit, agency or~~ <--
28 ~~department~~ ELIGIBLE EMPLOYER to incur the costs on the <--
29 ~~employing unit's, agency's or department's~~ ELIGIBLE <--
30 EMPLOYER'S behalf.

1 (2) Payment of fees and costs incurred by the board at
2 the request of the head of a department shall be paid by the
3 corresponding ELIGIBLE employer without regard to whether an <--
4 agreement is entered into between the board and the head of
5 department of an ELIGIBLE employer under subsection (a) and <--
6 without regard to whether the costs and fees are incurred
7 before or after an agreement is entered into under subsection
8 (a).

9 (3) The board may require advance payment of costs and
10 fees before performing any estimate, determination,
11 calculation or administrative work under this section.

12 (4) The board may setoff the payment of costs and fees
13 against either the lump sum payment or annual setoffs.

14 (5) Notwithstanding this subsection, the board may waive
15 all or part of the reimbursement due by an ELIGIBLE employer <--
16 if the board in its sole discretion determines that it is in
17 the best interests of the fund and the members of the system
18 to do so.

19 (e) Limitation of time.--

20 (1) A lump sum payment for advance payment of accrued
21 liability contributions made on or after July 1 and on or
22 before the following May 1 will be recognized by annual
23 setoffs beginning the next fiscal year. A lump sum payment
24 for advance payment of accrued liability contributions made
25 on or after May 2 and before July 1 will be recognized by
26 annual setoffs beginning the second following fiscal year.

27 (2) Any agreement under this section must be entered
28 into by December 31, 2024. Any lump sum payment under this
29 section must be made by May 1, 2025.

30 Section 5 6. Section 5902(k) of Title 71 is amended to read: <--

1 § 5902. Administrative duties of the board.

2 * * *

3 (k) Certification of employer contributions to fund.--The
4 board shall, each year in addition to the itemized budget
5 required under section 5509 (relating to appropriations and
6 assessments by the Commonwealth), certify, as a percentage of
7 the members' payroll, the shared-risk contribution rate, the
8 shared-gain adjustment to the regular member contribution rate,
9 the employers' contributions as determined pursuant to section
10 5508 (relating to actuarial cost method) necessary for the
11 funding of prospective annuities for active members and the
12 annuities of annuitants and certify the rates and amounts of the
13 employers' normal contributions as determined pursuant to
14 section 5508(b), accrued liability contributions as determined
15 pursuant to section 5508(c), supplemental annuities contribution
16 rate as determined pursuant to section 5508(e), the experience
17 adjustment factor as determined pursuant to section 5508(f), the
18 collared contribution rate pursuant to section 5508(h) and the
19 final contribution rate pursuant to section 5508(i), which shall
20 be paid to the fund and credited to the appropriate accounts.

21 The board shall certify the dollar amount of the annual
22 contribution setoff for each ~~employing unit, agency or~~ <--
23 ~~department~~ ELIGIBLE EMPLOYER that has made advance payment of <--
24 accrued liability contributions under section 5507(h) (relating
25 to contributions to the system by the Commonwealth and other
26 employers). The board may allocate the final contribution rate
27 and certify various employer contribution rates and amounts
28 based upon advance payment of accrued liability contributions
29 and the different benefit eligibility, class of service
30 multiplier, superannuation age, final average salary

1 calculation, compensation limits and other benefit differences
2 resulting from State service credited for individual members
3 even though such allocated employer contribution rate on behalf
4 of any given member may be more or less than 5% of the member's
5 compensation for the period from July 1, 2010, to June 30, 2011,
6 or may differ from the prior year's contribution for that member
7 by more or less than the percentages used to calculate the
8 collared contribution rate for that year and may be below any
9 minimum contribution rate established for the collared
10 contribution rate or final contribution rate. These
11 certifications shall be regarded as final and not subject to
12 modification by the Secretary of the Budget.

13 * * *

14 Section ~~6~~ 7. Section 5906 of Title 71 is amended by adding a <--
15 subsection to read:

16 § 5906. Duties of heads of departments.

17 * * *

18 (o) Advance payment of accrued liability contributions.--The
19 head of ~~department~~ A DEPARTMENT THAT IS AN ELIGIBLE EMPLOYER may <--
20 enter into an agreement with the board to make advance payment
21 of accrued liability contributions of the ~~employing unit, agency <--~~
22 or ~~department~~ ELIGIBLE EMPLOYER as provided in this part. After <--
23 entering into such an agreement, the head of ~~department~~ THE <--
24 DEPARTMENT THAT IS AN ELIGIBLE EMPLOYER may make, or direct and
25 have made, advance payment as provided under this part and the
26 agreement.

27 Section ~~7~~ 8. Section 5934 of Title 71 is amended to read: <--

28 § 5934. State accumulation account.

29 The State accumulation account shall be the ledger account to
30 which shall be credited all contributions of the Commonwealth or

1 other employers whose employees are members of the system and
2 made in accordance with the provisions of section 5507(a) or (d)
3 (relating to contributions to the system by the Commonwealth and
4 other employers) except that the amounts received under the
5 provisions of the act of May 12, 1943 (P.L.259, No.120), and the
6 amounts received under the provisions of the Liquor Code, act of
7 April 12, 1951 (P.L.90, No.21), shall be credited to the State
8 Police benefit account or the enforcement officers' benefit
9 account as the case may be. All amounts transferred to the fund
10 by county retirement systems or pension plans in accordance with
11 the provisions of section 5507(c) also shall be credited to the
12 State accumulation account. All amounts transferred to the fund
13 by the Public School Employees' Retirement System in accordance
14 with section 5303.2(e) (relating to election to convert school
15 service to State service), except amounts credited to the
16 members' savings account, and all amounts paid by the Department
17 of Corrections in accordance with section 5303.2(f) also shall
18 be credited to the State accumulation account. All advance
19 payment of accrued liability contributions under section 5507(h)
20 shall be credited to the State accumulation account. The State
21 accumulation account shall be credited with valuation interest.
22 The reserves necessary for the payment of annuities and death
23 benefits resulting from membership in the system as approved by
24 the board and as provided in Chapter 57 (relating to benefits)
25 shall be transferred from the State accumulation account to the
26 annuity reserve account provided for in section 5935 (relating
27 to annuity reserve account), except that the reserves necessary
28 on account of a member who is an officer of the Pennsylvania
29 State Police or an enforcement officer shall be transferred from
30 the State accumulation account to the State Police benefit

1 account provided for in section 5936 (relating to State Police
2 benefit account) or to the enforcement officers' benefit account
3 as provided for in section 5937 (relating to enforcement
4 officers' benefit account) as the case may be. The reserves
5 necessary for the payment of supplemental annuities in excess of
6 those reserves credited to the supplemental annuity account on
7 June 30, 2010, shall be transferred from the State accumulation
8 account to the supplemental annuity account. In the event that
9 supplemental annuities are increased by legislation enacted
10 after December 31, 2009, the necessary reserves shall be
11 transferred from the State accumulation account to the
12 supplemental annuity account.

13 Section § 9. The following shall apply: <--

14 (1) The board is not obligated to enter into any
15 agreement with the head of department of any ~~employing unit,~~ <--
16 ~~agency or department~~ ELIGIBLE EMPLOYER. <--

17 (2) The General Assembly reserves to itself the further
18 exercise of its legislative power to amend, supplement or
19 repeal the provisions of this act, or 71 Pa.C.S. Pt. XXV,
20 including the actuarial cost method under 71 Pa.C.S. § 5508,
21 without regard to whether the head of department of an
22 ~~employing unit, agency or department~~ ELIGIBLE EMPLOYER has <--
23 entered into an agreement with the board under this act,
24 except that if any ~~employing unit, agency or department~~ <--
25 ELIGIBLE EMPLOYER has made an advance payment of accrued <--
26 liability contributions, that ~~employing unit, agency or~~ <--
27 ~~department~~ ELIGIBLE EMPLOYER shall receive setoffs of future <--
28 employer contributions as determined by the State Employees'
29 Retirement Board's actuary and certified by the State
30 Employees' Retirement Board.

1 (3) Notwithstanding any other provision of law,
2 fiduciary requirement, actuarial standard of practice or
3 other requirement to the contrary, the members of the State
4 Employees' Retirement Board, the actuary and other employees
5 and officials of the State Employees' Retirement System:

6 (i) May not be held liable or in breach or violation
7 of any law or standard either as individuals or in their
8 official capacity or as a governmental or corporate
9 entity for any action or calculation related to
10 calculating and certifying:

11 (A) An employer normal contribution rate.

12 (B) A supplemental contribution rate.

13 (C) An accrued liability contribution rate or
14 final contribution rate or actual employer
15 contribution rate.

16 (D) An allocation of the unfunded actuarial
17 accrued liability to an ~~employing unit, agency or~~ <--
18 ~~department~~ ELIGIBLE EMPLOYER. <--

19 (E) A lump sum amount of advance payment of
20 accrued liability contributions.

21 (F) A setoff against employer contributions.

22 (G) The actual employer contributions as
23 provided in this act.

24 (ii) Do not warrant, guarantee or promise that any
25 actuarial, economic or demographic assumptions,
26 projections or estimates used for calculations under
27 subparagraph (i) will in fact occur, or that future
28 increases of accrued liability contributions will not
29 occur or be assessed against any ~~employing unit, agency~~ <--
30 ~~or department~~ ELIGIBLE EMPLOYER that makes an advanced <--

1 payment of accrued liability contributions under this
2 act.

3 Section 9 10. This act shall take effect immediately. <--