



SPONSOR: Rep. J. Johnson & Sen. Ennis  
Rep. Smyk

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE BILL NO. 207

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN.

1 WHEREAS, House Bill 164 was passed by the 146<sup>th</sup> General Assembly and was signed by the Governor on July 11,  
2 2012; and

3 WHEREAS, Section 4 of HB 164, stated that it would become effective following the receipt of a favorable Private  
4 Letter Ruling by the Internal Revenue Service, which provides that the implementation of Section 3 of the Act would not  
5 affect the qualified plan status of the State Employees' Pension Plan; and

6 WHEREAS, pursuant to a letter dated February 26, 2013, the Internal Revenue Service has declined to issue a Private  
7 Letter Ruling regarding the implementation of HB 164 and its potential impact upon the qualified plan status of the State  
8 Employees' Pension Plan; and

9 WHEREAS, the provisions of HB 164 are therefore not effective and further action is required to implement the  
10 provisions of the original legislation.

11 NOW, THEREFORE:

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

13 Section 1. Amend §5501, Title 29, Delaware Code by making insertions as shown by underlining as follows:

14 (k) "Correction Officer" shall mean an employee employed by the Department of Correction in a position  
15 responsible for supervising inmates in secured facilities and classified with a Correctional Officer job title and  
16 authorized to receive Hazardous Duty Level A-1 per the State Merit Rules authorized in §5914 of this Title.

17 Section 2. Amend §5543(a), Title 29 of the Delaware Code by making insertions as shown by underlining and deletions  
18 as shown by strike through as follows:

19 (a)(1) Effective January 1, 1998, employee contributions to the Fund shall be 3% of total annual compensation in  
20 excess of \$6,000 provided, however, that post-2011 employees will pay an employee contribution rate of 5% of total  
21 annual compensation in excess of \$6,000. In no event shall total compensation during any calendar year in excess of  
22 \$6,000 be exempt from contributions.

23 (2) The employee contribution for a Correction Officer shall be 5% of annual compensation in excess of \$6,000  
24 provided, however, that a Correction Officer who is also a Post-2011 employee will pay an employee contribution rate  
25 of 7% of annual compensation in excess of \$6,000.

26 Section 3. Amend §5522(a), Title 29, Delaware Code by making insertions as shown by underlining and deletions as  
27 shown by strike through as follows:

28 (a) An employee shall become eligible to receive a service pension, beginning with the month after the employee  
29 has terminated employment, if:

30 (1) The employee has 5 years of credited service, exclusive of service credited under § 5501(d)(4), (5) and (12)  
31 of this title, and has attained age 62;

32 (2) The employee has 15 years of credited service, exclusive of service credited under § 5501(d)(4), (5) and (12)  
33 of this title, and has attained age 60;

34 (3) The employee has 30 years of credited service; ~~or~~

35 (4) The employee has 25 years of credited service, exclusive of service credited under § 5501(d)(4), (5) and (12)  
36 of this title, regardless of age; or

37 (5) The employee has 25 years of credited service, exclusive of service credited under § 5501(d)(4), (5) and (12)  
38 of this title, regardless of age, and is a Correction Officer. The employee must have 20 years of credited service  
39 as a Correction Officer.

40 Section 4. Amend §5527(a), Title 29, Delaware Code by making insertions as shown by underlining as follows:

41 (a) The amount of the monthly service or disability pension payable to an employee or former employee shall be  
42 the sum of 2.0% of his or her final average compensation multiplied by the number of years, taken to the nearest twelfth of  
43 a year, in his or her period of credited service prior to January 1, 1997, plus 1.85% of his or her final average compensation  
44 multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of credited service after  
45 December 31, 1996. If the employee is a Correction Officer then the amount of pension would also include 2.45% of his or  
46 her final average compensation multiplied by years of service above 25 years. The amount payable to a participant who  
47 does not make the additional contribution provided in § 5501(i) of this title for years of credited service before 1977 shall  
48 be the sum of 2.0% of his or her final average compensation multiplied by the number of years, taken to the nearest twelfth  
49 of a year, in his or her period of credited service between January 1, 1977, and December 31, 1996, plus 2.0% of his or her  
50 final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in his or her period of  
51 credited service prior to January 1, 1977, provided that the maximum amount based on the service before 1977 is \$1,000,

52 plus 1.85% of his or her final average compensation multiplied by the number of years, taken to the nearest twelfth of a  
53 year, in his or her period of credited service after December 31, 1996.

54 Section 5. This Act shall become effective following receipt of either a favorable Private Letter Ruling by the Internal  
55 Revenue Service confirming that there is no negative impact on the qualified plan status of the State Employees' Pension  
56 Plan or a favorable Determination Letter by the Internal Revenue Service confirming that there is no negative impact on the  
57 qualified plan status of the State Employees' Pension Plan. Further, upon receipt of a favorable decision from the Internal  
58 Revenue Service the provisions of Section 2 of this Act will become effective January 1 of the following year. Further,  
59 upon receipt of a favorable decision from the Internal Revenue Service the provisions of Sections 3 and 4 of this Act will  
60 become effective two years after the first of the following year.

#### SYNOPSIS

This bill permits employees who are employed in positions that are classified as Hazardous Duty Level A-1 to retire at 25 years without any reduction. Those employees will pay a higher employee contribution rate. Those employees that continue to work past 25 years of service will have the multiplier used in the calculation of benefits increased for the years past 25 years. The bill is subject to a favorable Private Letter Ruling or a favorable Determination Letter by the Internal Revenue Service. If approved those employees would begin paying a higher contribution rate the first of the following year after the approval. Employees may begin to retire under this provision once they have been contributing under the new provisions for two years.