

CHAPTER 174  
FORMERLY  
HOUSE BILL NO. 207

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

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

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

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

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

NOW, THEREFORE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved August 27, 2013