



SPONSOR: Rep. Lynn & Sen. Bushweller

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 477

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

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

1 Section 1. Amend § 5522, Title 29 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 5522. Eligibility for service pension. [Effective until Jan. 1, 2019.]

4 (f) A post-2011 employee shall become eligible to receive a reduced service pension, beginning with the month  
5 after he or she has terminated employment, if any of the following apply:

6 (1) He or she has 15 years of credited service, exclusive of service credited under § 5501(e)(12) of this title,  
7 and has attained age 55; the amount of the service pension payable to such an employee shall be reduced by 4/10  
8 percent of each month the employee is under age ~~60~~; or 60.

9 (2) He or she has 25 years of credited service, exclusive of service credited under § 5501(e)(12) of this title,  
10 regardless of age; the amount of the service pension payable to such an employee shall be reduced by 4/10 percent of  
11 each month the employee has less than 30 years.

12 (3) The Board's Executive Secretary has determined that the post-2011 employee qualifies under § 5523(c) of  
13 this title; the employee has 5 years of credited service, exclusive of service credited under § 5501(e)(12) of this title  
14 and has attained age 62. The amount of the service pension payable to an employee under this paragraph (f)(3) of this  
15 section is reduced by 4/10 percent of each month the employee has less than 15 years.

16 Section 2. Amend § 5523, Title 29 of the Delaware Code by making deletions as shown by strike through and  
17 insertions as shown by underline as follows:

18 § 5523. Vested right to service pension.

19 (a) An employee who is not a post-2011 employee and who has 5 years of credited service exclusive of service  
20 under § 5501(e)(4), (5) and (12) of this title shall have a vested right to a pension. A post-2011 employee who has 10 years  
21 of credited service exclusive of service under § 5501(d)(12) of this title shall have a vested right to a pension.

22 (b) A former employee's vested right shall be forfeited upon an application for a refund of the former employee's  
23 accumulated contributions.

24 (c)(1) An employee who is a post-2011 employee and has 5 years of credited service exclusive of service under §  
25 5523(d)(12) of this title shall have a vested right to a reduced pension if the employee proves, by a preponderance of the  
26 evidence that all of the following applies:

27 a. Immediately prior to becoming a post-2011 employee, the employee was employed by another  
28 employer.

29 b. While employed by another employer, the employee vested in a pension plan, and the amount payable  
30 to the employee was projected to be greater than the amount projected to be payable to the employee as a post-  
31 2011 employee, based on the employment under which the employee first became a post-2011 employee.

32 c. The employee would not have resigned from employment with the other employer but for the  
33 employee's reasonable understanding that the employee would qualify for a vested right to a pension under this  
34 chapter as an employee who is not a post-2011 employee.

35 (2) The Board's Executive Secretary is responsible for determining whether a post-2011 employee has met the  
36 standard of paragraph (c)(1) of this section. The Board shall hear an appeal of the Executive Secretary's determination.

37 (3) As used in subsection (c) of this section:

38 a. "Another employer" or "other employer" means an employer who is not listed in § 5001(f)(1)a.  
39 through c. of this title.

40 b. "Reasonable understanding" means the employer formed an understanding based on information or  
41 materials provided to the employer by either the Office of Pensions, including through its website, or the employer  
42 under which the employee first became a post-2011 employee.

43 Section 3. This Act takes effect January 1, 2019.

#### SYNOPSIS

This Act provides a post-2011 employee who relied on misinformation that the employee would have a vested right to a reduced pension if the employee can prove, by a preponderance of the evidence, that the employee:

(a) Was employed by a non-State employer.

(b) While employed by a non-State employer, the employee vested in a pension plan that would pay the employee a greater amount than the employee projected to be payable to the employee as a post 2011-employee, based on the employment under which the employee first became a post-2011 employee.

(c) But for the employee's reasonable understanding that the employee would vest in a pension as a pre-2011 employee, the employee would not have resigned from employment with the non-State employer.

Under this Act, the Board of Pension Trustee's Executive Secretary makes the determination whether a post-2011 employee qualifies for a pension as a pre-2011 employee, and Executive Secretary's determination is appealable to the Board. If the Executive Secretary determines that a post-2011 employee has met the standard for vested in a pension as a pre-2011 employee, when the employee has 5 years of qualifying credited service and is 62 years or older, the employee is eligible to receive a pension that is reduced by 4/10 percent of each month the employee has less than 15 years.

This Act takes effect January 1, 2019.