



COMMONWEALTH OF PENNSYLVANIA
PUBLIC EMPLOYEE RETIREMENT COMMISSION
P. O. BOX 1429, HARRISBURG, PA 17105-1429

February 6, 2015

The Honorable Mike Folmer
Majority Chairman
Senate State Government Committee
Senate of Pennsylvania
Room 170 Main Capitol Building
Harrisburg, PA 17120

Re: Senate Bill Number 408, Printer's Number 324

Dear Senator Folmer:

I am writing in response to your request concerning an actuarial note for the above referenced bill. Senate Bill Number 408, Printer's Number 324, would amend the Public School Employees' Retirement Code (Title 24) by prohibiting associations that receive membership dues from a public school entity from being recognized as a "governmental entity," thus making its employees ineligible to receive public pension benefits. This change in the language of the Code would implicitly apply to the Pennsylvania School Boards Association (PSBA), a non-profit association that was created for the purpose of representing Pennsylvania's public school boards. The proposed legislation would only be applicable to new employees of the PSBA hired on or after the effective date of the bill.

PSBA was incorporated in 1961 under the Pennsylvania Nonprofit Corporation Law as the "Pennsylvania State School Directors Association." In 1962, it amended its charter, among other things, to change its name to the "Pennsylvania School Boards Association." Membership in PSBA is by school district or other eligible local educational entity, such as intermediate unit, community college or vocational-technical school. Local school boards join PSBA, but PSBA services are provided to the boards, administrative staff, individual school directors and to the school districts themselves. School boards pay annual dues as members of PSBA, and the dues are paid with school district funds. PSBA employs a staff of approximately 95 individuals who are currently members of the Public School Employees' Retirement System (PSERS).

The PSERS Code makes only one mention of PSBA, in Section 8501(a), providing that the Executive Director of PSBA is an "Ex Officio" member of the PSERS Board. More significantly, the Public School Code of 1949 (as amended Aug. 13, 1963, P. L. 768, No. 385), specifically authorizes any school board or board of education to become a member of PSBA. Furthermore, the legislation authorized the use of school funds, i.e. tax funds, to support PSBA.


In 1939, the Department of Justice (now the Office of the Attorney General) advised the PSERS that the activities of the predecessor to PSBA fell within Section 410 of the then-existing 1911 School Code so that its employees were qualified to be members of PSERS. In reliance on that Letter of Advice, the PSERS Board determined that employees of the predecessor of PSBA are considered governmental employees for retirement purposes, a determination that has continued for 75 years.

Legislation affecting whether agencies or associations are considered to be a governmental entity can have the potential to impact public employee retirement systems. Under the Public Employee Retirement Commission Act (Act 66 of 1981), the Commission has a mandated responsibility to review any legislative changes that affect public employee retirement systems. At my direction, the Commission staff has reviewed the provisions of Senate Bill Number 408, Printer's Number 324, and determined that because the provisions in the bill would affect only a small cohort of future members, the resulting actuarial cost impact upon the Public School Employees' Retirement System, if any, would be *de minimis*.

Based upon the determination that Senate Bill Number 408, Printer's Number 324, will have a *de minimis* actuarial cost impact, I am informing you, on behalf of the Commission, that the bill will not require an actuarial note prior to further consideration by the General Assembly.

I trust this letter adequately responds to your request. If I may be of any further assistance, please feel free to contact me by telephoning (717) 783-6100.

Sincerely,



John T. Durbin
Chairman

Enclosure

cc:	The Honorable Joseph B. Scarnati, III	The Honorable John H. Eichelberger
	The Honorable Jake Corman	The Honorable John P. Blake
	The Honorable Jay Costa, Jr.	The Honorable Lloyd K. Smucker
	The Honorable John R. Gordner	The Honorable Andrew E. Dinniman
	The Honorable Anthony H. Williams	The Honorable Patrick J. Stefano
	The Honorable Robert B. Mensch	Ms. Megan Consedine
	The Honorable Wayne D. Fontana	Mr. C.J. Hafner
	The Honorable Patrick M. Browne	Ms. Stacey Connors
	The Honorable Vincent J. Hughes	Mr. Gregory K. Jordan

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 408 Session of
2015

INTRODUCED BY FOLMER, STEFANO, SCARNATI, EICHELBERGER,
VULAKOVICH, ARGALL, HUTCHINSON, ALLOWAY, WHITE, VANCE, AUMENT
AND RAFFERTY, FEBRUARY 4, 2015

REFERRED TO FINANCE, FEBRUARY 4, 2015

AN ACT

1 Amending Title 24 (Education) of the Pennsylvania Consolidated
2 Statutes, in preliminary provisions relating to retirement
3 for school employees, further providing for definitions.

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

6 Section 1. The definition of "governmental entity" in
7 section 8102 of Title 24 of the Pennsylvania Consolidated
8 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 * * *

14 "Governmental entity." Board of school directors, board of
15 public education, intermediate unit board of directors, area
16 vocational-technical board, any governing board of any agency or
17 authority created by them, and the Commonwealth. This term does
18 not include an association authorized to receive membership dues

1 from a public school entity under section 516 of the act of
2 March 10, 1949 (P.L.30, No.14), known as the Public School Code
3 of 1949.

4 * * *

5 Section 2. The amendment of "governmental entity" in 24
6 Pa.C.S. § 8102 shall apply to members hired on or after the
7 effective date of this section.

8 Section 3. This act shall take effect immediately.