

Act No. 195
Public Acts of 1993
Approved by the Governor
October 18, 1993
Filed with the Secretary of State
October 19, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senator Wartner

ENROLLED SENATE BILL No. 48

AN ACT to amend sections 13, 19, and 20 of Act No. 240 of the Public Acts of 1943, entitled as amended "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith and to require contributions thereto by state employees and by the state; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state officers and agencies; and to provide penalties for the violation of certain provisions of this act," section 13 as amended by Act No. 185 of the Public Acts of 1984, section 19 as amended by Act No. 297 of the Public Acts of 1989, and section 20 as amended by Act No. 62 of the Public Acts of 1991, being sections 38.13, 38.19, and 38.20 of the Michigan Compiled Laws; and to add sections 17l and 44.

The People of the State of Michigan enact:

Section 1. Sections 13, 19, and 20 of Act No. 240 of the Public Acts of 1943, section 13 as amended by Act No. 185 of the Public Acts of 1984, section 19 as amended by Act No. 297 of the Public Acts of 1989, and section 20 as amended by Act No. 62 of the Public Acts of 1991, being sections 38.13, 38.19, and 38.20 of the Michigan Compiled Laws, are amended and sections 17l and 44 are added to read as follows:

Sec. 13. (1) Membership in the retirement system shall consist of state employees occupying permanent positions in the state civil service. A state employee whose position is not included in the state civil service, or state employed officers or an elected or appointed state official, including county juvenile officers appointed pursuant to section 1 of Act No. 22 of the Public Acts of the Extra Session of 1919, as amended, being section 400.251 of the Michigan Compiled Laws, or any employee of the state accident fund as provided by Chapter 7 of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.701 to 418.755 of the Michigan Compiled Laws, or the secretary of the senate, or assistant secretary of the senate, or the clerk of the house of representatives, or the assistant clerk of the house of representatives, or an employee of a state tuberculosis sanatorium taken over by the state from a county who was an employee of the sanatorium on the date the sanatorium became a state institution, or an employee of a congressionally chartered veterans' organization who is paid either wholly or in part from a state general fund appropriation, or an employee of the Michigan veterans' trust fund county committees who is employed on a full-time basis by the committees may become a member by filing a written notice with the retirement board before July 1, 1974. The employee shall pay to the retirement fund a sum equal to the amount the employee's contributions would have been had the member become a member immediately upon employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of employment by the state and date of payment. In order to remain in the retirement system, a member who is an employee of the state accident fund shall be vested in the retirement system on or before the effective date of the transfer authorized by section 701a of Chapter 7 of Act No. 317 of the Public Acts of 1969.

(2) All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, shall become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service shall not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement fund with interest the amount the employee's contributions would have been had the employee become a member immediately upon employment by the state as provided in subsection (1). Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council shall be excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed by an elected or appointed official during the time the official elects not to participate shall not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate shall be refunded all contributions made before the election. Membership in the retirement system shall not include a person who is a contributing member in a public school employees' retirement system provided for in the public school employees retirement act of 1979, Act No. 300 of the Public Acts of 1980, being sections 38.1301 to 38.1407 of the Michigan Compiled Laws, the probate judges' retirement system provided for in Act No. 165 of the Public Acts of 1954, as amended, being sections 38.901 to 38.933 of the Michigan Compiled Laws, the judges' retirement system provided for in Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.831 of the Michigan Compiled Laws, the judges retirement act of 1992, Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws, or a person who comes within the state police retirement act of 1986, Act No. 182 of the Public Acts of 1986, being sections 38.1601 to 38.1648 of the Michigan Compiled Laws. A person who draws compensation as a state employee and also as an employee of a political subdivision of the state shall be eligible for the benefits provided by this act to the extent of the person's compensation paid by the state.

(3) On July 1, 1974, the contributing members of the Michigan public school employees' retirement system who are employed in the state classified or unclassified service as provided for in former Act No. 136 of the Public Acts of 1945 shall have their membership transferred to the retirement system. The accumulated contributions, including interest, for each member, and service standing to the member's credit as of June 30, 1974, shall be transferred from the annuity accumulation fund established under former Act No. 136 of the Public Acts of 1945 to the employee savings fund of this retirement system.

(4) The accumulated contributions and prior service shall be transferred to the employee savings fund of this retirement system from the pension accumulation fund established under former Act No. 136 of the Public Acts of 1945 and its predecessor acts for service performed as a teaching or nonteaching public school employee before July 1, 1945.

(5) A person hired in state classified or unclassified service after June 30, 1974, possessing a Michigan teaching certificate shall be a member of this retirement system. After June 30, 1974, a person who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the person's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16.

(6) A person whose membership service and prior service in the Michigan public school employees' retirement system was transferred to this retirement system shall be entitled to the service which otherwise would have been creditable to the member had the member remained a member of the Michigan public school employees' retirement system under former Act No. 136 of the Public Acts of 1945.

(7) A person who participates in a transitional public employment program financed with federal or state funds designed to reach the unemployed or underemployed and provide short-term, limited, or temporary employment shall not be a member of this retirement system or be defined as an employee occupying a permanent position under subsection (1). As used in this subsection and subsection (8), "transitional public employment program" means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans' out-reach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the comprehensive employment and training act, former Public Law 93-203, 87 Stat. 839.

(8) If a person described in subsection (7) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment which is excluded in subsection (7) for purposes of determining a retirement allowance upon the payment by the person's employer under subsection (7) from funds provided under the comprehensive employment and training act, former Public Law 93-203, 87 Stat. 839, as funds permit, to the retirement system of the contributions, plus regular interest, the employer would have paid had the employment been rendered in a position covered by this act. During the person's employment in the transitional public employment program, the person's employer shall place in reserve a

reasonable but not necessarily an actuarially determined amount equal to the contributions which the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees which the employer determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(9) A person, not regularly employed by the state, who is hired by the state through a summer youth employment program established pursuant to the Michigan youth corps act, Act No. 69 of the Public Acts of 1983, being sections 409.221 to 409.230 of the Michigan Compiled Laws, shall not be a member of this retirement system. In addition, a person described in this subsection shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of this retirement system.

(10) A person, not regularly employed by the state, who is hired by the state to administer a program described in subsection (9), (11), (12), or (13) shall not be a member of this retirement system. In addition, a person described in this subsection shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of this retirement system.

(11) A person, not regularly employed by the state, who is employed by the state through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322, shall not be a member of this retirement system. In addition, a person described in this subsection shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of this retirement system.

(12) A person, not regularly employed by the state, who is employed by the state through participation in a program established pursuant to the Michigan opportunity and skills training program under sections 12 to 23 of Act No. 259 of the Public Acts of 1983, shall not be a member of this retirement system. In addition, a person described in this subsection shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of this retirement system.

(13) A person, not regularly employed by the state, who is employed by the state through participation in a program established pursuant to the Michigan community service corps program under sections 25 to 35 of Act No. 259 of the Public Acts of 1983, shall not be a member of this retirement system. In addition, a person described in this subsection shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of this retirement system.

Sec. 17l. (1) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer in order to qualify for a retirement allowance under this act may purchase additional service credit under this subsection. A member who purchases additional service credit shall contribute within 10 years after the effective date of the transfer an amount equal to the product of the following:

(a) Ten less the number of years and fraction of a year of that employee's credited service.

(b) The employee's full-time or equated full-time fiscal year compensation for the last fiscal year before the effective date of the transfer.

(c) The actuarial cost percentage determined under section 1(dd) for the year in which the effective date of the transfer occurred.

(2) Not more than 5 years of additional service credit may be purchased under this section.

Sec. 19. (1) A member who is 60 years of age or older and has 10 or more years of credited service may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(2) A member who is 55 years of age or older, but less than 60 years of age, and has 15 or more years of credited service, may retire upon written application to the retirement board stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Upon retirement he or she shall receive a retirement allowance computed according to section 20(1). The retirement allowance of a member who has less than 30 years' credited service shall be reduced by an amount which is 0.5% of the retirement allowance multiplied by the number of months the person's age at retirement is under 60 years. The reduction of 1/2 of 1% for each month and fraction of a month from the member's retirement allowance effective date to the date of the member's sixtieth birthday provided for in this subsection shall not apply to a member who retired before July 1, 1974 and before attainment of age 60, with 30 or more years of credited service. The retirement allowance of a retirant or beneficiary of a retirant who retired before that date shall be recalculated disregarding the reduction and the person receiving the retirement allowance shall be eligible to receive an adjusted retirement allowance based on the recalculation beginning October 1, 1987, but shall not be eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988.

The retirement allowance of a retirant who dies before January 1, 1988, and who has not nominated a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(3) Notwithstanding any other provision of this section, effective April 1, 1988, a member may retire with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), if all of the following apply:

(a) The member files a written application with the retirement board stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which the member desires to retire, and which is within the early retirement effective period.

(b) The member was employed by the state for the 6-month period immediately preceding the member's retirement allowance effective date. This subdivision shall not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.

(c) On the last day of the month immediately preceding the retirement allowance effective date stated in the application the member's combined age and length of credited service is equal to or greater than 80 years and the member is 50 years of age or older.

(d) For purposes of this subsection, "early retirement effective period" means 1 of the following:

(i) Except as provided in subparagraph (ii), the period beginning on April 1, 1988 and ending on April 1, 1989.

(ii) For a member employed by a department of mental health hospital or facility that is in the process of being closed by the department of mental health, the period beginning on April 1, 1988 and ending on October 1, 1989.

(4) As used in subsections (5) to (9):

(a) "Agency of the department" means 1 of the following:

(i) Southwest Michigan community living services.

(ii) Wayne community living services.

(b) "Department inpatient facility" means 1 of the following:

(i) A developmental disability center that is directly operated by the department of mental health for purposes of providing inpatient care and treatment services to persons with developmental disabilities.

(ii) A psychiatric hospital that is directly operated by the department of mental health for purposes of providing inpatient diagnostic and therapeutic services to persons who are mentally ill.

(5) Notwithstanding any other provision of this section, a member who is an employee of an agency of the department or a department inpatient facility and is on layoff status because the agency or inpatient facility has been designated by the director of mental health for closure on or after October 1, 1989, may retire as provided in subsection (7) or (8), as applicable, with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), upon satisfaction of any 1 of the following conditions:

(a) The member is 51 years of age or older and has 25 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(b) The member is at least 56 years of age and has 10 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(c) The member has 25 or more years of credited service, regardless of age, as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(6) When a department inpatient facility or agency is designated for closure on or after October 1, 1989, the director of mental health shall certify in writing to the state legislature and the retirement board, not less than 240 days before the designated official date of closure, which facility or agency is to be closed and the designated official date of closure.

(7) Except as provided in subsection (8), a member who is eligible to receive a retirement allowance under subsection (5) may retire effective on the date that an agency of the department or a department inpatient facility designated for closure as provided in subsection (5) actually closes, upon written application to the retirement board not less than 30 or more than 180 days before the designated official date of closure. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(8) A member who is on layoff status, is not working for the state, and becomes eligible to receive a retirement allowance under subsection (5) and who was an employee of an agency of the department or a department inpatient facility that has been designated for closure as provided in subsection (5) and that actually closes on or after October 1, 1989, may retire upon written application to the retirement board, stating a date, not less than 30 or more than 180 days after the facility actually closes, upon which he or she wishes to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(9) Any additional accrued actuarial cost and costs for health insurance resulting from the implementation of subsection (5) shall be funded from appropriations to the department of mental health for this purpose.

(10) A member who is an employee of the state accident fund on the date of transfer to a permitted transferee as that term is defined by section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of transfer. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

Sec. 20. (1) Upon his or her retirement, as provided for in section 19, 19a, 19b, 19c, or 19d, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. The member's retirement allowance is subject to subsection (3). Upon his or her retirement, the member may elect an option provided for in section 31(1).

(2) Pursuant to rules promulgated by the retirement board, a member who retires before becoming 65 years of age may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to his or her attainment of 65 years of age and a reduced retirement allowance payable after 65 years of age. His or her increased retirement allowance payable to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount. In addition, upon retirement the member may elect an option provided for in section 31(1).

(3) If a retirant dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the retirant's accumulated contributions credited to the retirant in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of retirement allowance received by him or her shall be paid to the person or persons that he or she nominated by written designation duly executed and filed with the retirement board. If the person or persons do not survive the retirant, then the difference, if any, shall be paid to the retirant's legal representative or estate. Benefits shall not be paid under this subsection on account of the death of the retirant if he or she elected an option provided for in section 31(1).

(4) If a member has 10 or more years of credited service, or has 5 or more years of credited service as an elected officer or in a position in the executive branch or the legislative branch excepted or exempt from the classified state civil service as provided in section 5 of article XI of the state constitution of 1963, and is separated from the service of the state for a reason other than retirement or death, he or she shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a retirement allowance provided for in this section. If a former employee of the state accident fund who had 5 or more years of service as an employee of the state accident fund returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service before receiving a retirement allowance under this act. If the member withdraws all or part of his or her accumulated contributions, he or she shall cease to be a member. Upon becoming 60 years of age or older, the member may retire upon his or her written application to the retirement board as provided in section 19(1). If a member elects an option as provided under section 31(4), but dies before the effective date of his or her retirement, the option elected by the member shall be carried out and the beneficiary of the member is entitled to all advantages due under that option.

(5) A person who is a member after January 1, 1981, who has at least 5 years of credited service, and whose employment with the department of mental health is terminated by reason of reduction in force related to deinstitutionalization that may or may not result in facility closure, shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a service retirement allowance as provided in this subsection. As used in this subsection, "deinstitutionalization" means planned reduction of state center or hospital beds through placement of individuals from the hospital or facility, or through limiting admissions to centers and hospitals, or both. If a member withdraws all or part of the member's accumulated contributions, the member shall cease to be a member. Upon becoming 60 years of age or older, the member may retire upon written application to the retirement board. The application shall specify a date, not less than 30 days or more than 90 days after the execution and filing of the application, on which the member desires to retire. Upon retirement, the member shall receive a retirement allowance equal to the number of years and fraction of a year of credited state service multiplied by 1-1/2% of the member's final average compensation. Upon retirement, the member may elect an option provided in section 31(1). If the member elects an option provided for in section 31(4), but dies before the effective date of retirement, the option elected by the member shall be carried out and a beneficiary of the member is entitled to all advantages due under the option.

(6) A retirant or the beneficiary of a retirant who retired before July 1, 1974 shall have his or her retirement allowance recalculated based on the retirant's number of years and fraction of a year of credited service multiplied by 1.5% of his or her final average compensation. The retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988 and shall be the basis on which future adjustments to the allowance, including the supplement provided by section 20h, are calculated. The retirement allowance of a retirant who dies before January 1, 1988, and who

did not nominate a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(7) Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance shall be payable for the month in which a retirement allowance ceases.

(8) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer authorized by section 701a of chapter 7 of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.701 to 418.755 of the Michigan Compiled Laws, and who is permitted to receive a retirement allowance under subsection (4) shall be eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

Sec. 44. An employee of the state accident fund who was vested in the state retirement system on or before the effective date of the transfer authorized by section 701a of Chapter 7 of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, shall be entitled to all of the rights, privileges, and benefits provided by this act accrued as of the effective date of the transfer.

Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 49.
- (b) Senate Bill No. 50.
- (c) Senate Bill No. 51.
- (d) Senate Bill No. 52.
- (e) Senate Bill No. 346.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.

