

Act No. 192
Public Acts of 1995
Approved by the Governor
November 6, 1995
Filed with the Secretary of State
November 7, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Rep. Rhead

ENROLLED HOUSE BILL No. 4870

AN ACT to amend section 3 of Act No. 182 of the Public Acts of 1986, entitled as amended "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," as amended by Act No. 191 of the Public Acts of 1989, being section 38.1603 of the Michigan Compiled Laws; and to add section 14a.

The People of the State of Michigan enact:

Section 1. Section 3 of Act No. 182 of the Public Acts of 1986, as amended by Act No. 191 of the Public Acts of 1989, being section 38.1603 of the Michigan Compiled Laws, is amended and section 14a is added to read as follows:

Sec. 3. (1) "Credited service" means the sum of the prior service and membership service credited to a member's account.

(2) "Deferred member" means a member who separates from service with entitlement to a deferred retirement allowance as provided in section 30, but who is not a retirant.

(3) "Department" means the department of management and budget.

(4) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(5) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(6) Except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(7) "Eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

- (b) A distribution for a specified period of 10 years or more.
- (c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.
- (d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.
- (8) "Final average compensation" means the average annual salary for the last 2 years of service with the department of state police for which the member was compensated. In the case of a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Average annual salary includes only the following compensation items:
 - (a) Regular salary paid for the last 2 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.
 - (b) Overtime, shift differential, and shift differential overtime paid for the last 2 years of service.
 - (c) Gross pay adjustments paid affecting the last 2 years of service, including compensatory time and emergency response compensation.
 - (d) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation.
 - (e) Deferred hours under Plan B of the fiscal years ending September 30, 1981, and September 30, 1982, that are paid at the time of retirement separation.
 - (f) Longevity pay equal to 2 full years.
 - (g) Bomb squad pay paid for the last 2 years of service.
 - (h) Post 29 freeway premium paid for the last 2 years of service.
 - (i) On-call pay paid for the last 2 years of service.
- (9) "Internal revenue code" means the United States internal revenue code of 1986.

Sec. 14a. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed \$50,000.00 per year for a retirant who was a full-time employee of a police department or fire department and who has 15 or more years of credited service as a police officer, fire fighter, or public safety officer at retirement.

(3) The limitation on employer-financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4), (5), and (6) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires at age 62 or older, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of \$90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code.

(5) If a member retires before age 62, the amount of \$90,000.00 in subsection (4) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than \$75,000.00 at age 55, the limitation at age 55 is \$75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of \$75,000.00 at age 55.

(6) Section 415 of the internal revenue code requires the commissioner of internal revenue to annually adjust the \$50,000.00 limitation described in subsection (2) and the \$90,000.00 limitation described in subsection (4) to reflect cost of living increases, beginning with calendar year 1988. This section shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415 of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(7) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and beneficiaries before satisfaction of all retirement system liabilities.

(8) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(9) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(10) If the retirement system is terminated, the interest of the members, deferred members, retirants, and beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and related internal revenue service regulations applicable to governmental plans.

(11) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.