

Act No. 521
Public Acts of 1996
Approved by the Governor
January 12, 1997
Filed with the Secretary of State
January 13, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Gilmer, Johnson and Emerson

ENROLLED HOUSE BILL No. 6191

AN ACT to amend sections 17l, 19, 20, and 44 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 with the retirement system; to require contributions to the retirement system by and on behalf of members of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and agencies; and to prescribe penalties and provide remedies," section 17l as amended by Act No. 176 of the Public Acts of 1995 and sections 19 and 20 as amended and section 44 as added by Act No. 195 of the Public Acts of 1993, being sections 38.17l, 38.19, 38.20, and 38.44 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 17l, 19, 20, and 44 of Act No. 240 of the Public Acts of 1943, section 17l as amended by Act No. 176 of the Public Acts of 1995 and sections 19 and 20 as amended and section 44 as added by Act No. 195 of the Public Acts of 1993, being sections 38.17l, 38.19, 38.20, and 38.44 of the Michigan Compiled Laws, are amended to read as follows:

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 1a for the year in which the effective date of the transfer occurred.

(2) In order to qualify for a retirement allowance under this act, an employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance of the Michigan biologic products institute under the Michigan biologic products institute transfer act may purchase additional service credit under this subsection. A member who elects within 1 year after the effective date of the conveyance to purchase additional service credit under this subsection shall contribute within 11 years after the effective date of the conveyance 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 credit 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 conveyance.
- (c) The actuarial cost percentage determined under section 1a(2) for the year which is 1 year after the year in which the effective date of the conveyance occurred.

(3) Subsection (2) applies only to members who were employees of the Michigan biologic products institute as of the effective date of the conveyance and who maintain employment with the transferee for not less than 1 year unless the employee is laid off by the new employer for reasons other than good cause.

(4) An employee of the liquor control commission created by section 5 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.5 of the Michigan Compiled Laws, whose employment is terminated due to the privatization of the distribution of spirits within this state pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission and who has 5 or more but less than 10 years of credited service on the date the privatization is effectuated in order to qualify for a retirement allowance under this act may purchase additional service credit under this subsection. The cost of benefits paid under this section shall be paid out of the revolving fund created under section 10 of Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.10 of the Michigan Compiled Laws. A member who elects within 1 year to purchase additional service credit under this subsection shall contribute within 6 years after the privatization date or the date of separation from state employment, whichever occurs first, 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 privatization date.

(c) The actuarial cost for the year in which the privatization date occurred.

(5) 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 does 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 is eligible to receive an adjusted retirement allowance based on the recalculation 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. 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 does 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 hospital or facility owned or operated by the department formerly known as the department of mental health that is in the process of being closed by the department formerly known as 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 formerly known as 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 formerly known as 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 state officer formerly known as 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 state officer formerly known as 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 formerly known as 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).

(11) A member who is an employee of the Michigan biologic products institute on the date the institute is conveyed pursuant to the Michigan biologic products institute transfer act 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 the conveyance. 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).

(12) A member who is an employee of the liquor control commission created by section 5 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.5 of the Michigan Compiled Laws, whose employment is terminated due to the privatization of the distribution of spirits within this state is effectuated pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission 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 the privatization is effectuated. The member may retire under this subsection 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). The cost of benefits paid under this section shall be paid out of the revolving fund created under section 10 of Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.10 of the Michigan Compiled Laws.

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 up to his or her attainment of 65 years of age and a reduced retirement allowance payable after his or her attainment of 65 years of age. His or her increased retirement allowance payable up 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 a former employee of the Michigan biologic products institute who is eligible to and has elected to purchase additional credited service pursuant to section 17l(2) 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, without regard to the additional credited service purchased pursuant to section 17l(2) but including any credited service authorized under section 16, before receiving a retirement allowance under this act. If the member withdraws all or part of his or her accumulated contributions, he or she ceases 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 formerly known as 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 ceases 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 is 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 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, and who is permitted to receive a retirement allowance under subsection (4) is 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.

(9) An employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance authorized by the Michigan biologic products institute transfer act and who is permitted to receive a retirement allowance under subsection (4) is 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. (1) 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 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, is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the effective date of the transfer.

(2) An employee of the Michigan biologic products institute who was vested in the state retirement system on or before the effective date of the conveyance authorized by the Michigan biologic products institute transfer act is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the effective date of the conveyance.

(3) An employee of the liquor control commission created by section 5 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.5 of the Michigan Compiled Laws, who was vested in the state retirement system on or before the date the privatization of the distribution of spirits within this state is effectuated pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the date the privatization is effectuated.

Section 2. This amendatory act shall not take effect unless House Bill No. 6192 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.