



HOUSE BILL No. 4870

May 18, 1995, Introduced by Rep. Rhead and referred to the Committee on Appropriations.

A bill to amend section 3 of Act No. 182 of the Public Acts of 1986, entitled as amended "State police retirement act of 1986," 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:

1 Section 1. Section 3 of Act No. 182 of the Public Acts of
2 1986, as amended by Act No. 191 of the Public Acts of 1989, being
3 section 38.1603 of the Michigan Compiled Laws, is amended and
4 section 14a is added to read as follows:

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

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

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

6 (4) "DIRECT ROLLOVER" MEANS A PAYMENT BY THE RETIREMENT
7 SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE
8 DISTRIBUTE.

9 (5) "DISTRIBUTE" INCLUDES A MEMBER OR DEFERRED MEMBER.
10 DISTRIBUTE ALSO INCLUDES THE MEMBER'S OR DEFERRED MEMBER'S SUR-
11 VIVING SPOUSE OR THE MEMBER'S OR DEFERRED MEMBER'S SPOUSE OR
12 FORMER SPOUSE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, WITH
13 REGARD TO THE INTEREST OF THE SPOUSE OR FORMER SPOUSE.

14 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
15 "ELIGIBLE RETIREMENT PLAN" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT
16 DESCRIBED IN SECTION 408(a) OF THE INTERNAL REVENUE CODE, AN
17 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF THE
18 INTERNAL REVENUE CODE, AN ANNUITY PLAN DESCRIBED IN SECTION
19 403(a) OF THE INTERNAL REVENUE CODE, OR A QUALIFIED TRUST
20 DESCRIBED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE, THAT
21 ACCEPTS THE DISTRIBUTE'S ELIGIBLE ROLLOVER DISTRIBUTION.
22 HOWEVER, IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A
23 SURVIVING SPOUSE, AN ELIGIBLE RETIREMENT PLAN MEANS AN INDIVIDUAL
24 RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED
25 ABOVE.

26 (7) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A DISTRIBUTION OF
27 ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE

1 DISTRIBUTE. ELIGIBLE ROLLOVER DISTRIBUTION DOES NOT INCLUDE ANY
2 OF THE FOLLOWING:

3 (A) A DISTRIBUTION MADE FOR THE LIFE OR LIFE EXPECTANCY OF
4 THE DISTRIBUTE OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF
5 THE DISTRIBUTE AND THE DISTRIBUTE'S DESIGNATED BENEFICIARY.

6 (B) A DISTRIBUTION FOR A SPECIFIED PERIOD OF 10 YEARS OR
7 MORE.

8 (C) A DISTRIBUTION TO THE EXTENT THAT THE DISTRIBUTION IS
9 REQUIRED UNDER SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

10 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE
11 IN FEDERAL GROSS INCOME, DETERMINED WITHOUT REGARD TO THE EXCLU-
12 SION FOR NET UNREALIZED APPRECIATION WITH RESPECT TO EMPLOYER
13 SECURITIES.

14 (8) ~~(4)~~ "Final average compensation" means the average
15 annual salary for the last 2 years of service with the department
16 of state police for which the member was compensated. In the
17 case of a nonclassified member of the department holding the rank
18 of colonel, final average compensation means the same average
19 annual salary as that computed for the highest salaried classi-
20 fied member of the department, or at the average annual salary
21 for the last 2 years of service with the department of state
22 police for which the member was compensated, whichever is
23 greater. Average annual salary includes only the following com-
24 pensation items:

25 (a) Regular salary paid for the last 2 years of service,
26 including, but not limited to, that salary ~~which~~ THAT is
27 deferred pursuant to a state deferred compensation program.

1 (b) Overtime, shift differential, and shift differential
2 overtime paid for the last 2 years of service.

3 (c) Gross pay adjustments paid affecting the last 2 years of
4 service, including compensatory time and emergency response
5 compensation.

6 (d) Up to a maximum of 240 hours of accumulated annual
7 leave, paid at the time of retirement separation.

8 (e) Deferred hours under Plan B of the fiscal years ending
9 September 30, 1981, and September 30, 1982, that are paid at the
10 time of retirement separation.

11 (f) Longevity pay equal to 2 full years.

12 (g) Bomb squad pay paid for the last 2 years of service.

13 (h) Post 29 freeway premium paid for the last 2 years of
14 service.

15 (i) On-call pay paid for the last 2 years of service.

16 (9) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL
17 REVENUE CODE OF 1986.

18 SEC. 14A. (1) THIS SECTION IS ENACTED PURSUANT TO SECTION
19 401(a) OF THE INTERNAL REVENUE CODE THAT IMPOSES CERTAIN ADMINIS-
20 TRATIVE REQUIREMENTS AND BENEFIT LIMITATIONS FOR QUALIFIED GOV-
21 ERNMENTAL PLANS. THIS STATE INTENDS THAT THE RETIREMENT SYSTEM
22 BE A QUALIFIED PENSION PLAN CREATED IN TRUST UNDER SECTION 401 OF
23 THE INTERNAL REVENUE CODE AND THAT THE TRUST BE AN EXEMPT ORGANI-
24 ZATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE
25 DEPARTMENT SHALL ADMINISTER THE RETIREMENT SYSTEM TO FULFILL THIS
26 INTENT.

1 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
2 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
3 UNDER THIS ACT SHALL NOT EXCEED \$50,000.00 PER YEAR FOR A RETIR-
4 ANT WHO WAS A FULL-TIME EMPLOYEE OF A POLICE DEPARTMENT OR FIRE
5 DEPARTMENT AND WHO HAS 15 OR MORE YEARS OF CREDITED SERVICE AS A
6 POLICE OFFICER, FIRE FIGHTER, OR PUBLIC SAFETY OFFICER AT
7 RETIREMENT.

8 (3) THE LIMITATION ON EMPLOYER-FINANCED BENEFITS PROVIDED BY
9 THE RETIREMENT SYSTEM UNDER SUBSECTION (2) APPLIES UNLESS APPLI-
10 CATION OF SUBSECTIONS (4), (5), AND (6) PRODUCES A HIGHER LIMITA-
11 TION, IN WHICH CASE THE HIGHER LIMITATION APPLIES.

12 (4) IF A MEMBER RETIRES AT AGE 62 OR OLDER,
13 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
14 UNDER THIS ACT SHALL NOT EXCEED THE LESSER OF \$90,000.00 OR 100%
15 OF THE MEMBER'S AVERAGE COMPENSATION FOR HIGH 3 YEARS AS
16 DESCRIBED IN SECTION 415(b)(3) OF THE INTERNAL REVENUE CODE.

17 (5) IF A MEMBER RETIRES BEFORE AGE 62, THE AMOUNT OF
18 \$90,000.00 IN SUBSECTION (4) IS ACTUARIALLY REDUCED TO REFLECT
19 PAYMENT BEFORE AGE 62. THE RETIREMENT SYSTEM SHALL USE AN INTER-
20 EST RATE OF 5% PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE
21 ACTUARIAL REDUCTION IN THIS SUBSECTION. IF THIS SUBSECTION
22 PRODUCES A LIMITATION OF LESS THAN \$75,000.00 AT AGE 55, THE LIM-
23 ITATION AT AGE 55 IS \$75,000.00 AND THE LIMITATIONS FOR AGES
24 UNDER AGE 55 SHALL BE CALCULATED FROM A LIMITATION OF \$75,000.00
25 AT AGE 55.

26 (6) SECTION 415 OF THE INTERNAL REVENUE CODE REQUIRES THE
27 COMMISSIONER OF INTERNAL REVENUE TO ANNUALLY ADJUST THE

1 \$50,000.00 LIMITATION DESCRIBED IN SUBSECTION (2) AND THE
2 \$90,000.00 LIMITATION DESCRIBED IN SUBSECTION (4) TO REFLECT COST
3 OF LIVING INCREASES, BEGINNING WITH CALENDAR YEAR 1988. THIS
4 SECTION SHALL BE ADMINISTERED USING THE LIMITATIONS APPLICABLE TO
5 EACH CALENDAR YEAR AS ADJUSTED BY THE COMMISSIONER OF INTERNAL
6 REVENUE UNDER SECTION 415 OF THE INTERNAL REVENUE CODE. THE
7 RETIREMENT SYSTEM SHALL ADJUST THE BENEFITS SUBJECT TO THE LIM-
8 TATION EACH YEAR TO CONFORM WITH THE ADJUSTED LIMITATION.

9 (7) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD IN
10 TRUST AND INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE
11 OBLIGATIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR
12 ANY OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED
13 TO A PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,
14 DEFERRED MEMBERS, RETIRANTS, AND BENEFICIARIES BEFORE SATISFAC-
15 TION OF ALL RETIREMENT SYSTEM LIABILITIES.

16 (8) THE RETIREMENT SYSTEM SHALL RETURN POST-TAX MEMBER CON-
17 TRIBUTIONS MADE BY A MEMBER AND RECEIVED BY THE RETIREMENT SYSTEM
18 TO A MEMBER UPON RETIREMENT, PURSUANT TO INTERNAL REVENUE SERVICE
19 REGULATIONS AND APPROVED INTERNAL REVENUE SERVICE EXCLUSION RATIO
20 TABLES.

21 (9) THE REQUIRED BEGINNING DATE FOR RETIREMENT ALLOWANCES
22 AND OTHER DISTRIBUTIONS SHALL NOT BE LATER THAN APRIL 1 OF THE
23 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE EMPLOYEE
24 ATTAINS AGE 70-1/2 OR APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE
25 CALENDAR YEAR IN WHICH THE EMPLOYEE RETIRES.

26 (10) IF THE RETIREMENT SYSTEM IS TERMINATED, THE INTEREST OF
27 THE MEMBERS, DEFERRED MEMBERS, RETIRANTS, AND BENEFICIARIES IN

1 THE RETIREMENT SYSTEM IS NONFORFEITABLE TO THE EXTENT FUNDED AS
2 DESCRIBED IN SECTION 411(d)(3) OF THE INTERNAL REVENUE CODE AND
3 RELATED INTERNAL REVENUE SERVICE REGULATIONS APPLICABLE TO GOV-
4 ERNMENTAL PLANS.

5 (11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
6 CONTRARY THAT WOULD LIMIT A DISTRIBUTEES ELECTION UNDER THIS
7 ACT, A DISTRIBUTE MAY ELECT, AT THE TIME AND IN THE MANNER PRE-
8 SCRIBED BY THE RETIREMENT BOARD, TO HAVE ANY PORTION OF AN ELIGI-
9 BLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT
10 PLAN SPECIFIED BY THE DISTRIBUTE IN A DIRECT ROLLOVER. THIS
11 SUBSECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY 1,
12 1993.

13 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
14 THE RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH
15 THE PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE AND
16 REVENUE SERVICE REGULATIONS UNDER THAT SECTION THAT ARE APPLICA-
17 BLE TO GOVERNMENTAL PLANS. IF THERE IS A CONFLICT BETWEEN THIS
18 SECTION AND ANOTHER SECTION OF THIS OR ANY OTHER ACT OF THIS
19 STATE, THIS SECTION PREVAILS.