

# HOUSE BILL No. 6067

September 16, 1998, Introduced by Rep. Gubow and referred to the Committee on Public Retirement.

A bill to amend 1994 PA 350, entitled "Public employee retirement benefits forfeiture act," by amending sections 2, 3, 4, and 5 (MCL 38.2702, 38.2703, 38.2704, and 38.2705), sections 2, 4, and 5 as amended by 1996 PA 467.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. As used in this act:

2       (a) "Felony arising out of his or her service as a public  
3 employee" means 1 or more of the following:

4       (i) A felony resulting from the misuse of public funds.

5       (ii) A felony resulting from the receipt of a bribe or other  
6 financial benefit in that person's capacity as a public  
7 employee.

8       (b) "Member" means a member, vested former member, or  
9 deferred member of a retirement system.

1 (c) "Retirant" means a person who has retired with a  
2 retirement benefit payable from a retirement system.

3 (d) "Retirement benefit" means an annuity, a retirement  
4 allowance, a pension, an optional benefit, a postretirement bene-  
5 fit INCLUDING BUT NOT LIMITED TO HEALTH BENEFITS, and any other  
6 right accrued or accruing to a member under a retirement system.  
7 ~~Retirement benefit does not include health benefits provided to~~  
8 ~~a retirant or his or her beneficiaries by a retirement system.~~

9 (e) "Retirement system" means a public employee retirement  
10 system established by this state or a political subdivision of  
11 this state.

12 Sec. 3. A member or retirant who is convicted of or who  
13 enters a nolo contendere plea accepted by a court for a felony  
14 arising out of his or her service as a public employee is consid-  
15 ered to have breached the public trust and ~~may~~ SHALL have his  
16 or her rights to an otherwise vested retirement benefit and all  
17 accumulated contributions standing to that person's credit in the  
18 retirement system forfeited as provided in this act. This act  
19 applies only to the retirement system of which the person was a  
20 member or retirant at the time the felony was committed and only  
21 to the retirement system established by the entity affected by  
22 the felony.

23 Sec. 4. (1) ~~If~~ THE COURT HAVING JURISDICTION, WHEN PRO-  
24 NOUNCING JUDGMENT AGAINST AND PASSING SENTENCE UPON, a member or  
25 retirant WHO is convicted of or WHO enters a nolo contendere plea  
26 accepted by the court for a felony arising out of his or her  
27 service as a public employee, ~~the court may~~ SHALL order

1 ~~forfeiture as provided in this section. If a court orders~~  
2 ~~forfeiture under this section, the order shall contain~~ all of  
3 the following: ~~, as applicable:~~

4 (a) ~~The portion of~~ THAT the member's or retirant's retire-  
5 ment benefit under a retirement system established by that  
6 person's employer at the time the act or acts that resulted in  
7 the felony were committed ~~that accrued to that member or retir-~~  
8 ~~ant on or after the date the first act that resulted in the~~  
9 ~~felony was committed~~ is forfeited.

10 (b) ~~The~~ THAT THE member's or retirant's accumulated con-  
11 tributions standing to that person's credit in the individual  
12 account established for that purpose in the retirement system  
13 ~~shall be refunded to the member or retirant~~ ARE FORFEITED.

14 ~~(c) The retirement system shall pay to an individual, if~~  
15 ~~any, who would otherwise be a beneficiary of the member or retir-~~  
16 ~~ant whose retirement benefit is being forfeited under this act an~~  
17 ~~actuarially equivalent monthly retirement allowance at the age~~  
18 ~~that member or retirant would have become eligible for unreduced~~  
19 ~~retirement benefits under that retirement system.~~

20 (d) ~~The retirement system shall provide hospitalization and~~  
21 ~~medical coverage insurance to the member or retirant whose~~  
22 ~~retirement benefit is being forfeited under this act and to his~~  
23 ~~or her beneficiaries in the same manner and under the same~~  
24 ~~restrictions as is provided to other retirants and beneficiaries~~  
25 ~~of that retirement system.~~

1 (C) THAT THE RETIREMENT SYSTEM PAY NO OTHER AMOUNT FROM THE  
2 ASSETS OF THE RETIREMENT SYSTEM ON BEHALF OF THAT MEMBER OR  
3 RETIRANT.

4 (2) ~~If a court enters an order described in subsection (1),~~  
5 ~~the~~ THE clerk of the court shall deliver the order to the  
6 retirement system.

7 Sec. 5. (1) The retirement system shall comply with ~~an~~  
8 THE order of the court described in section 4. The retirement  
9 system shall not pay to a member or retirant whose retirement  
10 benefit is forfeited under this act, OR A BENEFICIARY OF THAT  
11 MEMBER OR RETIRANT, any retirement benefits on or after the day  
12 the governing body of the retirement system receives the order of  
13 the court under section 4.

14 (2) A retirement system shall comply with any subsequent  
15 orders of a court based upon an appeal of an order previously  
16 submitted to the retirement system under this act.

17 (3) A retirement system that complies with a court order  
18 under this act is released and discharged from any and all  
19 liability pertaining to retirement benefits arising on account of  
20 the former member's or retirant's service to the employer upon  
21 receipt of the order of the court under section 4.