

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5279

A bill to amend 1986 PA 182, entitled
"State police retirement act of 1986,"
by amending sections 3, 14, 14a, 42, and 43 (MCL 38.1603,
38.1614, 38.1614a, 38.1642, and 38.1643), sections 3 and 14 as
amended by 2000 PA 374, section 14a as added by 1995 PA 192,
section 42 as amended by 1989 PA 191, and section 43 as amended
by 2002 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Banked leave time program" means the part B
2 annual leave hours within the state's annual and sick leave
3 program approved by a ruling of the internal revenue service on
4 September 5, 2003, in which a pay reduction or other concessions
5 are applied to a member in exchange for additional part B annual
6 leave hours.

7 (2) ~~—(1)—~~ "Credited service" means the sum of the prior

1 service and membership service credited to a member's account.

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

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

7 (5) ~~—(4)—~~ "Direct rollover" means a payment by the retirement
8 system to the eligible retirement plan specified by the
9 distributee.

10 (6) ~~—(5)—~~ "Distributee" includes a member or deferred
11 member. Distributee also includes the member's or deferred
12 member's surviving spouse or the member's or deferred member's
13 spouse or former spouse under an eligible domestic relations
14 order, with regard to the interest of the spouse or former
15 spouse.

16 (7) **"Drop participant" means an officer who participates in**
17 **the deferred retirement option plan established in section 24a.**

18 (8) ~~—(6)—~~ **Except** Beginning January 1, 2002, **except** as
19 otherwise provided in this subsection, "eligible retirement plan"
20 means an individual retirement account described in section
21 408(a) of the internal revenue code, **26 USC 408(a)**, an individual
22 retirement annuity described in section 408(b) of the internal
23 revenue code, **26 USC 408(b)**, an annuity plan described in section
24 403(a) of the internal revenue code, **26 USC 403(a)**, or a
25 qualified trust described in section 401(a) of the internal
26 revenue code, **26 USC 401(a)**, **an annuity contract described in**
27 **section 403(b) of the internal revenue code, 26 USC 403(b), or an**

1 eligible plan under section 457(b) of the internal revenue code,
2 26 USC 457(b), which is maintained by a state, political
3 subdivision of a state, or an agency or instrumentality of a
4 state or political subdivision of a state and which agrees to
5 separately account for amounts transferred into such eligible
6 plan under section 457(b) of the internal revenue code, 26 USC
7 457(b), from this retirement system, that accepts the
8 distributee's eligible rollover distribution. However, in the
9 case of an eligible rollover distribution to a surviving spouse
10 on or before December 31, 2001, an eligible retirement plan means
11 an individual retirement account or an individual retirement
12 annuity described above.

13 (9) ~~—(7)—"Eligible"~~ **Beginning January 1, 2002, "eligible**
14 **rollover distribution"** means a distribution of all or any portion
15 of the balance to the credit of the distributee. Eligible
16 rollover distribution does not include any of the following:

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

20 (b) A distribution for a specified period of 10 years or
21 more.

22 (c) A distribution to the extent that the distribution is
23 required under section 401(a)(9) of the internal revenue code, 26
24 USC 401(a)(9).

25 (d) The portion of any distribution that is not includable in
26 federal gross income, determined without regard to the exclusion
27 for net unrealized appreciation with respect to employer

1 securities, — except to the extent that the portion of the
2 distribution is paid to either of the following:

3 (i) An individual retirement account or annuity described in
4 section 408(a) or 408(b) of the internal revenue code, 26 USC
5 408(a) or 408(b).

6 (ii) A qualified defined contribution plan as described in
7 section 401(a) or 403(a) of the internal revenue code, 26 USC
8 401(a) or 403(a), that agrees to separately account for amounts
9 so transferred, including separately accounting for the portion
10 of the distribution which is includable in gross income and the
11 portion of the distribution which is not so includable.

12 (10) ~~—(8)—~~ "Final average compensation" means the average
13 annual salary for the last 2 years of service with the department
14 of state police for which the member was compensated as defined
15 in subsection ~~—(10)—~~ (13). In the case of a nonclassified member
16 of the department holding the rank of colonel, final average
17 compensation means the same average annual salary as that
18 computed for the highest salaried classified member of the
19 department, or at the average annual salary for the last 2 years
20 of service with the department of state police for which the
21 member was compensated, whichever is greater. Average annual
22 salary includes only the following compensation items:

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

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

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

4 (d) Up to a maximum of 240 hours of accumulated annual leave,
5 paid at the time of retirement separation **excluding part B annual**
6 **leave hours paid at the time of retirement separation.**

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

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

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

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

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

15 (j) **Beginning October 1, 2003, the value of any unpaid**
16 **furlough hours or the value of any unpaid hours exchanged for**
17 **part B annual leave hours, calculated at the member's**
18 **then-current hourly rate or rates of pay, for a period during**
19 **which a member is participating in the banked leave time**
20 **program.**

21 (11) **"Furlough hours" means unworked hours incurred in**
22 **conjunction with the banked leave time program.**

23 (12) ~~—(9)—~~ "Internal revenue code" means the United States
24 internal revenue code of 1986.

25 (13) ~~—(10)—~~ "Last 2 years of service" means the 2-year period
26 immediately preceding the member's last day of service or that
27 period of 2 consecutive years of service with the department of

1 state police immediately preceding the date the duty disability
2 occurred according to the medical examinations conducted pursuant
3 to section 29 **or, if the officer participated in the deferred**
4 **retirement option plan, the 2-year period immediately preceding**
5 **participation in the deferred retirement option plan.**

6 Sec. 14. (1) The funding objective of the retirement system
7 is to establish and receive contributions during each fiscal year
8 that are sufficient to fully cover the actuarial cost of benefits
9 likely to be paid on account of services rendered by members
10 during the fiscal year, the normal cost requirements of the
11 retirement system, and finance the unfunded actuarial costs of
12 benefits likely to be paid on account of service rendered prior
13 to the fiscal year, the unfunded actuarial accrued liability of
14 the retirement system, and health, dental, and vision insurance.

15 (2) The annual level percentage of payroll contribution rate
16 shall be actuarially determined using experience assumptions and
17 level percent of payroll actuarial cost methods adopted by the
18 retirement board and the department pursuant to an annual
19 actuarial valuation, which shall be sufficient to finance
20 benefits being provided and to be provided by the retirement
21 system.

22 (3) For differences occurring in fiscal years beginning on or
23 after October 1, 2001, a minimum of 20% of the difference between
24 the estimated and the actual aggregate compensation and the
25 estimated and the actual contribution rate described in
26 subsection (2), if any, may be submitted in the executive budget
27 to the legislature for appropriation in the next succeeding state

1 fiscal year and a minimum of 25% of the remaining difference
2 shall be submitted in the executive budget to the legislature for
3 appropriation in each of the following 4 state fiscal years, or
4 until 100% of the remaining difference is submitted, whichever
5 first occurs. In addition, interest shall be included for each
6 year that a portion of the remaining difference is carried
7 forward. The interest rate shall equal the actuarially assumed
8 rate of investment return for the state fiscal year in which
9 payment is made.

10 (4) For each fiscal year that begins on or after October 1,
11 2003, if the actuarial valuation prepared pursuant to this
12 section for each fiscal year demonstrates that as of the
13 beginning of a fiscal year, and after all credits and transfers
14 required by this act for the previous fiscal year have been made,
15 the sum of the actuarial value of assets and the actuarial
16 present value of future normal cost contributions exceeds the
17 actuarial present value of benefits, the amount based on the
18 annual level percent of payroll contribution rate pursuant to
19 subsections (1) and (2) may be deposited into the health advance
20 funding subaccount created by section 42.

21 (5) Notwithstanding any other provision of this act, if the
22 retirement board establishes an arrangement and fund as described
23 in section 6 of the public employee retirement benefit protection
24 act, 2002 PA 100, MCL 38.1686, the benefits that are required to
25 be paid from that fund shall be paid from a portion of the
26 employer contributions described in this section or other
27 eligible funds. The retirement board shall determine the amount

1 of the employer contributions or other eligible funds that must
2 be allocated to that fund and deposit that amount in that fund
3 before it deposits any remaining employer contributions or other
4 eligible funds in the pension fund.

5 Sec. 14a. (1) This section is enacted pursuant to section
6 401(a) of the internal revenue code that imposes certain
7 administrative requirements and benefit limitations for qualified
8 governmental plans. This state intends that the retirement
9 system be a qualified pension plan created in trust under
10 section 401 of the internal revenue code and that the trust be an
11 exempt organization under section 501 of the internal revenue
12 code. The department shall administer the retirement system to
13 fulfill this intent.

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

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

25 ~~(4) If a member retires at age 62 or older, employer financed~~
26 ~~benefits provided by the retirement system under this act shall~~
27 ~~not exceed the lesser of \$90,000.00 or 100% of the member's~~

1 ~~average compensation for high 3 years as described in~~
2 ~~section 415(b)(3) of the internal revenue code.~~

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

12 ~~—— (6) Section 415 of the internal revenue code requires the~~
13 ~~commissioner of internal revenue to annually adjust the~~
14 ~~\$50,000.00 limitation described in subsection (2) and the~~
15 ~~\$90,000.00 limitation described in subsection (4) to reflect cost~~
16 ~~of living increases, beginning with calendar year 1988. This~~
17 ~~section shall be administered using the limitations applicable to~~
18 ~~each calendar year as adjusted by the commissioner of internal~~
19 ~~revenue under section 415 of the internal revenue code. The~~
20 ~~retirement system shall adjust the benefits subject to the~~
21 ~~limitation each year to conform with the adjusted limitation.~~

22 **(2) The retirement system shall be administered in compliance**
23 **with section 415 of the internal revenue code, 26 USC 415, and**
24 **regulations under that section that are applicable to**
25 **governmental plans. Employer-financed benefits provided by the**
26 **retirement system under this act shall not exceed the applicable**
27 **limitations set forth in section 415 of the internal revenue**

1 code, 26 USC 415, as adjusted by the commissioner of internal
2 revenue under section 415(d) of the internal revenue code, 26 USC
3 415(d), to reflect cost of living increases, and the retirement
4 system shall adjust the benefits subject to the limitation each
5 calendar year to conform with the adjusted limitation. For
6 purposes of section 415(b) of the internal revenue code, 26 USC
7 415(b), the applicable limitation shall apply to aggregated
8 benefits received from all qualified pension plans for which the
9 office of retirement services coordinates administration of that
10 limitation. If there is a conflict between this section and
11 another section of this act, this section prevails.

12 (3) ~~—(7)—~~ The assets of the retirement system shall be held
13 in trust and invested for the sole purpose of meeting the
14 legitimate obligations of the retirement system and shall not be
15 used for any other purpose. The assets shall not be used for or
16 diverted to a purpose other than for the exclusive benefit of the
17 members, deferred members, retirants, and beneficiaries before
18 satisfaction of all retirement system liabilities.

19 (4) ~~—(8)—~~ The retirement system shall return post-tax member
20 contributions made by a member and received by the retirement
21 system to a member upon retirement, pursuant to internal revenue
22 service regulations and approved internal revenue service
23 exclusion ratio tables.

24 (5) ~~—(9)—~~ The required beginning date for retirement
25 allowances and other distributions shall not be later than April
26 1 of the calendar year following the calendar year in which the
27 employee attains age 70-1/2 or April 1 of the calendar year

1 following the calendar year in which the employee retires.

2 (6) ~~—(10)—~~ If the retirement system is terminated, the
3 interest of the members, deferred members, retirants, and
4 beneficiaries in the retirement system is nonforfeitable to the
5 extent funded as described in section 411(d)(3) of the internal
6 revenue code, **26 USC 411(d)(3)**, and related internal revenue
7 service regulations applicable to governmental plans.

8 (7) ~~—(11)—~~ Notwithstanding any other provision of this act to
9 the contrary that would limit a distributee's election under this
10 act, a distributee may elect, at the time and in the manner
11 prescribed by the retirement board, to have any portion of an
12 eligible rollover distribution paid directly to an eligible
13 retirement plan specified by the distributee in a direct
14 rollover. This subsection applies to distributions made on or
15 after January 1, 1993.

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

23 (8) Notwithstanding any other provision of this act, the
24 compensation of a member of the retirement system shall be taken
25 into account for any year under the retirement system only to the
26 extent that it does not exceed the compensation limit established
27 in section 401(a)(17) of the internal revenue code, **26 USC**

1 401(a)(17), as adjusted by the commissioner of internal revenue.
2 This subsection applies to any person who first becomes a member
3 of the retirement system on or after October 1, 1996.

4 (9) Notwithstanding any other provision of this act,
5 contributions, benefits, and service credit with respect to
6 qualified military service will be provided under the retirement
7 system in accordance with section 414(u) of the internal revenue
8 code, 26 USC 414(u). This subsection applies to all qualified
9 military service on or after December 12, 1994.

10 Sec. 42. (1) Hospitalization and medical coverage insurance
11 premiums payable by a retirant or his or her retirement allowance
12 beneficiary and his or her dependents under any group health plan
13 authorized by the Michigan civil service commission and the
14 department shall be paid in amounts provided by this subsection
15 from appropriations for this purpose made to the retirement
16 system. Until October 1, 1989, the amount payable by the
17 retirement system shall be 90% of the entire monthly premium
18 payable for hospitalization and medical coverage insurance.
19 Beginning October 1, 1989, the amount payable by the retirement
20 system shall be 95% of the entire monthly premium payable for
21 hospitalization and medical coverage insurance.

22 (2) Effective October 1, 1989, dental coverage and vision
23 coverage insurance premiums payable by a retirant or his or her
24 retirement allowance beneficiary and his or her dependents under
25 any group health plan authorized by the Michigan civil service
26 commission and the department shall be paid in amounts provided
27 by this subsection from appropriations for this purpose made to

1 the retirement system. The amount payable by the retirement
2 system shall be 90% of the entire monthly premium payable for
3 dental coverage and vision coverage insurance.

4 (3) The health-dental-vision benefits fund is created and
5 shall be the fund into which appropriations of the state for
6 health, dental, and vision benefits are paid. Benefits payable
7 pursuant to subsections (1) and (2) shall be payable from the
8 health-dental-vision benefits fund. **The assets and any earnings**
9 **on the assets contained in the health-dental-vision benefits fund**
10 **and the health advance funding subaccount are not to be treated**
11 **as pension assets for any purpose.**

12 (4) The health advance funding subaccount is the account to
13 which amounts transferred pursuant to section 14(3) are
14 credited. Any amounts received from the health advance funding
15 subaccount and accumulated earnings on those amounts shall not be
16 expended until the actuarial accrued liability for health
17 benefits under this section is at least 100% funded. The
18 department may expend funds or transfer funds to another account
19 to expend for health benefits under this section if the actuarial
20 accrued liability for health benefits under this section is at
21 least 100% funded.

22 (5) Notwithstanding any other provision of this section, the
23 department may transfer amounts from the health advance funding
24 subaccount to the reserve for employer contributions created by
25 section 16 if the actuarial valuation prepared pursuant to
26 section 14 demonstrates that, as of the beginning of a fiscal
27 year, and after all credits and transfers required by this act

1 for the previous fiscal year have been made, the sum of the
2 actuarial value of assets and the actuarial present value of
3 future normal cost contributions does not exceed the actuarial
4 present value of benefits.

5 Sec. 43. The right of a member, retirant, or beneficiary to
6 a retirement allowance, deferred retirement allowance,
7 accumulated contributions, or other benefit under this act is
8 subject to the public employee retirement benefit protection act,
9 2002 PA 100, MCL 38.1681 to 38.1689.

10 Enacting section 1. This amendatory act does not take
11 effect unless Senate Bill No. 1021 of the 92nd Legislature is
12 enacted into law.