

**SUBSTITUTE FOR  
SENATE BILL NO. 1021**

A bill to amend 1986 PA 182, entitled  
"State police retirement act of 1986,"  
by amending sections 3 and 4 (MCL 38.1603 and 38.1604), section 3  
as amended by 2000 PA 374, and by adding section 24a.

**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  
8 service and membership service credited to a member's account.

9       (3) ~~(2)~~ "Deferred member" means a member who separates from  
10 service with entitlement to a deferred retirement allowance as

1 provided in section 30, but who is not a retirant.

2       (4) ~~—(3)—~~ "Department" means the department of management and  
3 budget.

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

7       (6) ~~—(5)—~~ "Distributee" includes a member or deferred  
8 member. Distributee also includes the member's or deferred  
9 member's surviving spouse or the member's or deferred member's  
10 spouse or former spouse under an eligible domestic relations  
11 order, with regard to the interest of the spouse or former  
12 spouse.

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

15       (8) ~~—(6) Except—~~ **Beginning January 1, 2002, except as**  
16 otherwise provided in this subsection, "eligible retirement plan"  
17 means an individual retirement account described in section  
18 408(a) of the internal revenue code, **26 USC 408(a)**, an individual  
19 retirement annuity described in section 408(b) of the internal  
20 revenue code, **26 USC 408(b)**, an annuity plan described in section  
21 403(a) of the internal revenue code, **26 USC 403(a)**, or a  
22 qualified trust described in section 401(a) of the internal  
23 revenue code, **26 USC 401(a)**, **an annuity contract described in**  
24 **section 403(b) of the internal revenue code, 26 USC 403(b)**, or an  
25 **eligible plan under section 457(b) of the internal revenue code,**  
26 **26 USC 457(b)**, which is maintained by a state, political  
27 subdivision of a state, or an agency or instrumentality of a

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

10 (9) ~~—(7)—"Eligible~~ **Beginning January 1, 2002, "eligible**  
 11 rollover distribution" means a distribution of all or any portion  
 12 of the balance to the credit of the distributee. Eligible  
 13 rollover distribution does not include any of the following:

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

17 (b) A distribution for a specified period of 10 years or  
 18 more.

19 (c) A distribution to the extent that the distribution is  
 20 required under section 401(a)(9) of the internal revenue code, **26**  
 21 **USC 401(a)(9)**.

22 (d) The portion of any distribution that is not includable in  
 23 federal gross income, determined without regard to the exclusion  
 24 for net unrealized appreciation with respect to employer  
 25 securities, ~~—~~ **except to the extent that the portion of the**  
 26 **distribution is paid to either of the following:**

27 (i) **An individual retirement account or annuity described in**

1 section 408(a) or 408(b) of the internal revenue code, 26 USC  
2 408(a) or 408(b).

3 (ii) A qualified defined contribution plan as described in  
4 section 401(a) or 403(a) of the internal revenue code, 26 USC  
5 401(a) or 403(a), that agrees to separately account for amounts  
6 so transferred, including separately accounting for the portion  
7 of the distribution which is includable in gross income and the  
8 portion of the distribution which is not includable in gross  
9 income.

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

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

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

26 (c) Gross pay adjustments paid affecting the last 2 years of  
27 service, including compensatory time and emergency response

1 compensation.

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

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

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

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

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

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

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

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

21 (12) ~~(9)~~ "Internal revenue code" means the United States  
22 internal revenue code of 1986.

23 (13) ~~(10)~~ "Last 2 years of service" means the 2-year period  
24 immediately preceding the member's last day of service or that  
25 period of 2 consecutive years of service with the department of  
26 state police immediately preceding the date the duty disability  
27 occurred according to the medical examinations conducted pursuant

1 to section 29 or, if the officer participated in the deferred  
2 retirement option plan, the 2-year period immediately preceding  
3 participation in the deferred retirement option plan.

4       Sec. 4. (1) "Member", except where the context otherwise  
5 requires, means an employee of the Michigan department of state  
6 police who has subscribed to the constitutional oath of office.

7       (2) "Officer" means a nonexclusively represented member of  
8 the retirement system.

9       (3) ~~-(2)-~~ "Retirant" means a member who separates from  
10 service and retires with a retirement allowance payable from the  
11 appropriate reserve of the retirement system.

12       (4) ~~-(3)-~~ "Retirement allowance" means the annual amount,  
13 payable monthly, to which a retirant, retirement allowance  
14 beneficiary, or refund beneficiary is entitled pursuant to this  
15 act.

16       (5) ~~-(4)-~~ "Retirement allowance beneficiary" means a person  
17 who is being paid or has entitlement to the payment of a  
18 retirement allowance in the event of the death of a member,  
19 deferred member, or retirant.

20       (6) ~~-(5)-~~ "Retirement board" means the retirement board  
21 created in section 6.

22       (7) ~~-(6)-~~ "Retirement system" means the system of benefits  
23 for members of the department of state police and their survivors  
24 and beneficiaries provided by this act.

25       (8) ~~-(7)-~~ "Surviving spouse" means the spouse at the time of  
26 death of the member or retirant.

27       **Sec. 24a. (1) A deferred retirement option plan is**

1 established within the defined benefit plan that is part of the  
2 retirement system, and it is to be administered by the office of  
3 retirement services. Exclusively represented members of the  
4 retirement system may only participate in the deferred retirement  
5 option plan pursuant to notice from their collective bargaining  
6 agent that the agent agrees to the terms of the deferred  
7 retirement option plan. For each fiscal year that begins on or  
8 after October 1, 2004, the director of state police and the  
9 retirement board may elect to discontinue accepting applications  
10 for the deferred retirement option plan.

11 (2) An officer who has 25 years or more of credited service  
12 under this act or former act 1935 PA 251, or both, may elect to  
13 participate in the deferred retirement option plan by executing  
14 the application provided by the office of retirement services.  
15 Once the application is accepted by the office of retirement  
16 services, the officer's participation in the deferred retirement  
17 option plan is irrevocable and he or she becomes a DROP  
18 participant. The officer is solely responsible for any federal,  
19 state, or local tax due as a result of his or her participation  
20 in the deferred retirement option plan.

21 (3) Participation in the deferred retirement option plan does  
22 not guarantee continued employment. Except as otherwise provided  
23 in this section, an officer who elects to participate in the  
24 deferred retirement option plan will remain an active employee  
25 eligible to receive any applicable wage changes and benefits,  
26 will be subject to civil service rules and regulations, and will  
27 be subject to the policies and procedures of the department of

1 state police and subject to removal by the governor, if  
2 applicable, in the same manner as if he or she had not elected to  
3 participate in the deferred retirement option plan.

4 (4) An officer shall indicate on the application for the  
5 deferred retirement option plan the number of years that the  
6 officer wants to participate in the deferred retirement option  
7 plan, up to a maximum of 6 years. As a condition for  
8 participation, the officer agrees to retire at the conclusion of  
9 his or her participation in the deferred retirement option plan.

10 (5) A deferred retirement option plan account shall be  
11 created in the accounting records of the retirement system for  
12 each DROP participant. Each deferred retirement option plan  
13 account shall earn interest at the rate of 3% per annum, prorated  
14 for any fraction of a year. The deferred retirement option plan  
15 account of a DROP participant shall be credited with the  
16 following percentage of his or her monthly retirement allowance  
17 as calculated pursuant to section 24 as if he or she had retired  
18 on the day prior to becoming a DROP participant:

19 (a) 100% if the officer remains in the deferred retirement  
20 option plan for 6 years.

21 (b) 90% if the officer remains in the deferred retirement  
22 option plan for 5 years but less than 6 years.

23 (c) 80% if the officer remains in the deferred retirement  
24 option plan for 4 years but less than 5 years.

25 (d) 70% if the officer remains in the deferred retirement  
26 option plan for 3 years but less than 4 years.

27 (e) 60% if the officer remains in the deferred retirement

1 option plan for 2 years but less than 3 years.

2 (f) 50% if the officer remains in the deferred retirement  
3 option plan for 1 year but less than 2 years.

4 (g) 30% if the officer remains in the deferred retirement  
5 option plan for less than 1 year.

6 (6) A DROP participant shall not receive a monthly retirement  
7 allowance, as calculated pursuant to section 24, until  
8 termination of his or her deferred retirement option plan  
9 participation and commencement of retirement. A DROP participant  
10 shall not have any claim to any funds in his or her deferred  
11 retirement option plan account until he or she retires at the  
12 termination of his or her deferred retirement option plan  
13 participation.

14 (7) Upon termination of the deferred retirement option plan  
15 participation and commencement of retirement, the former DROP  
16 participant shall select 1 or more of the following options with  
17 regard to his or her deferred retirement option plan account:

18 (a) A total lump-sum distribution.

19 (b) A partial lump-sum distribution.

20 (c) A lump-sum direct rollover to another qualified plan if  
21 allowed by federal law and subject to the procedures of the  
22 retirement system.

23 (d) Maintain the funds in the account.

24 A former DROP participant shall remove all funds from his or her  
25 deferred retirement option plan account no later than April 1  
26 following the later of the calendar year in which the DROP  
27 participant attains 70 years, 6 months of age or the calendar

1 year in which the DROP participant is retired.

2 (8) If a DROP participant or former DROP participant dies  
3 before removing all funds from his or her deferred retirement  
4 option plan account, the former DROP participant's designated  
5 beneficiary shall receive any remaining balances. If the former  
6 DROP participant has not named a beneficiary for his or her  
7 deferred retirement option plan account, the amount in the  
8 deferred retirement option plan account shall be paid to the  
9 beneficiary of the former DROP participant's retirement  
10 allowance. If the former DROP participant has not named a  
11 beneficiary to his or her retirement allowance, the balance in  
12 the former DROP participant's account shall be paid to the former  
13 DROP participant's estate.

14 (9) If a DROP participant is found to be disabled under  
15 section 29, his or her participation in the deferred retirement  
16 option plan shall immediately cease and he or she shall be  
17 retired.

18 (10) The deferred retirement option plan shall be  
19 administered in compliance with section 415 of the internal  
20 revenue code, 26 USC 415, and regulations under that section that  
21 are applicable to a governmental deferred retirement option  
22 plan. If there is a conflict between this subsection and another  
23 subsection of this section, this subsection prevails.

24 (11) A deferred retirement option plan shall not be  
25 implemented until the civil service commission adopts rules to  
26 regulate all of the following:

27 (a) A DROP participant's payment for sick leave, annual

1 leave, longevity, and related items.

2 (b) A DROP participant's accrual of sick leave, annual leave,  
3 compensatory time, and related items.

4 (c) A DROP participant's payment of group insurance plan  
5 premiums.

6 (12) If the department receives notification from the United  
7 States internal revenue service that this section or any portion  
8 of this section will cause the retirement system to be  
9 disqualified for tax purposes under the internal revenue code, 26  
10 USC 1 to 1789, then the portion that will cause the  
11 disqualification does not apply.

12 Enacting section 1. This amendatory act does not take  
13 effect unless House Bill No. 5279 of the 92nd Legislature is  
14 enacted into law.