

HOUSE BILL No. 6323

November 4, 2004, Introduced by Reps. Ehardt, Koetje, Julian and Bisbee and referred to the Committee on Government Operations.

A bill to amend 1957 PA 261, entitled
"Michigan legislative retirement system act,"
by amending sections 26, 28, 30, 59a, and 79 (MCL 38.1026,
38.1028, 38.1030, 38.1059a, and 38.1079), sections 26, 30, and
59a as amended by 2002 PA 97, section 28 as amended by 1981 PA
123, and section 79 as amended by 1998 PA 501.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 26. ~~-(1) Beginning January 1, 1999, the~~ The
2 retirement system shall be administered by a board of trustees.
3 A member of the board of trustees serving as of December 31, 2004
4 shall continue to serve as a member until December 31, 2005.
5 Beginning January 1, 2006, the board of trustees shall be
6 composed as indicated in the bylaws. ~~-, consisting of 11 persons~~
7 ~~as follows:~~
8 ~~— (a) Two members of the house of representatives appointed by~~

~~1 the speaker of the house of representatives.~~

~~2 — (b) Two members of the senate, appointed in the same manner
3 as members of standing committees of the senate are appointed.~~

~~4 — (c) Two retirants appointed by the speaker of the house of
5 representatives and 2 retirants appointed by the senate majority
6 leader.~~

~~7 — (d) One deferred vested member appointed by the speaker of
8 the house of representatives and 1 deferred vested member
9 appointed by the senate majority leader. If a deferred vested
10 member serving on the board becomes a retirant during his or her
11 term of office, he or she shall be entitled to serve the
12 remainder of his or her term of office.~~

~~13 — (e) One participant of Tier 2 who was a former member of Tier
14 1 appointed in 1999 by the senate majority leader and beginning
15 in 2001 appointed alternately by the speaker of the house of
16 representatives and the senate majority leader. However, if
17 there is no participant of Tier 2 who meets the former member
18 requirement of this subdivision, then 1 additional deferred
19 vested member appointed in the manner prescribed in this
20 subdivision.~~

~~21 — (2) Only members of the retirement system are eligible to
22 serve as members on the board of trustees except for the
23 retirants and Tier 2 participant authorized under subsection
24 (1). Board members appointed under subsection (1)(a) and (b) are
25 appointed for 2-year terms. Board members appointed under
26 subsection (1)(c) are appointed for 4-year terms. Board members
27 appointed for terms beginning in 1999 under subsection (1)(d) are~~

1 ~~appointed for 2-year terms. Board members appointed for terms~~
 2 ~~beginning in 2001 under subsection (1)(d) are appointed for~~
 3 ~~4-year terms. A board member appointed for a term beginning in~~
 4 ~~1999 under subsection (1)(e) is appointed for a 2-year term.~~
 5 ~~Beginning in 2001, a board member appointed under subsection~~
 6 ~~(1)(e) is appointed for a 4-year term. For terms beginning on or~~
 7 ~~after January 1, 1999, board members appointed under subsection~~
 8 ~~(1)(c), (d), or (e) shall not serve as a board member under those~~
 9 ~~subdivisions for a combined total of more than 8 years.~~

10 ~~—— (3) Each person, whether appointed as a trustee or becoming a~~
 11 ~~trustee ex officio, shall take an oath of office before the~~
 12 ~~secretary of state, clerk of the house, or secretary of the~~
 13 ~~senate, and, upon taking the oath, qualifies as a trustee. The~~
 14 ~~oath of office shall be as prescribed under section 1 of article~~
 15 ~~XI of the state constitution of 1963.~~

16 Sec. 28. ~~—A~~ **Beginning January 1, 2005, a vacancy in a**
 17 ~~trusteeship shall be filled for the unexpired term in the same~~
 18 ~~manner as original appointments are made~~ **as provided in the**
 19 **bylaws.**

20 Sec. 30. Each trustee is entitled to 1 vote on any action
 21 of the board and ~~at least 6~~ **concurring votes of a majority of**
 22 **board members** are necessary for any action by the board at a
 23 meeting. A decision or action shall not become effective, unless
 24 presented and so approved by the action of the board. A trustee
 25 shall not vote by proxy, but shall be present at the meeting in
 26 order to have his or her vote recorded.

27 Sec. 59a. (1) This section is enacted pursuant to section

1 401(a) of the internal revenue code, **26 USC 401(a)**, that imposes
2 certain administrative requirements and benefit limitations for
3 qualified governmental plans. This state intends that the
4 retirement system be a qualified pension plan created in trust
5 under section 401 of the internal revenue code, **26 USC 401**, and
6 that the trust be an exempt organization under section 501 of the
7 internal revenue code, **26 USC 501**. The board of trustees shall
8 administer the retirement system to fulfill this intent.

9 ~~(2) Except as otherwise provided in this section,~~
10 ~~employer-financed benefits provided by the retirement system~~
11 ~~under this act shall not exceed the lesser of \$90,000.00 or 100%~~
12 ~~of the member's average compensation for high 3 years as~~
13 ~~described in section 415(b)(3) of the internal revenue code for~~
14 ~~retirement occurring at age 62 or older.~~

15 ~~(3) The limitation on employer financed benefits provided by~~
16 ~~the retirement system under subsection (2) applies unless~~
17 ~~application of subsections (4) and (5) produces a higher~~
18 ~~limitation, in which case the higher limitation applies.~~

19 ~~—— (4) If a member retires before age 62, the amount of~~
20 ~~\$90,000.00 in subsection (2) is actuarially reduced to reflect~~
21 ~~payment before age 62. The retirement system shall use an~~
22 ~~interest rate of 5% per year compounded annually to calculate the~~
23 ~~actuarial reduction in this subsection. If this subsection~~
24 ~~produces a limitation of less than \$75,000.00 at age 55, the~~
25 ~~limitation at age 55 is \$75,000.00 and the limitations for ages~~
26 ~~under age 55 shall be calculated from a limitation of \$75,000.00~~
27 ~~at age 55.~~

~~1 (5) Section 415(d) of the internal revenue code requires the~~
~~2 commissioner of internal revenue to adjust the \$90,000.00~~
~~3 limitation in subsection (2) to reflect cost of living increases,~~
~~4 beginning with calendar year 1988. This subsection shall be~~
~~5 administered using the limitations applicable to each calendar~~
~~6 year as adjusted by the commissioner of internal revenue under~~
~~7 section 415(d) of the internal revenue code. The retirement~~
~~8 system shall adjust the benefits subject to the limitation each~~
~~9 year to conform with the adjusted limitation.~~

10 (2) Notwithstanding any other provision of this act, the
11 retirement system shall be administered in compliance with
12 section 415 of the internal revenue code, 26 USC 415, and
13 regulations under that section that are applicable to
14 governmental plans. Employer-financed benefits provided by the
15 retirement system under this act shall not exceed the applicable
16 limitations of section 415 of the internal revenue code, 26 USC
17 415, as adjusted by the commissioner of internal revenue under
18 section 415(d) of the internal revenue code, 26 USC 415(d), to
19 reflect cost of living increases, and the retirement system shall
20 adjust the benefits subject to the limitation each calendar year
21 to conform with the adjusted limitation. For purposes of section
22 415(b) of the internal revenue code, 26 USC 415(b), the
23 applicable limitation shall apply to aggregated benefits received
24 from all qualified pension plans for which the office of
25 retirement services coordinates administration of that
26 limitation.

27 (3) ~~(6)~~ The assets of the retirement system shall be held

1 in trust and invested for the sole purpose of meeting the
2 legitimate obligations of the retirement system and shall not be
3 used for any other purpose. The assets shall not be used for or
4 diverted to a purpose other than for the exclusive benefit of the
5 members, vested former members, retirants, and retirement
6 allowance beneficiaries before satisfaction of all retirement
7 system liabilities.

8 (4) ~~-(7)-~~ The retirement system shall return post-tax member
9 contributions made by a member and received by the retirement
10 system to a member upon retirement, pursuant to internal revenue
11 service regulations and approved internal revenue service
12 exclusion ratio tables.

13 (5) ~~-(8)-~~ The required beginning date for retirement
14 allowances and other distributions shall not be later than
15 April 1 of the calendar year following the calendar year in which
16 the employee attains age 70-1/2 or April 1 of the calendar year
17 following the calendar year in which the employee retires.

18 (6) ~~-(9)-~~ If the retirement system is terminated, the
19 interest of the members, deferred vested members, retirants, and
20 retirement allowance beneficiaries in the retirement system is
21 nonforfeitable to the extent funded as described in section
22 411(d)(3) of the internal revenue code, **26 USC 411(d)(3)**, and
23 related internal revenue service regulations applicable to
24 governmental plans.

25 (7) ~~-(10)-~~ Notwithstanding any other provision of this act to
26 the contrary that would limit a distributee's election under this
27 act, a distributee may elect, at the time and in the manner

1 prescribed by the board of trustees, to have any portion of an
2 eligible rollover distribution paid directly to an eligible
3 retirement plan specified by the distributee in a direct
4 rollover. This subsection applies to distributions made on or
5 after January 1, 1993.

6 **(8)** ~~—(11)—~~ For purposes of determining actuarial equivalent
7 retirement allowances under this act, the actuarially assumed
8 interest rate shall be 7% with utilization of the 1971 group
9 annuity and mortality table.

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

17 **(9)** ~~—(13)—~~ Notwithstanding any other provision of this act,
18 the compensation of a member of the retirement system shall be
19 taken into account for any year under the retirement system only
20 to the extent that it does not exceed the compensation limit
21 established in section 401(a)(17) of the internal revenue code,
22 **26 USC 401(a)(17)**, as adjusted by the commissioner of internal
23 revenue. This subsection applies to any person who first becomes
24 a member of the retirement system on or after October 1, 1996.

25 **(10)** ~~—(14)—~~ Notwithstanding any other provision of this act,
26 contributions, benefits, and service credit with respect to
27 qualified military service will be provided under the retirement

1 system in accordance with section 414(u) of the internal revenue
2 code. This subsection applies to all qualified military service
3 on or after December 12, 1994.

4 Sec. 79. (1) A former qualified participant may elect
5 health insurance benefits in the manner prescribed in this
6 section if he or she meets both of the following requirements:

7 (a) The former qualified participant is vested in health
8 benefits under section 75(2).

9 (b) The former qualified participant meets 1 of the following
10 requirements:

11 (i) He or she meets or exceeds the benefit commencement age
12 employed in the actuarial present value calculation under section
13 62 and the service requirements that would have applied to that
14 former participant under Tier 1 for receiving health insurance
15 coverage under section 50b, if that former participant was a
16 member of Tier 1.

17 (ii) He or she is 55 years of age or older.

18 (2) A former qualified participant who is eligible to elect
19 health insurance coverage under subsection (1) may elect health
20 insurance coverage in a health benefit plan or plans as
21 authorized by section 50b. ~~or in another plan as provided in~~
22 ~~subsection (6).~~ A former qualified participant who is eligible
23 to elect health insurance coverage under subsection (1) may also
24 elect health insurance coverage for his or her health benefit
25 dependents, if any. A surviving health benefit dependent of a
26 deceased former qualified participant who is eligible to elect
27 health insurance coverage under subsection (1) may elect health

1 insurance coverage to begin at the death of the deceased former
2 qualified participant in the manner prescribed in this section.

3 (3) Except as otherwise provided in subsection (6), an
4 individual who elects health insurance coverage under this
5 section shall become a member of a health insurance coverage
6 group authorized pursuant to section 50b.

7 (4) For a former qualified participant who is eligible to
8 elect health insurance coverage under subsection (1) and who is
9 vested in those benefits under section 75(2)(a) or (c), and for
10 his or her health benefit dependents, this state shall pay a
11 portion of the health insurance premium as calculated under this
12 subsection on a cash disbursement method. An individual
13 described in this subsection who elects health insurance coverage
14 under this section shall pay to the retirement system the
15 remaining portion of the health insurance coverage premium not
16 paid by this state under this subsection. The portion of the
17 health insurance coverage premium paid by this state under this
18 subsection shall be 90% of the payments for health insurance
19 coverage under section 50b. If the individual elects the health
20 insurance coverage provided under section 50b, this state shall
21 transfer its portion of the amount calculated under this
22 subsection to the health insurance fund created by section 22c.

23 (5) For a former qualified participant who is eligible to
24 elect health insurance coverage under subsection (1) and who is
25 vested in those benefits under section 75(2)(b), and for his or
26 her health benefit dependents, this state shall pay a portion of
27 the health insurance premium as calculated under this subsection

1 on a cash disbursement method. An individual described in this
2 subsection who elects health insurance coverage under this
3 section shall pay to the retirement system the remaining portion
4 of the health insurance coverage premium not paid by this state
5 under this subsection. The portion of the health insurance
6 coverage premium paid by this state under this subsection shall
7 be equal to the premium amounts paid on behalf of retirants of
8 Tier 1 for health insurance coverage under section 50b. If the
9 individual elects the health insurance coverage provided under
10 section 50b, the state shall transfer its portion of the amount
11 calculated under this subsection to the health insurance fund
12 created by section 22c.

13 ~~(6) A former qualified participant or health benefit~~
14 ~~dependent who is eligible to elect health insurance coverage~~
15 ~~under this section and who elects health insurance coverage under~~
16 ~~a different plan than the plan authorized under section 50b may~~
17 ~~elect to have an amount up to the amount of the retirement~~
18 ~~system's share of the monthly health insurance premium subsidy~~
19 ~~provided in this section paid by the retirement system directly~~
20 ~~to the other health insurance plan or to a medical savings~~
21 ~~account established pursuant to section 220 of the internal~~
22 ~~revenue code, to the extent allowed by law or under the~~
23 ~~provisions and procedures of Tier 2.~~

24 (6) ~~-(7)-~~ If the department of management and budget receives
25 notification from the United States internal revenue service that
26 this section or any portion of this section will cause the
27 retirement system to be disqualified for tax purposes under the

- 1 internal revenue code, then the portion that will cause the
- 2 disqualification does not apply.