

SENATE BILL No. 1182

May 4, 2004, Introduced by Senators EMERSON, LELAND and GOSCHKA and referred to the Committee on Government Operations.

A bill to amend 1957 PA 261, entitled "Michigan legislative retirement system," by amending section 59a (MCL 38.1059a), as amended by 2002 PA 97.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 59a. (1) This section is enacted pursuant to
2 section 401(a) of the internal revenue code, **26 USC 401(a)**, that
3 imposes certain administrative requirements and benefit
4 limitations for qualified governmental plans. This state intends
5 that the retirement system be a qualified pension plan created in
6 trust under section 401 of the internal revenue code, **26 USC 401**,
7 and that the trust be an exempt organization under section 501 of
8 the internal revenue code, **26 USC 501**. The board of trustees
9 shall administer the retirement system to fulfill this intent.
10 ~~(2) Except as otherwise provided in this section,~~

~~1 employer financed benefits provided by the retirement system
2 under this act shall not exceed the lesser of \$90,000.00 or 100%
3 of the member's average compensation for high 3 years as
4 described in section 415(b)(3) of the internal revenue code for
5 retirement occurring at age 62 or older.~~

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

~~10 (4) If a member retires before age 62, the amount of
11 \$90,000.00 in subsection (2) is actuarially reduced to reflect
12 payment before age 62. The retirement system shall use an
13 interest rate of 5% per year compounded annually to calculate the
14 actuarial reduction in this subsection. If this subsection
15 produces a limitation of less than \$75,000.00 at age 55, the
16 limitation at age 55 is \$75,000.00 and the limitations for ages
17 under age 55 shall be calculated from a limitation of \$75,000.00
18 at age 55.~~

~~19 (5) Section 415(d) of the internal revenue code requires the
20 commissioner of internal revenue to adjust the \$90,000.00
21 limitation in subsection (2) to reflect cost of living increases,
22 beginning with calendar year 1988. This subsection shall be
23 administered using the limitations applicable to each calendar
24 year as adjusted by the commissioner of internal revenue under
25 section 415(d) of the internal revenue code. The retirement
26 system shall adjust the benefits subject to the limitation each
27 year to conform with the adjusted limitation.~~

1 (2) Notwithstanding any other provision of this act, the
2 retirement system shall be administered in compliance with
3 section 415 of the internal revenue code, 26 USC 415, and
4 regulations under that section that are applicable to
5 governmental plans. Employer-financed benefits provided by the
6 retirement system under this act shall not exceed the applicable
7 limitations of section 415 of the internal revenue code, 26 USC
8 415, as adjusted by the commissioner of internal revenue under
9 section 415(d) of the internal revenue code, 26 USC 415(d), to
10 reflect cost of living increases, and the retirement system shall
11 adjust the benefits subject to the limitation each calendar year
12 to conform with the adjusted limitation. For purposes of section
13 415(b) of the internal revenue code, 26 USC 415(b), the
14 applicable limitation shall apply to aggregated benefits received
15 from all qualified pension plans for which the office of
16 retirement services coordinates administration of that
17 limitation.

18 (3) ~~—(6)—~~ The assets of the retirement system shall be held
19 in trust and invested for the sole purpose of meeting the
20 legitimate obligations of the retirement system and shall not be
21 used for any other purpose. The assets shall not be used for or
22 diverted to a purpose other than for the exclusive benefit of the
23 members, vested former members, retirants, and retirement
24 allowance beneficiaries before satisfaction of all retirement
25 system liabilities.

26 (4) ~~—(7)—~~ The retirement system shall return post-tax member
27 contributions made by a member and received by the retirement

1 system to a member upon retirement, pursuant to internal revenue
2 service regulations and approved internal revenue service
3 exclusion ratio tables.

4 (5) ~~—(8)—~~ The required beginning date for retirement
5 allowances and other distributions shall not be later than
6 April 1 of the calendar year following the calendar year in which
7 the employee attains age 70-1/2 or April 1 of the calendar year
8 following the calendar year in which the employee retires.

9 (6) ~~—(9)—~~ If the retirement system is terminated, the
10 interest of the members, deferred vested members, retirants, and
11 retirement allowance beneficiaries in the retirement system is
12 nonforfeitable to the extent funded as described in section
13 411(d)(3) of the internal revenue code, **26 USC 411(d)(3)**, and
14 related internal revenue service regulations applicable to
15 governmental plans.

16 (7) ~~—(10)—~~ Notwithstanding any other provision of this act to
17 the contrary that would limit a distributee's election under this
18 act, a distributee may elect, at the time and in the manner
19 prescribed by the board of trustees, to have any portion of an
20 eligible rollover distribution paid directly to an eligible
21 retirement plan specified by the distributee in a direct
22 rollover. This subsection applies to distributions made on or
23 after January 1, 1993.

24 (8) ~~—(11)—~~ For purposes of determining actuarial equivalent
25 retirement allowances under this act, the actuarially assumed
26 interest rate shall be 7% with utilization of the 1971 group
27 annuity and mortality table.

1 ~~(12) Notwithstanding any other provision of this section,~~
2 ~~the retirement system shall be administered in compliance with~~
3 ~~the provisions of section 415 of the internal revenue code and~~
4 ~~revenue service regulations under this section that are~~
5 ~~applicable to governmental plans. If there is a conflict between~~
6 ~~this section and another section of this or any other act of this~~
7 ~~state, this section prevails.~~

8 (9) ~~—(13)—~~ Notwithstanding any other provision of this act,
9 the compensation of a member of the retirement system shall be
10 taken into account for any year under the retirement system only
11 to the extent that it does not exceed the compensation limit
12 established in section 401(a)(17) of the internal revenue code,
13 **26 USC 401(a)(17)**, as adjusted by the commissioner of internal
14 revenue. This subsection applies to any person who first becomes
15 a member of the retirement system on or after October 1, 1996.

16 (10) ~~—(14)—~~ Notwithstanding any other provision of this act,
17 contributions, benefits, and service credit with respect to
18 qualified military service will be provided under the retirement
19 system in accordance with section 414(u) of the internal revenue
20 code. This subsection applies to all qualified military service
21 on or after December 12, 1994.