

Act No. 50
Public Acts of 2004
Approved by the Governor
April 1, 2004
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Accavitti, Hardman, Waters, McConico, Reeves, Woronchak, Plakas, Anderson, Stewart, O'Neil, Rocca, Gielegem, Shulman, Phillips, Minore, Zelenko, Kolb, Jamnick, Richardville, Lipsey, Bisbee, Murphy, Tabor, Koetje, Kooiman, Voorhees, Middaugh, Ehardt, Meyer, Julian, Newell, Vander Veen, Howell, Caul, Pumford, Shackleton, Brown, Gaffney, Cheeks, Smith, Stallworth, Hunter, Hood, Tobocman, Farrah, Paletko, Pastor, LaJoy, Hopgood, Brandenburg, Bieda, Meisner, Wojno, Acciavatti, Clack, Condino, Vagnozzi, DeRoche, Taub, Amos, Stakoe, Hune, Gleason, Robertson, Milosch, Caswell, Shaffer, Hoogendyk, Nofs, Wenke, Ward, Byrum, Steil, Sak, Stahl, Sheen, Huizenga, Farhat, Elkins, Moolenaar, Palsrok, Gillard, Casperson and Mortimer

ENROLLED HOUSE BILL No. 5279

AN ACT to amend 1986 PA 182, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," 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:

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

(2) "Credited service" means the sum of the prior service and membership service credited to a member's account.

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

(4) "Department" means the department of management and budget.

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

(6) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

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

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408(a), an individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408(b), an annuity plan described in section 403(a) of the internal revenue code, 26 USC 403(a), or a qualified trust described in section 401(a) of the

internal revenue code, 26 USC 401(a), an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403(b), or an eligible plan under section 457(b) of the internal revenue code, 26 USC 457(b), which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such eligible plan under section 457(b) of the internal revenue code, 26 USC 457(b), from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(9) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(f) Longevity pay equal to 2 full years.

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

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

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

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

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

(12) "Internal revenue code" means the United States internal revenue code of 1986.

(13) "Last 2 years of service" means the 2-year period immediately preceding the member's last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted pursuant to section 29 or, if the officer participated in the deferred retirement option plan, the 2-year period immediately preceding participation in the deferred retirement option plan.

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

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

(3) For differences occurring in fiscal years beginning on or after October 1, 2001, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (2), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made.

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

(5) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that must be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

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

(2) The retirement system shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415(d), to reflect cost of living increases, and the retirement system shall adjust the benefits subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415(b), the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

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

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

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

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

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

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

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

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

(2) Effective October 1, 1989, dental coverage and vision coverage insurance premiums payable by a retirant or his or her retirement allowance beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department shall be paid in amounts provided by this subsection from appropriations for this purpose made to the retirement system. The amount payable by the retirement system shall be 90% of the entire monthly premium payable for dental coverage and vision coverage insurance.

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

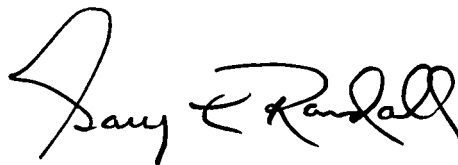
(4) The health advance funding subaccount is the account to which amounts transferred pursuant to section 14(3) are credited. Any amounts received from the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health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

(5) Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the reserve for employer contributions created by section 16 if the actuarial valuation prepared pursuant to section 14 demonstrates that, as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions does not exceed the actuarial present value of benefits.

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor