

# SENATE BILL No. 1639

November 12, 2008, Introduced by Senators SWITALSKI and JANSEN and referred to the Committee on Appropriations.

A bill to amend 1943 PA 240, entitled  
"State employees' retirement act,"  
by amending sections 1d and 49 (MCL 38.1d and 38.49), section 1d as  
amended by 2002 PA 93 and section 49 as amended by 2004 PA 33.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1d. (1) Beginning January 1, 2002, except as otherwise  
2       provided in this subsection, "eligible retirement plan" means ~~an~~-1

### OR MORE OF THE FOLLOWING:

4       (A) ~~AN~~ individual retirement account described in section  
5       408(a) of the internal revenue code, ~~an~~-26 USC 408.

6       (B) ~~AN~~ individual retirement annuity described in section  
7       408(b) of the internal revenue code, ~~an~~-26 USC 408.

8       (C) ~~AN~~ annuity plan described in section 403(a) of the  
9       internal revenue code, ~~a~~-26 USC 403.

1 (D) A qualified trust described in section 401(a) of the  
2 internal revenue code, ~~an~~ 26 USC 401.

3 (E) AN annuity contract described in section 403(b) of the  
4 internal revenue code, ~~or an~~ 26 USC 403.

5 (F) AN eligible plan under section 457(b) of the internal  
6 revenue code, 26 USC 457, that is maintained by a state, a  
7 political subdivision of a state, an agency or instrumentality of a  
8 state, or an agency or instrumentality of a political subdivision  
9 of a state, so long as amounts transferred into eligible retirement  
10 plans from this retirement system are separately accounted for by  
11 the plan provider that accepts the distributee's eligible rollover  
12 distribution. However, in the case of an eligible rollover  
13 distribution to a surviving spouse on or before December 31, 2001,  
14 an eligible retirement plan means an individual retirement account  
15 or an individual retirement annuity described above.

16 (G) BEGINNING JANUARY 1, 2008, EXCEPT AS OTHERWISE PROVIDED IN  
17 THIS SUBSECTION, "ELIGIBLE RETIREMENT PLAN" MEANS A ROTH INDIVIDUAL  
18 RETIREMENT ACCOUNT AS DESCRIBED IN SECTION 408A OF THE INTERNAL  
19 REVENUE CODE, 26 USC 408A, SUBJECT TO THE RULES THAT APPLY TO  
20 ROLLOVERS FROM A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT TO A  
21 ROTH INDIVIDUAL RETIREMENT ACCOUNT.

22 (2) Beginning January 1, ~~2002~~ 2007, "eligible rollover  
23 distribution" means a distribution of all or any portion of the  
24 balance to the credit of the distributee. Eligible rollover  
25 distribution does not include any of the following:

26 (a) A distribution made for the life or life expectancy of the  
27 distributee or the joint lives or joint life expectancies of the

1 distributee and the distributee's designated beneficiary.

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

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

5 ~~—— (d) Except as otherwise provided in this subdivision, the~~  
6 ~~portion of any distribution that is not includable in federal gross~~  
7 ~~income, determined without regard to the exclusion for net~~  
8 ~~unrealized appreciation with respect to employer securities. If a~~  
9 ~~portion of a distribution that is not included in federal gross~~  
10 ~~income is paid to an individual retirement account or annuity~~  
11 ~~described in section 408(a) or 408(b) of the internal revenue code~~  
12 ~~or a qualified defined contribution plan described in section~~  
13 ~~401(a) or 403(a) of the internal revenue code and the plan~~  
14 ~~providers agree to separately account for amounts paid, including~~  
15 ~~any portion of the distribution that is includable in gross income,~~  
16 ~~then the portion of the distribution that is not includable in~~  
17 ~~federal gross income is an eligible rollover distribution.~~

18 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN  
19 FEDERAL GROSS INCOME, EXCEPT TO THE EXTENT SUCH PORTION OF THE  
20 DISTRIBUTION IS PAID TO EITHER OF THE FOLLOWING:

21 (i) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN  
22 SECTION 408(A) OR 408(B) OF THE INTERNAL REVENUE CODE, 26 USC 408.

23 (ii) A QUALIFIED PLAN DESCRIBED IN SECTION 401(A) OF THE  
24 INTERNAL REVENUE CODE, 26 USC 401, OR AN ANNUITY CONTRACT DESCRIBED  
25 IN SECTION 403(B) OF THE INTERNAL REVENUE CODE, 26 USC 403, AND THE  
26 PLAN PROVIDERS AGREE TO SEPARATELY ACCOUNT FOR THE AMOUNTS PAID,  
27 INCLUDING ANY PORTION OF THE DISTRIBUTION THAT IS INCLUDABLE IN

1 **FEDERAL GROSS INCOME, AND THE PORTION OF THE DISTRIBUTION WHICH IS**  
2 **NOT SO INCLUDABLE.**

3 (3) "Employee" means a person who may become eligible for  
4 membership under this act, as provided in section 13, if the  
5 person's compensation is paid in whole or in part by this state.

6 (4) "Employer" or "state" means this state.

7 Sec. 49. (1) This section is enacted pursuant to section  
8 401(a) of the internal revenue code, 26 USC 401, that imposes  
9 certain administrative requirements and benefit limitations for  
10 qualified governmental plans. This state intends that the  
11 retirement system be a qualified pension plan created in trust  
12 under section 401 of the internal revenue code, 26 USC 401, and  
13 that the trust be an exempt organization under section 501 of the  
14 internal revenue code, 26 USC 501. The department shall administer  
15 the retirement system to fulfill this intent.

16 (2) The retirement system shall be administered in compliance  
17 with the provisions of section 415 of the internal revenue code, 26  
18 USC 415, and regulations under that section that are applicable to  
19 governmental plans **AND BEGINNING JANUARY 1, 2010, APPLICABLE**  
20 **PROVISIONS OF THE FINAL REGULATIONS ISSUED BY THE INTERNAL REVENUE**  
21 **SERVICE ON APRIL 5, 2007.** Employer-financed benefits provided by  
22 the retirement system under this act shall not exceed the  
23 applicable limitations set forth in section 415 of the internal  
24 revenue code, 26 USC 415, as adjusted by the commissioner of  
25 internal revenue under section 415(d) of the internal revenue code,  
26 26 USC 415, to reflect cost-of-living increases, and the retirement  
27 system shall adjust the benefits, **INCLUDING BENEFITS PAYABLE TO**

1 **RETIRANTS AND RETIREMENT ALLOWANCE BENEFICIARIES**, subject to the  
2 limitation each calendar year to conform with the adjusted  
3 limitation. For purposes of section 415(b) of the internal revenue  
4 code, 26 USC 415, the applicable limitation shall apply to  
5 aggregated benefits received from all qualified pension plans for  
6 which the office of retirement services coordinates administration  
7 of that limitation. If there is a conflict between this section and  
8 another section of this act, this section prevails.

9 (3) The assets of the retirement system shall be held in trust  
10 and invested for the sole purpose of meeting the legitimate  
11 obligations of the retirement system and shall not be used for any  
12 other purpose. The assets shall not be used for or diverted to a  
13 purpose other than for the exclusive benefit of the members, vested  
14 former members, retirants, and retirement allowance beneficiaries  
15 before satisfaction of all retirement system liabilities.

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

21 (5) The required beginning date for retirement allowances and  
22 other distributions shall not be later than April 1 of the calendar  
23 year following the calendar year in which the employee attains age  
24 70-1/2 or April 1 of the calendar year following the calendar year  
25 in which the employee retires. **THE REQUIRED MINIMUM DISTRIBUTION**  
26 **REQUIREMENTS IMPOSED BY SECTION 401(A) (9) OF THE INTERNAL REVENUE**  
27 **CODE, 26 USC 401, SHALL APPLY TO THIS ACT AND BE ADMINISTERED IN**

1 ACCORDANCE WITH A REASONABLE AND GOOD FAITH INTERPRETATION OF THE  
2 REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS FOR ALL YEARS TO WHICH  
3 THE REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS APPLY TO THE  
4 RETIREMENT SYSTEM.

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

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

18 (8) For purposes of determining actuarial equivalent  
19 retirement allowances under sections 31(1)(a) and (b) and 20(2),  
20 the actuarially assumed interest rate shall be 8% with utilization  
21 of the 1983 group annuity and mortality table.

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

1 applies to any person who first becomes a member of the retirement  
2 system on or after October 1, 1996.

3 (10) Notwithstanding any other provision of this act,  
4 contributions, benefits, and service credit with respect to  
5 qualified military service will be provided under the retirement  
6 system in accordance with section 414(u) of the internal revenue  
7 code, 26 USC 414. This subsection applies to all qualified military  
8 service on or after December 12, 1994. **BEGINNING ON JANUARY 1,**  
9 **2007, IN ACCORDANCE WITH SECTION 401(A)(3) OF THE INTERNAL REVENUE**  
10 **CODE, 26 USC 401, IF A MEMBER DIES WHILE PERFORMING QUALIFIED**  
11 **MILITARY SERVICE FOR PURPOSES OF DETERMINING DEATH BENEFITS PAYABLE**  
12 **UNDER THIS ACT, THE MEMBER SHALL BE TREATED AS HAVING RESUMED AND**  
13 **THEN TERMINATED EMPLOYMENT BECAUSE OF DEATH.**