

# SENATE BILL No. 1640

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

A bill to amend 1986 PA 182, entitled "State police retirement act of 1986," by amending sections 3 and 14a (MCL 38.1603 and 38.1614a), section 3 as amended by 2004 PA 83 and section 14a as amended by 2004 PA 50.

**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 program  
3 approved by a ruling of the internal revenue service on September  
4 5, 2003, in which a pay reduction or other concessions are applied  
5 to a member in exchange for additional part B annual leave hours.

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

8           (3) "Deferred member" means a member who separates from

1 service with entitlement to a deferred retirement allowance as  
2 provided in section 30, but who is not a retirant.

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

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

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

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

14 (8) Beginning January 1, 2002, except as otherwise provided in  
15 this subsection, "eligible retirement plan" means ~~an~~ **1 OR MORE OF**  
16 **THE FOLLOWING:**

17 (A) **AN** individual retirement account described in section  
18 408(a) of the internal revenue code, 26 USC ~~408(a)~~, ~~an~~ **408**.

19 (B) **AN** individual retirement annuity described in section  
20 408(b) of the internal revenue code, 26 USC ~~408(b)~~, ~~an~~ **408**.

21 (C) **AN** annuity plan described in section 403(a) of the  
22 internal revenue code, 26 USC ~~403(a)~~, ~~or a~~ **403**.

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

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

27 (F) **AN** eligible plan under section 457(b) of the internal

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

12 (G) BEGINNING JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT  
13 ACCOUNT AS DESCRIBED IN SECTION 408A OF THE INTERNAL REVENUE CODE,  
14 26 USC 408A, SUBJECT TO THE RULES THAT APPLY TO ROLLOVERS FROM A  
15 TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT TO A ROTH INDIVIDUAL  
16 RETIREMENT ACCOUNT.

17 (9) Beginning January 1, ~~2002~~ 2007, "eligible rollover  
18 distribution" means a distribution of all or any portion of the  
19 balance to the credit of the distributee. Eligible rollover  
20 distribution does not include any of the following:

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

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

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

~~(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 includable in gross income.~~

**(D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN FEDERAL GROSS INCOME, EXCEPT TO THE EXTENT SUCH 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.**

**(ii) A QUALIFIED PLAN DESCRIBED IN SECTION 401(A) OF THE INTERNAL REVENUE CODE, 26 USC 401, OR AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(B) OF THE INTERNAL REVENUE CODE, 26 USC 403, AND THE PLAN PROVIDERS AGREE TO SEPARATELY ACCOUNT FOR THE AMOUNTS PAID, INCLUDING ANY PORTION OF THE DISTRIBUTION THAT IS INCLUDABLE IN FEDERAL GROSS INCOME, AND THE PORTION OF THE DISTRIBUTION WHICH IS NOT SO INCLUDABLE.**

**(10) "Final average compensation" means the average annual**

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

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

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

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

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

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

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

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

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

1 service.

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

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

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

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

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

20 Sec. 14a. (1) This section is enacted pursuant to section  
21 401(a) of the internal revenue code that imposes certain  
22 administrative requirements and benefit limitations for qualified  
23 governmental plans. This state intends that the retirement system  
24 be a qualified pension plan created in trust under section 401 of  
25 the internal revenue code and that the trust be an exempt  
26 organization under section 501 of the internal revenue code. The  
27 department shall administer the retirement system to fulfill this

1 intent.

2 (2) The retirement system shall be administered in compliance  
3 with section 415 of the internal revenue code, 26 USC 415, and  
4 regulations under that section that are applicable to governmental  
5 plans **AND, BEGINNING JANUARY 1, 2010, APPLICABLE PROVISIONS OF THE**  
6 **FINAL REGULATIONS ISSUED BY THE INTERNAL REVENUE SERVICE ON APRIL**  
7 **5, 2007.** Employer-financed benefits provided by the retirement  
8 system under this act shall not exceed the applicable limitations  
9 set forth in section 415 of the internal revenue code, 26 USC 415,  
10 as adjusted by the commissioner of internal revenue under section  
11 415(d) of the internal revenue code, 26 USC ~~415(d)~~**415**, to reflect  
12 cost of living increases, and the retirement system shall adjust  
13 the benefits, **INCLUDING BENEFITS PAYABLE TO RETIRANTS AND**  
14 **RETIREMENT ALLOWANCE BENEFICIARIES**, subject to the limitation each  
15 calendar year to conform with the adjusted limitation. For purposes  
16 of section 415(b) of the internal revenue code, 26 USC ~~415(b)~~**415**,  
17 the applicable limitation shall apply to aggregated benefits  
18 received from all qualified pension plans for which the office of  
19 retirement services coordinates administration of that limitation.  
20 If there is a conflict between this section and another section of  
21 this act, this section prevails.

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

1 of all retirement system liabilities.

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

7 (5) The required beginning date for retirement allowances and  
8 other distributions shall not be later than April 1 of the calendar  
9 year following the calendar year in which the employee attains age  
10 70-1/2 or April 1 of the calendar year following the calendar year  
11 in which the employee retires. **THE REQUIRED MINIMUM DISTRIBUTION**  
12 **REQUIREMENTS IMPOSED BY SECTION 401(A) (9) OF THE INTERNAL REVENUE**  
13 **CODE, 26 USC 401, SHALL APPLY TO THIS ACT AND BE ADMINISTERED IN**  
14 **ACCORDANCE WITH A REASONABLE AND GOOD FAITH INTERPRETATION OF THE**  
15 **REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS FOR ALL YEARS TO WHICH**  
16 **THE REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS APPLY TO THIS ACT.**

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

23 (7) Notwithstanding any other provision of this act to the  
24 contrary that would limit a distributee's election under this act,  
25 a distributee may elect, at the time and in the manner prescribed  
26 by the retirement board, to have any portion of an eligible  
27 rollover distribution paid directly to an eligible retirement plan

1 specified by the distributee in a direct rollover. This subsection  
2 applies to distributions made on or after January 1, 1993.

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

11 (9) Notwithstanding any other provision of this act,  
12 contributions, benefits, and service credit with respect to  
13 qualified military service will be provided under the retirement  
14 system in accordance with section 414(u) of the internal revenue  
15 code, 26 USC ~~414(u)~~**414**. This subsection applies to all qualified  
16 military service on or after December 12, 1994. **EFFECTIVE JANUARY**  
17 **1, 2007, IN ACCORDANCE WITH SECTION 401(A)(37) OF THE INTERNAL**  
18 **REVENUE CODE, 26 USC 401, IF A MEMBER DIES WHILE PERFORMING**  
19 **QUALIFIED MILITARY SERVICE FOR PURPOSES OF DETERMINING ANY DEATH**  
20 **BENEFITS PAYABLE UNDER THIS ACT, THE MEMBER SHALL BE TREATED AS**  
21 **HAVING RESUMED AND THEN TERMINATED EMPLOYMENT ON ACCOUNT OF DEATH.**