

# SENATE BILL No. 1360

November 8, 2012, Introduced by Senator KAHN and referred to the Committee on Appropriations.

A bill to amend 1980 PA 300, entitled  
"The public school employees retirement act of 1979,"  
by amending sections 8, 59, 84b, and 91a (MCL 38.1308, 38.1359,  
38.1384b, and 38.1391a), section 8 as amended and sections 59, 84b,  
and 91a as added by 2012 PA 300.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 8. (1) "Service" means personal service performed as a  
2 public school employee or creditable under this act.

3       (2) "Simple interest" means interest at 1 or more rates per  
4 annum determined by the retirement board.

5       (3) "State of Michigan service" means service performed as a  
6 state employee in the classified or unclassified service under the  
7 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

1           (4) "Teacher" means a person employed by a reporting unit who  
2 is engaged in teaching, who is engaged in administering and  
3 supervising teaching, or who is under a teacher's contract with a  
4 reporting unit.

5           (5) "Tier 1" means the retirement plan available to a member  
6 under this act.

7           (6) "Tier 2" means the state of Michigan 457 plan established  
8 under section 457 of the internal revenue code, 26 USC 457, for  
9 elective employee contributions and the state of Michigan 401(k)  
10 plan established under section 401(k) of the internal revenue code,  
11 26 USC 401, for employer contributions.

12           (7) "Transition date" means the first day of the pay period  
13 that begins on or after ~~December 1, 2012~~ **FEBRUARY 1, 2013** for the  
14 applicable member. The retirement system shall determine a method  
15 of determining service credit, compensation, and any applicable  
16 contributions for purposes of implementing provisions of this act  
17 that refer to the transition date.

18           (8) "Transitional public employment program" means  
19 participation in public service employment programs in the areas of  
20 environmental quality, health care, education, public safety, crime  
21 prevention and control, prison rehabilitation, transportation,  
22 recreation, maintenance of parks, streets, and other public  
23 facilities, solid waste removal, pollution control, housing and  
24 neighborhood improvements, rural development, conservation,  
25 beautification, veterans' outreach, and other fields of human  
26 betterment and community improvement as part of a program of  
27 comprehensive manpower services authorized, undertaken, and

1 financed under the comprehensive employment and training act of  
2 1973, former Public Law 93-203, 87 Stat. 839.

3       Sec. 59. (1) The retirement system shall permit each qualified  
4 member to make an election with the retirement system to continue  
5 to receive credit for any future service and compensation on and  
6 after the transition date, for purposes of a calculation of a  
7 retirement allowance under section 84b. As part of the election  
8 under this subsection, the retirement system shall permit the  
9 qualified member to make a designation that the contributions  
10 prescribed in section 43g shall be paid only until the member's  
11 attainment date. A qualified member who makes the election and the  
12 attainment date designation under this subsection shall make the  
13 contributions prescribed in section 43g only until the member's  
14 attainment date and shall make the contributions prescribed in  
15 section 43a on and after his or her attainment date. A qualified  
16 member who makes the election and the attainment date designation  
17 under this subsection shall continue to receive credit for any  
18 future service accrued and compensation earned after his or her  
19 attainment date for the purpose of the calculation of a retirement  
20 allowance under section 84b. A qualified member who makes the  
21 election under this subsection and who does not make the attainment  
22 date designation or rescinds the attainment date designation under  
23 this subsection shall make the contributions prescribed in section  
24 43g until termination of employment. A qualified member who makes  
25 the election under this subsection and who does not make the  
26 attainment date designation under this subsection shall receive  
27 credit for any future service accrued and compensation earned for

1 the purpose of the calculation of a retirement allowance under  
2 section 84b.

3 (2) The retirement system shall permit each qualified member  
4 to make an alternative election described in this subsection with  
5 the retirement system, if the qualified member does not make the  
6 election or the election and designation under subsection (1). A  
7 qualified member who does not make the election or the election and  
8 designation under subsection (1) and who does not make an  
9 alternative election described in this subsection is considered to  
10 have made the alternative election described in subdivision (a). A  
11 qualified member who does not make the election or the election and  
12 designation under subsection (1) shall be permitted to make 1 of  
13 the following alternative elections:

14 (a) To continue to receive credit for any future service and  
15 compensation on and after the transition date, for the purpose of  
16 the calculation of a retirement allowance under section 84b. A  
17 qualified member who makes or is considered to have made the  
18 alternative election in this subdivision shall continue to make the  
19 employee contributions as provided in section 43a and shall not  
20 make the employee contributions described in section 43g.

21 (b) To freeze all service and compensation to that member as  
22 of the day before the transition date for the purpose of the  
23 calculation of a retirement allowance under section 84b and,  
24 beginning on the transition date, to be eligible for the employer  
25 contribution to the member's Tier 2 account as provided in section  
26 84b. Beginning on the transition date, a qualified member who makes  
27 the alternative election in this subdivision shall not make the

Senate Bill No. 1360 as amended November 29, 2012

1 employee contributions described in section 43a or 43g.

2 (3) The retirement system shall determine a method of  
3 accepting qualified member elections, designations, and alternative  
4 elections under this section. The retirement system shall accept  
5 elections, designations, and alternative elections under this  
6 section from qualified members during an election period that  
7 begins on September 4, 2012 and ends at 5 p.m. eastern <<daylight  
8 time on ~~October 26, 2012.~~ **JANUARY 9, 2013.** A qualified member may  
9 rescind an election, designation, or alternative election before  
10 the close of the election period. An election, designation, or  
11 alternative election made by a qualified member and not rescinded  
12 before the close of the election period shall not be rescinded.

13 (4) A qualified member who does not make or who rescinds the  
14 election under subsection (1) on or before the close of the  
15 election period and who makes or is considered to have made the  
16 alternative election under subsection (2)(a) is subject to all of  
17 the following:

18 (a) He or she ceases to receive credit for any future service  
19 and compensation for purposes of a calculation of a retirement  
20 allowance as prescribed in section 84, beginning 12 midnight on the  
21 day before the transition date.

22 (b) He or she becomes subject to section 84b for any future  
23 service and compensation on or after 12:01 a.m. on the transition  
24 date for purposes of a calculation of a retirement allowance.

25 (c) He or she shall receive a retirement allowance calculated  
26 under section 84 that is based only on credited service and  
27 compensation allowed under section 84b(1) and (2). This subdivision

1 does not affect an individual's right to health insurance coverage  
2 provided under section 91 or credit for service provided under  
3 section 84b(7).

4 (5) A qualified member who does not make or who rescinds an  
5 election under subsection (1) and who makes the alternative  
6 election under subsection (2)(b) on or before the close of the  
7 election period under this section is subject to all of the  
8 following:

9 (a) He or she ceases to receive credit for any future service  
10 and compensation for purposes of a calculation of a retirement  
11 allowance as prescribed in section 84, beginning 12 midnight on the  
12 day before the transition date.

13 (b) He or she becomes subject to section 84b for any future  
14 service and compensation on or after 12:01 a.m. on the transition  
15 date for purposes of a calculation of a retirement allowance and  
16 eligibility for the employer contribution to the member's Tier 2  
17 account.

18 (c) He or she shall receive a retirement allowance calculated  
19 under section 84 that is based only on credited service and  
20 compensation allowed under section 84b(3) and (4). This subdivision  
21 does not affect an individual's right to health insurance coverage  
22 provided under section 91 or credit for service provided under  
23 section 84b(7).

24 (6) A qualified member who makes the election and the  
25 attainment date designation under subsection (1) and who does not  
26 rescind the election and designation on or before the close of the  
27 election period under this section is subject to all of the

1 following:

2 (a) He or she ceases to receive credit for any future service  
3 and compensation for purposes of a calculation of a retirement  
4 allowance as prescribed in section 84, beginning 12 midnight on the  
5 member's attainment date.

6 (b) He or she becomes subject to section 84b for any future  
7 service and compensation on or after 12:01 a.m. on the day after  
8 the attainment date if he or she remains employed by an employer.

9 (c) He or she shall receive a retirement allowance calculated  
10 under section 84 that is based only on credited service and  
11 compensation allowed under section 84b(5) and (6). This subdivision  
12 does not affect a person's right to health insurance coverage  
13 provided under section 91 or credit for service provided under  
14 section 84b(7).

15 (7) An individual who is not a qualified member, who was a  
16 member before July 1, 2010, who is a deferred member or former  
17 nonvested member on September 3, 2012, and who is reemployed on or  
18 after September 4, 2012 shall be treated in the same manner as a  
19 member described in subsection (4) and shall become subject to  
20 section 84b for any future service and compensation.

21 (8) Any member who is reemployed on or after September 4, 2012  
22 and who, while a member, made an election, designation, or  
23 alternative election or is considered to have made an alternative  
24 election under this section shall be treated as retaining that  
25 election, designation, or alternative election on his or her date  
26 of reemployment.

27 (9) As used in this section:

## Senate Bill No. 1360 as amended November 29, 2012

1 (a) "Attainment date" means that term as defined in section  
2 84b.

3 (b) "Qualified member" means a member who meets all of the  
4 following requirements:

5 (i) He or she first became a member before July 1, 2010.

6 (ii) He or she has earned service credit in the 12 months  
7 ending September 3, 2012 or was on an approved professional  
8 services or military leave of absence on September 3, 2012.

9 Sec. 84b. (1) Beginning ~~December 1, 2012,~~ **FEBRUARY 1, 2013,**  
10 the calculation of a retirement allowance under this act for a  
11 member who did not make the election under section 59(1) and who  
12 made or is considered to have made the alternative election under  
13 section 59(2)(a) shall include only the following items of credited  
14 service, as applicable, multiplied by 1.5% of final average  
15 compensation as provided in section 84:

16 (a) The years and fraction of a year of credited service  
17 accrued to that member before the transition date.

18 (b) Service credit that was purchased before ~~<<December 1, 2012~~  
19 **FEBRUARY 1, 2013>>.**

20 (c) Service credit that is purchased under a payment plan  
21 pursuant to this act that was in effect as of ~~<<November 30, 2012~~  
22 **FEBRUARY 1, 2013>>.**

23 (d) Credit for years of service under sections 73 and 108(10).

24 (2) Beginning ~~December 1, 2012,~~ **FEBRUARY 1, 2013,** the  
25 calculation of a retirement allowance under this act for a member  
26 described in subsection (1) shall also include the following items  
27 of credited service, as applicable, multiplied by 1.25% of final  
average compensation:

(a) The years and fraction of a year of credited service



Senate Bill No. 1360 as amended November 29, 2012

1 accrued to that member on and after the transition date.

2 (b) Service credit that was purchased on and after ~~<<December 1,~~  
3 ~~2012~~**FEBRUARY 1, 2013>>**, except as provided in subsection (1)(c).

4 (3) Beginning ~~December 1, 2012,~~**FEBRUARY 1, 2013**, the  
5 calculation of a retirement allowance under this act for a member  
6 who did not make the election under section 59(1) and who made the  
7 alternative election under section 59(2)(b) shall include only the  
8 following items of credited service, as applicable, multiplied by  
9 1.5% of final average compensation as provided in section 84:

10 (a) The years and fraction of a year of credited service  
11 accrued to that member before the transition date.

12 (b) Service credit that was purchased before ~~December 1, 2012.~~  
13 **FEBRUARY 1, 2013.**

14 (c) Service credit that is purchased under a payment plan  
15 pursuant to this act that was in effect as of ~~November 30, 2012.~~  
16 **JANUARY 31, 2013.**

17 (d) Credit for years of service under sections 73 and 108(10).

18 (4) Beginning ~~December 1, 2012,~~**FEBRUARY 1, 2013**, the  
19 calculation of a retirement allowance under this act for a member  
20 described in subsection (3) shall not include any year or fraction  
21 of a year of service performed by that member on and after the  
22 transition date or any service credit that is purchased by that  
23 member after ~~December 1, 2012,~~**FEBRUARY 1, 2013**, except as provided  
24 in subsection (3)(c). Beginning with the first payroll date after  
25 the transition date, and ending upon the member's termination of  
26 service, the employer of a member described in subsection (3) shall  
27 contribute 4% of the member's compensation as defined in section

1 122(2) to the member's Tier 2 account. A member is vested in  
2 employer contributions made under this subsection according to the  
3 vesting provisions under section 132. A member shall be credited  
4 with years of service accrued under Tier 1 as of the transition  
5 date for purposes of meeting the applicable vesting requirements.

6 (5) Beginning ~~December 1, 2012,~~ **FEBRUARY 1, 2013**, the  
7 calculation of a retirement allowance under this act for a member  
8 who makes the election and attainment date designation under  
9 section 59(1) shall include only the following items of credited  
10 service, as applicable, multiplied by 1.5% of final average  
11 compensation as provided in section 84:

12 (a) The years and fraction of a year of credited service  
13 accrued to that member on or before the attainment date.

14 (b) Service credit that was purchased on or before the  
15 attainment date.

16 (c) Service credit that is purchased under a payment plan  
17 pursuant to this act that was in effect as of the attainment date.

18 (d) Credit for years of service under sections 73 and 108(10).

19 (6) Beginning ~~December 1, 2012,~~ **FEBRUARY 1, 2013**, the  
20 calculation of a retirement allowance under this act for a member  
21 described in subsection (5) shall also include the following items  
22 of credited service, as applicable, multiplied by 1.25% of final  
23 average compensation:

24 (a) The years and fraction of a year of credited service  
25 accrued to that member on and after the attainment date.

26 (b) Service credit that was purchased on and after the  
27 attainment date, except as provided in subsection (5)(c).

1           (7) Beginning on the transition date, a member described in  
2 subsection (1), (3), or (5) shall continue to accumulate years of  
3 service credit as necessary for the purpose of vesting in a  
4 retirement allowance and to determine when a retirement allowance  
5 may begin under this act, regardless of when the service credit was  
6 accrued, except as otherwise provided in section 59(8). A member  
7 described in subsection (1), (3), or (5) shall continue to be  
8 treated as a member for all purposes, except as otherwise provided  
9 in section 59(8) and except for the limitations on credited service  
10 and calculation of a retirement allowance as provided in  
11 subsections (1) through (6).

12           (8) The calculation of a retirement allowance under this act  
13 for a member who makes the election under section 59(1) but who  
14 does not make the attainment date designation under section 59(1)  
15 shall include all items of credited service accrued to that member,  
16 regardless of when the service credit was accrued, which shall be  
17 multiplied by 1.5% of final average compensation as provided in  
18 section 84.

19           (9) As used in this section, "attainment date" means the final  
20 day of the pay period in which the member attains 30 years of  
21 credited service.

22           Sec. 91a. (1) An individual who first became a member or  
23 qualified participant on or after September 4, 2012 or who made the  
24 election under subsection (5) shall not receive any health  
25 insurance coverage premium from the retirement system for any  
26 benefits under section 91 or as a result of benefits provided under  
27 section 86, 87, or 89. In lieu of any of these benefits that might

1 have been paid by the retirement system, a member's or qualified  
2 participant's employer shall make a matching contribution up to 2%  
3 of the member's or qualified participant's compensation to Tier 2  
4 for each member who first became a member or qualified participant  
5 on or after September 4, 2012 or who made the election under  
6 subsection (5). A matching contribution under this subsection shall  
7 not be used as the basis for a loan from an employee's Tier 2  
8 account. If the department or retirement system offers a health  
9 expenditure account or similar account for the purpose of managing  
10 a member's health care funds under this section, as permitted by  
11 state or federal law, the department or retirement system shall  
12 issue a request for proposals before implementation of that health  
13 expenditure account or similar account.

14 (2) An individual who first became a member or qualified  
15 participant on or after September 4, 2012 or who made the election  
16 under subsection (5) may make a contribution up to 2% of the  
17 member's or qualified participant's compensation to a Tier 2  
18 account. A member or qualified participant described in this  
19 subsection may make additional contributions to his or her Tier 2  
20 account as permitted by the department and the internal revenue  
21 code.

22 (3) Except as otherwise provided in this subsection, a member  
23 or qualified participant is vested in contributions made to his or  
24 her Tier 2 account under subsections (1) and (2) according to the  
25 vesting provisions under section 132. A member who is eligible for  
26 the payment of health insurance coverage premiums by the retirement  
27 system as a result of benefits provided under section 90 is not

1 vested in any employer contributions under subsection (1) and  
2 forfeits the employer contributions and earnings on those  
3 contributions.

4 (4) The contributions described in this section shall begin  
5 with the first payroll date after the member or qualified  
6 participant is employed or on or after the transition date for a  
7 member who makes the election under subsection (5) and end upon his  
8 or her termination of employment.

9 (5) Except as otherwise provided in this section, beginning  
10 September 4, 2012 and ending at 5 p.m. eastern ~~daylight~~ **STANDARD**  
11 time on ~~October 26, 2012,~~ **JANUARY 9, 2013**, the retirement system  
12 shall permit each qualified member to make an election to opt out  
13 of health insurance coverage premiums that would have been paid by  
14 the retirement system under section 91 and opt into the Tier 2  
15 account provisions of this section effective on the transition  
16 date. A qualified member who makes the election under this  
17 subsection shall cease accruing years of service credit for  
18 purposes of calculating a portion of the health insurance coverage  
19 premiums that would have been paid by the retirement system under  
20 section 91 as if that section continued to apply.

21 (6) A qualified member who does not make the election under  
22 subsection (5) continues to be eligible for the payment of health  
23 insurance coverage premiums by the retirement system under section  
24 91 and is not eligible for the Tier 2 account provisions of this  
25 section. An individual who is not a qualified member, who is a  
26 former member on September 3, 2012, and who is reemployed by an  
27 employer on or after September 4, 2012 shall be treated in the same

1 manner as a member described in this subsection who did not make  
2 the election under subsection (5).

3 (7) The retirement system shall calculate an amount to be  
4 credited to a Tier 2 account for each member who makes the election  
5 under subsection (5). The amount described in this subsection shall  
6 be an amount equal to the contributions made by the member under  
7 section 43e. A member who makes the election under subsection (5)  
8 shall cease making contributions under section 43e as determined by  
9 the retirement system, but no later than the first payroll date  
10 after the transition date. The amount calculated under this  
11 subsection shall be deposited as an employer contribution into the  
12 member's Tier 2 account as determined by the retirement system, but  
13 no later than the first payroll date after ~~February~~ **MARCH** 1, 2013.  
14 A member is immediately 100% vested in amounts deposited to his or  
15 her Tier 2 account under this subsection.

16 (8) A member or former member who does not make the election  
17 under subsection (5), who is 60 years of age or older, who does not  
18 qualify for the payment of health insurance coverage premiums by  
19 the retirement system under section 91, and who files an  
20 application with the retirement system on or after termination of  
21 employment shall receive a separate retirement allowance as  
22 calculated under this subsection. Except as otherwise provided  
23 under this subsection, the separate retirement allowance under this  
24 subsection shall be paid for 60 months and shall be equal to 1/60  
25 of the amount equal to the contributions made by the member under  
26 section 43e. The retirement system may pay out de minimus amounts  
27 as a lump sum as determined by the retirement system and as

1 permitted by the internal revenue code. A member receiving a  
2 separate retirement allowance under this subsection shall not  
3 subsequently receive the payment of health insurance coverage  
4 premiums by the retirement system under section 91. A member who  
5 dies before qualifying for the payment of health insurance coverage  
6 premiums by the retirement system under section 91 shall have a  
7 separate retirement allowance as provided in this subsection paid  
8 to the member's beneficiary upon application to the retirement  
9 system. A member who qualifies for the payment of health insurance  
10 coverage premiums by the retirement system under section 91 but who  
11 dies before the payment of health insurance coverage premiums by  
12 the retirement system in an amount equal to or greater than the  
13 amounts contributed under section 43e shall have a separate  
14 retirement allowance as provided in this subsection paid to the  
15 member's beneficiary following the cessation of health insurance  
16 coverage premiums paid by the retirement system in an amount equal  
17 to the difference between the health insurance coverage premiums  
18 paid by the retirement system under section 91 and contributions  
19 made by the member under section 43e. The amount of the separate  
20 retirement allowance as determined under this subsection shall be  
21 increased in a manner as determined by the retirement system by a  
22 percentage equal to 1.5% multiplied by the total number of years  
23 that member made contributions under section 43e.

24 (9) A member or former member who has a break in service and  
25 is reemployed retains the same election that the member made under  
26 this section before the break in service. If the member made the  
27 election under subsection (5), the member shall continue to receive

1 the Tier 2 account contributions as provided in subsections (1) and  
2 (2). If the member did not make the election under subsection (5),  
3 the member shall continue to make the contributions as provided  
4 under section 43e and is subject to subsection (8), if applicable.

5 (10) In lieu of any other health insurance coverage premium  
6 that might have been paid by the retirement system under section  
7 91, a credit to a health reimbursement account within the trust  
8 created under the public employee retirement health care funding  
9 act, 2010 PA 77, MCL 38.2731 to 38.2747, shall be made by the  
10 retirement system in the amounts and to the members or qualified  
11 participants as follows:

12 (a) Two thousand dollars to an individual who first became a  
13 member or qualified participant on or after September 4, 2012, who  
14 is 60 years of age or older, and who has at least 10 years of  
15 service at his or her first termination of employment.

16 (b) One thousand dollars to an individual who first became a  
17 member or qualified participant on or after ~~september~~**SEPTEMBER** 4,  
18 2012, who is less than 60 years of age, and who has at least 10  
19 years of service at his or her first termination of employment.

20 (11) The retirement system shall determine a method to  
21 implement subsections (5) to (10), including a method for crediting  
22 the amounts in those subsections to comply with any restrictions  
23 imposed by the internal revenue code. Notwithstanding any provision  
24 of this act to the contrary, the Tier 2 plan provisions of this  
25 section shall be implemented by the department as soon as feasible  
26 but not later than January 1, 2013.

27 (12) Subsections (5) to (10) do not apply to a member who is



1 eligible for the payment of health insurance coverage premiums by  
2 the retirement system as a result of benefits provided under  
3 section 90.

4 (13) On or before July 1, 2017, the retirement system shall  
5 provide a report to the chairs of the house and senate  
6 appropriations committees that provides the projected impact of  
7 subsection (10) as it applies to members first employed and entered  
8 upon the payroll of reporting units on or after July 1, 2017 with  
9 regard to the annual required contribution as used by the  
10 governmental accounting standards board and for purposes of the  
11 annual financial statements prepared under section 28(1).

12 (14) As used in this section:

13 (a) "Compensation" means that term as defined in section  
14 122(2).

15 (b) "Qualified member" means a member who meets all of the  
16 following requirements:

17 (i) He or she first became a member before September 4, 2012.

18 (ii) He or she has earned service credit in the 12 months  
19 ending September 3, 2012 or was on an approved professional  
20 services or military leave of absence on September 3, 2012.