

HOUSE BILL No. 5443

April 17, 2014, Introduced by Reps. Dianda, Lane, Kelly, Schor, Stanley and Oakes and referred to the Committee on Financial Liability Reform.

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending sections 17j and 68c (MCL 38.17j and 38.68c), section
17j as amended by 2002 PA 93 and section 68c as amended by 2013 PA
112, and by adding section 19k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17j. (1) On and after June 23, 1987, a member who is
2 otherwise entitled to purchase service credit under section 17g,
3 17h, 17i, ~~17k, 17l~~, 17m, ~~or 17n~~, **OR 19K OR FORMER SECTION 17K** shall
4 not purchase a combined total of more than 10 years of service
5 credit under those sections.

6 (2) On and after June 23, 1987, a member who under section
7 17c, 17g, 17h, 17i, ~~17k, 17l~~, 17m, 17n, ~~or 18(2)~~, **OR 19K OR FORMER**
8 **SECTION 17K** is otherwise entitled to purchase service credit may

1 purchase the service credit in separate increments equal to 1 or
2 more full years, or a remaining fraction of a year, if any, or
3 both. Partial purchase of service credit under this section does
4 not bar future purchases otherwise in compliance with this section
5 and ~~the provisions of~~ this act authorizing the purchase, but
6 computation of the amount of payment due shall be made separately
7 for each purchase.

8 (3) If a member who made payment under this section dies and a
9 retirement allowance is not payable or if the member leaves service
10 with this state before his or her retirement allowance becomes
11 effective, the payment made by the member shall be refunded upon
12 request to the member, to the person designated by the member in
13 writing to the board, or if a person is not designated, then to the
14 member's legal representative or estate.

15 (4) Actuarial cost shall be equal to the product of
16 subdivisions (a), (b), and (c), as follows:

17 (a) A percentage, determined by the retirement board and the
18 department, that when multiplied by a member's compensation, as
19 determined under subdivision (b), results in the average actuarial
20 present value of the additional benefits resulting from the
21 crediting of 1 additional year of service. The percentage may vary
22 because of age, credited service, or benefit coverage. An increase
23 or decrease in the percentage under this subdivision ~~shall~~ **DOES** not
24 become effective before the expiration of 6 months or more after
25 the retirement board notifies the members of the increase or
26 decrease.

27 (b) ~~A member's compensation.~~ The member's compensation shall

1 ~~be~~ IS the member's full-time or equated full-time compensation
2 earned in the fiscal year immediately before the fiscal year in
3 which the application to purchase and payment for the service are
4 made. The compensation amount used ~~shall~~ **MUST** not be less than the
5 highest compensation previously earned by the member.

6 (c) The number of years, including any fraction of a year, of
7 credited service a member elects to purchase up to the maximum
8 allowed.

9 SEC. 19K. (1) NOTWITHSTANDING SECTION 19, A MEMBER MAY RETIRE
10 AND RECEIVE A RETIREMENT ALLOWANCE COMPUTED UNDER THIS SECTION IF
11 THE MEMBER MEETS ALL OF THE FOLLOWING REQUIREMENTS:

12 (A) ON OR BEFORE DECEMBER 31, 2014, OR ON THE EFFECTIVE DATE
13 OF HIS OR HER RETIREMENT, WHICHEVER IS EARLIER, THE MEMBER'S
14 COMBINED AGE AND LENGTH OF CREDITED SERVICE IS EQUAL TO OR GREATER
15 THAN 70 YEARS.

16 (B) THE MEMBER IS AN EMPLOYEE OF THE STATE TRANSPORTATION
17 DEPARTMENT.

18 (C) THE MEMBER WAS EMPLOYED BY THE STATE TRANSPORTATION
19 DEPARTMENT FOR THE 30-MONTH PERIOD ENDING ON DECEMBER 1, 2014. A
20 MEMBER WHO IS ON LAYOFF STATUS FROM STATE EMPLOYMENT IS CONSIDERED
21 TO HAVE MET THE EMPLOYMENT REQUIREMENT OF THIS SUBDIVISION.

22 (D) THE MEMBER EXECUTES AND FILES A WRITTEN APPLICATION WITH
23 THE RETIREMENT BOARD, ON OR AFTER DECEMBER 1, 2014, BUT NOT LATER
24 THAN DECEMBER 31, 2014, STATING A DATE ON OR AFTER JANUARY 1, 2015,
25 BUT NOT LATER THAN FEBRUARY 1, 2015, ON WHICH HE OR SHE DESIRES TO
26 RETIRE. A MEMBER MAY WITHDRAW A WRITTEN APPLICATION ON OR BEFORE
27 JANUARY 15, 2015. A WRITTEN APPLICATION SUBMITTED BY A MEMBER AND

1 NOT WITHDRAWN ON OR BEFORE JANUARY 15, 2015 IS IRREVOCABLE.

2 (E) THE MEMBER IS NOT EMPLOYED IN A COVERED POSITION AS
3 DEFINED IN SECTION 45.

4 (F) THE MEMBER IS NOT A CONSERVATION OFFICER AS DESCRIBED IN
5 SECTION 48.

6 (2) ANY AMOUNT THAT A MEMBER RETIRING UNDER THIS SECTION WOULD
7 OTHERWISE BE ENTITLED TO RECEIVE IN A LUMP SUM AT RETIREMENT ON
8 ACCOUNT OF ACCUMULATED SICK LEAVE SHALL BE PAID IN 60 CONSECUTIVE
9 EQUAL MONTHLY INSTALLMENTS BEGINNING ON OR AFTER FEBRUARY 1, 2015.
10 PAYMENTS RECEIVED UNDER THIS SUBSECTION SHALL NOT BE USED TO
11 PURCHASE SERVICE CREDIT UNDER THIS ACT. THESE PAYMENTS FOR
12 ACCUMULATED SICK LEAVE ARE TO BE PAID FROM FUNDS APPROPRIATED TO
13 THE APPOINTING AUTHORITY AND NOT FROM FUNDS OF THE RETIREMENT
14 SYSTEM. THESE PAYMENTS ARE TAXABLE INCOME UNDER THE INCOME TAX ACT
15 OF 1967, 1967 PA 281, MCL 206.1 TO 206.532.

16 (3) UPON HIS OR HER RETIREMENT AS PROVIDED IN THIS SECTION, A
17 MEMBER WHO DID NOT MAKE AN ELECTION UNDER SECTION 50 TO TERMINATE
18 MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED PARTICIPANT IN TIER 2
19 SHALL RECEIVE A RETIREMENT ALLOWANCE EQUAL TO THE MEMBER'S NUMBER
20 OF YEARS AND FRACTION OF A YEAR OF CREDITED SERVICE MULTIPLIED BY
21 1-3/4% OF HIS OR HER FINAL AVERAGE COMPENSATION. EXCEPT FOR THE
22 CALCULATION PROVIDED IN THIS SUBSECTION, THE MEMBER'S RETIREMENT
23 ALLOWANCE IS SUBJECT TO SECTION 20. THE MEMBER'S RETIREMENT
24 ALLOWANCE IS NOT SUBJECT TO REDUCTION UNDER SECTION 19(2).

25 (4) UPON HIS OR HER RETIREMENT AS PROVIDED IN THIS SECTION, A
26 FORMER MEMBER WHO MADE AN ELECTION UNDER SECTION 50 TO TERMINATE
27 MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED PARTICIPANT IN TIER 2

1 SHALL RECEIVE A RETIREMENT ALLOWANCE EQUAL TO THE MEMBER'S NUMBER
2 OF YEARS AND FRACTION OF A YEAR OF CREDITED SERVICE MULTIPLIED BY
3 1/4% OF HIS OR HER FINAL AVERAGE COMPENSATION. EXCEPT FOR THE
4 CALCULATION PROVIDED IN THIS SUBSECTION, THE FORMER MEMBER'S
5 RETIREMENT ALLOWANCE IS SUBJECT TO SECTION 20. THE FORMER MEMBER'S
6 RETIREMENT ALLOWANCE IS NOT SUBJECT TO REDUCTION UNDER SECTION
7 19(2).

8 (5) FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL WHO ELECTED TO
9 TERMINATE MEMBERSHIP UNDER SECTION 50 AND WHO, BUT FOR THAT
10 ELECTION, WOULD OTHERWISE BE ELIGIBLE FOR MEMBERSHIP IN TIER 1
11 UNDER SECTION 13, IS A MEMBER OF TIER 1 FOR THE LIMITED PURPOSE OF
12 RECEIVING A RETIREMENT ALLOWANCE CALCULATED UNDER THIS SECTION AND
13 PAID BY THE RETIREMENT SYSTEM.

14 (6) A RETIRANT WHO IS RECEIVING A RETIREMENT ALLOWANCE UNDER
15 THIS SECTION MUST NOT BE HIRED UNDER CONTRACT BY THIS STATE FOR A
16 PERIOD OF 2 YEARS AFTER THE DATE OF SEPARATION.

17 (7) SUBJECT TO SECTION 17J, A MEMBER MAY ELECT TO PURCHASE NOT
18 MORE THAN 5 YEARS OF SERVICE CREDIT TO QUALIFY FOR A RETIREMENT
19 ALLOWANCE UNDER THIS SECTION.

20 Sec. 68c. (1) Except as otherwise provided in this section, a
21 retirant who is receiving a retirement allowance under this act and
22 is employed by this state beginning on or after October 2, 2007
23 agrees to forfeit his or her right to receive that retirement
24 allowance during this period of state employment. The retirement
25 system shall cease payment of the retirement allowance to a
26 retirant described in this subsection during this period of state
27 employment and shall reinstate payment of the retirement allowance

1 without recalculation when the period of state employment ceases.
2 This subsection does not apply to a retirant who is directly or
3 indirectly employed by this state on October 1, 2007 so long as he
4 or she remains in the position held by the retirant on October 1,
5 2007. As used in this subsection, "employed by this state" means
6 employed directly by this state as an employee, indirectly by this
7 state through a contractual arrangement with other parties, or by
8 engagement of the retirant by this state as an independent
9 contractor. This subsection does not apply to a retirant who is
10 engaged as an independent contractor on October 1, 2010 so long as
11 the retirant remains engaged in the same contract that was held by
12 the retirant on October 1, 2010 without amendment or extension.

13 (2) A hospital, medical-surgical, and sick care benefits plan,
14 dental plan, vision plan, and hearing plan that covers retirants,
15 retirant allowance beneficiaries, former qualified participants,
16 and health benefit dependents under this act shall contain a
17 coordination of benefits provision that provides all of the
18 following:

19 (a) If the person covered under any of the plans is also
20 eligible for medicare, then the benefits under medicare shall be
21 determined before the health insurance benefits under this act.

22 (b) If a person covered under any of the plans provided by
23 this act is also covered under another plan that contains a
24 coordination of benefits provision, the benefits shall be
25 coordinated as provided in the coordination of benefits act, 1984
26 PA 64, MCL 550.251 to 550.255.

27 (c) If the person covered under any of the plans provided by

1 this act is also covered under another plan that does not contain a
2 coordination of benefits provision, the benefits under the other
3 plan shall be determined before the benefits provided ~~pursuant to~~
4 **UNDER** this act.

5 (3) Subsection (1) does not apply to a retirant if all of the
6 following apply:

7 (a) The retirant is hired to provide health care services to
8 individuals under the jurisdiction of the department of
9 corrections.

10 (b) The retirant is hired in a position that is limited in
11 term, no benefits are paid, and pay is on a per diem basis.

12 (c) The department of corrections provides written notice to
13 the state budget office and the department of technology,
14 management, and budget that attempts have been made to fill the
15 position through postings and recruitment and that the position
16 vacancy still exists.

17 (d) The department of corrections reports the employment of a
18 retirant under this subsection within 30 days of employment of the
19 retirant to the state budget office and the department of
20 technology, management, and budget. The report shall include the
21 name of the retirant, the capacity in which the retirant is
22 employed, and the total compensation paid to the retirant.

23 (e) The retirant retired after a bona fide termination.

24 (4) Subsection (1) does not apply to the appointment of a
25 retirant who retired after a bona fide termination and who was an
26 assistant attorney general as a special assistant attorney general
27 if the attorney general determines that, as a result of his or her

1 previous employment with this state, the retirant possesses
2 specialized expertise and experience necessary for the appointment
3 and that the appointment is the most cost-effective option for this
4 state.

5 (5) Until September 30, 2015, subsection (1) does not apply to
6 a retirant if all of the following apply:

7 (a) The retirant is hired to provide for the custody of
8 individuals under the jurisdiction of the department of
9 corrections.

10 (b) The retirant is hired in a position that is limited in
11 term, no benefits are paid, and the pay is not more than 80% of the
12 maximum hourly wage granted to classified civil service employees
13 employed by the department of corrections to perform the same
14 duties as the retirant for the fiscal year during which the
15 retirant is employed.

16 (c) The retirant works no more than 1,040 hours in a 12-month
17 period of state employment.

18 (d) The retirant retired after a bona fide termination of
19 employment.

20 (5) SUBSECTION (1) DOES NOT APPLY TO A RETIRANT IF ALL OF THE
21 FOLLOWING APPLY:

22 (A) THE RETIRANT IS HIRED BY THE STATE TRANSPORTATION
23 DEPARTMENT.

24 (B) THE RETIRANT IS HIRED IN A POSITION THAT IS LIMITED IN
25 TERM, NO BENEFITS ARE PAID, AND PAY IS ON A PER DIEM BASIS.

26 (C) THE STATE TRANSPORTATION DEPARTMENT PROVIDES WRITTEN
27 NOTICE TO THE STATE BUDGET OFFICE AND THE DEPARTMENT OF TECHNOLOGY,

1 MANAGEMENT, AND BUDGET THAT ATTEMPTS HAVE BEEN MADE TO FILL THE
2 POSITION THROUGH POSTINGS AND RECRUITMENT AND THAT THE POSITION
3 VACANCY STILL EXISTS.

4 (D) THE STATE TRANSPORTATION DEPARTMENT REPORTS THE HIRING OF
5 A RETIRANT UNDER THIS SUBSECTION WITHIN 30 DAYS OF EMPLOYMENT OF
6 THE RETIRANT TO THE STATE BUDGET OFFICE AND THE DEPARTMENT OF
7 TECHNOLOGY, MANAGEMENT, AND BUDGET. THE REPORT MUST INCLUDE THE
8 NAME OF THE RETIRANT, THE CAPACITY IN WHICH THE RETIRANT IS
9 EMPLOYED, AND THE TOTAL COMPENSATION PAID TO THE RETIRANT.
10 (E) THE RETIRANT RETIRED AFTER A BONA FIDE TERMINATION.