

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)
Act 240 of 1943

38.20 Computation of retirement allowance; right to elect option; retirement before age 65; death of retirant; separation from service; department of mental health employee termination; recalculation and payment of retirement allowance; eligibility of state accident fund or Michigan biologic products institute employees to health care benefits and certain rights, privileges, and benefits.

Sec. 20. (1) Subject to section 20j, upon his or her retirement, as provided for in section 19, 19a, 19b, 19c, 19d, or 19e, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. The member's retirement allowance is subject to subsection (3). Upon his or her retirement, the member may elect an option provided for in section 31(1).

(2) Pursuant to rules promulgated by the retirement board, a member who retires before becoming 65 years of age may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable up to his or her attainment of 65 years of age and a reduced retirement allowance payable after his or her attainment of 65 years of age. His or her increased retirement allowance payable up to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount. In addition, upon retirement the member may elect an option provided for in section 31(1).

(3) If a retirant dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the retirant's accumulated contributions credited to the retirant in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of retirement allowance received by him or her shall be paid to the person or persons that he or she nominated by written designation executed and filed with the retirement board. If the person or persons do not survive the retirant, then the difference, if any, shall be paid to the retirant's legal representative or estate. Benefits shall not be paid under this subsection on account of the death of the retirant if he or she elected an option provided for in section 31(1).

(4) If a member has 10 or more years of credited service, or has 5 or more years of credited service as an elected officer or in a position in the executive branch or the legislative branch excepted or exempt from the classified state civil service as provided in section 5 of article XI of the state constitution of 1963, and is separated from the service of the state for a reason other than retirement or death, he or she shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a retirement allowance provided for in this section. If a former employee of the state accident fund who had 5 or more years of service as an employee of the state accident fund returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service before receiving a retirement allowance under this act. If a former employee of the Michigan biologic products institute who is eligible to and has elected to purchase additional credited service pursuant to section 17l(2) returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service, without regard to the additional credited service purchased pursuant to section 17l(2) but including any credited service authorized under section 16, before receiving a retirement allowance under this act. If the member withdraws all or part of his or her accumulated contributions, he or she ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon his or her written application to the retirement board as provided in section 19(1). If a member elects an option as provided under section 31(4), but dies before the effective date of his or her retirement, the option elected by the member shall be carried out, and the beneficiary of the member is entitled to all advantages due under that option.

(5) A person who is a member after January 1, 1981, who has at least 5 years of credited service, and whose employment with the department formerly known as the department of mental health is terminated by reason of reduction in force related to deinstitutionalization that may or may not result in facility closure, shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a service retirement allowance as provided in this subsection. As used in this subsection, "deinstitutionalization" means planned reduction of state center or hospital beds through placement of individuals from the hospital or facility, or through limiting admissions to centers and hospitals, or both. If a member withdraws all or part of the member's accumulated contributions, the member ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon written application to the retirement board. The application shall specify a date on which the member desires to retire. Upon retirement, the member shall receive a retirement allowance equal to the number of years and fraction of a year of credited

state service multiplied by 1-1/2% of the member's final average compensation. Upon retirement, the member may elect an option provided in section 31(1). If the member elects an option provided for in section 31(4), but dies before the effective date of retirement, the option elected by the member shall be carried out, and a beneficiary of the member is entitled to all advantages due under the option.

(6) A retirant or the beneficiary of a retirant who retired before July 1, 1974 shall have his or her retirement allowance recalculated based on the retirant's number of years and fraction of a year of credited service multiplied by 1.5% of his or her final average compensation. The retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988 and shall be the basis on which future adjustments to the allowance, including the supplement provided by section 20h, are calculated. The retirement allowance of a retirant who dies before January 1, 1988, and who did not nominate a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(7) Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance is payable for the month in which a retirement allowance ceases.

(8) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer authorized by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

(9) An employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance authorized by the Michigan biologic products institute transfer act, 1996 PA 522, MCL 333.26331 to 333.26340, and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

History: 1943, Act 240, Eff. July 30, 1943;—Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944;—Am. 1945, Act 177, Eff. Sept. 6, 1945;—Am. 1947, Act 351, Eff. Oct. 11, 1947;—CL 1948, 38.20;—Am. 1949, Act 72, Eff. Sept. 23, 1949;—Am. 1951, Act 200, Imd. Eff. June 14, 1951;—Am. 1953, Act 196, Eff. Oct. 2, 1953;—Am. 1954, Act 126, Eff. Aug. 13, 1954;—Am. 1955, Act 237, Imd. Eff. June 21, 1955;—Am. 1956, Act 80, Eff. Aug. 11, 1956;—Am. 1958, Act 54, Eff. Sept. 13, 1958;—Am. 1974, Act 216, Imd. Eff. July 19, 1974;—Am. 1982, Act 448, Eff. Mar. 30, 1983;—Am. 1984, Act 3, Eff. May 1, 1984;—Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986;—Am. 1987, Act 57, Imd. Eff. June 23, 1987;—Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 62, Imd. Eff. June 27, 1991;—Am. 1993, Act 195, Eff. Dec. 28, 1994;—Am. 1996, Act 521, Imd. Eff. Jan. 13, 1997;—Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002;—Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011.

Compiler's note: Section 2 of Act 195 of 1993 provides as follows:

"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

Enacting section 1 of Act 264 of 2011 provides:

"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply."