



HOUSE BILL No. 4868

May 18, 1995, Introduced by Rep. Rhead and referred to the Committee on Appropriations.

A bill to amend Act No. 261 of the Public Acts of 1957,
entitled as amended
"Michigan legislative retirement system act,"
as amended, being sections 38.1001 to 38.1060 of the Michigan
Compiled Laws, by adding sections 7a, 8a, and 59a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 261 of the Public Acts of 1957, as
2 amended, being sections 38.1001 to 38.1060 of the Michigan
3 Compiled Laws, is amended by adding sections 7a, 8a, and 59a to
4 read as follows:

5 SEC. 7A. (1) "DIRECT ROLLOVER" MEANS A PAYMENT BY THE
6 RETIREMENT SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY
7 THE DISTRIBUTE.

8 (2) "DISTRIBUTE" INCLUDES A MEMBER OR DEFERRED VESTED
9 MEMBER. DISTRIBUTE ALSO INCLUDES THE MEMBER'S OR DEFERRED

1 VESTED MEMBER'S SURVIVING SPOUSE OR THE MEMBER'S OR DEFERRED
2 VESTED MEMBER'S SPOUSE OR FORMER SPOUSE UNDER AN ELIGIBLE DOMES-
3 TIC RELATIONS ORDER, WITH REGARD TO THE INTEREST OF THE SPOUSE OR
4 FORMER SPOUSE.

5 SEC. 8A. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSEC-
6 TION, "ELIGIBLE RETIREMENT PLAN" MEANS AN INDIVIDUAL RETIREMENT
7 ACCOUNT DESCRIBED IN SECTION 408(a) OF THE INTERNAL REVENUE CODE,
8 AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF
9 THE INTERNAL REVENUE CODE, AN ANNUITY PLAN DESCRIBED IN SECTION
10 403(a) OF THE INTERNAL REVENUE CODE, OR A QUALIFIED TRUST
11 DESCRIBED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE, THAT
12 ACCEPTS THE DISTRIBUTEES' ELIGIBLE ROLLOVER DISTRIBUTION.
13 HOWEVER, IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A
14 SURVIVING SPOUSE, AN ELIGIBLE RETIREMENT PLAN MEANS AN INDIVIDUAL
15 RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED
16 ABOVE.

17 (2) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A DISTRIBUTION OF
18 ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE
19 DISTRIBUTEES. ELIGIBLE ROLLOVER DISTRIBUTION DOES NOT INCLUDE ANY
20 OF THE FOLLOWING:

21 (A) A DISTRIBUTION MADE FOR THE LIFE OR LIFE EXPECTANCY OF
22 THE DISTRIBUTEES OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF
23 THE DISTRIBUTEES AND THE DISTRIBUTEES' DESIGNATED BENEFICIARY.

24 (B) A DISTRIBUTION FOR A SPECIFIED PERIOD OF 10 YEARS OR
25 MORE.

26 (C) A DISTRIBUTION TO THE EXTENT THAT THE DISTRIBUTION IS
27 REQUIRED UNDER SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

1 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE
2 IN FEDERAL GROSS INCOME, DETERMINED WITHOUT REGARD TO THE EXCLU-
3 SION FOR NET UNREALIZED APPRECIATION WITH RESPECT TO EMPLOYER
4 SECURITIES.

5 (3) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL
6 REVENUE CODE OF 1986.

7 SEC. 59A. (1) THIS SECTION IS ENACTED PURSUANT TO
8 SECTION 401(a) OF THE INTERNAL REVENUE CODE THAT IMPOSES CERTAIN
9 ADMINISTRATIVE REQUIREMENTS AND BENEFIT LIMITATIONS FOR QUALIFIED
10 GOVERNMENTAL PLANS. THIS STATE INTENDS THAT THE RETIREMENT
11 SYSTEM BE A QUALIFIED PENSION PLAN CREATED IN TRUST UNDER SECTION
12 401 OF THE INTERNAL REVENUE CODE AND THAT THE TRUST BE AN EXEMPT
13 ORGANIZATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE
14 BOARD OF TRUSTEES SHALL ADMINISTER THE RETIREMENT SYSTEM TO FUL-
15 FILL THIS INTENT.

16 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
17 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
18 UNDER THIS ACT SHALL NOT EXCEED THE LESSER OF \$90,000.00 OR 100%
19 OF THE MEMBER'S AVERAGE COMPENSATION FOR HIGH 3 YEARS AS
20 DESCRIBED IN SECTION 415(b)(3) OF THE INTERNAL REVENUE CODE FOR
21 RETIREMENT OCCURRING AT AGE 62 OR OLDER.

22 (3) THE LIMITATION ON EMPLOYER FINANCED BENEFITS PROVIDED BY
23 THE RETIREMENT SYSTEM UNDER SUBSECTION (2) APPLIES UNLESS APPLI-
24 CATION OF SUBSECTIONS (4) AND (5) PRODUCES A HIGHER LIMITATION,
25 IN WHICH CASE THE HIGHER LIMITATION APPLIES.

26 (4) IF A MEMBER RETIRES BEFORE AGE 62, THE AMOUNT OF
27 \$90,000.00 IN SUBSECTION (1) IS ACTUARIALLY REDUCED TO REFLECT

1 PAYMENT BEFORE AGE 62. THE RETIREMENT SYSTEM SHALL USE AN
2 INTEREST RATE OF 5% PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE
3 ACTUARIAL REDUCTION IN THIS SUBSECTION. IF THIS SUBSECTION
4 PRODUCES A LIMITATION OF LESS THAN \$75,000.00 AT AGE 55, THE LIM-
5 ITATION AT AGE 55 IS \$75,000.00 AND THE LIMITATIONS FOR AGES
6 UNDER AGE 55 SHALL BE CALCULATED FROM A LIMITATION OF \$75,000.00
7 AT AGE 55.

8 (5) SECTION 415(d) OF THE INTERNAL REVENUE CODE REQUIRES THE
9 COMMISSIONER OF INTERNAL REVENUE TO ADJUST THE \$90,000.00 LIMITA-
10 TION IN SUBSECTION (2) TO REFLECT COST OF LIVING INCREASES,
11 BEGINNING WITH CALENDAR YEAR 1988. THIS SUBSECTION SHALL BE
12 ADMINISTERED USING THE LIMITATIONS APPLICABLE TO EACH CALENDAR
13 YEAR AS ADJUSTED BY THE COMMISSIONER OF INTERNAL REVENUE UNDER
14 SECTION 415(d) OF THE INTERNAL REVENUE CODE. THE RETIREMENT
15 SYSTEM SHALL ADJUST THE BENEFITS SUBJECT TO THE LIMITATION EACH
16 YEAR TO CONFORM WITH THE ADJUSTED LIMITATION.

17 (6) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD IN
18 TRUST AND INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE
19 OBLIGATIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR
20 ANY OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED
21 TO A PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,
22 VESTED FORMER MEMBERS, RETIRANTS, AND RETIREMENT ALLOWANCE BENE-
23 FICIARIES BEFORE SATISFACTION OF ALL RETIREMENT SYSTEM
24 LIABILITIES.

25 (7) THE RETIREMENT SYSTEM SHALL RETURN POST-TAX MEMBER CON-
26 TRIBUTIONS MADE BY A MEMBER AND RECEIVED BY THE RETIREMENT SYSTEM
27 TO A MEMBER UPON RETIREMENT, PURSUANT TO INTERNAL REVENUE SERVICE

1 REGULATIONS AND APPROVED INTERNAL REVENUE SERVICE EXCLUSION RATIO
2 TABLES.

3 (8) THE REQUIRED BEGINNING DATE FOR RETIREMENT ALLOWANCES
4 AND OTHER DISTRIBUTIONS SHALL NOT BE LATER THAN APRIL 1 OF THE
5 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE EMPLOYEE
6 ATTAINS AGE 70-1/2 OR APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE
7 CALENDAR YEAR IN WHICH THE EMPLOYEE RETIRES.

8 (9) IF THE RETIREMENT SYSTEM IS TERMINATED, THE INTEREST OF
9 THE MEMBERS, DEFERRED VESTED MEMBERS, RETIRANTS, AND RETIREMENT
10 ALLOWANCE BENEFICIARIES IN THE RETIREMENT SYSTEM IS NONFORFEIT-
11 ABLE TO THE EXTENT FUNDED AS DESCRIBED IN SECTION 411(d)(3) OF
12 THE INTERNAL REVENUE CODE AND RELATED INTERNAL REVENUE SERVICE
13 REGULATIONS APPLICABLE TO GOVERNMENTAL PLANS.

14 (10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
15 CONTRARY THAT WOULD LIMIT A DISTRIBUTEES ELECTION UNDER THIS
16 ACT, A DISTRIBUTEES MAY ELECT, AT THE TIME AND IN THE MANNER PRE-
17 SCRIBED BY THE BOARD OF TRUSTEES, TO HAVE ANY PORTION OF AN ELI-
18 GIBLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIRE-
19 MENT PLAN SPECIFIED BY THE DISTRIBUTEES IN A DIRECT ROLLOVER.
20 THIS SUBSECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY
21 1, 1993.

22 (11) FOR PURPOSES OF DETERMINING ACTUARIAL EQUIVALENT
23 RETIREMENT ALLOWANCES UNDER THIS ACT, THE ACTUARIALLY ASSUMED
24 INTEREST RATE SHALL BE 8% WITH UTILIZATION OF THE 1983 GROUP
25 ANNUITY AND MORTALITY TABLE.

26 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
27 THE RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH

1 THE PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE AND
2 REVENUE SERVICE REGULATIONS UNDER THIS SECTION THAT ARE APPLICA-
3 BLE TO GOVERNMENTAL PLANS. IF THERE IS A CONFLICT BETWEEN THIS
4 SECTION AND ANOTHER SECTION OF THIS OR ANY OTHER ACT OF THIS
5 STATE, THIS SECTION PREVAILS.