

Act No. 501
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Rep. Rhead

ENROLLED HOUSE BILL No. 6208

AN ACT to amend 1957 PA 261, entitled "An act for the creation, maintenance, and administration of a legislative members' and presiding officers' retirement system within the legislature; to provide retirement allowances to the participants of the retirement system, and survivors' allowances and other benefits to their beneficiaries upon death; to exempt those allowances and benefits from certain taxes and legal processes; to authorize and make appropriations for the retirement system; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; and to prescribe penalties and provide remedies," by amending sections 9, 11, 17b, 21, 21a, 22, 22c, 23, 23c, 23d, 26, 50a, 50b, 75, and 79 (MCL 38.1009, 38.1011, 38.1017b, 38.1021, 38.1021a, 38.1022, 38.1022c, 38.1023, 38.1023c, 38.1023d, 38.1026, 38.1050a, 38.1050b, 38.1075, and 38.1079), sections 9, 21, 22, 23, 23c, 23d, and 26 as amended by 1994 PA 359, section 11 as amended by 1988 PA 512, section 17b as amended and section 21a as added by 1987 PA 58, sections 22c and 50b as amended and sections 75 and 79 as added by 1996 PA 486, and section 50a as amended by 1998 PA 80, and by adding sections 36a and 58a.

The People of the State of Michigan enact:

Sec. 9. (1) "Salary" means the compensation, common to all legislators, exclusive of travel allowance, paid by the state for 1 year of service as a legislator. A member shall contribute to the retirement system based on the percentage applied to that salary.

(2) For purposes of section 23, salary also includes an additional 2% through December 30, 1986, and 4% beginning December 31, 1986, compounded annually and added for each year or major portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year. This subsection only applies to a member who first becomes a member on or before January 1, 1995, and whose service terminates on or after December 1, 1978.

(3) For purposes of section 23, for a member who left service before December 1, 1978, salary also includes an additional 2% for each year beginning January 1, 1979 through December 30, 1986 and 4% beginning December 31, 1986, compounded annually and added for each year or major portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year.

(4) For purposes of section 23, salary also includes an amount equal to the greatest amount of additional compensation received in 1 calendar year as a result of being in a leadership position, divided by 5, and then multiplied by the number of years or major portion of a year, not to exceed 8, in which the member was in a leadership position and received additional compensation. Before a member who first becomes a member on or before January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 9% of the total additional compensation received. Before a member who first becomes a member after January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 7% of the total additional compensation received.

Sec. 11. (1) "Service" means the period beginning on January 1 of the year in which the member took office or on the date of the oath of office in the case of a special election, and ending on December 31 of the term to which the member was elected; on the date of termination of service; or the date of death in office, whichever occurs first. Legislative service used to qualify for and receive a retirement allowance under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, shall not be credited as service for the purpose of this act. A member who qualifies under section 6(b) or (c) may choose to have service credited under this act if the service would otherwise have qualified as service under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, or if the service was to the state before 1943.

(2) A member who has satisfied the requirements of section 23(1)(a) and who was drafted, enlisted, inducted, or commissioned into active duty with the armed forces of the United States government may elect to receive service credit for not more than 2 years of active duty upon proof of the service having been rendered and upon request and payment to the retirement system of an amount equal to 5% of the member's salary for the calendar year in which payment is made multiplied by the years including any fraction of a year of service that the member elects to purchase up to the maximum. A deferred vested member or retirant who has satisfied the requirements of section 23(1)(a) and who was drafted, enlisted, inducted, or commissioned into active duty with the armed forces of the United States may elect to receive service credit for not more than 2 years of active duty upon proof of the service having been rendered. A deferred vested member or retirant who is electing military service credit under this subsection shall pay an amount equal to 5% of the salary of a member who is serving at the time payment is made multiplied by the number of years including any fraction of a year of service for which the deferred vested member elects to receive credit. Service shall not be credited under this subsection if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction shall not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve.

(3) Membership in the retirement system created under this act shall not disqualify an employee of a political subdivision of this state from membership in a pension or retirement system established in the political subdivision of this state by reason of the compensation the employee receives from the political subdivision. Membership in the retirement system created under this act shall not affect the benefits to which a member, deferred vested member, retirant, or beneficiary may be entitled under the retirement system established in the political subdivision.

Sec. 17b. "Leadership position" means a position held by a member of the legislature who, in addition to salary common to all legislators, receives supplemental salary attributable to holding that position as determined by the state officers compensation commission under section 12 of article IV of the state constitution of 1963 and 1968 PA 357, MCL 15.211 to 15.218.

Sec. 21. (1) The members' savings fund is created in the retirement system. The retirement system shall accumulate in the members' savings fund the contributions made by members toward the financing of their retirement allowances, shall make transfers of those contributions from the members' savings fund to the members' retirement fund, and shall make refunds of contributions from the members' savings fund as provided in this act. Except as otherwise provided in this subsection, a member who first becomes a member on or before January 1, 1995, shall make contributions to the members' savings fund of 7% of each payment of salary received by the member for service as a member, but not for a period exceeding 20 years. Except as otherwise provided in this subsection, a member who first becomes a member after January 1, 1995, shall make contributions to the members' savings fund of 5% of each payment of salary received by the member for services as a member. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(2) During the period beginning on January 1, 1999 and ending on December 31, 2000, a member who first became a member after December 1, 1994 and on or before January 1, 1995, shall make additional member contributions to the members' savings fund of 4% of each payment of salary received by the member for services as a member.

(3) The member contributions required by this section shall be made by payroll deductions. Each member is considered to consent and agree to the payroll deductions as a condition of membership in the retirement system.

(4) Upon the retirement of a member, his or her accumulated contributions shall be transferred to the members' retirement fund. Upon the death of a member, if a survivor's retirement allowance becomes payable on account of the member's death, his or her accumulated contributions shall be transferred to the survivors' retirement fund.

Sec. 21a. The state shall pick up the member contributions required by sections 21, 22, 22c, and 50a for all compensation earned after December 31, 1986. Contributions picked up shall be treated as employer contributions in determining tax treatment under the internal revenue code. The state shall pay these member contributions from the same source of funds that is used in paying compensation to the member. The state may pick up these contributions by a reduction in the cash salary of the member. Member contributions picked up shall be treated for all other purposes in the same manner and to the same extent as member contributions made before the date picked up.

Sec. 22. (1) The survivors' retirement fund is created in the retirement system. The retirement system shall accumulate in the survivors' retirement fund reserves for the payment of retirement allowances to survivors. The retirement system shall pay the survivor retirement allowances from the survivors' retirement fund. Except as otherwise provided in this subsection, each member shall make contributions to the survivors' retirement fund of 0.5% of each payment of salary received that is attributable to service performed on and after January 1, 1995. A member shall not make contributions to the survivors' retirement fund for more than 20 years. The contributions shall be made by payroll deductions and each member is considered to consent and agree to the deductions as a condition of membership in the retirement system. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(2) The board shall adopt mortality and other experience tables and the prescribed rate of interest. Upon the basis of those tables and the interest rate, the actuary shall compute annually the retirement reserves for retirement allowances being paid survivors, and to be paid survivors upon the deaths of members, deferred vested members, and retirants, as provided in this act. It is the intention of this act that the retirement reserves shall be financed by appropriations made by this state, determined pursuant to subsections (3), (4), and (5).

(3) The state's appropriation for survivors' retirement allowances to be paid upon the death of members, deferred vested members, and retirants shall be an amount that will provide the net reserves, after allowing for members' contributions to the survivors' retirement fund and transfers to be made to the fund from the members' savings fund, or other available funds for retirement allowances to be paid to survivors of members, deferred vested members, and retirants who will probably die during the next ensuing fiscal year.

(4) The state's appropriation for survivors' retirement allowances to be paid upon the death of retirants shall be an amount determined pursuant to the financing methods provided for in section 20(2) and (3).

(5) The state's appropriation for survivors' retirement allowances being paid from the survivors' retirement fund shall be an amount that if paid annually over a period of years to be determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

Sec. 22c. (1) The health insurance fund is created in the retirement system. The retirement system shall deposit into the health insurance fund the member contributions for health benefits required by this section, subscriber co-payments, payments under section 79, and state appropriations. The retirement system shall disburse from the health insurance fund the premiums or portion of the premiums for dental, hospital, and medical coverage insurance as required by sections 50b and 79.

(2) Except as otherwise provided in this subsection, a member shall make contributions to the health insurance fund of 1% of each payment of salary received that is attributable to service performed on and after January 1, 1995. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 on or before January 1, 1995 shall make contributions to the health insurance fund of 9% of each payment of salary received by the member for service as a member. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 after January 1, 1995 shall make contributions to the health insurance fund of 7% of each payment of salary received by the member for service as a member. The increased contributions required under this subsection by the amendatory act that added section 36a will continue unless suspended by the board under section 36a. The contributions shall be made by payroll deductions and each member is considered to consent to the deductions as a condition of membership in the retirement system.

Sec. 23. (1) A member or deferred vested member who meets the following requirements shall be entitled to a retirement allowance:

(a) The member or deferred vested member qualifies under 1 of the following:

(i) Has not less than 8 years of service.

(ii) Has not less than 6 years of service, and has been elected, qualified, and seated not less than 4 times for full or partial terms if a member of the house or not less than 2 times if a member of the senate elected after November 7, 1966, or has not less than 6 years of service and has been elected, qualified, and seated not less than 2 times for full or partial terms as a member of the house and not less than 1 time as a member of the senate elected after November 7, 1966.

(iii) Effective January 1, 1987, has not less than 5 years of service and has been elected, qualified, and seated for a full or partial term not less than 3 times if a member of the house or not less than 2 times if a member of the senate, or not less than 1 time as a member of the house and not less than 1 time as a member of the senate.

(b) The member or deferred vested member has attained 55 years of age.

(c) The member or deferred vested member has filed with the board a written application for a retirement allowance that states the years of service, the highest salary received during the member's or deferred vested member's service before application, and the date the member or deferred vested member desires to be retired, which date shall be not more than 90 days after the execution and filing of the application.

(2) A member shall not be entitled to receive a retirement allowance provided for in this section or section 23d while serving as a legislator or lieutenant governor. Each person receiving benefits under this act consents and agrees as a condition of receiving the benefits that benefits of any nature shall not be paid while the person is a legislator or lieutenant governor.

(3) A deferred vested member who left service after December 31, 1974, and before January 1, 1979, and who becomes a retirant shall be entitled to an annual retirement allowance of 30% of the salary stated in the application for the first 8 years of service plus 3.75% for each of the next 8 years of service. A fraction of a year of service in excess of 8 years shall be prorated. If the retirant has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 30% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 60% of the salary stated in the application.

(4) A member who retired after December 31, 1978 and before January 1, 1987, or a deferred vested member who left service after December 31, 1978 and before January 1, 1987, and becomes a retirant, shall be entitled to an annual retirement allowance of 32% of the salary stated in his or her application for the first 8 years of service plus 4% for each of the next 8 years of service. A fraction of a year of service in excess of 8 years shall be prorated. If the member or deferred vested member has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 32% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application.

(5) A member who first becomes a member on or before January 1, 1995 and who retires after December 31, 1986, or a deferred vested member who first becomes a member on or before January 1, 1995, who leaves service after December 31, 1986, and who becomes a retirant, shall be entitled to an annual retirement allowance of 20% of the salary stated in his or her application for the first 5 years of service plus 4% for each of the next 11 years of service. A fraction of a year of service in excess of 5 years shall be prorated. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application. Effective January 1, 1987, however, a member who first becomes a member on or before January 1, 1995 and who has 16 or more years of service shall also be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 16 years but, except as otherwise provided in this subsection, not to exceed 20 years. Except as provided in this subsection and section 23c, the retirement allowance of a member entitled to a longevity allowance under this subsection shall not exceed 68% of the salary stated in the application. Beginning January 1, 1989, a member who first becomes a member on or before January 1, 1995, who has 20 or more years of service, and who meets the age and service requirements or service requirements to be eligible to receive a retirement allowance under this act shall be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 20 years.

(6) A member who first becomes a member on or after January 2, 1995 and who becomes a retirant under this act is entitled to an annual retirement allowance equal to the product of the following:

- (a) The salary stated in his or her application.
- (b) Years and fraction of a year of service.
- (c) Three percent.

(7) A retirant who elects to purchase military service credit pursuant to section 11(2) shall have his or her retirement allowance recalculated to include the military service credit purchased pursuant to that section. The first payment of the recalculated retirement allowance shall be made effective with the first check after the recalculation is made.

(8) The retirement allowance of a retirant who, on January 1, 1987, satisfied the conditions required by section 9(3) shall have his or her retirement allowance recalculated to reflect the increase in salary for those years permitted by section 9(3) before the member became a retirant.

(9) Within 30 days after becoming 55 years of age, a deferred vested member may elect to defer receipt of the retirement allowance to which the member is entitled under this act to a date certain, not to exceed 70-1/2 years of age. Except as otherwise provided in this subsection, at the date the member designates to begin receipt of his or her retirement allowance, the member's retirement allowance shall be actuarially recomputed to reflect the member's age and life expectancy at initial receipt of the deferred retirement allowance. Upon request of the deferred vested member who elects to begin receiving his or her retirement allowance, the retirement board may pay to the member a lump sum payment of an amount equal to the sum of the retirement allowance that was deferred pursuant to this subsection. The retirement board shall not actuarially recompute the member's retirement allowance upon payment of a lump sum under this subsection.

(10) Notwithstanding subsection (1), a member or deferred vested member may retire with a retirement allowance computed according to the applicable provisions of this section if all of the following apply:

(a) The member or deferred vested member files a written application with the retirement board stating a date, not less than 30 nor more than 90 days after the execution and filing of the application, on which the member or deferred vested member desires to retire.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's or deferred vested member's combined age and length of credited service is equal to or greater than 70 years and the member or deferred vested member is 50 years of age or older.

(11) A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance if the retirant or deferred vested member has more than 16 years of service. The longevity allowance is 1.0% of the former member's salary stated in the application for each year of service beyond 16 years but, except as otherwise provided in this subsection, not to exceed 20. A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance of 1.0% of the former member's salary stated in the application for each year of service beyond 20 years that was served after the member met the age and service requirements or service requirements to be eligible to receive a retirement allowance under this act. The retirement allowance of a retirant who satisfies the conditions under this subsection shall have his or her retirement allowance recalculated to reflect the longevity allowance for those years permitted by this subsection effective January 1, 1987 or the date of retirement, whichever is later. The application of the longevity allowance to the retirant's retirement allowance under this subsection shall be applied before the provisions of section 23c are applied to that retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 68% of the salary stated in the application.

Sec. 23c. (1) After December 31, 1986, on January 1 of each year a retirement allowance attributable to a member who first becomes a member on or before January 1, 1995, shall be increased 4% compounded annually.

(2) Beginning January 1, 1995, each retirement allowance attributable to a member who first becomes a member after January 1, 1995, shall be increased each January 1. The amount of the annual increase shall be equal to 4% of the retirement allowance payable as of the retirement allowance effective date.

(3) A retirement allowance that begins after January 1 of the immediately preceding calendar year shall be increased under this section on a pro rata basis by the applicable percentage amount from the time the retirement allowance begins to the date of the increase.

Sec. 23d. (1) A member who is not entitled to a retirement allowance under section 23 or a deferred vested member may receive a retirement allowance if the board has received a certification by not less than 2 licensed physicians appointed by the board stating that the member or deferred vested member is disabled from engaging in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death, or can be expected to last for a continuous period of 12 months or more.

(2) A member or deferred vested member who is determined eligible to receive a retirement allowance under subsection (1) shall receive the retirement allowance applicable to that member or deferred vested member provided for in section 24(4), (5), or (6).

(3) A member who is currently receiving compensation as a legislator or lieutenant governor shall not receive a retirement allowance under this section.

(4) The board may provide for the examination by 1 or more licensed physicians designated by the board at least once a year of a person who is receiving a retirement allowance under this section during the continuance of the disability. The board shall not provide for an examination after the member attains 55 years of age.

Sec. 26. (1) Beginning January 1, 1999, the retirement system shall be administered by a board of trustees, consisting of 11 persons as follows:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed in the same manner as members of standing committees of the senate are appointed.

(c) Two retirants appointed by the speaker of the house of representatives and 2 retirants appointed by the senate majority leader.

(d) One deferred vested member appointed by the speaker of the house of representatives and 1 deferred vested member appointed by the senate majority leader.

(e) One participant of Tier 2 who was a former member of Tier 1 appointed in 1999 by the senate majority leader and beginning in 2001 appointed alternately by the speaker of the house of representatives and the senate majority

leader. However, if there is no participant of Tier 2 who meets the former member requirement of this subdivision, then 1 additional deferred vested member appointed in the manner prescribed in this subdivision.

(2) Only members of the retirement system are eligible to serve as members on the board of trustees except for the retirants and Tier 2 participant authorized under subsection (1). Board members appointed under subsection (1)(a) and (b) are appointed for 2-year terms. Board members appointed under subsection (1)(c) are appointed for 4-year terms. Board members appointed for terms beginning in 1999 under subsection (1)(d) are appointed for 2-year terms. Board members appointed for terms beginning in 2001 under subsection (1)(d) are appointed for 4-year terms. A board member appointed for a term beginning in 1999 under subsection (1)(e) is appointed for a 2-year term. Beginning in 2001, a board member appointed under subsection (1)(e) is appointed for a 4-year term. For terms beginning on or after January 1, 1999, board members appointed under subsection (1)(c), (d), or (e) shall not serve as a board member under those subdivisions for a combined total of more than 8 years.

(3) Each person, whether appointed as a trustee or becoming a trustee ex officio, shall take an oath of office before the secretary of state, clerk of the house, or secretary of the senate, and, upon taking the oath, qualifies as a trustee. The oath of office shall be as prescribed under section 1 of article XI of the state constitution of 1963.

Sec. 36a. If the actuary determines in his or her annual valuation of the system that the system is less than 100% funded, the retirement board may reinstate the member contributions that were suspended in sections 21, 22, and 50a and reduce the member contributions that were increased in section 22c.

Sec. 50a. (1) The grants and insurance revolving fund is created in the state treasury as a separate fund, into which shall be paid legislative grants, earnings from the fund, payments by or on behalf of members, and revenue from other sources accepted by the board. Money appropriated to the grants and insurance revolving fund shall not revert to the general fund at the close of the fiscal year but shall remain in the grants and insurance revolving fund. The legislative grants in the grants and insurance revolving fund shall not be expended except upon express direction of the legislature; but all other money in the grants and insurance revolving fund may be expended for the purposes and in the manner provided in this section.

(2) Except as otherwise provided in this subsection, beginning with salary received that is attributable to service performed on and after January 1, 1995, each legislator or member shall pay a sum equal to 0.5% of salary to the grants and insurance revolving fund to be eligible for the benefits provided in this section. The sum shall be collected by payroll deductions in the manner prescribed in this act. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(3) The board shall self-insure or shall purchase and pay the premiums on a life insurance policy or policies to provide life insurance death or other benefits for retirants, deferred vested members, and the spouses, eligible children, or eligible beneficiaries of retirants and deferred vested members from the amounts paid pursuant to subsection (2) for this purpose to the grants and insurance revolving fund. Life insurance benefits provided on June 23, 1987 shall not be diminished due to the amendments to this section by 1987 PA 58.

Sec. 50b. (1) For a retirant or a survivor or beneficiary of a deceased retirant, or for a deferred vested member if that deferred vested member first became a member on or before January 1, 1995, the retirement system shall purchase and pay the premium for hospitalization and medical insurance coverage and dental and vision coverage for the retirant, deferred vested member, and the spouses, eligible children, and survivors of those retirants and deferred vested members. Except as otherwise provided in this section, the retirement system shall provide hospitalization and medical insurance coverage and dental and vision insurance coverage under this section at a level that is equal to or greater than the level of insurance coverage under this section in effect on December 1, 1992. The retirement board may increase the amounts each person who is enrolled in insurance coverage under this section is required to pay for co-pays or deductibles under that insurance coverage.

(2) On and after March 31, 1997, the retirement system shall also pay health insurance premiums described in this section in the manner prescribed in section 79.

Sec. 58a. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall correct the error, and as far as practicable, shall adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, or refund beneficiary was entitled. An adjustment in benefits shall not be made for an error totaling \$10.00 or less annually and the amount shall be debited or credited to the members' retirement fund.

Sec. 75. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

- (a) Upon completion of 2 years of service, 50%.
- (b) Upon completion of 3 years of service, 75%.
- (c) Upon completion of 4 years of service, 100%.

(2) A qualified participant is vested in the health insurance coverage provided in section 79 if the qualified participant meets 1 of the following requirements:

(a) The qualified participant has completed 6 years of service as a qualified participant and was not a member, deferred vested member, or former nonvested member of Tier 1.

(b) The qualified participant was a member, deferred vested member, or former nonvested member of Tier 1 who made an election to participate in Tier 2 pursuant to section 61, and who has met the service requirements he or she would have been required to meet in order to vest in health benefits under section 50b.

(c) The qualified participant meets all of the following requirements:

(i) Was not a member, deferred vested member, or former nonvested member of Tier 1.

(ii) Was first elected to fill a vacancy in the house of representatives for a period less than the full term but more than 1/2 of the term of office.

(iii) Has completed 5 years of service as a qualified participant.

Sec. 79. (1) A former qualified participant may elect health insurance benefits in the manner prescribed in this section if he or she meets both of the following requirements:

(a) The former qualified participant is vested in health benefits under section 75(2).

(b) The former qualified participant meets 1 of the following requirements:

(i) He or she meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 62 and the service requirements that would have applied to that former participant under Tier 1 for receiving health insurance coverage under section 50b, if that former participant was a member of Tier 1.

(ii) He or she is 55 years of age or older.

(2) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in a health benefit plan or plans as authorized by section 50b, or in another plan as provided in subsection (6). A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may also elect health insurance coverage for his or her health benefit dependents, if any. A surviving health benefit dependent of a deceased former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in the manner prescribed in this section.

(3) Except as otherwise provided in subsection (6), an individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 50b.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 75(2)(a) or (c), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be 90% of the payments for health insurance coverage under section 50b. If the individual elects the health insurance coverage provided under section 50b, this state shall transfer its portion of the amount calculated under this subsection to the health insurance fund created by section 22c.

(5) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 75(2)(b), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be equal to the premium amounts paid on behalf of retirants of Tier 1 for health insurance coverage under section 50b. If the individual elects the health insurance coverage provided under section 50b, the state shall transfer its portion of the amount calculated under this subsection to the health insurance fund created by section 22c.

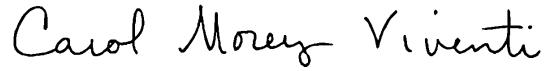
(6) A former qualified participant or health benefit dependent who is eligible to elect health insurance coverage under this section and who elects health insurance coverage under a different plan than the plan authorized under section 50b may elect to have an amount up to the amount of the retirement system's share of the monthly health insurance premium subsidy provided in this section paid by the retirement system directly to the other health insurance plan or to a medical savings account established pursuant to section 220 of the Internal Revenue Code, to the extent allowed by law or under the provisions and procedures of Tier 2.

(7) If the department of management and budget receives notification from the United States internal revenue service that this section or any portion of this section 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.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.