

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5109

A bill to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; and to prescribe penalties and provide remedies." by amending the title and sections 1b, 1d, 5, 11, 13, 19, 20, 20d, 21, 24, 31, 33, 38, 40, 45, 46, 48, 49, 52, and 69 (MCL 38.1b, 38.1d, 38.5, 38.11, 38.13, 38.19, 38.20, 38.20d, 38.21, 38.24, 38.31, 38.33, 38.38, 38.40, 38.45, 38.46, 38.48, 38.49, 38.52, and 38.69), the title and sections 11 and 13 as amended and sections 52 and 69 as added by 1996 PA 487, section 1b as amended by 1996 PA 33, sections 1d and 49 as added by 1995 PA 176, sections 19 and 31 as amended by 1998 PA 205, section 20 as amended by 1996 PA 521, section 20d as amended by 1996 PA 532, section 38 as amended by 1996 PA 279, section 40 as amended by 1991 PA 48, section 45 as amended by 1988 PA 351, and section 48 as added by 1990 PA 110, and by adding sections 19g and 68a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for a state employees' retirement system;
to create a state employees' retirement board and prescribe its
powers and duties; to establish certain funds in connection with
the retirement system; to require contributions to the retirement
system by and on behalf of members and participants of the
retirement system; to create certain accounts and provide for

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1 expenditures from those accounts; to prescribe the powers and
2 duties of certain state and local officers and employees and cer-
3 tain state departments and agencies; TO PRESCRIBE AND MAKE APPRO-
4 PRIATIONS FOR THE RETIREMENT SYSTEM; and to prescribe penalties
5 and provide remedies.

6 Sec. 31. (1) Except as provided in subsection (6), before
7 the effective date of retirement, but not after the effective
8 date of retirement, a member or deferred member who is eligible
9 for retirement, as provided in this act, shall elect to receive
10 his or her benefit in a retirement allowance payable throughout
11 life, which shall be called a regular retirement allowance, or to
12 receive the actuarial equivalent at that time of his or her regu-
13 lar retirement allowance in a reduced retirement allowance pay-
14 able throughout the lives of the retirant and a retirement allow-
15 ance beneficiary, pursuant to 1 of the following payment
16 options:

17 (a) Option A. Upon the retirant's death, his or her reduced
18 retirement allowance shall be continued throughout the life of
19 and paid to the retirement allowance beneficiary whom the member
20 nominated by written designation ~~duly~~ executed and filed with
21 the retirement board before the effective date of his or her
22 retirement.

23 (b) Option B. Upon the retirant's death, 1/2 of his or her
24 reduced retirement allowance shall be continued throughout the
25 life of and paid to the retirement allowance beneficiary whom the
26 member nominated by written designation ~~duly~~ executed and filed

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1 with the retirement board before the effective date of his or her
2 retirement.

3 (c) Option C. On and after January 1, 2000, upon the
4 retirant's death, 3/4 of his or her reduced retirement allowance
5 shall be continued throughout the life of and paid to the retire-
6 ment allowance beneficiary whom the member nominated by written
7 designation ~~duly~~ executed and filed with the retirement board
8 before the effective date of his or her retirement.

9 (2) Except as provided in subsections (3) and (8), the elec-
10 tion of a payment option under subsection (1) shall not be
11 changed on or after the effective date of the retirement
12 allowance. A retirement allowance beneficiary designated under
13 this section shall not be changed on or after the effective date
14 of the retirement allowance, and shall be either a spouse, broth-
15 er, sister, parent, child, including an adopted child, or grand-
16 child of the person making the designation. Payment to a retire-
17 ment allowance beneficiary shall begin on the first day of the
18 month following the death of the retirant or member.

19 (3) If the retirement allowance beneficiary named under a
20 payment option under subsection (1) predeceases the retirant, the
21 retirant's benefit shall revert to the regular retirement allow-
22 ance, effective with the first day of the month following the
23 retirement allowance beneficiary's death. For a retirant whose
24 effective date of retirement was on or before June 28, 1976, this
25 subsection shall apply, but the regular retirement allowance is
26 not payable for any month beginning before the later of the
27 retirement allowance beneficiary's death or January 1, 1986. A

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1 retirant who on January 1, 1986 is receiving a reduced retirement
2 allowance because the retirant designated a retirement allowance
3 beneficiary and the retirement allowance beneficiary predeceased
4 the retirant is eligible to receive the regular retirement allow-
5 ance beginning January 1, 1986, but the regular retirement allow-
6 ance is not payable for any month beginning before January 1,
7 1986.

8 (4) A member who continues in the employ of this state on
9 and after the date he or she acquires 10 years of service credit
10 or becomes eligible for deferred retirement as provided by sec-
11 tion 20(4) or (5), whichever occurs first, may by written decla-
12 ration ~~duly~~ executed and filed with the retirement board elect
13 option A, provided for in subsection (1)(a), and nominate a
14 retirement allowance beneficiary in the same manner as if the
15 member were then retiring from service, notwithstanding that the
16 member may not have attained 60 years of age. If the
17 beneficiary's death or divorce from the member occurs before the
18 effective date of the member's retirement, the member's election
19 of option A and nomination of retirement allowance beneficiary
20 shall be automatically revoked and the member may again elect
21 option A and nominate a retirement allowance beneficiary at any
22 time before the effective date of retirement. If a member who
23 has made an election and nominated a retirement allowance benefi-
24 ciary as provided in this subsection dies before the effective
25 date of his or her retirement, then the retirement allowance ben-
26 eficiary shall immediately receive the retirement allowance that
27 he or she would have been entitled to receive under option A if

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1 the member had been regularly retired on the date of the member's
2 death. Except as otherwise provided by subsection (5), if a
3 member who has made an election under this subsection subse-
4 quently retires under this act, his or her election of option A
5 shall take effect at the time of retirement. Subject to the
6 requirements of subsection (5), the member, before the effective
7 date of retirement, but not after the effective date of retire-
8 ment, may revoke his or her previous election of option A and
9 elect to receive his or her retirement allowance as a regular
10 retirement allowance or under option B or C as provided for in
11 subsection (1). A retirement allowance shall not be paid under
12 this subsection on account of the death of a member if any bene-
13 fits are paid under section 27 on account of his or her death.
14 If a deferred member who has an option A election in effect dies
15 before the effective date of his or her retirement, the retire-
16 ment allowance payable under option A shall be paid to the
17 retirement allowance beneficiary at the time the deceased
18 deferred member otherwise would have been eligible to begin
19 receiving benefits.

20 (5) If a member, deferred member, retiring member, or retir-
21 ing deferred member is married at the effective date of the
22 retirement allowance, an election under this section, other than
23 an election of a payment option under subsection (1) naming the
24 spouse as retirement allowance beneficiary, shall not be effec-
25 tive unless the election is signed by the spouse. However, this
26 requirement may be waived by the retirement board if the
27 signature of a spouse cannot be obtained because of extenuating

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1 circumstances. As used in this subsection, "spouse" means the
2 person to whom the member, deferred member, retiring member, or
3 retiring deferred member is married at the effective date of the
4 retirement allowance.

5 (6) Until July 1, 1991, upon request in a form as determined
6 by the retirement board, a nonduty disability retirant who
7 retired under section 24 may change his or her election to
8 receive a disability retirement allowance computed as a regular
9 retirement allowance and elect to receive the actuarial equiva-
10 lent at the time of the election pursuant to this subsection of
11 his or her disability retirement allowance in a reduced retire-
12 ment allowance payable to the retirant and the retirant's spouse
13 pursuant to the provisions of a payment option as provided in
14 subsection (1), if the disability retirement allowance effective
15 date was before November 12, 1985 and the retirant had 25 or more
16 years of credited service on the disability retirement allowance
17 effective date. The nonduty disability retirant shall begin to
18 receive the reduced retirement allowance under this subsection
19 effective the first day of the month following the month in which
20 the retirant makes the election pursuant to this subsection. As
21 used in this subsection, "spouse" means the person to whom the
22 nonduty disability retirant was married on the effective date of
23 his or her disability retirement allowance and on the date the
24 retirant makes the election pursuant to this subsection.

25 (7) If a member who continues in the employ of this state on
26 and after the date he or she acquires 10 years of service credit,
27 or on and after the date he or she becomes eligible for deferred

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1 retirement as provided by section 20(4) or (5), whichever occurs
2 first, and who does not have an election of option A in force as
3 provided in subsection (4), dies before the effective date of
4 retirement and leaves a surviving spouse, the spouse shall
5 receive a retirement allowance computed in the same manner as if
6 the member had retired effective the day before the date of his
7 or her death, elected option A, and nominated the spouse as
8 retirement allowance beneficiary. When the retirement allowance
9 beneficiary dies, his or her retirement allowance shall
10 terminate. If the aggregate amount of retirement allowance pay-
11 ments received by the beneficiary is less than the accumulated
12 contributions credited to the member's account in the employees'
13 savings fund at the time of the member's death, the difference
14 between the accumulated contributions and the aggregate amount of
15 retirement allowance payments received by the beneficiary shall
16 be transferred from the employer's accumulation fund or pension
17 reserve fund to the employees' savings fund and paid pursuant to
18 section 29. A retirement allowance shall not be paid under this
19 subsection on account of the death of a member if benefits are
20 paid under section 27 on account of his or her death. IF THE
21 OTHER REQUIREMENTS OF THIS SUBSECTION ARE MET BUT A SURVIVING
22 SPOUSE DOES NOT EXIST, EACH OF THE DECEASED MEMBER'S SURVIVING
23 CHILDREN LESS THAN 18 YEARS OF AGE SHALL RECEIVE AN ALLOWANCE OF
24 AN EQUAL SHARE OF THE RETIREMENT ALLOWANCE THAT WOULD HAVE BEEN
25 PAID TO THE SPOUSE IF LIVING AT THE TIME OF THE DECEASED MEMBER'S
26 DEATH. PAYMENTS UNDER THIS SUBSECTION SHALL CEASE UPON THE

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1 SURVIVING CHILD'S MARRIAGE, ADOPTION, OR BECOMING 18 YEARS OF
2 AGE, WHICH OCCURS FIRST.

3 (8) If a retirant receiving a reduced retirement allowance
4 under a payment option under subsection (1) is divorced from the
5 spouse who had been designated as the retirant's retirement
6 allowance beneficiary under the option, the election of the pay-
7 ment option shall be considered void by the retirement system if
8 the judgment of divorce or award or order of the court, or an
9 amended judgment of divorce or award or order of the court,
10 described in ~~section 40~~ THE PUBLIC EMPLOYEE RETIREMENT BENEFIT
11 PROTECTION ACT and dated after June 27, 1991 provides that the
12 election of the payment option under subsection (1) is to be con-
13 sidered void by the retirement system and the retirant provides a
14 certified copy of the judgment of divorce or award or order of
15 the court, or an amended judgment of divorce or award or order of
16 the court, to the retirement system. If the election of a pay-
17 ment option under subsection (1) is considered void by the
18 retirement system under this subsection, the retirant's retire-
19 ment allowance shall revert to a regular retirement allowance,
20 including postretirement adjustments, if any, subject to an award
21 or order of the court as described in ~~section 40~~ THE PUBLIC
22 EMPLOYEE RETIREMENT BENEFIT PROTECTION ACT. The retirement
23 allowance shall revert to a regular retirement allowance under
24 this subsection effective the first of the month after the date
25 the retirement system receives a certified copy of the judgment
26 of divorce or award or order of the court. This subsection does
27 not supersede a judgment of divorce or award or order of the

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1 court in effect on June 27, 1991. This subsection does not
2 require the retirement system to distribute or pay retirement
3 assets on behalf of a retirant in an amount that exceeds the
4 actuarially determined amount that would otherwise become payable
5 if a judgment of divorce had not been rendered.

6 ~~(9) A retirement allowance payable under a payment option
7 provided in this section is subject to an eligible domestic rela-
8 tions order under the eligible domestic relations order act, 1991
9 PA 46, MCL 38.1701 to 38.1711.~~

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18 Sec. 40. ~~-(1)-~~ The right of a person to a pension, an annu-
19 ity, a retirement allowance, any optional benefit, any other
20 right accrued or accruing to any person under the provisions of
21 this act, the various funds created by this act, and all money
22 and investments and income of the funds, are exempt from any
23 state, county, municipal, or other local tax. ~~—, and shall not be~~
24 ~~subject to execution, garnishment, attachment, the operation of~~
25 ~~bankruptcy or insolvency laws, or other process of law, and shall~~
26 ~~be unassignable except as otherwise provided in this act.~~ THE
27 RIGHT OF A PERSON TO A PENSION, AN ANNUITY, A RETIREMENT

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1 ALLOWANCE, ANY OPTIONAL BENEFIT, ANY OTHER RIGHT ACCRUED OR
2 ACCRUING TO ANY PERSON UNDER THE PROVISIONS OF THIS ACT, THE VAR-
3 IOUS FUNDS CREATED BY THIS ACT, AND ALL MONEY AND INVESTMENTS AND
4 INCOME OF THE FUNDS IS SUBJECT TO THE PUBLIC EMPLOYEE RETIREMENT
5 BENEFIT PROTECTION ACT.

6 ~~(2) The right of a member, member on deferred retirement~~
7 ~~status under section 20(4), or retirant to a pension, an annuity,~~
8 ~~a retirement allowance, any optional benefit, accumulated contri-~~
9 ~~butions, or any other benefit under the provisions of this act~~
10 ~~shall be subject to award by a court pursuant to section 18 of~~
11 ~~chapter 84 of the Revised Statutes of 1846, being section 552.18~~
12 ~~of the Michigan Compiled Laws, and to any other order of a court~~
13 ~~pertaining to alimony or child support. The right of a member,~~
14 ~~deferred member, or retirant to a pension, an annuity, a retire-~~
15 ~~ment allowance, or an optional benefit under this act is subject~~
16 ~~to an eligible domestic relations order under the eligible domes-~~
17 ~~tic relations order act.~~

18 ~~(3) If an award or order described in subsection (2)~~
19 ~~requires the retirement system to withhold payment of a pension,~~
20 ~~deferred pension, accumulated contributions, or other benefit~~
21 ~~from the person to whom it is due or requires the retirement~~
22 ~~system to make payment or requires the person to request that the~~
23 ~~retirement system make payment of a pension, deferred pension,~~
24 ~~accumulated contributions, or other benefit, for the purpose of~~
25 ~~meeting the person's obligations to a spouse, former spouse or~~
26 ~~child, as provided in subsection (2), the withholding or payment~~
27 ~~provisions of the award or order shall be effective only against~~

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1 ~~such amounts as they become payable to the person receiving a~~
2 ~~retirement allowance unless otherwise provided in an eligible~~
3 ~~domestic relations order under the eligible domestic relations~~
4 ~~order act. The limitation contained in this subsection shall not~~
5 ~~apply to the accumulated contributions of a person who has termi-~~
6 ~~nated employment before acquiring a vested member status.~~

7 SEC. 68A. IN ADDITION TO THE AMOUNT APPROPRIATED IN PART 1
8 OF 2001 PA 83 FOR RETIREMENT SERVICES, THERE IS APPROPRIATED FOR
9 THE FISCAL YEAR ENDING SEPTEMBER 30, 2002, \$2,100,000.00 IN PEN-
10 SION TRUST FUNDS TO THE DEPARTMENT OF MANAGEMENT AND BUDGET,
11 RETIREMENT SERVICES, FOR ADMINISTRATION OF THE CHANGES CREATED BY
12 HOUSE BILL NO. 5732 OF THE 91ST LEGISLATURE. THE UNEXPENDED POR-
13 TION OF THIS APPROPRIATION IS CONSIDERED A WORK PROJECT
14 APPROPRIATION. THE PROJECT WILL BE ACCOMPLISHED BY THE USE OF
15 DEPARTMENT PERSONNEL AND CONTRACTING WITH PRIVATE CONSULTANTS
16 WITH AN ESTIMATED COMPLETION DATE OF SEPTEMBER 30, 2003.

17 Sec. 69. (1) Distributions from employer contributions made
18 pursuant to section 63(2) and (3) and earnings on those employer
19 contributions, and distributions from employee contributions made
20 pursuant to section 63(3) and earnings on those employee contri-
21 butions, are exempt from any state, county, municipal, or other
22 local tax. ~~, and shall not be subject to execution, garnishment,~~
23 ~~attachment, the operation of bankruptcy or insolvency laws, or~~
24 ~~other process of law, and shall be unassignable except as other-~~
25 ~~wise provided in this act.~~ DISTRIBUTIONS FROM EMPLOYER CONTRIBU-
26 TIONS MADE PURSUANT TO SECTION 63(2) AND (3) AND EARNINGS ON
27 THOSE EMPLOYER CONTRIBUTIONS AND DISTRIBUTIONS FROM EMPLOYEE

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1 CONTRIBUTIONS MADE PURSUANT TO SECTION 63(3) AND EARNINGS ON
2 THOSE EMPLOYEE CONTRIBUTIONS ARE SUBJECT TO THE PUBLIC EMPLOYEE
3 RETIREMENT BENEFIT PROTECTION ACT.

4 ~~(2) The right of a qualified participant or a former quali-~~
5 ~~fied participant, or his or her beneficiaries, to a distribution~~
6 ~~described in subsection (1) is subject to forfeiture pursuant to~~
7 ~~the public employee retirement benefits forfeiture act, Act~~
8 ~~No. 350 of the Public Acts of 1994, being sections 38.2701 to~~
9 ~~38.2705 of the Michigan Compiled Laws.~~

10 ~~(3) The right of a qualified participant or former qualified~~
11 ~~participant to a distribution described in subsection (1) is~~
12 ~~subject to an award by a court pursuant to section 18 of chapter~~
13 ~~84 of the Revised Statutes of 1846, being section 552.18 of the~~
14 ~~Michigan Compiled Laws; an eligible domestic relations order~~
15 ~~under the eligible domestic relations order act, Act No. 46 of~~
16 ~~the Public Acts of 1991, being sections 38.1701 to 38.1711 of the~~
17 ~~Michigan Compiled Laws; and to any other domestic relations order~~
18 ~~of a court pertaining to alimony or child support.~~

19 ~~(4) If an award or order described in subsection (3)~~
20 ~~requires Tier 2 to withhold payment of a distribution described~~
21 ~~in subsection (1) or requires Tier 2 to make payment or requires~~
22 ~~the individual to request that Tier 2 make payment of a distribu-~~
23 ~~tion described in subsection (1), for the purpose of meeting the~~
24 ~~individual's obligations to a spouse, former spouse, or child, as~~
25 ~~provided in subsection (3), the withholding or payment provisions~~
26 ~~of the award or order are effective only against such amounts as~~
27 ~~they become due and payable to the individual receiving the~~

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1 ~~distribution, unless otherwise provided in an eligible domestic~~
2 ~~relations order under Act No. 46 of the Public Acts of 1991. The~~
3 ~~limitation contained in this subsection does not apply to the~~
4 ~~accumulated employee contributions of a former qualified partici-~~
5 ~~pant who has terminated employment before acquiring a vested~~
6 ~~status in Tier 2 pursuant to this act.~~

7 (2) ~~-(5)-~~ The state treasurer has the right of setoff to
8 recover overpayments made under this act and to satisfy any
9 claims arising from embezzlement or fraud committed by a quali-
10 fied participant, former qualified participant, refund beneficia-
11 ry, or other person who has a claim to a distribution or any
12 other benefit from Tier 2.

13 (3) ~~-(6)-~~ The state treasurer shall correct errors in the
14 records and actions in Tier 2 under this act, and shall seek to
15 recover overpayments and shall make up underpayments.

16 Enacting section 1. This amendatory act does not take
17 effect unless all of the following bills of the 91st Legislature
18 are enacted into law:

19 (a) House Bill No. 5108.

20 (b) House Bill No. 5732.