

HOUSE BILL No. 5835

April 9, 2002, Introduced by Reps. Schauer, Frank, Neumann, Adamini, Rich Brown, Vear, Bisbee, Thomas and Spade and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending sections 13 and 46 (MCL 38.13 and 38.46), section 13
as amended by 1996 PA 487, and by adding section 19g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) Except as otherwise provided in this act, mem-
2 bership in the retirement system consists of state employees
3 occupying permanent positions in the state civil service. All
4 state employees except those specifically excluded by law and
5 those who are members or eligible to be members of other statu-
6 tory retirement systems in this state, shall become members of
7 the retirement system. The employees may use service previously
8 performed as an employee of this state in meeting the service
9 requirements for the retirement allowances and death benefits
10 provided by the retirement system. However, the prior service

1 shall not be used in computing the amount of a retirement
2 allowance to be paid by the retirement system unless the employee
3 pays to the retirement system the amount the employee's contribu-
4 tions would have been had the employee become a member immedi-
5 ately upon employment by the state with interest compounded annu-
6 ally at the regular rate from a date 1 year after the date of
7 employment by this state to the date of payment. A person who
8 draws compensation as a state employee of a political subdivision
9 of this state is eligible for the benefits provided by this act
10 to the extent of the person's compensation paid by this state.
11 An individual who meets the requirements of section 44a is a
12 member of the retirement system.

13 (2) Elected or appointed state officials may elect not to
14 become or continue as members of the retirement system by filing
15 written notice with the retirement board. An appointed state
16 official who is a member of a state board, commission, or council
17 and who receives a per diem rate in his or her capacity as a
18 member of the board, commission, or council is excluded from mem-
19 bership in the retirement system for the service rendered in his
20 or her capacity as a member of the board, commission, or
21 council. Service performed by an elected or appointed official
22 during the time the official elects not to participate shall not
23 be used in meeting the service requirement or in computing the
24 amount of retirement allowance to be paid by the retirement
25 system. A member who elects not to participate shall be refunded
26 all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, ~~Act No. 300 of the Public Acts of 1980, being sections 38.1301 to 38.1408 of the Michigan Compiled Laws~~ 1980 PA 300, MCL 38.1301 TO 38.1408.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, ~~Act No. 234 of the Public Acts of 1992, being sections 38.2101 to 38.2608 of the Michigan Compiled Laws~~ 1992 PA 234, MCL 38.2101 TO 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, ~~Act No. 182 of the Public Acts of 1986, being sections 38.1601 to 38.1648 of the Michigan Compiled Laws~~ 1986 PA 182, MCL 38.1601 TO 38.1648.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) ~~An~~ EXCEPT AS PROVIDED IN SECTION 19G, AN individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

1 (4) A person who is hired in state classified or
2 unclassified service after June 30, 1974, who is first employed
3 and entered upon the payroll before March 31, 1997, and who pos-
4 sesses a Michigan teaching certificate shall be a member of this
5 retirement system. After June 30, 1974, but before March 31,
6 1997, a person who returns to state employment in the classified
7 or unclassified service who previously was a contributing member
8 of the Michigan public school employees' retirement system shall
9 have the person's accumulated contributions and service trans-
10 ferred to this retirement system, or having withdrawn the contri-
11 butions, may pay into the retirement system the amount withdrawn
12 together with regular interest and have credit restored as pro-
13 vided for in section 16. On and after March 31, 1997, an indi-
14 vidual described in this subsection who returns to state service
15 shall make an irrevocable election to remain in Tier 1 or to
16 become a qualified participant of Tier 2 in the manner prescribed
17 in section 50.

18 (5) A person, not regularly employed by this state, who is
19 employed through participation in 1 or more of the following pro-
20 grams, shall not be a member of the retirement system and shall
21 not receive service credit for the employment:

22 (a) A program authorized, undertaken, and financed pursuant
23 to the comprehensive employment and training act of 1973, former
24 Public Law 93-203, 87 Stat. 839.

25 (b) A summer youth employment program established pursuant
26 to the Michigan youth corps act, ~~Act No. 69 of the Public Acts~~

1 ~~of 1983, being sections 409.221 to 409.229 of the Michigan~~
2 ~~Compiled Laws~~ 1983 PA 69, MCL 409.221 TO 409.229.

3 (c) A program established pursuant to the job training part-
4 nership act, Public Law 97-300, 96 Stat. 1322.

5 (d) A program established pursuant to the Michigan opportu-
6 nity and skills training program, first established under sec-
7 tions 12 to 23 of Act No. 259 of the Public Acts of 1983.

8 (e) A program established pursuant to the Michigan community
9 service corps program, first established under sections 25 to 35
10 of Act No. 259 of the Public Acts of 1983.

11 (6) A person, not regularly employed by this state, who is
12 employed to administer a program described in subsection (5)
13 shall not be a member of the retirement system and shall not
14 receive service credit for the employment.

15 (7) If a person described in subsection (5)(a) later becomes
16 a member of this retirement system within 12 months after the
17 date of termination as a participant in a transitional public
18 employment program, service credit shall be given for employment
19 which is excluded in subsection (5) for purposes of determining a
20 retirement allowance upon the payment by the person's employer
21 under subsection (5) from funds provided under the comprehensive
22 employment and training act of 1973, former Public Law 93-203,
23 87 Stat. 839, as funds permit, to the retirement system of the
24 contributions, plus regular interest, the employer would have
25 paid had the employment been rendered in a position covered by
26 this act. During the person's employment in the transitional
27 public employment program, the person's employer shall place in

1 reserve a reasonable but not necessarily an actuarially
2 determined amount equal to the contributions that the employer
3 would have paid to the retirement system for those employees in
4 the transitional public employment program as if they were mem-
5 bers under this act, but only for that number of employees that
6 the employer determined would move from the transitional public
7 employment program into positions covered by this act. If the
8 funds provided under the comprehensive employment and training
9 act of 1973, former Public Law 93-203, 87 Stat. 839, are insuffi-
10 cient, the remainder of the employer contributions shall be paid
11 by the person's current employer.

12 SEC. 19G. (1) NOTWITHSTANDING SECTION 19, A MEMBER MAY
13 RETIRE AND RECEIVE A RETIREMENT ALLOWANCE COMPUTED UNDER THIS
14 SECTION IF THE MEMBER MEETS ALL OF THE FOLLOWING REQUIREMENTS:

15 (A) ON OR BEFORE NOVEMBER 1, 2002, OR ON THE EFFECTIVE DATE
16 OF HIS OR HER RETIREMENT, WHICHEVER IS EARLIER, THE MEMBER MEETS
17 1 OR MORE OF THE FOLLOWING:

18 (i) THE MEMBER'S COMBINED AGE AND LENGTH OF CREDITED SERVICE
19 IS EQUAL TO OR GREATER THAN 80 YEARS.

20 (ii) THE MEMBER IS 60 YEARS OF AGE OR OLDER AND HAS 10 OR
21 MORE YEARS OF CREDITED SERVICE.

22 (B) THE MEMBER IS WITHIN THE CLASSIFIED STATE CIVIL SERVICE,
23 IS AN EMPLOYEE OF THE JUDICIAL BRANCH, OR IS AN INDIVIDUAL NOT
24 DESCRIBED IN SUBSECTION (2)(B).

25 (C) THE MEMBER WAS EMPLOYED BY THIS STATE FOR THE 6-MONTH
26 PERIOD ENDING ON THE EFFECTIVE DATE OF HIS OR HER RETIREMENT OR
27 WAS AN EMPLOYEE OF THE STATE JUDICIAL COUNCIL ON SEPTEMBER 30,

1 1996 AS DESCRIBED IN SECTION 44A. A MEMBER WHO IS ON LAYOFF
2 STATUS FROM STATE EMPLOYMENT IS CONSIDERED TO HAVE MET THE
3 EMPLOYMENT REQUIREMENT OF THIS SUBDIVISION.

4 (D) EXCEPT AS MAY BE PROVIDED OTHERWISE IN SUBSECTION (5),
5 THE MEMBER EXECUTES AND FILES A WRITTEN APPLICATION WITH THE
6 RETIREMENT BOARD, ON OR AFTER APRIL 1, 2002, BUT NOT LATER THAN
7 APRIL 30, 2002, STATING A DATE ON OR AFTER JULY 1, 2002, BUT NOT
8 LATER THAN NOVEMBER 1, 2002, ON WHICH HE OR SHE DESIRES TO
9 RETIRE. A MEMBER MAY WITHDRAW A WRITTEN APPLICATION ON OR BEFORE
10 MAY 15, 2002. A WRITTEN APPLICATION SUBMITTED BY A MEMBER AND
11 NOT WITHDRAWN ON OR BEFORE MAY 15, 2002 IS IRREVOCABLE.

12 (E) THE MEMBER IS NOT A CONSERVATION OFFICER AS DESCRIBED IN
13 SECTION 48.

14 (2) NOTWITHSTANDING SECTION 19, A MEMBER MAY RETIRE AND
15 RECEIVE A RETIREMENT ALLOWANCE COMPUTED UNDER THIS SECTION IF THE
16 MEMBER MEETS ALL OF THE FOLLOWING REQUIREMENTS:

17 (A) ON OR BEFORE NOVEMBER 1, 2002, OR ON THE EFFECTIVE DATE
18 OF HIS OR HER RETIREMENT, WHICHEVER IS EARLIER, THE MEMBER'S COM-
19 BINED AGE AND LENGTH OF CREDITED SERVICE IS EQUAL TO OR GREATER
20 THAN 80 YEARS OR THE MEMBER IS 60 YEARS OF AGE OR OLDER AND HAS
21 10 OR MORE YEARS OF CREDITED SERVICE.

22 (B) THE MEMBER IS AN EMPLOYEE OF THE LEGISLATURE, IS AN
23 EMPLOYEE OF THE OFFICE OF GOVERNOR, OR IS AN UNCLASSIFIED
24 EMPLOYEE WITHIN THE STATE CIVIL SERVICE.

25 (C) THE MEMBER WAS EMPLOYED BY THIS STATE OR THE LEGISLATURE
26 FOR THE 6-MONTH PERIOD ENDING ON THE EFFECTIVE DATE OF HIS OR HER
27 RETIREMENT. A MEMBER WHO IS ON LAYOFF STATUS FROM STATE

1 EMPLOYMENT IS CONSIDERED TO HAVE MET THE EMPLOYMENT REQUIREMENT
2 OF THIS SUBDIVISION.

3 (D) THE MEMBER EXECUTES AND FILES A WRITTEN APPLICATION WITH
4 THE RETIREMENT BOARD, ON OR AFTER APRIL 1, 2002, BUT NOT LATER
5 THAN APRIL 30, 2002, STATING A DATE ON OR AFTER JULY 1, 2002, BUT
6 NOT LATER THAN NOVEMBER 1, 2002, ON WHICH HE OR SHE DESIRES TO
7 RETIRE. A MEMBER MAY WITHDRAW A WRITTEN APPLICATION ON OR BEFORE
8 MAY 15, 2002. A WRITTEN APPLICATION SUBMITTED BY A MEMBER AND
9 NOT WITHDRAWN ON OR BEFORE MAY 15, 2002 IS IRREVOCABLE. THIS
10 SUBDIVISION IS SUBJECT TO SUBSECTION (5).

11 (E) THE MEMBER IS NOT A CONSERVATION OFFICER AS DESCRIBED IN
12 SECTION 48.

13 (3) ANY AMOUNT THAT A MEMBER RETIRING UNDER THIS SECTION
14 WOULD OTHERWISE BE ENTITLED TO RECEIVE IN A LUMP SUM AT RETIRE-
15 MENT ON ACCOUNT OF ACCUMULATED SICK LEAVE SHALL BE PAID IN 60
16 CONSECUTIVE EQUAL MONTHLY INSTALLMENTS BEGINNING ON OR AFTER
17 OCTOBER 1, 2002. PAYMENTS RECEIVED UNDER THIS SUBSECTION MAY NOT
18 BE USED TO PURCHASE SERVICE CREDIT UNDER THIS ACT. THESE PAY-
19 MENTS FOR ACCUMULATED SICK LEAVE ARE TO BE PAID FROM FUNDS APPRO-
20 PRIATED TO THE APPOINTING AUTHORITY AND NOT FROM FUNDS OF THE
21 RETIREMENT SYSTEM. THESE PAYMENTS SHALL BE CONSIDERED TAXABLE
22 INCOME UNDER THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1
23 TO 206.532.

24 (4) ANY AMOUNT THAT A MEMBER RETIRING UNDER THIS SECTION IS
25 ENTITLED TO RECEIVE IN A LUMP SUM AT RETIREMENT ON ACCOUNT OF
26 ACCUMULATED ANNUAL LEAVE SHALL BE PAID ON OR AFTER OCTOBER 1,
27 2002.

1 (5) THE DIRECTOR OF A PRINCIPAL DEPARTMENT MAY REQUEST THAT
2 THE EFFECTIVE DATE OF RETIREMENT UNDER SUBSECTION (1) OF A MEMBER
3 EMPLOYED BY THAT DEPARTMENT BE EXTENDED TO A DATE NOT LATER THAN
4 FEBRUARY 1, 2004. TO MAKE A REQUEST UNDER THIS SUBSECTION, THE
5 DIRECTOR SHALL SUBMIT A WRITTEN REQUEST AND THE WRITTEN CONCUR-
6 RENCE OF THE MEMBER TO THE OFFICE OF THE STATE EMPLOYER AND THE
7 STATE BUDGET OFFICE ON OR BEFORE MAY 31, 2002. UPON RECEIPT OF
8 THE WRITTEN REQUEST AND CONCURRENCE, THE OFFICE OF THE STATE
9 EMPLOYER AND THE STATE BUDGET OFFICE MAY EXTEND THE EFFECTIVE
10 DATE OF RETIREMENT OF A MEMBER OTHERWISE ELIGIBLE TO RETIRE UNDER
11 SUBSECTION (1) TO A DATE NOT LATER THAN FEBRUARY 1, 2004. UPON
12 WRITTEN APPROVAL OF THE SENATE MAJORITY LEADER FOR A MEMBER WHO
13 IS AN EMPLOYEE OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRE-
14 SENTATIVES FOR A MEMBER WHO IS AN EMPLOYEE OF THE HOUSE OF REPRE-
15 SENTATIVES, THE SENATE MAJORITY LEADER AND THE SPEAKER OF THE
16 HOUSE OF REPRESENTATIVES FOR A MEMBER WHO IS AN EMPLOYEE OF THE
17 OFFICE OF THE AUDITOR GENERAL, OR THE CHAIR AND ALTERNATE CHAIR
18 OF THE LEGISLATIVE COUNCIL FOR A MEMBER WHO IS AN EMPLOYEE OF AN
19 AGENCY UNDER THE JURISDICTION OF THE LEGISLATIVE COUNCIL, AND
20 UPON WRITTEN CONCURRENCE OF THE MEMBER, THE EFFECTIVE DATE OF
21 RETIREMENT FOR THAT MEMBER UNDER SUBSECTION (2) MAY BE EXTENDED
22 TO A DATE NOT LATER THAN FEBRUARY 1, 2004. UPON WRITTEN APPROVAL
23 OF THE CHIEF JUSTICE FOR A MEMBER WHO IS AN EMPLOYEE OF THE JUDI-
24 CIAL BRANCH, INCLUDING, BUT NOT LIMITED TO, MEMBERS DESCRIBED IN
25 SECTION 44A, AND UPON WRITTEN CONCURRENCE OF THE MEMBER, THE
26 EFFECTIVE DATE OF RETIREMENT FOR THAT MEMBER UNDER SUBSECTION (1)
27 MAY BE EXTENDED TO A DATE NOT LATER THAN FEBRUARY 1, 2004. THE

1 INDIVIDUAL OR INDIVIDUALS WHO APPROVE THE EXTENSION OF AN
2 EFFECTIVE DATE OF RETIREMENT FOR A MEMBER WHO IS AN EMPLOYEE OF
3 THE LEGISLATURE, SUPREME COURT, OR COURT OF APPEALS SHALL SUBMIT
4 WRITTEN NOTIFICATION TO THE OFFICE OF RETIREMENT SERVICES OF ALL
5 EXTENSIONS APPROVED ON OR BEFORE MAY 31, 2002.

6 (6) UPON HIS OR HER RETIREMENT AS PROVIDED IN THIS SECTION,
7 A MEMBER WHO DID NOT MAKE AN ELECTION UNDER SECTION 50 TO TERMI-
8 NATE MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED PARTICIPANT IN
9 TIER 2 SHALL RECEIVE A RETIREMENT ALLOWANCE EQUAL TO THE MEMBER'S
10 NUMBER OF YEARS AND FRACTION OF A YEAR OF CREDITED SERVICE MULTI-
11 PLIED BY $1\frac{3}{4}\%$ OF HIS OR HER FINAL AVERAGE COMPENSATION. EXCEPT
12 FOR THE CALCULATION PROVIDED IN THIS SUBSECTION, THE MEMBER'S
13 RETIREMENT ALLOWANCE IS SUBJECT TO SECTION 20. THE MEMBER'S
14 RETIREMENT ALLOWANCE IS NOT SUBJECT TO REDUCTION PURSUANT TO
15 SECTION 19(2).

16 (7) UPON HIS OR HER RETIREMENT AS PROVIDED IN THIS SECTION,
17 A FORMER MEMBER WHO MADE AN ELECTION UNDER SECTION 50 TO TERMI-
18 NATE MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED PARTICIPANT IN
19 TIER 2 SHALL RECEIVE A RETIREMENT ALLOWANCE EQUAL TO THE MEMBER'S
20 NUMBER OF YEARS AND FRACTION OF A YEAR OF CREDITED SERVICE MULTI-
21 PLIED BY $1\frac{1}{4}\%$ OF HIS OR HER FINAL AVERAGE COMPENSATION. EXCEPT
22 FOR THE CALCULATION PROVIDED IN THIS SUBSECTION, THE FORMER
23 MEMBER'S RETIREMENT ALLOWANCE IS SUBJECT TO SECTION 20. THE
24 FORMER MEMBER'S RETIREMENT ALLOWANCE IS NOT SUBJECT TO REDUCTION
25 PURSUANT TO SECTION 19(2).

26 (8) FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL WHO ELECTED
27 TO TERMINATE MEMBERSHIP UNDER SECTION 50 AND WHO, BUT FOR THAT

1 ELECTION, WOULD OTHERWISE BE ELIGIBLE FOR MEMBERSHIP IN TIER 1
2 UNDER SECTION 13, SHALL BE CONSIDERED A MEMBER OF TIER 1 FOR THE
3 LIMITED PURPOSE OF RECEIVING A RETIREMENT ALLOWANCE CALCULATED
4 UNDER THIS SECTION AND PAID BY THE RETIREMENT SYSTEM.

5 Sec. 46. (1) A supplemental member may retire with a sup-
6 plemental early retirement allowance provided in section 47 upon
7 satisfaction of each of the following conditions:

8 (a) He OR SHE is age 51 years or older but less than age 62
9 years.

10 (b) He OR SHE has 25 or more years of covered service.

11 (c) His OR HER last 3 years of credited service are covered
12 service.

13 (d) He OR SHE files a written request for retirement with
14 the retirement board stating the date that he OR SHE wishes to be
15 retired. ~~, which shall not be less than 30 days or more than 90~~
16 ~~days after the date his application is filed.~~

17 (2) A supplemental member may be separated from employment
18 in a covered position the first day of the calendar month follow-
19 ing the month in which he OR SHE attains age 56 years. A supple-
20 mental member ~~so~~ separated UNDER THIS SUBSECTION may retire
21 with a supplemental early retirement allowance provided in sec-
22 tion 47 if he OR SHE satisfies each of the following conditions:

23 (a) He OR SHE has not attained age 62 years.

24 (b) He OR SHE has 10 or more years of covered service.

25 (c) His OR HER last 3 years of credited service are covered
26 service.

1 (d) He OR SHE files a written request for retirement with
2 the retirement board stating the date that he OR SHE wishes to be
3 retired. ~~—, which shall not be less than 30 days or more than 90~~
4 ~~days after the date his application is filed.~~

5 (3) The state personnel director shall determine all ques-
6 tions on eligibility for supplemental early retirement benefits
7 within the meaning of sections 45 to 47.

8 (4) A SUPPLEMENTAL MEMBER WHO IS ELIGIBLE TO RETIRE UNDER
9 THIS SECTION AND RECEIVE A SUPPLEMENTAL RETIREMENT ALLOWANCE AS
10 CALCULATED UNDER SECTION 47 MAY ALSO ELECT TO RETIRE AND RECEIVE
11 A RETIREMENT ALLOWANCE UNDER SECTION 19G IF THE SUPPLEMENTAL
12 MEMBER EXECUTES AND FILES A WRITTEN APPLICATION WITH THE RETIRE-
13 MENT BOARD, ON OR AFTER APRIL 1, 2002, BUT NOT LATER THAN APRIL
14 30, 2002, STATING A DATE ON OR AFTER JULY 1, 2002, BUT NOT LATER
15 THAN NOVEMBER 1, 2002, ON WHICH HE OR SHE DESIRES TO RETIRE. A
16 SUPPLEMENTAL MEMBER MAY WITHDRAW A WRITTEN APPLICATION ON OR
17 BEFORE MAY 15, 2002. A WRITTEN APPLICATION SUBMITTED BY A MEMBER
18 AND NOT WITHDRAWN ON OR BEFORE MAY 15, 2002 IS IRREVOCABLE. THE
19 SUPPLEMENTAL MEMBER WHO IS ENTITLED TO A RETIREMENT ALLOWANCE
20 CALCULATED UNDER SECTION 19G SHALL NOT RECEIVE THE RETIREMENT
21 ALLOWANCE CALCULATED UNDER SECTION 19G UNTIL THE SUPPLEMENTAL
22 MEMBER HAS ATTAINED 62 YEARS OF AGE.