

SENATE BILL No. 1255

May 2, 2002, Introduced by Senator GOUGEON and referred to the Committee on Appropriations.

A bill to amend 1986 PA 182, entitled
"State police retirement act of 1986,"
by amending sections 3, 14, and 14a (MCL 38.1603, 38.1614, and
38.1614a), sections 3 and 14 as amended by 2000 PA 374 and sec-
tion 14a as added by 1995 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Credited service" means the sum of the prior
2 service and membership service credited to a member's account.

3 (2) "Deferred member" means a member who separates from
4 service with entitlement to a deferred retirement allowance as
5 provided in section 30, but who is not a retirant.

6 (3) "Department" means the department of management and
7 budget.

1 (4) "Direct rollover" means a payment by the retirement
2 system to the eligible retirement plan specified by the
3 distributee.

4 (5) "Distributee" includes a member or deferred member.
5 Distributee also includes the member's or deferred member's sur-
6 viving spouse or the member's or deferred member's spouse or
7 former spouse under an eligible domestic relations order, with
8 regard to the interest of the spouse or former spouse.

9 (6) ~~Except~~ BEGINNING JANUARY 1, 2002, EXCEPT as otherwise
10 provided in this subsection, "eligible retirement plan" means an
11 individual retirement account described in section 408(a) of the
12 internal revenue code, an individual retirement annuity described
13 in section 408(b) of the internal revenue code, an annuity plan
14 described in section 403(a) of the internal revenue code, ~~or~~ a
15 qualified trust described in section 401(a) of the internal reve-
16 nue code, AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE
17 INTERNAL REVENUE CODE, OR AN ELIGIBLE PLAN UNDER SECTION 457(b)
18 OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE,
19 POLITICAL SUBDIVISION OF A STATE, OR AN AGENCY OR INSTRUMENTALITY
20 OF A STATE OR POLITICAL SUBDIVISION OF A STATE, SO LONG AS THE
21 ELIGIBLE PLAN SEPARATELY ACCOUNTS FOR AMOUNTS TRANSFERRED INTO IT
22 FROM THIS RETIREMENT SYSTEM UNDER SECTION 457(b) OF THE INTERNAL
23 REVENUE CODE, that accepts the distributee's eligible rollover
24 distribution. However, in the case of an eligible rollover dis-
25 tribution to a surviving spouse ON OR BEFORE DECEMBER 31, 2001,
26 an eligible retirement plan means an individual retirement
27 account or an individual retirement annuity described above.

1 (7) ~~"Eligible"~~ BEGINNING JANUARY 1, 2002, "ELIGIBLE
2 rollover distribution" means a distribution of all or any portion
3 of the balance to the credit of the distributee. Eligible roll-
4 over distribution does not include any of the following:

5 (a) A distribution made for the life or life expectancy of
6 the distributee or the joint lives or joint life expectancies of
7 the distributee and the distributee's designated beneficiary.

8 (b) A distribution for a specified period of 10 years or
9 more.

10 (c) A distribution to the extent that the distribution is
11 required under section 401(a)(9) of the internal revenue code.

12 (d) The portion of any distribution that is not includable
13 in federal gross income, determined without regard to the exclu-
14 sion for net unrealized appreciation with respect to employer
15 securities, ~~—~~ EXCEPT TO THE EXTENT THAT THE PORTION IS PAID TO
16 EITHER OF THE FOLLOWING:

17 (i) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
18 SECTION 408(a) OR 408(b) OF THE INTERNAL REVENUE CODE.

19 (ii) A QUALIFIED DEFINED CONTRIBUTION PLAN AS DESCRIBED IN
20 SECTION 401(a) OR 403(a) OF THE INTERNAL REVENUE CODE THAT AGREES
21 TO SEPARATELY ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING SEPA-
22 RATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS
23 INCLUDABLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION
24 THAT IS NOT SO INCLUDABLE.

25 (8) "Final average compensation" means the average annual
26 salary for the last 2 years of service with the department of
27 state police for which the member was compensated as defined in

1 subsection (10). In the case of a nonclassified member of the
2 department holding the rank of colonel, final average compensa-
3 tion means the same average annual salary as that computed for
4 the highest salaried classified member of the department, or at
5 the average annual salary for the last 2 years of service with
6 the department of state police for which the member was compen-
7 sated, whichever is greater. Average annual salary includes only
8 the following compensation items:

9 (a) Regular salary paid for the last 2 years of service,
10 including, but not limited to, that salary that is deferred pur-
11 suant to a state deferred compensation program.

12 (b) Overtime, shift differential, and shift differential
13 overtime paid for the last 2 years of service.

14 (c) Gross pay adjustments paid affecting the last 2 years of
15 service, including compensatory time and emergency response
16 compensation.

17 (d) Up to a maximum of 240 hours of accumulated annual
18 leave, paid at the time of retirement separation.

19 (e) Deferred hours under Plan B of the fiscal years ending
20 September 30, 1981, and September 30, 1982, that are paid at the
21 time of retirement separation.

22 (f) Longevity pay equal to 2 full years.

23 (g) Bomb squad pay paid for the last 2 years of service.

24 (h) Post 29 freeway premium paid for the last 2 years of
25 service.

26 (i) On-call pay paid for the last 2 years of service.

1 (9) "Internal revenue code" means the United States internal
2 revenue code of 1986.

3 (10) "Last 2 years of service" means the 2-year period imme-
4 diately preceding the member's last day of service or that period
5 of 2 consecutive years of service with the department of state
6 police immediately preceding the date the duty disability
7 occurred according to the medical examinations conducted pursuant
8 to section 29.

9 Sec. 14. (1) The funding objective of the retirement system
10 is to establish and receive contributions during each fiscal year
11 that are sufficient to fully cover the actuarial cost of benefits
12 likely to be paid on account of services rendered by members
13 during the fiscal year, the normal cost requirements of the
14 retirement system, and finance the unfunded actuarial costs of
15 benefits likely to be paid on account of service rendered prior
16 to the fiscal year, the unfunded actuarial accrued liability of
17 the retirement system, and health, dental, and vision insurance.

18 (2) The annual level percentage of payroll contribution rate
19 shall be actuarially determined using experience assumptions and
20 level percent of payroll actuarial cost methods adopted by the
21 retirement board and the department pursuant to an annual actuar-
22 ial valuation, which shall be sufficient to finance benefits
23 being provided and to be provided by the retirement system.

24 (3) For differences occurring in fiscal years beginning on
25 or after October 1, 2001, a minimum of 20% of the difference
26 between the estimated and the actual aggregate compensation and
27 the estimated and the actual contribution rate described in

1 subsection (2), if any, may be submitted in the executive budget
2 to the legislature for appropriation in the next succeeding state
3 fiscal year and a minimum of 25% of the remaining difference
4 shall be submitted in the executive budget to the legislature for
5 appropriation in each of the following 4 state fiscal years, or
6 until 100% of the remaining difference is submitted, whichever
7 first occurs. In addition, interest shall be included for each
8 year that a portion of the remaining difference is carried
9 forward. The interest rate shall equal the actuarially assumed
10 rate of investment return for the state fiscal year in which pay-
11 ment is made.

12 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF THE
13 RETIREMENT BOARD ESTABLISHES AN ARRANGEMENT AND FUND AS DESCRIBED
14 IN SECTION 6 OF THE PUBLIC EMPLOYEE RETIREMENT BENEFIT PROTECTION
15 ACT, THE BENEFITS THAT ARE REQUIRED TO BE PAID FROM THAT FUND
16 SHALL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, BE PAID FROM A
17 PORTION OF THE EMPLOYER CONTRIBUTIONS DESCRIBED IN THIS SECTION
18 OR OTHER ELIGIBLE FUNDS. THE RETIREMENT BOARD SHALL DETERMINE
19 THE AMOUNT OF THE EMPLOYER CONTRIBUTIONS OR OTHER ELIGIBLE FUNDS
20 THAT SHALL BE ALLOCATED TO THAT FUND AND DEPOSIT THAT AMOUNT IN
21 THAT FUND BEFORE IT DEPOSITS ANY REMAINING EMPLOYER CONTRIBUTIONS
22 OR OTHER ELIGIBLE FUNDS IN THE PENSION FUND.

23 Sec. 14a. (1) This section is enacted pursuant to section
24 401(a) of the internal revenue code that imposes certain adminis-
25 trative requirements and benefit limitations for qualified gov-
26 ernmental plans. This state intends that the retirement system
27 be a qualified pension plan created in trust under section 401 of

1 the internal revenue code and that the trust be an exempt
2 organization under section 501 of the internal revenue code. The
3 department shall administer the retirement system to fulfill this
4 intent.

5 (2) Except as otherwise provided in this section,
6 employer-financed benefits provided by the retirement system
7 under this act shall not exceed \$50,000.00 per year for a retir-
8 ant who was a full-time employee of a police department or fire
9 department and who has 15 or more years of credited service as a
10 police officer, fire fighter, or public safety officer at
11 retirement.

12 (3) The limitation on employer-financed benefits provided by
13 the retirement system under subsection (2) applies unless appli-
14 cation of subsections (4), (5), and (6) produces a higher limita-
15 tion, in which case the higher limitation applies.

16 (4) If a member retires at age 62 or older,
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.

21 (5) If a member retires before age 62, the amount of
22 \$90,000.00 in subsection (4) is actuarially reduced to reflect
23 payment before age 62. The retirement system shall use an inter-
24 est rate of 5% per year compounded annually to calculate the
25 actuarial reduction in this subsection. If this subsection
26 produces a limitation of less than \$75,000.00 at age 55, the
27 limitation at age 55 is \$75,000.00 and the limitations for ages

1 under age 55 shall be calculated from a limitation of \$75,000.00
2 at age 55.

3 (6) Section 415 of the internal revenue code requires the
4 commissioner of internal revenue to annually adjust the
5 \$50,000.00 limitation described in subsection (2) and the
6 \$90,000.00 limitation described in subsection (4) to reflect cost
7 of living increases, beginning with calendar year 1988. This
8 section shall be administered using the limitations applicable to
9 each calendar year as adjusted by the commissioner of internal
10 revenue under section 415 of the internal revenue code. The
11 retirement system shall adjust the benefits subject to the limi-
12 tation each year to conform with the adjusted limitation.

13 (7) The assets of the retirement system shall be held in
14 trust and invested for the sole purpose of meeting the legitimate
15 obligations of the retirement system and shall not be used for
16 any other purpose. The assets shall not be used for or diverted
17 to a purpose other than for the exclusive benefit of the members,
18 deferred members, retirants, and beneficiaries before satisfac-
19 tion of all retirement system liabilities.

20 (8) The retirement system shall return post-tax member con-
21 tributions made by a member and received by the retirement system
22 to a member upon retirement, pursuant to internal revenue service
23 regulations and approved internal revenue service exclusion ratio
24 tables.

25 (9) The required beginning date for retirement allowances
26 and other distributions shall not be later than April 1 of the
27 calendar year following the calendar year in which the employee

1 attains age 70-1/2 or April 1 of the calendar year following the
2 calendar year in which the employee retires.

3 (10) If the retirement system is terminated, the interest of
4 the members, deferred members, retirants, and beneficiaries in
5 the retirement system is nonforfeitable to the extent funded as
6 described in section 411(d)(3) of the internal revenue code and
7 related internal revenue service regulations applicable to gov-
8 ernmental plans.

9 (11) Notwithstanding any other provision of this act to the
10 contrary that would limit a distributee's election under this
11 act, a distributee may elect, at the time and in the manner pre-
12 scribed by the retirement board, to have any portion of an eligi-
13 ble rollover distribution paid directly to an eligible retirement
14 plan specified by the distributee in a direct rollover. This
15 subsection applies to distributions made on or after January 1,
16 1993.

17 (12) Notwithstanding any other provision of this section,
18 the retirement system shall be administered in compliance with
19 the provisions of section 415 of the internal revenue code and
20 revenue service regulations under that section that are applica-
21 ble to governmental plans. If there is a conflict between this
22 section and another section of this or any other act of this
23 state, this section prevails.

24 (13) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE
25 COMPENSATION OF A MEMBER OF THE RETIREMENT SYSTEM SHALL BE TAKEN
26 INTO ACCOUNT FOR ANY YEAR UNDER THE RETIREMENT SYSTEM ONLY TO THE
27 EXTENT THAT IT DOES NOT EXCEED THE COMPENSATION LIMIT ESTABLISHED

1 IN SECTION 401(a)(17) OF THE INTERNAL REVENUE CODE, AS ADJUSTED
2 BY THE COMMISSIONER OF INTERNAL REVENUE. THIS SUBSECTION APPLIES
3 TO ANY PERSON WHO FIRST BECOMES A MEMBER OF THE RETIREMENT SYSTEM
4 ON OR AFTER OCTOBER 1, 1996.

5 (14) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, CON-
6 TRIBUTIONS, BENEFITS, AND SERVICE CREDIT WITH RESPECT TO QUALI-
7 FIED MILITARY SERVICE WILL BE PROVIDED UNDER THE RETIREMENT
8 SYSTEM IN ACCORDANCE WITH SECTION 414(u) OF THE INTERNAL REVENUE
9 CODE. THIS SUBSECTION APPLIES TO ALL QUALIFIED MILITARY SERVICE
10 ON OR AFTER DECEMBER 12, 1994.

11 Enacting section 1. This amendatory act does not take
12 effect unless House Bill No. 5108 of the 91st Legislature is
13 enacted into law.