

SENATE BILL NO. 157

March 09, 2023, Introduced by Senators MCBROOM and SANTANA and referred to the Committee on Labor.

A bill to amend 1986 PA 182, entitled "State police retirement act of 1986," by amending sections 3, 4, 14, and 70 (MCL 38.1603, 38.1604, 38.1614, and 38.1670), sections 3, 4, and 14 as amended and section 70 as added by 2018 PA 674, and by adding sections 14b and 24c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Banked leave time program" means the part B
2 annual leave hours within the state's annual and sick leave program
3 approved by a ruling of the Internal Revenue Service on September

1 5, 2003, in which a pay reduction or other concessions are applied
2 to a member in exchange for additional part B annual leave hours.

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

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

8 (4) "Department" means the department of technology,
9 management, and budget.

10 (5) "Direct rollover" means a payment by the retirement system
11 to the eligible retirement plan specified by the distributee.

12 (6) "Distributee" includes a member or deferred member.
13 Distributee also includes the member's or deferred member's
14 surviving spouse or the member's or deferred member's spouse or
15 former spouse under an eligible domestic relations order, with
16 regard to the interest of the spouse or former spouse.

17 (7) "DROP participant" means an officer who participates in
18 the deferred retirement option plan established in section 24a.

19 (8) Beginning January 1, 2002, except as otherwise provided in
20 this subsection, "eligible retirement plan" means 1 or more of the
21 following:

22 (a) An individual retirement account described in section
23 408(a) of the internal revenue code, 26 USC 408.

24 (b) An individual retirement annuity described in section
25 408(b) of the internal revenue code, 26 USC 408.

26 (c) An annuity plan described in section 403(a) of the
27 internal revenue code, 26 USC 403.

28 (d) A qualified trust described in section 401(a) of the
29 internal revenue code, 26 USC 401.

1 (e) An annuity contract described in section 403(b) of the
2 internal revenue code, 26 USC 403.

3 (f) An eligible plan under section 457(b) of the internal
4 revenue code, 26 USC 457, that is maintained by a state, political
5 subdivision of a state, or an agency or instrumentality of a state
6 or political subdivision of a state and that agrees to separately
7 account for amounts transferred into the eligible plan under
8 section 457(b) of the internal revenue code, 26 USC 457, from this
9 retirement system, that accepts the distributee's eligible rollover
10 distribution.

11 (g) Beginning January 1, 2008, a Roth individual retirement
12 account as described in section 408A of the internal revenue code,
13 26 USC 408A, subject to the rules that apply to rollovers from a
14 traditional individual retirement account to a Roth individual
15 retirement account.

16 (9) Beginning January 1, 2007, "eligible rollover
17 distribution" means a distribution of all or any portion of the
18 balance to the credit of the distributee. Eligible rollover
19 distribution does not include any of the following:

20 (a) A distribution made for the life or life expectancy of the
21 distributee or the joint lives or joint life expectancies of the
22 distributee and the distributee's designated beneficiary.

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

24 (c) A distribution to the extent that the distribution is
25 required under section 401(a)(9) of the internal revenue code, 26
26 USC 401.

27 (d) The portion of any distribution that is not includable in
28 federal gross income, except to the extent the portion of the
29 distribution is paid to either of the following:

1 (i) An individual retirement account or annuity described in
2 section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

3 (ii) A qualified plan described in section 401(a) of the
4 internal revenue code, 26 USC 401, or an annuity contract described
5 in section 403(b) of the internal revenue code, 26 USC 403, and the
6 plan providers agree to separately account for the amounts paid,
7 including any portion of the distribution that is includable in
8 federal gross income, and the portion of the distribution that is
9 not so includable.

10 (10) "Final average compensation" means, except as otherwise
11 provided in this subsection, the average annual salary for the last
12 2 years of service with the department of state police, **department**
13 **of corrections, or department of health and human services, as**
14 **applicable**, for which the member was compensated as defined in
15 subsection (13). Except as otherwise provided in this subsection,
16 for a nonclassified member of the department holding the rank of
17 colonel, final average compensation means the same average annual
18 salary as that computed for the highest salaried classified member
19 of the department, or at the average annual salary for the last 2
20 years of service with the department of state police for which the
21 member was compensated, whichever is greater. Beginning ~~with the~~
22 ~~effective date of the amendatory act that added section 42a,~~
23 **December 28, 2018**, for a member who first became a member on or
24 after June 10, 2012, final average compensation means the average
25 salary for the last 5 years of service for which the member was
26 compensated as defined in subsection (14). Average annual salary
27 includes only the following compensation items:

28 (a) Beginning ~~with the effective date of the amendatory act~~
29 ~~that added section 42a,~~ **December 28, 2018**, for a member who first

1 became a member before June 10, 2012, only the following
2 compensation items:

3 (i) Regular salary paid for the last 2 years of service,
4 including, but not limited to, that salary that is deferred
5 pursuant to a state deferred compensation program.

6 (ii) Overtime, shift differential, and shift differential
7 overtime paid for the last 2 years of service.

8 (iii) Gross pay adjustments paid affecting the last 2 years of
9 service, including compensatory time and emergency response
10 compensation.

11 (iv) Up to a maximum of 240 hours of accumulated annual leave,
12 paid at the time of retirement separation excluding part B annual
13 leave hours paid at the time of retirement separation.

14 (v) Deferred hours under Plan B of the fiscal years ending
15 September 30, 1981, and September 30, 1982, that are paid at the
16 time of retirement separation.

17 (vi) Longevity pay equal to 2 full years.

18 (vii) Bomb squad pay paid for the last 2 years of service.

19 (viii) Post 29 freeway premium paid for the last 2 years of
20 service.

21 (ix) On-call pay paid for the last 2 years of service.

22 (x) Beginning October 1, 2003, the value of any unpaid
23 furlough hours or the value of any unpaid hours exchanged for part
24 B annual leave hours, calculated at the member's then-current
25 hourly rate or rates of pay, for a period during which a member is
26 participating in the banked leave time program.

27 (xi) Beginning May 1, 2009, the value of temporary layoff
28 hours. As used in this subparagraph, "temporary layoff hours" means
29 hours attributable to the layoff of a member if the layoff does not

1 exceed 1 month and has a fixed, predetermined, and announced recall
2 date.

3 (b) Beginning ~~with the effective date of the amendatory act~~
4 ~~that added section 42a, **December 28, 2018,**~~ for a member who first
5 became a member on or after June 10, 2012, only the following
6 compensation items:

7 (i) Regular salary paid for the last 5 years of service,
8 including, but not limited to, that salary that is deferred
9 pursuant to a state deferred compensation program.

10 (ii) Shift differential.

11 (iii) Gross pay adjustments paid affecting the last 5 years of
12 service, including compensatory time and emergency response
13 compensation.

14 (iv) Up to a maximum of 240 hours of accumulated annual leave,
15 paid at the time of retirement separation excluding part B annual
16 leave hours paid at the time of retirement separation.

17 (v) Longevity pay equal to 5 full years.

18 (vi) Bomb squad pay paid for the last 5 years of service.

19 (vii) Post 29 freeway premium paid for the last 5 years of
20 service.

21 (viii) On-call pay paid for the last 5 years of service.

22 (ix) The value of any unpaid furlough hours or the value of any
23 unpaid hours exchanged for part B annual leave hours, calculated at
24 the member's then-current hourly rate or rates of pay, for a period
25 during which a member is participating in the banked leave time
26 program.

27 (x) The value of temporary layoff hours. As used in this
28 subparagraph, "temporary layoff hours" means hours attributable to
29 the layoff of a member if the layoff does not exceed 1 month and

1 has a fixed, predetermined, and announced recall date.

2 (11) "Furlough hours" means unworked hours incurred in
3 conjunction with the banked leave time program.

4 (12) "Internal revenue code" means the United States internal
5 revenue code of 1986.

6 (13) "Last 2 years of service" means the 2-year period
7 immediately preceding the member's last day of service or that
8 period of 2 consecutive years of service with the department of
9 state police, **department of corrections, or department of health**
10 **and human services, as applicable**, immediately preceding the date
11 the duty disability occurred according to the medical examinations
12 conducted under section 29 or, if the officer participated in the
13 deferred retirement option plan, the 2-year period immediately
14 preceding participation in the deferred retirement option plan.

15 (14) "Last 5 years of service" means the 5-year period
16 immediately preceding the member's last day of service or that
17 period of 5 consecutive years of service with the department of
18 state police, **department of corrections, or department of health**
19 **and human services, as applicable**, immediately preceding the date
20 the duty disability occurred according to the medical examinations
21 conducted under section 29.

22 Sec. 4. (1) "Member", except where the context otherwise
23 requires, means ~~an~~ **either of the following**:

24 (a) **An** employee of the department of state police who has
25 subscribed to the constitutional oath of office.

26 (b) **An individual employed in a covered position who elected**
27 **to terminate his or her participation in the state employees'**
28 **retirement system under section 50b of the state employees'**
29 **retirement act, 1943 PA 240, MCL 38.50b. An individual described in**

1 this subdivision is treated as an individual who first becomes a
2 member on or after June 10, 2012. As used in this subdivision,
3 "covered position" means that term as defined in section 45 of the
4 state employees' retirement act, 1943 PA 240, MCL 38.45.

5 (2) "Officer" means a nonexclusively represented member of the
6 retirement system.

7 (3) "Qualified participant" means an individual who first
8 becomes a member on or after June 10, 2012 and who is also a
9 participant of Tier 2.

10 (4) "Regular interest" means a rate or rates per annum,
11 compounded annually, as the retirement board determines. For the
12 purposes of employee refunds, the interest rate payable must not
13 exceed 4% per annum, compounded annually.

14 (5) "Retirant" means a member who separates from service and
15 retires with a retirement allowance payable from the appropriate
16 reserve of the retirement system.

17 (6) "Retirement allowance" means the annual amount, payable
18 monthly, to which a retirant, retirement allowance beneficiary, or
19 refund beneficiary is entitled under this act.

20 (7) "Retirement allowance beneficiary" means a person who is
21 being paid or has entitlement to the payment of a retirement
22 allowance in the event of the death of a member, deferred member,
23 or retirant.

24 (8) "Retirement board" means the retirement board created in
25 section 6.

26 (9) "Retirement system" means the system of benefits for
27 members and qualified participants of the department of state
28 police and their survivors and beneficiaries provided by this act.

29 (10) "Surviving spouse" means the spouse at the time of death

1 of the member or retirant.

2 (11) "Tier 1" means the retirement plan available to a member
3 under this act.

4 (12) "Tier 2" means the retirement plan established pursuant
5 to section 401(k) of the internal revenue code, 26 USC 401, that is
6 available to qualified participants under sections 62 to 74.

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

16 (2) ~~Subject~~ **Except as otherwise provided in section 14b, and**
17 **subject** to subsections (5) to (7), the annual level percentage of
18 payroll contribution rate must be actuarially determined using
19 experience assumptions and level percent of payroll actuarial cost
20 methods adopted by the retirement board and the department pursuant
21 to an annual actuarial valuation, which must be sufficient to
22 finance benefits being provided and to be provided by the
23 retirement system.

24 (3) Subject to subsections (5) to (7), for differences
25 occurring in fiscal years beginning on or after October 1, 2001, a
26 minimum of 20% of the difference between the estimated and the
27 actual aggregate compensation and the estimated and the actual
28 contribution rate described in subsection (2), if any, may be
29 submitted in the executive budget to the legislature for

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

10 (4) For each fiscal year that begins on or after October 1,
11 2003, if the actuarial valuation prepared under this section for
12 each ~~the~~ fiscal year demonstrates that ~~as of~~ ~~at~~ the beginning of a
13 fiscal year, and after all credits and transfers required by this
14 act for the previous fiscal year have been made, the sum of the
15 actuarial value of assets and the actuarial present value of future
16 normal cost contributions exceeds the actuarial present value of
17 benefits, the amount based on the annual level percent of payroll
18 contribution rate under subsections (1) and (2) may be deposited
19 into the health advance funding subaccount created by section 42.

20 (5) Beginning with the state fiscal year ending September 30,
21 2022 until the pension and retiree health care payroll growth
22 assumption rate is zero, the payroll growth assumption rate must be
23 reduced by 50 basis points. Beginning with the state fiscal year
24 ending September 30, 2022, the office of retirement services within
25 the department of technology, management, and budget and the
26 retirement board may agree to reduce the rate described in this
27 subsection by any number of additional basis points.

28 (6) Beginning with the state fiscal year ending September 30,
29 2019 and for each subsequent fiscal year, the normal cost

1 contribution rate must not be less than the normal cost
2 contribution rate in the ~~immediately~~-preceding fiscal year.
3 Additionally, the employer portion of the contribution rate must
4 not be less than the employer portion of the contribution rate in
5 the ~~immediately~~-preceding fiscal year.

6 (7) Subject to this subsection, beginning with the state
7 fiscal year ending September 30, 2019 and for each subsequent
8 fiscal year until the unfunded actuarial accrued liability is paid,
9 ~~off~~, the unfunded actuarial accrued liability contribution sum and
10 due payable must not be less than the unfunded actuarial accrued
11 liability contribution sum and due payable in the ~~immediately~~
12 preceding fiscal year. The unfunded actuarial accrued liability
13 must be paid ~~off~~ no later than September 30, 2038. Additionally,
14 the employer portion of the unfunded actuarial accrued liability
15 contribution sum and due payable must not be less than the employer
16 portion of the unfunded actuarial accrued liability contribution
17 sum and due payable in the ~~immediately~~-preceding fiscal year.

18 (8) Notwithstanding any other provision of this act, if the
19 retirement board establishes an arrangement and fund as described
20 in section 6 of the public employee retirement benefit protection
21 act, 2002 PA 100, MCL 38.1686, the benefits that are required to be
22 paid from that fund must be paid from a portion of the employer
23 contributions described in this section or other eligible funds.
24 The retirement board shall determine the amount of the employer
25 contributions or other eligible funds that must be allocated to
26 that fund and deposit that amount in that fund before it deposits
27 any remaining employer contributions or other eligible funds in the
28 pension fund.

29 **Sec. 14b. The retirement system shall determine a separate**

1 contribution rate for members who are employed in covered
2 positions. The retirement system shall determine the separate
3 contribution rate in the manner prescribed in section 14, except
4 that any increase or decrease in the unfunded actuarial accrued
5 liabilities associated with members who are employed in covered
6 positions must be amortized on a 10-year level-dollar schedule with
7 a new contribution rate calculated for each year. As used in this
8 section, "covered position" means that term as defined in section
9 45 of the state employees' retirement act, 1943 PA 240, MCL 38.45.

10 Sec. 24c. (1) Subject to subsection (5), the retirement system
11 shall grant service under this act for service rendered under the
12 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, to
13 a member described in section 4(1)(b) if the member pays to the
14 retirement system an amount equal to the actuarial value of the
15 service as determined by the retirement system's actuary.

16 (2) Service under the state employees' retirement act, 1943 PA
17 240, MCL 38.1 to 38.69, is not creditable toward retirement under
18 this act if the member is or will be receiving a retirement
19 allowance for the same service from another retirement system.

20 (3) A member described in subsection (1) is not required to do
21 either of the following:

22 (a) Purchase any service credit under this section for service
23 rendered under the state employees' retirement act, 1943 PA 240,
24 MCL 38.1 to 38.69.

25 (b) If the member does purchase service credit under this
26 section for service rendered under the state employees' retirement
27 act, 1943 PA 240, MCL 38.1 to 38.69, purchase all of the service
28 rendered under the state employees' retirement act, 1943 PA 240,
29 MCL 38.1 to 38.69.

1 (4) A member has 5 years after the date of initiating service
2 credit purchase under this section to complete payment. If a member
3 does not complete purchasing service credit within 5 years after
4 the date of initiating the purchase, the member will not be granted
5 service credit under this section. A member may purchase service
6 under this section in 1 or more of the following manners:

7 (a) Tax deferred payments, in a form and manner as determined
8 by the retirement system.

9 (b) Additional payments, in a form and manner as determined by
10 the retirement system.

11 (5) The retirement system shall establish a method to
12 implement the payments under subsection (4).

13 (6) For purposes of vesting under section 42b, a member is
14 granted service under this act for service rendered under the state
15 employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, even if
16 the member did not purchase service under this section.

17 Sec. 70. (1) This section is subject to the vesting
18 requirements of section 42b.

19 (2) Unless the qualified participant affirmatively elects not
20 to contribute or elects to contribute a lesser amount, the
21 qualified participant shall contribute 2% of his or her
22 compensation to his or her Tier 2 account. The qualified
23 participant's employer shall make a contribution to the qualified
24 participant's Tier 2 account in an amount equal to 50% of the first
25 2% of compensation contribution made by the qualified participant
26 under this subsection.

27 (3) A qualified participant may make contributions in addition
28 to contributions made under subsection (2) to his or her Tier 2
29 account as permitted by the department and the internal revenue

1 code.

2 (4) For a qualified participant who is employed in a covered
3 position, in addition to the employer contribution under subsection
4 (2), the qualified participant's employer shall make a contribution
5 to the qualified participant's Tier 2 account as follows:

6 (a) If the qualified participant has 5 years or more but less
7 than 10 years of completed service, 1% of his or her compensation.

8 (b) If the qualified participant has 10 years or more but less
9 than 15 years of completed service, 2% of his or her compensation.

10 (c) If the qualified participant has 15 years or more but less
11 than 20 years of completed service, 3% of his or her compensation.

12 (d) If the qualified participant has 20 years or more of
13 completed service, 4% of his or her compensation.

14 (5) As used in this section, "covered position" means that
15 term as defined in section 45 of the state employees' retirement
16 act, 1943 PA 240, MCL 38.45.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 156 of the 102nd Legislature is enacted into
19 law.