



SENATE BILL No. 1131

September 12, 1996, Introduced by Senators STEIL, CISKY, A. SMITH, GAST, HOFFMAN, GEAKE, GOUGEON, BENNETT, BULLARD, MC MANUS, STILLE and ROGERS and referred to the Committee on Appropriations.

A bill to amend sections 2, 4, and 5 of Act No. 350 of the Public Acts of 1994, entitled "Public employee retirement benefits forfeiture act," being sections 38.2702, 38.2704, and 38.2705 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 4, and 5 of Act No. 350 of the
2 Public Acts of 1994, being sections 38.2702, 38.2704, and 38.2705
3 of the Michigan Compiled Laws, are amended to read as follows:

4 Sec. 2. As used in this act:

5 (A) "EARLIEST RETIREMENT DATE" MEANS THE EARLIEST DATE ON
6 WHICH THAT INDIVIDUAL WOULD HAVE MET ALL OF THE REQUIREMENTS FOR
7 RETIREMENT UNDER A RETIREMENT SYSTEM EXCEPT FOR TERMINATION OF
8 EMPLOYMENT.

1 (B) ~~(a)~~ "Felony arising out of his or her service as a
2 public employee" means 1 or more of the following:

3 (i) A felony resulting from the misuse of public funds.

4 (ii) A felony resulting from the receipt of a bribe or other
5 financial benefit in that person's capacity as a public
6 employee.

7 (C) ~~(b)~~ "Member" means a member, vested former member, or
8 deferred member of a retirement system.

9 (D) ~~(c)~~ "Retirant" means a person who has retired with a
10 retirement benefit payable from a retirement system.

11 (E) ~~(d)~~ "Retirement benefit" means an annuity, a retire-
12 ment allowance, a pension, an optional benefit, a postretirement
13 benefit, ~~including but not limited to health benefits,~~ and any
14 other right accrued or accruing to a member under a retirement
15 system. RETIREMENT BENEFIT DOES NOT INCLUDE HEALTH BENEFITS PRO-
16 VIDED TO A RETIRANT OR HIS OR HER BENEFICIARIES BY A RETIREMENT
17 SYSTEM.

18 (F) ~~(e)~~ "Retirement system" means a public employee
19 retirement system established by this state or a political subdi-
20 vision of this state.

21 Sec. 4. (1) ~~A judge of a court having jurisdiction, when~~
22 ~~pronouncing judgment against and passing sentence upon~~ IF a
23 member or retirant ~~who~~ is convicted of ~~or who enters a nolo~~
24 ~~contendere plea accepted by the court for~~ a felony arising out
25 of his or her service as a public employee, THE COURT may order
26 ~~all~~ 1 OR MORE of the following:

1 (a) ~~That the~~ THE member's or retirant's retirement benefit
2 under a retirement system established by that person's employer
3 at the time the act or acts that resulted in the felony were com-
4 mitted is forfeited.

5 (b) ~~That the~~ THE member's or retirant's accumulated con-
6 tributions standing to that person's credit in the individual
7 account established for that purpose in the retirement system are
8 forfeited.

9 (C) THE PAYMENT OF ANY AMOUNT FROM THE SEPARATE INTEREST
10 BEARING ACCOUNT ESTABLISHED PURSUANT TO SUBDIVISION (E) SHALL
11 BEGIN ON OR AFTER THE EARLIEST RETIREMENT DATE OF THAT
12 INDIVIDUAL.

13 (D) ~~(c) That the~~ THE retirement system's actuary TO calcu-
14 late the actuarial present value, as of the INDIVIDUAL'S EARLIEST
15 RETIREMENT date ~~of the court's order,~~ of the retirement bene-
16 fit, if any, payable to the member or retirant at ~~normal~~ THE
17 INDIVIDUAL'S EARLIEST retirement age under that retirement
18 system. IF THE INDIVIDUAL IS ALREADY RETIRED, THE ACTUARIAL
19 PRESENT VALUE SHALL BE CALCULATED AS OF THE DATE OF THE COURT
20 ORDER. The actuary shall include in the calculation recognition
21 of an eligible domestic relations order on file with the retire-
22 ment system, any amount that has already been paid out of the
23 retirement system on behalf of the member or retirant, or any
24 other item considered appropriate by the retirement system.

25 (E) THE RETIREMENT SYSTEM TO ESTABLISH A SEPARATE INTEREST
26 BEARING ACCOUNT FOR THE FORFEITED RETIREMENT BENEFIT UNDER THIS
27 ACT.

1 (F) ~~(d) That the~~ THE retirement system ~~shall pay to the~~
2 ~~court~~ TO TRANSFER TO THE SEPARATE INTEREST BEARING ACCOUNT
3 ESTABLISHED PURSUANT TO SUBDIVISION (E) from retirement system
4 assets an amount equal to the actuarial present value determined
5 under subdivision ~~(c)~~ (D).

6 (G) ~~(e) That the~~ THE retirement system ~~shall pay to the~~
7 ~~court~~ TO TRANSFER TO THE SEPARATE INTEREST BEARING ACCOUNT
8 ESTABLISHED PURSUANT TO SUBDIVISION (E) all accumulated contribu-
9 tions, including earnings on those contributions, standing to the
10 person's credit, if any, in the individual account established
11 for that purpose in the retirement system.

12 (H) ~~(f) That the~~ THE retirement system TO pay no other
13 amount from the assets of the retirement system on behalf of that
14 member or retirant.

15 ~~(g) That the clerk of the court establish an interest bear-~~
16 ~~ing account into which the amount paid to the court by the~~
17 ~~retirement system be placed.~~

18 (I) ~~(h) That the clerk of the court~~ THE RETIREMENT SYSTEM
19 TO pay out of the SEPARATE INTEREST BEARING account established
20 ~~under~~ PURSUANT TO subdivision ~~(g)~~ (E) all amounts ordered by
21 the court. The court, if ordering amounts paid out of the
22 account, shall first order amounts paid for costs of maintenance
23 of family members of the member or retirant, if necessary. The
24 court may then order amounts paid out of the account for 1 or
25 more of the following:

26 (i) Restitution.

1 (ii) Fines and costs.

2 (iii) Damages.

3 (iv) Costs of administering the ~~account~~ ORDER.

4 (v) Costs of confinement at any federal, state, or local
5 facility.

6 ~~(vi) Any other amounts considered appropriate by the
7 court.~~

8 (J) ~~(i) That, after~~ AFTER the member or retirant has been
9 released from custody of a federal, state, or local facility; has
10 completed any term of probation or parole; is no longer under the
11 jurisdiction of the court; and all amounts ordered paid by the
12 court have been satisfied, the RETIREMENT SYSTEM TO PAY THE bal-
13 ance remaining in the SEPARATE INTEREST BEARING account estab-
14 lished ~~by the clerk of the court under~~ PURSUANT TO subdivision
15 ~~(g)~~ (E), including any interest earned on those amounts that
16 remain in the account, ~~shall be paid, upon that person attaining~~
17 ~~age 60,~~ to the person whose retirement benefits were forfeited
18 under this act or, ~~upon that person's death~~ IF THAT PERSON IS
19 DEAD, to his or her estate. ~~, whichever occurs first.~~ If no
20 amount remains in the account, the member or retirant is not
21 entitled to any money under this act.

22 (2) If a ~~judge~~ COURT enters an order described in subsec-
23 tion (1), the clerk of the court shall deliver the order to the
24 retirement system. ~~The clerk of the court shall comply with the
25 order and administer the account as provided in this act.~~

26 Sec. 5. (1) The retirement system shall comply with an
27 order of the court described in section 4. The retirement system

1 shall ~~pay~~ TRANSFER TO THE SEPARATE INTEREST BEARING ACCOUNT
2 ESTABLISHED PURSUANT TO SECTION 4(1)(E) from retirement system
3 assets the amount equal to the actuarial present value determined
4 pursuant to the order and any accumulated contributions not later
5 than 60 days after receipt of the order OR THE EARLIEST RETIRE-
6 MENT DATE OF THE INDIVIDUAL, WHICHEVER OCCURS LAST. The retire-
7 ment system shall not pay to a member or retirant whose retire-
8 ment benefit is forfeited under this act, or a beneficiary of
9 that member or retirant, any retirement benefits on or after the
10 day the governing body of the retirement system receives the
11 order of the court under section 4.

12 (2) A retirement system shall comply with any subsequent
13 orders of a court based upon an appeal of an order previously
14 submitted to the retirement system under this act.

15 (3) A retirement system that complies with a court order
16 under this act is released and discharged from any and all
17 liability pertaining to retirement benefits arising on account of
18 the former member's or retirant's service to the employer upon
19 ~~payment~~ TRANSFER to the ~~clerk of the court~~ SEPARATE INTEREST
20 BEARING ACCOUNT ESTABLISHED PURSUANT TO SECTION 4(1)(E) of all
21 amounts ordered under this act.