

**SUBSTITUTE FOR
SENATE BILL NO. 775**

A bill to amend 1957 PA 261, entitled
"Michigan legislative retirement system act,"
by amending sections 24, 26, 28, 59a, and 79 (MCL 38.1024, 38.1026,
38.1028, 38.1059a, and 38.1079), section 24 as amended by 1987 PA
58, sections 26 and 59a as amended by 2002 PA 97, section 28 as
amended by 1981 PA 123, and section 79 as amended by 1998 PA 501.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. (1) Unless otherwise provided by the member pursuant
2 to this act, the surviving spouse of a deceased member, deferred
3 vested member, or retirant having the service qualifications
4 required by section 23 shall be entitled to receive a survivor's
5 retirement allowance for life payable from the survivors'
6 retirement fund. The survivor's retirement allowance shall be

1 payable beginning on the day after the date of death of the member
2 or deferred vested member, or beginning in the month after the
3 month of death in the case of a retirant. If an eligible child or
4 children also survive the member, deferred vested member, or
5 retirant, and the child or children are under the care of the
6 eligible surviving spouse, the survivor's retirement allowance
7 shall begin as of the day after the date of death of the member or
8 deferred vested member or the month after the month of death in the
9 case of a retirant, without regard to whether the surviving spouse
10 has attained 55 years of age. The benefits to an eligible child or
11 children shall continue whether or not the surviving spouse
12 remarries. If the eligible child or children, or any of them, are
13 not under the care of the eligible surviving spouse, at the
14 specific designation of the deceased member, deferred vested
15 member, or retirant as provided in this act, a survivor's
16 retirement allowance shall begin for the benefit of the eligible
17 child or children as of the day after the date of death of the
18 member or deferred vested member, or beginning in the month after
19 the month of death in the case of a retirant. A deduction from the
20 monthly survivor's retirement allowance shall not be made for any
21 fraction of a month remaining at the time of a survivor's death or
22 becoming ineligible.

23 (2) The survivor's retirement allowance shall be equal to 66-
24 2/3% of the retirement allowance which the deceased member,
25 deferred vested member, or retirant had earned on the date of
26 death, as a member, deferred vested member, or retirant. If an
27 eligible survivor, regardless of age, has in his or her care an

1 eligible child or children of the deceased member, deferred vested
2 member, or retirant, the survivor's retirement allowance shall be
3 75% of the retirement allowance, but when all the children have
4 become ineligible, the survivor's retirement allowance shall be 66-
5 2/3% of the retirement allowance.

6 (3) An adopted child of a member for the purposes of this act
7 shall have the same status as a natural child of a member.

8 (4) If there is not a surviving spouse but an eligible child
9 exists, or if an eligible child survives a surviving spouse, then
10 the survivor's retirement allowance otherwise payable to the
11 surviving spouse shall be paid in equal parts to each eligible
12 child until the child becomes ineligible, and the total of the
13 survivor's retirement allowance paid to any other child shall not
14 be diminished because of the attainment of ineligible age,
15 marriage, or death of an eligible child. **THE PORTION OF THE**
16 **SURVIVOR'S RETIREMENT ALLOWANCE THAT WAS PAID TO A FORMERLY**
17 **ELIGIBLE CHILD WHO SUBSEQUENTLY BECOMES INELIGIBLE SHALL BE PAID IN**
18 **EQUAL PARTS AMONG THE REMAINING ELIGIBLE CHILDREN, IF ANY, UNTIL NO**
19 **ELIGIBLE CHILDREN REMAIN TO BE PAID.**

20 (5) Marriage or attainment of ineligible age, whichever occurs
21 first, shall render a child of a member, deferred vested member, or
22 retirant ineligible for further consideration in the payment of a
23 survivor's retirement allowance or in the increase in the amount of
24 the survivor's retirement allowance under this act.

25 (6) If the deceased member, deferred vested member, or
26 retirant is survived by an eligible child or children who are not
27 under the care of an eligible surviving spouse and if the deceased

1 member, deferred vested member, or retirant has filed a written
2 designation with the board, the survivor's retirement allowance or
3 a part of it shall be paid to or for the benefit of the eligible
4 child or children in the shares and in the manner as provided in
5 the written designation. The deceased member, deferred vested
6 member, or retirant may provide in the written designation that
7 payment of all or any part of the survivor's retirement allowance
8 to a surviving spouse not having the care of all of the eligible
9 children shall be deferred until the children become ineligible.

10 (7) If there is not a written designation by a member,
11 deferred vested member, or retirant, and if the surviving spouse is
12 not the biological parent of an eligible child or children, the
13 survivor's retirement allowance shall be divided equally among the
14 eligible survivors.

15 (8) Unless designated by a member, deferred vested member, or
16 retirant, when an eligible child or all of the eligible children
17 become ineligible, the surviving spouse at the time of the member,
18 deferred vested member, or retirant's death shall receive the
19 entire survivor's retirement allowance.

20 Sec. 26. (1) ~~Beginning January 1, 1999, the~~ **THE** retirement
21 system shall be administered by a board of trustees, consisting of
22 11 persons as follows:

23 (a) Two members of the house of representatives appointed by
24 the speaker of the house of representatives.

25 (b) Two members of the senate, appointed in the same manner as
26 members of standing committees of the senate are appointed.

27 (c) Two retirants appointed by the speaker of the house of

1 representatives and 2 retirants appointed by the senate majority
2 leader.

3 (d) One deferred vested member appointed by the speaker of the
4 house of representatives and 1 deferred vested member appointed by
5 the senate majority leader. If a deferred vested member serving on
6 the board becomes a retirant during his or her term of office, he
7 or she shall be entitled to serve the remainder of his or her term
8 of office.

9 (e) One participant of Tier 2 who was a former member of Tier
10 1 appointed in 1999 by the senate majority leader and beginning in
11 2001 appointed alternately by the speaker of the house of
12 representatives and the senate majority leader. However, if there
13 is no participant of Tier 2 who meets the former member requirement
14 of this subdivision, then 1 additional deferred vested member
15 appointed in the manner prescribed in this subdivision.

16 (2) Only members of the retirement system are eligible to
17 serve as members on the board of trustees except for the retirants
18 and Tier 2 participant authorized under subsection (1). Board
19 members appointed under subsection (1)(a) and (b) are appointed for
20 2-year terms. Board members appointed under subsection (1)(c) are
21 appointed for 4-year terms. Board members appointed for terms
22 beginning in 1999 under subsection (1)(d) are appointed for 2-year
23 terms. Board members appointed for terms beginning in 2001 under
24 subsection (1)(d) are appointed for 4-year terms. A board member
25 appointed for a term beginning in 1999 under subsection (1)(e) is
26 appointed for a 2-year term. Beginning in 2001, a board member
27 appointed under subsection (1)(e) is appointed for a 4-year term.

1 ~~For terms beginning on or after January 1, 1999, board members~~
2 ~~appointed under subsection (1)(c), (d), or (e) shall not serve as a~~
3 ~~board member under those subdivisions for a combined total of more~~
4 ~~than 8 years.~~

5 (3) Each person, whether appointed as a trustee or becoming a
6 trustee ex officio, shall take an oath of office before the
7 secretary of state, clerk of the house, or secretary of the senate,
8 and, upon taking the oath, qualifies as a trustee. The oath of
9 office shall be as prescribed under section 1 of article XI of the
10 state constitution of 1963.

11 (4) **A MEMBER OF THE BOARD OF TRUSTEES SERVING AS OF DECEMBER**
12 **31, 2010 SHALL CONTINUE TO SERVE AS A MEMBER UNTIL DECEMBER 31,**
13 **2011. BEGINNING JANUARY 1, 2012, THE BOARD OF TRUSTEES SHALL BE**
14 **COMPOSED OF 11 MEMBERS AS INDICATED IN THIS SECTION AND IN THE**
15 **BYLAWS. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE 11**
16 **MEMBERS OF THE BOARD SHALL CONTAIN AT LEAST 4 MEMBERS WHO ARE**
17 **RETIRANTS, 2 MEMBERS WHO ARE DEFERRED FORMER QUALIFIED**
18 **PARTICIPANTS, AND AT LEAST 1 CURRENT MEMBER OF TIER 2. IF THERE ARE**
19 **INSUFFICIENT PERSONS WHO QUALIFY UNDER THIS SECTION AND ARE WILLING**
20 **TO SERVE, THEN MEMBERS SHALL BE APPOINTED AS INDICATED IN THE**
21 **BYLAWS.**

22 Sec. 28. ~~A BEGINNING JANUARY 1, 2012, A vacancy in a~~
23 ~~trusteeship shall be filled for the unexpired term in the same~~
24 ~~manner as original appointments are made~~ **AS PROVIDED IN THE**
25 **BYLAWS.**

26 Sec. 59a. (1) This section is enacted pursuant to section
27 401(a) of the internal revenue code, **26 USC 401(A)**, that imposes

1 certain administrative requirements and benefit limitations for
2 qualified governmental plans. This state intends that the
3 retirement system be a qualified pension plan created in trust
4 under section 401 of the internal revenue code, **26 USC 401**, and
5 that the trust be an exempt organization under section 501 of the
6 internal revenue code, **26 USC 501**. The board of trustees shall
7 administer the retirement system to fulfill this intent.

8 ~~—— (2) Except as otherwise provided in this section, employer-~~
9 ~~financed benefits provided by the retirement system under this act~~
10 ~~shall not exceed the lesser of \$90,000.00 or 100% of the member's~~
11 ~~average compensation for high 3 years as described in section~~
12 ~~415(b) (3) of the internal revenue code for retirement occurring at~~
13 ~~age 62 or older.~~

14 ~~—— (3) The limitation on employer financed benefits provided by~~
15 ~~the retirement system under subsection (2) applies unless~~
16 ~~application of subsections (4) and (5) produces a higher~~
17 ~~limitation, in which case the higher limitation applies.~~

18 ~~—— (4) If a member retires before age 62, the amount of~~
19 ~~\$90,000.00 in subsection (2) is actuarially reduced to reflect~~
20 ~~payment before age 62. The retirement system shall use an interest~~
21 ~~rate of 5% per year compounded annually to calculate the actuarial~~
22 ~~reduction in this subsection. If this subsection produces a~~
23 ~~limitation of less than \$75,000.00 at age 55, the limitation at age~~
24 ~~55 is \$75,000.00 and the limitations for ages under age 55 shall be~~
25 ~~calculated from a limitation of \$75,000.00 at age 55.~~

26 ~~—— (5) Section 415(d) of the internal revenue code requires the~~
27 ~~commissioner of internal revenue to adjust the \$90,000.00~~

1 ~~limitation in subsection (2) to reflect cost of living increases,~~
2 ~~beginning with calendar year 1988. This subsection shall be~~
3 ~~administered using the limitations applicable to each calendar year~~
4 ~~as adjusted by the commissioner of internal revenue under section~~
5 ~~415(d) of the internal revenue code. The retirement system shall~~
6 ~~adjust the benefits subject to the limitation each year to conform~~
7 ~~with the adjusted limitation.~~

8 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE
9 RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH SECTION
10 415 OF THE INTERNAL REVENUE CODE, 26 USC 415, AND REGULATIONS UNDER
11 THAT SECTION THAT ARE APPLICABLE TO GOVERNMENTAL PLANS. EMPLOYER-
12 FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM UNDER THIS ACT
13 SHALL NOT EXCEED THE APPLICABLE LIMITATIONS OF SECTION 415 OF THE
14 INTERNAL REVENUE CODE, 26 USC 415, AS ADJUSTED BY THE COMMISSIONER
15 OF INTERNAL REVENUE UNDER SECTION 415(D) OF THE INTERNAL REVENUE
16 CODE, 26 USC 415(D), TO REFLECT COST OF LIVING INCREASES, AND THE
17 RETIREMENT SYSTEM SHALL ADJUST THE BENEFITS SUBJECT TO THE
18 LIMITATION EACH CALENDAR YEAR TO CONFORM WITH THE ADJUSTED
19 LIMITATION. FOR PURPOSES OF SECTION 415(B) OF THE INTERNAL REVENUE
20 CODE, 26 USC 415(B), THE APPLICABLE LIMITATION SHALL APPLY TO
21 AGGREGATED BENEFITS RECEIVED FROM ALL QUALIFIED PENSION PLANS FOR
22 WHICH THE OFFICE OF RETIREMENT SERVICES COORDINATES ADMINISTRATION
23 OF THAT LIMITATION.

24 (3) ~~—(6)—~~ The assets of the retirement system shall be held in
25 trust and invested for the sole purpose of meeting the legitimate
26 obligations of the retirement system and shall not be used for any
27 other purpose. The assets shall not be used for or diverted to a

1 purpose other than for the exclusive benefit of the members, vested
2 former members, retirants, and retirement allowance beneficiaries
3 before satisfaction of all retirement system liabilities.

4 (4) ~~—(7)—~~ The retirement system shall return post-tax member
5 contributions made by a member and received by the retirement
6 system to a member upon retirement, pursuant to internal revenue
7 service regulations and approved internal revenue service exclusion
8 ratio tables.

9 (5) ~~—(8)—~~ The required beginning date for retirement
10 allowances and other distributions shall not be later than April 1
11 of the calendar year following the calendar year in which the
12 employee attains age 70-1/2 or April 1 of the calendar year
13 following the calendar year in which the employee retires.

14 (6) ~~—(9)—~~ If the retirement system is terminated, the interest
15 of the members, deferred vested members, retirants, and retirement
16 allowance beneficiaries in the retirement system is nonforfeitable
17 to the extent funded as described in section 411(d)(3) of the
18 internal revenue code, **26 USC 411(D)(3)**, and related internal
19 revenue service regulations applicable to governmental plans.

20 (7) ~~—(10)—~~ Notwithstanding any other provision of this act to
21 the contrary that would limit a distributee's election under this
22 act, a distributee may elect, at the time and in the manner
23 prescribed by the board of trustees, to have any portion of an
24 eligible rollover distribution paid directly to an eligible
25 retirement plan specified by the distributee in a direct rollover.
26 This subsection applies to distributions made on or after January
27 1, 1993.

1 (8) ~~—(11)—~~ For purposes of determining actuarial equivalent
2 retirement allowances under this act, the actuarially assumed
3 interest rate shall be 7% with utilization of the 1971 group
4 annuity and mortality table.

5 ~~——(12) Notwithstanding any other provision of this section, the~~
6 ~~retirement system shall be administered in compliance with the~~
7 ~~provisions of section 415 of the internal revenue code and revenue~~
8 ~~service regulations under this section that are applicable to~~
9 ~~governmental plans. If there is a conflict between this section and~~
10 ~~another section of this or any other act of this state, this~~
11 ~~section prevails.~~

12 (9) ~~—(13)—~~ Notwithstanding any other provision of this act,
13 the compensation of a member of the retirement system shall be
14 taken into account for any year under the retirement system only to
15 the extent that it does not exceed the compensation limit
16 established in section 401(a)(17) of the internal revenue code, **26**
17 **USC 401(A)(17)**, as adjusted by the commissioner of internal
18 revenue. This subsection applies to any person who first becomes a
19 member of the retirement system on or after October 1, 1996.

20 (10) ~~—(14)—~~ Notwithstanding any other provision of this act,
21 contributions, benefits, and service credit with respect to
22 qualified military service will be provided under the retirement
23 system in accordance with section 414(u) of the internal revenue
24 code, **26 USC 414(U)**. This subsection applies to all qualified
25 military service on or after December 12, 1994.

26 Sec. 79. (1) A former qualified participant may elect health
27 insurance benefits in the manner prescribed in this section if he

1 or she meets both of the following requirements:

2 (a) The former qualified participant is vested in health
3 benefits under section 75(2).

4 (b) The former qualified participant meets 1 of the following
5 requirements:

6 (i) He or she meets or exceeds the benefit commencement age
7 employed in the actuarial present value calculation under section
8 62 and the service requirements that would have applied to that
9 former participant under Tier 1 for receiving health insurance
10 coverage under section 50b, if that former participant was a member
11 of Tier 1.

12 (ii) He or she is 55 years of age or older.

13 (2) A former qualified participant who is eligible to elect
14 health insurance coverage under subsection (1) may elect health
15 insurance coverage in a health benefit plan or plans as authorized
16 by section 50b. ~~— or in another plan as provided in subsection~~
17 ~~(6).~~ A former qualified participant who is eligible to elect
18 health insurance coverage under subsection (1) may also elect
19 health insurance coverage for his or her health benefit dependents,
20 if any. A surviving health benefit dependent of a deceased former
21 qualified participant who is eligible to elect health insurance
22 coverage under subsection (1) may elect health insurance coverage
23 **TO BEGIN AT THE DEATH OF THE DECEASED FORMER QUALIFIED PARTICIPANT**
24 in the manner prescribed in this section.

25 (3) ~~Except as otherwise provided in subsection (6), an~~ **AN**
26 individual who elects health insurance coverage under this section
27 shall become a member of a health insurance coverage group

1 authorized pursuant to section 50b.

2 (4) For a former qualified participant who is eligible to
3 elect health insurance coverage under subsection (1) and who is
4 vested in those benefits under section 75(2)(a) or (c), and for his
5 or her health benefit dependents, this state shall pay a portion of
6 the health insurance premium as calculated under this subsection on
7 a cash disbursement method. An individual described in this
8 subsection who elects health insurance coverage under this section
9 shall pay to the retirement system the remaining portion of the
10 health insurance coverage premium not paid by this state under this
11 subsection. The portion of the health insurance coverage premium
12 paid by this state under this subsection shall be 90% of the
13 payments for health insurance coverage under section 50b. If the
14 individual elects the health insurance coverage provided under
15 section 50b, this state shall transfer its portion of the amount
16 calculated under this subsection to the health insurance fund
17 created by section 22c.

18 (5) For a former qualified participant who is eligible to
19 elect health insurance coverage under subsection (1) and who is
20 vested in those benefits under section 75(2)(b), and for his or her
21 health benefit dependents, this state shall pay a portion of the
22 health insurance premium as calculated under this subsection on a
23 cash disbursement method. An individual described in this
24 subsection who elects health insurance coverage under this section
25 shall pay to the retirement system the remaining portion of the
26 health insurance coverage premium not paid by this state under this
27 subsection. The portion of the health insurance coverage premium

1 paid by this state under this subsection shall be equal to the
2 premium amounts paid on behalf of retirants of Tier 1 for health
3 insurance coverage under section 50b. If the individual elects the
4 health insurance coverage provided under section 50b, the state
5 shall transfer its portion of the amount calculated under this
6 subsection to the health insurance fund created by section 22c.

7 ~~—— (6) A former qualified participant or health benefit dependent~~
8 ~~who is eligible to elect health insurance coverage under this~~
9 ~~section and who elects health insurance coverage under a different~~
10 ~~plan than the plan authorized under section 50b may elect to have~~
11 ~~an amount up to the amount of the retirement system's share of the~~
12 ~~monthly health insurance premium subsidy provided in this section~~
13 ~~paid by the retirement system directly to the other health~~
14 ~~insurance plan or to a medical savings account established pursuant~~
15 ~~to section 220 of the internal revenue code, to the extent allowed~~
16 ~~by law or under the provisions and procedures of Tier 2.~~

17 (6) ~~—(7)—~~ If the department of management and budget receives
18 notification from the United States internal revenue service that
19 this section or any portion of this section will cause the
20 retirement system to be disqualified for tax purposes under the
21 internal revenue code, then the portion that will cause the
22 disqualification does not apply.