

# HOUSE BILL No. 4030

January 27, 2005, Introduced by Rep. Vagnozzi and referred to the Committee on Government Operations.

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 1i, 13, and 55 (MCL 38.1i, 38.13, and 38.55), sections 1i and 55 as amended by 2004 PA 33 and section 13 as amended by 2002 PA 743, and by adding section 61a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1i. (1) "Service" means service rendered to this state by  
2 an elected or appointed state official or employee of this state.  
3 Credit for service shall be determined by appropriate rules and  
4 regulations of the retirement board, but not more than 1 year of  
5 service shall be creditable for all service in 1 calendar year. The  
6 retirement board shall not allow credit for service for any period  
7 of more than 1 month in any 1 calendar year during which the

1 employee was absent without pay. However, full service credit shall  
2 be given for a period during which an employee is on leave of  
3 absence and is receiving worker's compensation benefits as the  
4 result of a duty-incurred disability. Full service credit shall  
5 also be given to an employee for required 1-day layoffs, for  
6 voluntary or involuntary participation in pay reduction plan A, pay  
7 reduction plan B, or both, in effect during the fiscal years ending  
8 on and after September 30, 1981, for required and designated  
9 temporary layoffs, and, beginning October 1, 2003, for furlough  
10 hours, and for participation in the banked leave time program.

11 (2) "State treasurer" means the treasurer of this state.

12 (3) "Tier 1" means the retirement plan available to a member  
13 under this act who **MEETS 1 OF THE FOLLOWING REQUIREMENTS:**

14 **(A) THE MEMBER** was first employed and entered upon the payroll  
15 before March 31, 1997 and ~~who~~ **HE OR SHE** does not elect to become a  
16 qualified participant of Tier 2.

17 **(B) THE MEMBER WAS FIRST EMPLOYED AND ENTERED UPON THE PAYROLL**  
18 **ON OR AFTER MARCH 31, 1997 AND HE OR SHE ELECTS TO BECOME A MEMBER**  
19 **OF TIER 1 UNDER SECTION 61A.**

20 (4) "Tier 2" means the retirement plan established pursuant to  
21 section 401(k) of the internal revenue code that is available to  
22 qualified participants under sections 50 to 69.

23 Sec. 13. (1) Except as otherwise provided in this act,  
24 membership in the retirement system consists of state employees  
25 occupying permanent positions in the state civil service. All state  
26 employees except those specifically excluded by law and those who  
27 are members or eligible to be members of other statutory retirement

1 systems in this state, shall become members of the retirement  
2 system. The employees may use service previously performed as an  
3 employee of this state in meeting the service requirements for the  
4 retirement allowances and death benefits provided by the retirement  
5 system. However, the prior service shall not be used in computing  
6 the amount of a retirement allowance to be paid by the retirement  
7 system unless the employee pays to the retirement system the amount  
8 the employee's contributions would have been had the employee  
9 become a member immediately upon employment by the state with  
10 interest compounded annually at the regular rate from a date 1 year  
11 after the date of employment by this state to the date of payment.  
12 A person who draws compensation as a state employee of a political  
13 subdivision of this state is eligible for the benefits provided by  
14 this act to the extent of the person's compensation paid by this  
15 state. An individual who meets the requirements of section 44a is a  
16 member of the retirement system.

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

1 allowance to be paid by the retirement system. A member who elects  
2 not to participate shall be refunded all contributions made before  
3 the election.

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

6 (a) A person who is a contributing member in the public school  
7 employees' retirement system provided for in the public school  
8 employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to  
9 38.1408.

10 (b) A person who is a contributing member in the Michigan  
11 judges retirement system provided for in the judges retirement act  
12 of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

13 (c) A person who comes within the Michigan state police  
14 retirement system provided for in the state police retirement act  
15 of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.

16 (d) An individual who is first employed and entered upon the  
17 payroll on or after March 31, 1997 for employment for which the  
18 individual would have been eligible for membership under this  
19 section before March 31, 1997 **UNLESS THAT INDIVIDUAL ELECTS TO**  
20 **BECOMES A MEMBER OF TIER 1 UNDER SECTION 61A.** An individual  
21 described in this subdivision **WHO DOES NOT MAKE THE ELECTION TO**  
22 **BECOME A MEMBER OF TIER 1** is eligible to be a qualified participant  
23 in Tier 2 subject to sections 50 to 69.

24 (e) Except as provided in section 19g, an individual who  
25 elects to terminate membership under section 50 and who, but for  
26 that election, would otherwise be eligible for membership in Tier 1  
27 under this section.

1 (f) A retirant who again becomes employed by the state and is  
2 entered upon the payroll on or after December 1, 2002, for  
3 employment for which the retirant would have been eligible for  
4 membership under this section before December 1, 2002. A retirant  
5 described in this subdivision shall be a qualified participant in  
6 Tier 2 subject to sections 50 to 69.

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

23 (5) A person, not regularly employed by this state, who is  
24 employed through participation in 1 or more of the following  
25 programs, shall not be a member of the retirement system and shall  
26 not receive service credit for the employment:

27 (a) A program authorized, undertaken, and financed pursuant to

1 the comprehensive employment and training act of 1973, former  
2 Public Law 93-203, 87 Stat. 839.

3 (b) A summer youth employment program established pursuant to  
4 the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

5 (c) A program established pursuant to the job training  
6 partnership act, Public Law 97-300, 96 Stat. 1322.

7 (d) A program established pursuant to the Michigan opportunity  
8 and skills training program, first established under sections 12 to  
9 23 of 1983 PA 259.

10 (e) A program established pursuant to the Michigan community  
11 service corps program, first established under sections 25 to 35 of  
12 1983 PA 259.

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

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

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

13 (8) For purposes of section 19g, a former member shall be  
14 considered a member and shall be considered to have satisfied the  
15 requirements of section 19g(1)(c) and (2)(c) if the former member  
16 was employed by the department formerly known as the department of  
17 mental health on January 1, 1996 and went on layoff status before  
18 January 1, 1997.

19 Sec. 55. (1) "Plan document" means the document that contains  
20 the provisions and procedures of Tier 2 in conformity with this act  
21 and the internal revenue code.

22 (2) "Qualified participant" means an individual who is a  
23 participant of Tier 2 and who meets 1 of the following  
24 requirements:

25 (a) An individual who is first employed and entered upon the  
26 payroll of his or her employer on or after March 31, 1997, and who  
27 ~~before March 31, 1997 would have been eligible to be a member of~~

1 ~~Tier 1~~ DOES NOT ELECT TO BECOME A MEMBER OF TIER 1 UNDER SECTION  
2 61A.

3 (b) An individual who elects to terminate membership in Tier 1  
4 and who elects to participate in Tier 2 in the manner prescribed in  
5 section 50.

6 (3) "Refund beneficiary" means an individual nominated by a  
7 qualified participant or a former qualified participant under  
8 section 66 to receive a distribution of the participant's  
9 accumulated balance in the manner prescribed in section 67.

10 (4) "State treasurer" means the treasurer of this state.

11 (5) Except as otherwise provided in this subsection, "year of  
12 service" means each period during which a qualified participant is  
13 employed by the employer and is credited with 2,080 hours of  
14 service. The Tier 2 plan administrator and the plan document may  
15 provide for a lesser number of annual hours and a maximum number of  
16 hours per pay period for any classification of employees, provided  
17 that no participant shall receive credit for more than 1 year of  
18 service for any 12-month period of employment. Beginning January 1,  
19 2003, full service credit shall also be given to a participant for  
20 furlough hours, for required 1-day layoffs, for required and  
21 designated temporary layoffs, for a year in which a participant  
22 temporarily leaves employment to enter active military duty and  
23 then dies during that active military duty, and for participation  
24 in the banked leave time program. In the event a terminated  
25 participant is reemployed, such individual shall retain credit for  
26 all full and partial years of service completed prior to such  
27 reemployment, for purposes of determining his or her vesting

1 percentage in any employer contributions made pursuant to section  
2 63(2) and (3) after his or her reemployment.

3 SEC. 61A. (1) AN INDIVIDUAL WHO IS FIRST EMPLOYED AND ENTERED  
4 UPON THE PAYROLL OF HIS OR HER EMPLOYER ON OR AFTER THE EFFECTIVE  
5 DATE OF THIS SECTION SHALL ELECT IN WRITING TO BECOME A MEMBER OF  
6 TIER 1 OR TO BECOME A QUALIFIED PARTICIPANT IN TIER 2 WITHIN 30  
7 DAYS AFTER HIS OR HER EMPLOYMENT. AN ELECTION MADE BY AN INDIVIDUAL  
8 UNDER THIS SUBSECTION IS IRREVOCABLE. AN INDIVIDUAL WHO DOES NOT  
9 MAKE A WRITTEN ELECTION OR WHO DOES NOT FILE THE ELECTION DURING  
10 THE PERIOD SPECIFIED IN THIS SUBSECTION IS CONSIDERED TO HAVE  
11 ELECTED TO BECOME A QUALIFIED PARTICIPANT OF TIER 2.

12 (2) THE RETIREMENT SYSTEM SHALL PROVIDE AN OPPORTUNITY FOR  
13 EACH QUALIFIED PARTICIPANT WHO IS A QUALIFIED PARTICIPANT ON THE  
14 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION TO  
15 ELECT IN WRITING TO TERMINATE PARTICIPATION IN TIER 2 AND ELECT TO  
16 BECOME A MEMBER IN TIER 1. AN ELECTION MADE BY A QUALIFIED  
17 PARTICIPANT UNDER THIS SUBSECTION IS IRREVOCABLE. THE RETIREMENT  
18 SYSTEM SHALL ACCEPT WRITTEN ELECTIONS UNDER THIS SUBSECTION FROM  
19 QUALIFIED PARTICIPANTS DURING THE PERIOD BEGINNING ON THE EFFECTIVE  
20 DATE OF THIS SECTION AND ENDING UPON THE EXPIRATION OF 60 DAYS  
21 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
22 SECTION. A QUALIFIED PARTICIPANT WHO DOES NOT MAKE A WRITTEN  
23 ELECTION OR WHO DOES NOT FILE THE ELECTION DURING THE PERIOD  
24 SPECIFIED IN THIS SUBSECTION CONTINUES TO BE A QUALIFIED  
25 PARTICIPANT OF TIER 2. A QUALIFIED PARTICIPANT WHO MAKES AND FILES  
26 A WRITTEN ELECTION UNDER THIS SUBSECTION ELECTS TO DO ALL OF THE  
27 FOLLOWING:

1 (A) CEASE TO BE A MEMBER OF TIER 2 EFFECTIVE 12 MIDNIGHT ON  
2 THE DAY BEFORE THE FIRST DAY OF THE PAYROLL PERIOD THAT FOLLOWS THE  
3 EXPIRATION OF 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
4 ACT THAT ADDED THIS SECTION.

5 (B) BECOME A MEMBER OF TIER 1 EFFECTIVE 12:01 A.M. ON THE  
6 FIRST DAY OF THE PAYROLL PERIOD DESCRIBED IN SUBDIVISION (A).

7 (C) WAIVE ALL OF HIS OR HER RIGHTS TO A BENEFIT UNDER TIER 2  
8 ON THE DATE HE OR SHE BECOMES A MEMBER OF TIER 1.

9 (3) AFTER CONSULTATION WITH THE RETIREMENT SYSTEM'S ACTUARY  
10 AND THE RETIREMENT BOARD, THE DEPARTMENT OF MANAGEMENT AND BUDGET  
11 SHALL DETERMINE THE METHOD BY WHICH AN INDIVIDUAL SHALL MAKE A  
12 WRITTEN ELECTION UNDER THIS SECTION. IF THE INDIVIDUAL IS MARRIED  
13 AT THE TIME OF THE ELECTION, THE ELECTION IS NOT EFFECTIVE UNLESS  
14 THE ELECTION IS SIGNED BY THE INDIVIDUAL'S SPOUSE. HOWEVER, THE  
15 RETIREMENT BOARD MAY WAIVE THIS REQUIREMENT IF THE SPOUSE'S  
16 SIGNATURE CANNOT BE OBTAINED BECAUSE OF EXTENUATING CIRCUMSTANCES.

17 (4) AN ELECTION UNDER THIS SECTION IS SUBJECT TO THE ELIGIBLE  
18 DOMESTIC RELATIONS ORDER ACT, 1991 PA 46, MCL 38.1701 TO 38.1711.

19 (5) IF THE DEPARTMENT OF MANAGEMENT AND BUDGET RECEIVES  
20 NOTIFICATION FROM THE UNITED STATES INTERNAL REVENUE SERVICE THAT  
21 THIS SECTION OR ANY PORTION OF THIS SECTION WILL CAUSE THE  
22 RETIREMENT SYSTEM TO BE DISQUALIFIED FOR TAX PURPOSES UNDER THE  
23 INTERNAL REVENUE CODE, THEN THE PORTION THAT WILL CAUSE THE  
24 DISQUALIFICATION DOES NOT APPLY.

25 (6) FOR A QUALIFIED PARTICIPANT WHO ELECTS TO TERMINATE  
26 PARTICIPATION IN TIER 2 UNDER SUBSECTION (2), THE RETIREMENT SYSTEM  
27 SHALL DIRECT THE STATE TREASURER TO TRANSFER THE QUALIFIED

1 PARTICIPANT'S ACCUMULATED BALANCE TO THE APPROPRIATE FUND CREATED  
2 UNDER SECTION 11 ON OR BEFORE THE EXPIRATION OF 120 DAYS AFTER THE  
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION. THE  
4 RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT TO BE TRANSFERRED,  
5 WHICH SHALL BE EQUAL TO THE SUM OF THE FOLLOWING:

6 (A) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE  
7 ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS AND EARNINGS ON THOSE  
8 CONTRIBUTIONS, IF ANY, AS OF THE DATE OF TRANSFER, TO THE  
9 EMPLOYEE'S SAVINGS FUND.

10 (B) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE  
11 ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE  
12 CONTRIBUTIONS, IF ANY, AS OF THE DATE OF TRANSFER, TO THE  
13 EMPLOYER'S ACCUMULATION FUND.