

# SENATE BILL No. 775

September 22, 2005, Introduced by Senator HAMMERSTROM and referred to the Committee on Government Operations.

A bill to amend 1957 PA 261, entitled "Michigan legislative retirement system act," by amending sections 23b, 24, 26, 28, 30, 59a, and 79 (MCL 38.1023b, 38.1024, 38.1026, 38.1028, 38.1030, 38.1059a, and 38.1079), section 23b as amended by 1996 PA 486, section 24 as amended by 1987 PA 58, sections 26, 30, 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. 23b. (1) Notwithstanding section 18 and except as  
2 otherwise provided in subsection (4), if a retirant or a deferred  
3 vested member again becomes a legislator or lieutenant governor,  
4 the retirant or deferred vested member shall not again become a  
5 member unless within 30 days from the date of the beginning of the

1 subsequent service he or she files with the board a written notice  
2 of election to again become a member and complies with this  
3 section. After the expiration of the 30-day period, a retirant or  
4 deferred vested member who again becomes a legislator or lieutenant  
5 governor who does not elect to again become a member is barred from  
6 again becoming a member during that term of office. During the 30-  
7 day period, the retirement allowance shall not be paid, but the  
8 contributions required by this act shall be deducted. The  
9 contributions shall be refunded if the legislator or lieutenant  
10 governor does not elect to again become a member.

11 (2) If the retirant or deferred vested member elects to again  
12 become a member, the subsequent membership in the retirement system  
13 shall be subject to the following conditions in addition to any  
14 other condition required of a member by this act:

15 (a) During the subsequent period of service as a legislator or  
16 lieutenant governor, payment of the retirement allowance shall not  
17 be made or accrued.

18 (b) The member shall repay to the retirement system all money  
19 received from the retirement system with interest at the rate of 6%  
20 per annum compounded annually before the expiration of 180 days of  
21 the term for which the member currently is elected. Failure to make  
22 the repayment within 180 days shall void the election to become a  
23 member.

24 (c) All prior applications for retirement shall be abrogated.

25 (d) The member's service credit shall be recalculated.

26 (3) If a retirant or deferred vested member again becomes a  
27 legislator or lieutenant governor and declines to again become a

1 member, he or she shall not be entitled to a retirement allowance  
2 and payment of his or her retirement allowance shall not be made or  
3 accrued during his or her subsequent service. Upon termination of  
4 his or her subsequent service, payment of the retirement allowance  
5 shall be resumed effective as of the date of termination of the  
6 subsequent service without change because of the subsequent  
7 service.

8 (4) This section does not apply to a deferred vested member  
9 who is required to make an election under section 61.

10 Sec. 24. (1) Unless otherwise provided by the member pursuant  
11 to this act, the surviving spouse of a deceased member, deferred  
12 vested member, or retirant having the service qualifications  
13 required by section 23 shall be entitled to receive a survivor's  
14 retirement allowance for life payable from the survivors'  
15 retirement fund. The survivor's retirement allowance shall be  
16 payable beginning on the day after the date of death of the member  
17 or deferred vested member, or beginning in the month after the  
18 month of death in the case of a retirant. If an eligible child or  
19 children also survive the member, deferred vested member, or  
20 retirant, and the child or children are under the care of the  
21 eligible surviving spouse, the survivor's retirement allowance  
22 shall begin as of the day after the date of death of the member or  
23 deferred vested member or the month after the month of death in the  
24 case of a retirant, without regard to whether the surviving spouse  
25 has attained 55 years of age. The benefits to an eligible child or  
26 children shall continue whether or not the surviving spouse  
27 remarries. If the eligible child or children, or any of them, are

1 not under the care of the eligible surviving spouse, at the  
2 specific designation of the deceased member, deferred vested  
3 member, or retirant as provided in this act, a survivor's  
4 retirement allowance shall begin for the benefit of the eligible  
5 child or children as of the day after the date of death of the  
6 member or deferred vested member, or beginning in the month after  
7 the month of death in the case of a retirant. A deduction from the  
8 monthly survivor's retirement allowance shall not be made for any  
9 fraction of a month remaining at the time of a survivor's death or  
10 becoming ineligible.

11 (2) The survivor's retirement allowance shall be equal to 66-  
12 2/3% of the retirement allowance which the deceased member,  
13 deferred vested member, or retirant had earned on the date of  
14 death, as a member, deferred vested member, or retirant. If an  
15 eligible survivor, regardless of age, has in his or her care an  
16 eligible child or children of the deceased member, deferred vested  
17 member, or retirant, the survivor's retirement allowance shall be  
18 75% of the retirement allowance, but when all the children have  
19 become ineligible, the survivor's retirement allowance shall be 66-  
20 2/3% of the retirement allowance.

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

23 (4) If there is not a surviving spouse but an eligible child  
24 exists, or if an eligible child survives a surviving spouse, then  
25 the survivor's retirement allowance otherwise payable to the  
26 surviving spouse shall be paid in equal parts to each eligible  
27 child until the child becomes ineligible, and the total of the

1 survivor's retirement allowance paid to any other child shall not  
2 be diminished because of the attainment of ineligible age,  
3 marriage, or death of an eligible child. **THE PORTION OF THE**  
4 **SURVIVOR'S RETIREMENT ALLOWANCE THAT WAS PAID TO A FORMERLY**  
5 **ELIGIBLE CHILD WHO SUBSEQUENTLY BECOMES INELIGIBLE SHALL BE PAID IN**  
6 **EQUAL PARTS AMONG THE REMAINING ELIGIBLE CHILDREN, IF ANY, UNTIL NO**  
7 **ELIGIBLE CHILDREN REMAIN TO BE PAID.**

8 (5) Marriage or attainment of ineligible age, whichever occurs  
9 first, shall render a child of a member, deferred vested member, or  
10 retirant ineligible for further consideration in the payment of a  
11 survivor's retirement allowance or in the increase in the amount of  
12 the survivor's retirement allowance under this act.

13 (6) If the deceased member, deferred vested member, or  
14 retirant is survived by an eligible child or children who are not  
15 under the care of an eligible surviving spouse and if the deceased  
16 member, deferred vested member, or retirant has filed a written  
17 designation with the board, the survivor's retirement allowance or  
18 a part of it shall be paid to or for the benefit of the eligible  
19 child or children in the shares and in the manner as provided in  
20 the written designation. The deceased member, deferred vested  
21 member, or retirant may provide in the written designation that  
22 payment of all or any part of the survivor's retirement allowance  
23 to a surviving spouse not having the care of all of the eligible  
24 children shall be deferred until the children become ineligible.

25 (7) If there is not a written designation by a member,  
26 deferred vested member, or retirant, and if the surviving spouse is  
27 not the biological parent of an eligible child or children, the

1 survivor's retirement allowance shall be divided equally among the  
2 eligible survivors.

3 (8) Unless designated by a member, deferred vested member, or  
4 retirant, when an eligible child or all of the eligible children  
5 become ineligible, the surviving spouse at the time of the member,  
6 deferred vested member, or retirant's death shall receive the  
7 entire survivor's retirement allowance.

8 Sec. 26. ~~(1) Beginning January 1, 1999, the~~ **THE** retirement  
9 system shall be administered by a board of trustees. **A MEMBER OF**  
10 **THE BOARD OF TRUSTEES SERVING AS OF DECEMBER 31, 2006 SHALL**  
11 **CONTINUE TO SERVE AS A MEMBER UNTIL DECEMBER 31, 2007. BEGINNING**  
12 **JANUARY 1, 2008, THE BOARD OF TRUSTEES SHALL BE COMPOSED AS**  
13 **INDICATED IN THE BYLAWS.** ~~, consisting of 11 persons as follows:~~  
14 ~~—— (a) Two members of the house of representatives appointed by~~  
15 ~~the speaker of the house of representatives.~~  
16 ~~—— (b) Two members of the senate, appointed in the same manner as~~  
17 ~~members of standing committees of the senate are appointed.~~  
18 ~~—— (c) Two retirants appointed by the speaker of the house of~~  
19 ~~representatives and 2 retirants appointed by the senate majority~~  
20 ~~leader.~~  
21 ~~—— (d) One deferred vested member appointed by the speaker of the~~  
22 ~~house of representatives and 1 deferred vested member appointed by~~  
23 ~~the senate majority leader. If a deferred vested member serving on~~  
24 ~~the board becomes a retirant during his or her term of office, he~~  
25 ~~or she shall be entitled to serve the remainder of his or her term~~  
26 ~~of office.~~  
27 ~~—— (e) One participant of Tier 2 who was a former member of Tier~~

~~1 1 appointed in 1999 by the senate majority leader and beginning in  
2 2001 appointed alternately by the speaker of the house of  
3 representatives and the senate majority leader. However, if there  
4 is no participant of Tier 2 who meets the former member requirement  
5 of this subdivision, then 1 additional deferred vested member  
6 appointed in the manner prescribed in this subdivision.~~

~~7 (2) Only members of the retirement system are eligible to  
8 serve as members on the board of trustees except for the retirants  
9 and Tier 2 participant authorized under subsection (1). Board  
10 members appointed under subsection (1) (a) and (b) are appointed for  
11 2-year terms. Board members appointed under subsection (1) (c) are  
12 appointed for 4-year terms. Board members appointed for terms  
13 beginning in 1999 under subsection (1) (d) are appointed for 2-year  
14 terms. Board members appointed for terms beginning in 2001 under  
15 subsection (1) (d) are appointed for 4-year terms. A board member  
16 appointed for a term beginning in 1999 under subsection (1) (e) is  
17 appointed for a 2-year term. Beginning in 2001, a board member  
18 appointed under subsection (1) (e) is appointed for a 4-year term.  
19 For terms beginning on or after January 1, 1999, board members  
20 appointed under subsection (1) (c), (d), or (e) shall not serve as a  
21 board member under those subdivisions for a combined total of more  
22 than 8 years.~~

~~23 (3) Each person, whether appointed as a trustee or becoming a  
24 trustee ex officio, shall take an oath of office before the  
25 secretary of state, clerk of the house, or secretary of the senate,  
26 and, upon taking the oath, qualifies as a trustee. The oath of  
27 office shall be as prescribed under section 1 of article XI of the~~

1 ~~state constitution of 1963.~~

2       Sec. 28. ~~A~~ **BEGINNING JANUARY 1, 2008, A** vacancy in a  
3 trusteeship shall be filled ~~for the unexpired term in the same~~  
4 ~~manner as original appointments are made~~ **AS PROVIDED IN THE**  
5 **BYLAWS.**

6       Sec. 30. Each trustee is entitled to 1 vote on any action of  
7 the board and ~~at least 6~~ concurring votes **OF A MAJORITY OF BOARD**  
8 **MEMBERS** are necessary for any action by the board at a meeting. A  
9 decision or action shall not become effective, unless presented and  
10 so approved by the action of the board. A trustee shall not vote by  
11 proxy, but shall be present at the meeting in order to have his or  
12 her vote recorded.

13       Sec. 59a. (1) This section is enacted pursuant to section  
14 401(a) of the internal revenue code, **26 USC 401(A)**, that imposes  
15 certain administrative requirements and benefit limitations for  
16 qualified governmental plans. This state intends that the  
17 retirement system be a qualified pension plan created in trust  
18 under section 401 of the internal revenue code, **26 USC 401**, and  
19 that the trust be an exempt organization under section 501 of the  
20 internal revenue code, **26 USC 501**. The board of trustees shall  
21 administer the retirement system to fulfill this intent.

22 ~~—— (2) Except as otherwise provided in this section, employer-~~  
23 ~~financed benefits provided by the retirement system under this act~~  
24 ~~shall not exceed the lesser of \$90,000.00 or 100% of the member's~~  
25 ~~average compensation for high 3 years as described in section~~  
26 ~~415(b) (3) of the internal revenue code for retirement occurring at~~  
27 ~~age 62 or older.~~



~~1 (3) The limitation on employer financed benefits provided by  
2 the retirement system under subsection (2) applies unless  
3 application of subsections (4) and (5) produces a higher  
4 limitation, in which case the higher limitation applies.~~

~~5 (4) If a member retires before age 62, the amount of  
6 \$90,000.00 in subsection (2) is actuarially reduced to reflect  
7 payment before age 62. The retirement system shall use an interest  
8 rate of 5% per year compounded annually to calculate the actuarial  
9 reduction in this subsection. If this subsection produces a  
10 limitation of less than \$75,000.00 at age 55, the limitation at age  
11 55 is \$75,000.00 and the limitations for ages under age 55 shall be  
12 calculated from a limitation of \$75,000.00 at age 55.~~

~~13 (5) Section 415(d) of the internal revenue code requires the  
14 commissioner of internal revenue to adjust the \$90,000.00  
15 limitation in subsection (2) to reflect cost of living increases,  
16 beginning with calendar year 1988. This subsection shall be  
17 administered using the limitations applicable to each calendar year  
18 as adjusted by the commissioner of internal revenue under section  
19 415(d) of the internal revenue code. The retirement system shall  
20 adjust the benefits subject to the limitation each year to conform  
21 with the adjusted limitation.~~

**22 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE  
23 RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH SECTION  
24 415 OF THE INTERNAL REVENUE CODE, 26 USC 415, AND REGULATIONS UNDER  
25 THAT SECTION THAT ARE APPLICABLE TO GOVERNMENTAL PLANS. EMPLOYER-  
26 FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM UNDER THIS ACT  
27 SHALL NOT EXCEED THE APPLICABLE LIMITATIONS OF SECTION 415 OF THE**

1 INTERNAL REVENUE CODE, 26 USC 415, AS ADJUSTED BY THE COMMISSIONER  
2 OF INTERNAL REVENUE UNDER SECTION 415(D) OF THE INTERNAL REVENUE  
3 CODE, 26 USC 415(D), TO REFLECT COST OF LIVING INCREASES, AND THE  
4 RETIREMENT SYSTEM SHALL ADJUST THE BENEFITS SUBJECT TO THE  
5 LIMITATION EACH CALENDAR YEAR TO CONFORM WITH THE ADJUSTED  
6 LIMITATION. FOR PURPOSES OF SECTION 415(B) OF THE INTERNAL REVENUE  
7 CODE, 26 USC 415(B), THE APPLICABLE LIMITATION SHALL APPLY TO  
8 AGGREGATED BENEFITS RECEIVED FROM ALL QUALIFIED PENSION PLANS FOR  
9 WHICH THE OFFICE OF RETIREMENT SERVICES COORDINATES ADMINISTRATION  
10 OF THAT LIMITATION.

11 (3) ~~—(6)—~~ The assets of the retirement system shall be held in  
12 trust and invested for the sole purpose of meeting the legitimate  
13 obligations of the retirement system and shall not be used for any  
14 other purpose. The assets shall not be used for or diverted to a  
15 purpose other than for the exclusive benefit of the members, vested  
16 former members, retirants, and retirement allowance beneficiaries  
17 before satisfaction of all retirement system liabilities.

18 (4) ~~—(7)—~~ The retirement system shall return post-tax member  
19 contributions made by a member and received by the retirement  
20 system to a member upon retirement, pursuant to internal revenue  
21 service regulations and approved internal revenue service exclusion  
22 ratio tables.

23 (5) ~~—(8)—~~ The required beginning date for retirement  
24 allowances and other distributions shall not be later than April 1  
25 of the calendar year following the calendar year in which the  
26 employee attains age 70-1/2 or April 1 of the calendar year  
27 following the calendar year in which the employee retires.

1           (6) ~~—(9)—~~ If the retirement system is terminated, the interest  
2 of the members, deferred vested members, retirants, and retirement  
3 allowance beneficiaries in the retirement system is nonforfeitable  
4 to the extent funded as described in section 411(d)(3) of the  
5 internal revenue code, **26 USC 411(D)(3)**, and related internal  
6 revenue service regulations applicable to governmental plans.

7           (7) ~~—(10)—~~ Notwithstanding any other provision of this act to  
8 the contrary that would limit a distributee's election under this  
9 act, a distributee may elect, at the time and in the manner  
10 prescribed by the board of trustees, to have any portion of an  
11 eligible rollover distribution paid directly to an eligible  
12 retirement plan specified by the distributee in a direct rollover.  
13 This subsection applies to distributions made on or after January  
14 1, 1993.

15           (8) ~~—(11)—~~ For purposes of determining actuarial equivalent  
16 retirement allowances under this act, the actuarially assumed  
17 interest rate shall be 7% with utilization of the 1971 group  
18 annuity and mortality table.

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

26           (9) ~~—(13)—~~ Notwithstanding any other provision of this act,  
27 the compensation of a member of the retirement system shall be

1 taken into account for any year under the retirement system only to  
2 the extent that it does not exceed the compensation limit  
3 established in section 401(a)(17) of the internal revenue code, **26**  
4 **USC 401(A)(17)**, as adjusted by the commissioner of internal  
5 revenue. This subsection applies to any person who first becomes a  
6 member of the retirement system on or after October 1, 1996.

7 **(10)** ~~—(14)—~~ Notwithstanding any other provision of this act,  
8 contributions, benefits, and service credit with respect to  
9 qualified military service will be provided under the retirement  
10 system in accordance with section 414(u) of the internal revenue  
11 code. This subsection applies to all qualified military service on  
12 or after December 12, 1994.

13 Sec. 79. (1) A former qualified participant may elect health  
14 insurance benefits in the manner prescribed in this section if he  
15 or she meets both of the following requirements:

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

18 (b) The former qualified participant meets 1 of the following  
19 requirements:

20 (i) He or she meets or exceeds the benefit commencement age  
21 employed in the actuarial present value calculation under section  
22 62 and the service requirements that would have applied to that  
23 former participant under Tier 1 for receiving health insurance  
24 coverage under section 50b, if that former participant was a member  
25 of Tier 1.

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

27 (2) A former qualified participant who is eligible to elect

1 health insurance coverage under subsection (1) may elect health  
2 insurance coverage in a health benefit plan or plans as authorized  
3 by section 50b. ~~or in another plan as provided in subsection~~  
4 ~~(6).~~— A former qualified participant who is eligible to elect  
5 health insurance coverage under subsection (1) may also elect  
6 health insurance coverage for his or her health benefit dependents,  
7 if any. A surviving health benefit dependent of a deceased former  
8 qualified participant who is eligible to elect health insurance  
9 coverage under subsection (1) may elect health insurance coverage  
10 **TO BEGIN AT THE DEATH OF THE DECEASED FORMER QUALIFIED PARTICIPANT**  
11 in the manner prescribed in this section.

12 (3) Except as otherwise provided in subsection (6), an  
13 individual who elects health insurance coverage under this section  
14 shall become a member of a health insurance coverage group  
15 authorized pursuant to section 50b.

16 (4) For a former qualified participant who is eligible to  
17 elect health insurance coverage under subsection (1) and who is  
18 vested in those benefits under section 75(2)(a) or (c), and for his  
19 or her health benefit dependents, this state shall pay a portion of  
20 the health insurance premium as calculated under this subsection on  
21 a cash disbursement method. An individual described in this  
22 subsection who elects health insurance coverage under this section  
23 shall pay to the retirement system the remaining portion of the  
24 health insurance coverage premium not paid by this state under this  
25 subsection. The portion of the health insurance coverage premium  
26 paid by this state under this subsection shall be 90% of the  
27 payments for health insurance coverage under section 50b. If the

1 individual elects the health insurance coverage provided under  
2 section 50b, this state shall transfer its portion of the amount  
3 calculated under this subsection to the health insurance fund  
4 created by section 22c.

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

21 ~~———— (6) A former qualified participant or health benefit dependent~~  
22 ~~who is eligible to elect health insurance coverage under this~~  
23 ~~section and who elects health insurance coverage under a different~~  
24 ~~plan than the plan authorized under section 50b may elect to have~~  
25 ~~an amount up to the amount of the retirement system's share of the~~  
26 ~~monthly health insurance premium subsidy provided in this section~~  
27 ~~paid by the retirement system directly to the other health~~

1 ~~insurance plan or to a medical savings account established pursuant~~  
2 ~~to section 220 of the internal revenue code, to the extent allowed~~  
3 ~~by law or under the provisions and procedures of Tier 2.~~

4       (6) ~~—(7)—~~ If the department of management and budget receives  
5 notification from the United States internal revenue service that  
6 this section or any portion of this section will cause the  
7 retirement system to be disqualified for tax purposes under the  
8 internal revenue code, then the portion that will cause the  
9 disqualification does not apply.