

Act No. 614  
Public Acts of 2006  
Approved by the Governor  
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**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Senator Hammerstrom

**ENROLLED SENATE BILL No. 775**

AN ACT to amend 1957 PA 261, entitled "An act for the creation, maintenance, and administration of a legislative members' and presiding officers' retirement system within the legislature; to provide retirement allowances to the participants of the retirement system, and survivors' allowances and other benefits to their beneficiaries upon death; to exempt those allowances and benefits from certain taxes and legal processes; to establish certain funds in connection with the retirement system; to authorize and make appropriations for the retirement system; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; and to prescribe penalties and provide remedies," 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:*

Sec. 24. (1) Unless otherwise provided by the member pursuant to this act, the surviving spouse of a deceased member, deferred vested member, or retirant having the service qualifications required by section 23 shall be entitled to receive a survivor's retirement allowance for life payable from the survivors' retirement fund. The survivor's retirement allowance shall be payable beginning on the day after the date of death of the member or deferred vested member, or beginning in the month after the month of death in the case of a retirant. If an eligible child or children also survive the member, deferred vested member, or retirant, and the child or children are under the care of the eligible surviving spouse, the survivor's retirement allowance shall begin as of the day after the date of death of the member or deferred vested member or the month after the month of death in the case of a retirant, without regard to whether the surviving spouse has attained 55 years of age. The benefits to an eligible child or children shall continue whether or not the surviving spouse remarries. If the eligible child or children, or any of them, are not under the care of the eligible surviving spouse, at the specific designation of the deceased member, deferred vested member, or retirant as provided in this act, a survivor's retirement allowance shall begin for the benefit of the eligible child or children as of the day after the date of death of the member or deferred vested member, or beginning in the month after the month of death in the case of a retirant. A deduction from the monthly survivor's retirement allowance shall not be made for any fraction of a month remaining at the time of a survivor's death or becoming ineligible.

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

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

(4) If there is not a surviving spouse but an eligible child exists, or if an eligible child survives a surviving spouse, then the survivor's retirement allowance otherwise payable to the surviving spouse shall be paid in equal parts to each eligible child until the child becomes ineligible, and the total of the survivor's retirement allowance paid to any other child shall not be diminished because of the attainment of ineligible age, marriage, or death of an eligible child. The portion of the survivor's retirement allowance that was paid to a formerly eligible child who subsequently becomes ineligible shall be paid in equal parts among the remaining eligible children, if any, until no eligible children remain to be paid.

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

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

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

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

Sec. 26. (1) The retirement system shall be administered by a board of trustees, consisting of 11 persons as follows:

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

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

(c) Two retirants appointed by the speaker of the house of representatives and 2 retirants appointed by the senate majority leader.

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

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

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

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

(4) A member of the board of trustees serving as of December 31, 2010 shall continue to serve as a member until December 31, 2011. Beginning January 1, 2012, the board of trustees shall be composed of 11 members as indicated in this section and in the bylaws. Except as otherwise provided in this section, the 11 members of the board shall contain at least 4 members who are retirants, 2 members who are deferred former qualified participants, and at least 1 current member of Tier 2. If there are insufficient persons who qualify under this section and are willing to serve, then members shall be appointed as indicated in the bylaws.

Sec. 28. Beginning January 1, 2012, a vacancy in a trusteeship shall be filled as provided in the bylaws.

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

(2) Notwithstanding any other provision of this act, the retirement system shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations of section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415(d), to reflect cost of living increases, and the retirement system shall adjust the benefits subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415(b), the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in a health benefit plan or plans as authorized by section 50b. A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may also elect health insurance coverage for his or her health benefit dependents, if any. A surviving health benefit dependent of a deceased former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage to begin at the death of the deceased former qualified participant in the manner prescribed in this section.

(3) An individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 50b.

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

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

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

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor