

Act No. 177  
Public Acts of 1990  
Approved by the Governor  
July 2, 1990  
Filed with the Secretary of State  
July 2, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Hollister, Emmons, Barns, DeMars, Camp, Emerson and Stabenow

# **ENROLLED HOUSE BILL No. 4963**

AN ACT to amend sections 1, 18, and 31 of Act No. 240 of the Public Acts of 1943, entitled as amended "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection therewith and to require contributions thereto by state employees and by the state; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state officers and agencies; and to provide penalties for the violation of certain provisions of this act," section 1 as amended by Act No. 338 of the Public Acts of 1988 and section 31 as amended by Act No. 1 of the Public Acts of 1986, being sections 38.1, 38.18, and 38.31 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 1, 18, and 31 of Act No. 240 of the Public Acts of 1943, section 1 as amended by Act No. 338 of the Public Acts of 1988 and section 31 as amended by Act No. 1 of the Public Acts of 1986, being sections 38.1, 38.18, and 38.31 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. As used in this act:

- (a) "Retirement system" means the state employees' retirement system created by section 2.
- (b) "Retirement board" means the board provided for in section 2 to administer the retirement system.
- (c) "State treasurer" means the treasurer of this state.
- (d) "Employer" or "state" means this state.
- (e) "Member" means a state employee included in the membership of the retirement system, as provided for in section 13.
- (f) "Original member" means a person who became a member of this retirement system before January 1, 1945, or as provided in section 18.
- (g) "New member" means a person who becomes a member of this retirement system on or after January 1, 1945.
- (h) "Appointing authority" means the departmental officer who has the responsibility of making appointments and handling all other personnel transactions affecting the employees in the agency that the officer represents.

(i) "Service" means service rendered to the state by an elected or appointed state official or employee of the state. Credit for service shall be determined by appropriate rules and regulations of the retirement board, but not more than 1 year of service shall be creditable for all service in 1 calendar year. The retirement board shall not allow credit as service for any period of more than 1 month in any 1 calendar year during which the employee was absent without pay. However, full service credit shall be given for a period during which an employee is on leave of absence and is receiving worker's compensation benefits as the result of a duty incurred disability. Full service credit shall also be given to an employee for required 1-day layoffs, for voluntary or involuntary participation in pay reduction plan A, pay reduction plan B, or both, in effect during the fiscal years ending on and after September 30, 1981, and for required and designated temporary layoffs.

(j) "Prior service" means all service as a state employee or as an appointed state officer, and as an elected or appointed state official, rendered before July 1, 1943.

(k) "Membership service" means all service rendered after July 1, 1943.

(l) "Credited service" means the sum of the prior service and membership service credited to a member's service account.

(m) "Retirant" means a person who has ceased to be a member of the retirement system by reason of retirement with a pension or retirement allowance payable from the funds of the retirement system.

(n) "Beneficiary" or "disability beneficiary" means a person other than a retirant who receives a retirement allowance, pension, or other benefit provided by this act.

(o) "Regular interest" means a rate or rates per annum, compounded annually, as the retirement board determines. For the purposes of employee refunds, the interest rate payable shall not exceed 4% per annum, compounded annually.

(p) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the employees' savings fund, together with regular interest on that account.

(q) "Compensation" means the remuneration paid a member on account of the member's services rendered to the state. If a member's remuneration is not paid totally in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission. Compensation does not include any of the following:

(i) Remuneration paid in lieu of accumulated sick leave.

(ii) Remuneration for services rendered after October 1, 1981, payable at retirement or termination under voluntary or involuntary pay reduction plan B, in excess of the amount the member would have received had the member been compensated for those services at the rate of pay in effect at the time those services were performed.

(iii) Payment for accrued annual leave at separation in excess of 240 hours.

(iv) Remuneration received by an employee of the department of mental health resulting from severance pay received because of the deinstitutionalization of the department of mental health resident population.

(v) Remuneration received as a bonus by investment managers of the department of treasury under the treasury incentive bonus plan first approved by the civil service commission on February 11, 1988, pursuant to section 5 of article XI of the state constitution of 1963.

(vi) Remuneration received as a bonus or merit payment by assistant attorneys general in the department of attorney general under the merit pay plan approved by the civil service commission on January 19, 1990, pursuant to section 5 of article XI of the state constitution of 1963.

(r) "Final average compensation" means the average of those years of highest annual compensation received by a member during a period of 5 consecutive years of credited service; or if the member has less than 5 years of credited service, then the average of the annual compensation received by the member during the member's total years of credited service. For a person whose retirement allowance effective date is on or after October 1, 1987, "final average compensation" means the average of those years of highest annual compensation received by a member during a period of 3 consecutive years of credited service; or if the member has less than 3 years of credited service, then the average of the annual compensation received by the member during the member's total years of credited service. A member's final average compensation shall not be diminished because of required 1-day layoffs. The compensation used in computing the final average compensation for a period during which a member is in a voluntary or involuntary pay reduction plan A or on a designated temporary layoff shall include the value of the hours not worked calculated at the member's hourly rate or rates of pay in effect immediately before the applicable final average compensation period. A member's final average compensation shall not be increased or decreased by the member's participation in voluntary or involuntary pay reduction plan B. Payment for accrued annual leave at separation in excess of 240 hours shall not be included in final average compensation.

(s) "Final compensation" means a member's annual rate of compensation at the time the member last terminates employment with the state.

(t) "Annuity" means annual payments for life derived from the accumulated contributions of a member. An annuity shall be paid in equal monthly installments.

(u) "Pension" means annual payments for life payable from funds of the retirement system as provided in this act. A pension shall be paid in equal monthly installments.

(v) "Retirement allowance" means the sum of the annuity and the pension.

(w) "Annuity reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of an annuity, or benefits in lieu of an annuity, granted to a member under this act.

(x) "Pension reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of a pension, or benefits in lieu of a pension, granted to a member under this act.

(y) "Employee" means a person who may become eligible for membership under this act, as provided in section 13, if the person's compensation is paid in whole or in part by the state.

(z) "Pay reduction plan A" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to reduce by 1 hour or more in any 80-hour pay period the number of hours worked with a corresponding reduction in compensation.

(aa) "Pay reduction plan B" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to work a full 80-hour pay period, defer compensation for 1 or more of those hours, and accumulate or use the hours for which compensation has been deferred in the same manner as annual leave hours.

(bb) "Designated temporary layoff" means the layoff of a member that does not exceed 1 month and has a fixed, predetermined, and announced recall date.

(cc) "Deferred member" means a member who is separated from state service for a reason other than retirement or death and who has satisfied the requirements of section 20(4) or (5) for a deferred retirement allowance.

(dd) "Actuarial cost" means a single percentage which, when multiplied by a member's fiscal year compensation, will result in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. This single percentage shall be based on the members who utilize those sections of this act that permit the purchase of service. For purchases of service credit made before December 31, 1990, the single percentage shall be 9%. Beginning December 31, 1990 and every 3 years thereafter, the single percentage shall be computed based upon actual experience. If the computation results in an increase or decrease in the percentage, not less than 6 months' notice shall be given to the members.

(ee) "Conservation officer" means an employee of the department of natural resources, or its predecessor or successor agency, who has sworn to the prescribed oath of office and who is designated as a peace officer under section 6 of Act No. 192 of the Public Acts of 1929, being section 300.16 of the Michigan Compiled Laws, and section 1 of Act No. 109 of the Public Acts of 1986, being section 300.21 of the Michigan Compiled Laws.

Sec. 18. (1) A member of the retirement system who, while an employee of the state, was or who shall be drafted or enlisted into active military or other armed service of the United States government during time of war, or a member who is drafted or enlisted into active armed service during time of peace, and who returns for reemployment as a state employee within 6 months after the member's discharge from active service, or if hospitalized at date of discharge, returns for reemployment as a state employee within 6 months after release from the military facility, shall have all that active service credited as a member of the retirement system, in the same manner as if the member had served the state uninterrupted but not more than 5 years of that service may be credited to a member. During the period of active service, and until return to state employment, the member's contributions to the employee's savings fund shall be suspended and the balance in the employees' savings fund standing to the member's credit as of the last payroll date preceding the leave of absence from the service of the member's department shall be accumulated at regular interest. If the member withdraws all or part of the accumulated contributions from the employees' savings fund, the active service shall not be credited until the member returns to the fund all amounts the member withdrew, together with regular interest computed from the date of withdrawal to the date of repayment.

(2) On or after January 1, 1978 a member of this retirement system who does not meet the requirements of subsection (1) and who was drafted, enlisted, inducted, or commissioned into active duty with the military or other armed service of the United States government may elect to receive service credit for not more than 5 years of active duty upon request and payment to the retirement system of an amount equal to 5% of the

member's full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service shall not be credited if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction shall not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. Armed service shall not be credited under this subsection until the member has accumulated the number of years of credited service needed to vest in the retirement system. Armed service under this subsection shall not be creditable to a member on deferred retirement status under section 20(4) before the effective date of this subsection. For purposes of computing payment under this subsection, the compensation amount used shall not be less than the highest fiscal year compensation previously received by the member.

(3) A person who was in the employ of the Michigan employment service on January 1, 1942, the date on which the employment service and its personnel were taken over by the United States employment service, and who continued in the employ of the United States employment service or who was temporarily taken out of the United States employment service for service in the war manpower commission or other government agency engaged in the prosecution of the war and later returned to the United States employment service, and whose service to the state, United States government, and state again was continuous and who was in the employ either of the United States employment service or of this state on November 16, 1946, the date on which the employment service was returned to the state, and who reentered state service on or before that date, shall upon his reentry into the state service become an original member of the retirement system, and shall receive full service credit for the period during which the personnel of the Michigan employment service was taken over by the United States employment service.

(4) A person who entered into the employ of the Michigan employment service while the employment service was under the United States employment service and who retires after April 30, 1978, may receive service credit for the service under the United States employment service by contributing to the retirement system contributions the person would have made from July 1, 1943, to November 16, 1946, as if that service were rendered as a state employee, plus the interest with which the contributions would have been credited from the January following the year of employment to the date of repayment. The salary on which contributions are based shall be the salary received as a state employee on November 16, 1946.

(5) A member who has prior service as defined in section 1(j) of this chapter is entitled to credit for that prior service if at the time of retirement the member has 15 or more years of total service, of which the last 5 are continuous years of service and if the member contributions equal the contributions made or that would have been made for not less than 15 years of membership service. In the computation of unpaid member contributions, the contribution rate will be computed on the member's salary level at retirement or date of payment, whichever first occurs.

Sec. 31. (1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in section 19, 19a, 21, 24, 46, or 48, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retirant and a retirement allowance beneficiary, in accordance with the provisions of option A or B, as follows:

(a) Option A. Upon the retirant's death his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retirant's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsection (3), the election of an option shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retirant or member.

(3) If the retirement allowance beneficiary named under option A or B under subsection (1) predeceases the retirant, the retirant's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retirant whose effective date of retirement

was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of the state on and after the date he or she either acquires 10 years of service credit, or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration duly executed and filed with the retirement board elect option A, provided for in subsection (1), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. In the case of the beneficiary's death or divorce from the member prior to the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time prior to the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies prior to the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member may, before the effective date of retirement, but not after the effective date of retirement, revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies prior to the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

(5) If a member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance, an election under this section, other than an election of option A or option B naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse, except that this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance.

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retirant who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retirant and the retirant's spouse in accordance with the provisions of option A or B as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retirant had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retirant shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the month in which the retirant makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retirant was married on the effective date of his or her disability retirement allowance and on the date the retirant makes the election pursuant to this subsection.

(7) If a member who continues in the employ of the state on and after the date he or she acquires 10 years of service credit, and who does not have an election of option A in force as provided in subsection (4), dies prior to the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid in accordance with section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.