

# HOUSE BILL No. 5114

October 2, 2001, Introduced by Reps. Thomas, Vander Roest, Richardville, Patterson, Birkholz, DeWeese, Caul, Woronchak, Bovin, Stewart, Cameron Brown, Kolb, Minore, Voorhees, Dennis, Jelinek, Pestka, Jacobs, Switalski, Bernero, Clark, Kuipers, Neumann, Murphy, Meyer, Rich Brown, Tabor, Wojno, Bogardus, Ruth Johnson, Shackleton, Allen, Vander Veen, Hansen, Rivet, Pappageorge, Spade, Mead, George, Whitmer, Phillips, Daniels, Schauer and Richner and referred to the Committee on Appropriations.

A bill to amend 1957 PA 261, entitled  
"Michigan legislative retirement system act,"  
by amending sections 57 and 80 (MCL 38.1057 and 38.1080), section  
57 as amended by 1995 PA 258 and section 80 as added by 1996 PA  
486.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

HOUSE BILL No. 5114

1       Sec. 57. (1) ~~Except as provided in subsection (2), all~~  
2 ALL retirement allowances and other benefits payable under this  
3 act and all accumulated credits of members, deferred vested mem-  
4 bers, and retirants in this retirement system are ~~unassignable~~  
5 ~~and are~~ not subject to ~~execution, garnishment, or attachment,~~  
6 ~~or to~~ taxation by this state or any political subdivisions of  
7 this state.  
8       (2) All retirement allowances and other benefits payable  
9 under this act and all accumulated contributions of members,

1 deferred vested members, and retirants in this retirement system  
2 are subject to ~~award by a court pursuant to section 18 of chap-~~  
3 ~~ter 84 of the Revised Statutes of 1846, being section 552.18 of~~  
4 ~~the Michigan Compiled Laws, and to any other order of a court~~  
5 ~~pertaining to alimony or child support~~ THE PUBLIC EMPLOYEE  
6 RETIREMENT BENEFIT PROTECTION ACT. ~~All retirement allowances and~~  
7 ~~other benefits payable under this act and all accumulated contri-~~  
8 ~~butions of members, deferred vested members, and retirants in~~  
9 ~~this retirement system are subject to eligible domestic relations~~  
10 ~~orders under the eligible domestic relations order act, Act~~  
11 ~~No. 46 of the Public Acts of 1991, being sections 38.1701 to~~  
12 ~~38.1711 of the Michigan Compiled Laws.~~

13       ~~(3) If an award or order described in subsection (2)~~  
14 ~~requires the retirement system to withhold payment of a pension,~~  
15 ~~deferred pension, accumulated contributions, or other benefit~~  
16 ~~from the person to whom it is due or requires the retirement~~  
17 ~~system to make payment or requires the person to request that the~~  
18 ~~retirement system make payment of a pension, deferred pension,~~  
19 ~~accumulated contributions, or other benefit, for the purpose of~~  
20 ~~meeting the person's obligations to a spouse, former spouse or~~  
21 ~~child, as provided in subsection (2), the withholding or payment~~  
22 ~~provisions of the award or order shall be effective only against~~  
23 ~~those amounts as they become payable to the person receiving a~~  
24 ~~retirement allowance unless otherwise provided in an eligible~~  
25 ~~domestic relations order under Act No. 46 of the Public Acts of~~  
26 ~~1991. The limitation contained in this subsection does not apply~~

~~1 to the accumulated contributions of a person who has terminated  
2 employment before acquiring a vested member status.~~

3       Sec. 80. (1) Distributions from employer contributions made  
4 pursuant to section 74(2) and (3) and earnings on those employer  
5 contributions, and distributions from employee contributions made  
6 pursuant to section 74(3) and earnings on those employee contri-  
7 butions, are exempt from any state, county, municipal, or other  
8 local tax ~~, and shall not be subject to execution, garnishment,~~  
9 ~~attachment, the operation of bankruptcy or insolvency laws, or~~  
10 ~~other process of law, and shall be unassignable except as other-~~  
11 ~~wise provided in this act~~ AND ARE SUBJECT TO THE PUBLIC EMPLOYEE  
12 RETIREMENT BENEFIT PROTECTION ACT.

13       ~~(2) The right of a qualified participant or a former quali-~~  
14 ~~fied participant, or his or her beneficiaries, to a distribution~~  
15 ~~described in subsection (1) is subject to forfeiture pursuant to~~  
16 ~~the public employee retirement benefits forfeiture act, Act~~  
17 ~~No. 350 of the Public Acts of 1994, being sections 38.2701 to~~  
18 ~~38.2705 of the Michigan Compiled Laws.~~

19       ~~(3) The right of a qualified participant or former qualified~~  
20 ~~participant to a distribution described in subsection (1) is~~  
21 ~~subject to an award by a court pursuant to section 18 of chapter~~  
22 ~~84 of the Revised Statutes of 1846, being section 552.18 of the~~  
23 ~~Michigan Compiled Laws; an eligible domestic relations order~~  
24 ~~under the eligible domestic relations order act, Act No. 46 of~~  
25 ~~the Public Acts of 1991, being sections 38.1701 to 38.1711 of the~~  
26 ~~Michigan Compiled Laws; and to any other domestic relations order~~  
27 ~~of a court pertaining to alimony or child support.~~

1       ~~(4) If an award or order described in subsection (3)~~  
2 ~~requires Tier 2 to withhold payment of a distribution described~~  
3 ~~in subsection (1) or requires Tier 2 to make payment or requires~~  
4 ~~the individual to request that Tier 2 make payment of a distribu-~~  
5 ~~tion described in subsection (1), for the purpose of meeting the~~  
6 ~~individual's obligations to a spouse, former spouse, or child, as~~  
7 ~~provided in subsection (3), the withholding or payment provisions~~  
8 ~~of the award or order are effective only against such amounts as~~  
9 ~~they become due and payable to the individual receiving the dis-~~  
10 ~~tribution, unless otherwise provided in an eligible domestic~~  
11 ~~relations order under the eligible domestic relations order act,~~  
12 ~~Act No. 46 of the Public Acts of 1991. The limitation contained~~  
13 ~~in this subsection does not apply to the accumulated employee~~  
14 ~~contributions of a former qualified participant who has termi-~~  
15 ~~nated employment before acquiring a vested status in Tier 2 pur-~~  
16 ~~suant to this act.~~

17       (2) ~~-(5)-~~ The state treasurer has the right of setoff to  
18 recover overpayments made under this act and to satisfy any  
19 claims arising from embezzlement or fraud committed by a quali-  
20 fied participant, former qualified participant, refund beneficia-  
21 ry, or other person who has a claim to a distribution or any  
22 other benefit from Tier 2.

23       (3) ~~-(6)-~~ The state treasurer shall correct errors in the  
24 records and actions in Tier 2 under this act, and shall seek to  
25 recover overpayments and shall make up underpayments.

26       Enacting section 1. This amendatory act does not take  
27 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5108

**HB5114, As Passed House, February 26, 2002**

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1 (request no. 02139'01 \*\*) of the 91st Legislature is enacted into  
2 law.