

HOUSE BILL No. 4459

March 26, 2003, Introduced by Reps. Vagnozzi, Clack, Hunter, Condino, Dennis and Plakas and referred to the Committee on Appropriations.

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), section 1i as amended and section 55 as added by 1996 PA 487 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
2 by an elected or appointed state official or employee of this
3 state. Credit for service shall be determined by appropriate
4 rules and regulations of the retirement board, but not more than
5 1 year of service shall be creditable for all service in 1
6 calendar year. The retirement board shall not allow credit for
7 service for any period of more than 1 month in any 1 calendar
8 year during which the employee was absent without pay. However,

1 full service credit shall be given for a period during which an
2 employee is on leave of absence and is receiving worker's
3 compensation benefits as the result of a duty-incurred
4 disability. Full service credit shall also be given to an
5 employee for required 1-day layoffs, for voluntary or involuntary
6 participation in pay reduction plan A, pay reduction plan B, or
7 both, in effect during the fiscal years ending on and after
8 September 30, 1981, and for required and designated temporary
9 layoffs.

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

11 (3) "Tier 1" means the retirement plan available to a member
12 under this act who **meets 1 of the following requirements:**

13 (a) **The individual** was first employed and entered upon the
14 payroll before March 31, 1997 and ~~who~~ **he or she** does not elect
15 to become a qualified participant of Tier 2 **under section 50.**

16 (b) **The individual was first employed and entered upon the**
17 **payroll on or after March 31, 1997 and he or she elects to become**
18 **a member of Tier 1 under section 61a.**

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

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

1 of the retirement system. The employees may use service
2 previously performed as an employee of this state in meeting the
3 service requirements for the retirement allowances and death
4 benefits provided by the retirement system. However, the prior
5 service shall not be used in computing the amount of a retirement
6 allowance to be paid by the retirement system unless the employee
7 pays to the retirement system the amount the employee's
8 contributions would have been had the employee become a member
9 immediately upon employment by the state with interest compounded
10 annually at the regular rate from a date 1 year after the date of
11 employment by this state to the date of payment. A person who
12 draws compensation as a state employee of a political subdivision
13 of this state is eligible for the benefits provided by this act
14 to the extent of the person's compensation paid by this state.
15 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
22 member of the board, commission, or council is excluded from
23 membership in the retirement system for the service rendered in
24 his or her capacity as a member of the board, commission, or
25 council. Service performed by an elected or appointed official
26 during the time the official elects not to participate shall not
27 be used in meeting the service requirement or in computing the

1 amount of retirement allowance to be paid by the retirement
2 system. A member who elects not to participate shall be refunded
3 all contributions made before 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
7 school employees' retirement system provided for in the public
8 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301
9 to 38.1408.

10 (b) A person who is a contributing member in the Michigan
11 judges retirement system provided for in the judges retirement
12 act 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 **become 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
23 participant 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
27 1 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
5 retirant described in this subdivision shall be a qualified
6 participant in 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
9 upon the payroll before March 31, 1997, and who possesses a
10 Michigan teaching certificate shall be a member of this
11 retirement system. After June 30, 1974, but before March 31,
12 1997, a person who returns to state employment in the classified
13 or unclassified service who previously was a contributing member
14 of the Michigan public school employees' retirement system shall
15 have the person's accumulated contributions and service
16 transferred to this retirement system, or having withdrawn the
17 contributions, may pay into the retirement system the amount
18 withdrawn together with regular interest and have credit restored
19 as provided for in section 16. On and after March 31, 1997, an
20 individual described in this subsection who returns to state
21 service shall make an irrevocable election to remain in Tier 1 or
22 to become a qualified participant of Tier 2 in the manner
23 prescribed in section 50.

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

1 (a) A program authorized, undertaken, and financed pursuant
2 to the comprehensive employment and training act of 1973, former
3 Public Law 93-203, 87 Stat. 839.

4 (b) A summer youth employment program established pursuant to
5 the Michigan youth corps act, 1983 PA 69, MCL 409.221 to
6 409.229.

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

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

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

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

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

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

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

22 Sec. 55. (1) "Qualified participant" means an individual
23 who is a 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
27 who ~~before March 31, 1997 would have been eligible~~ **does not**

1 **elect** to be a member of Tier 1 **under section 61a.**

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

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

9 (3) "State treasurer" means the treasurer of this state.

10 **Sec. 61a. (1) An individual who is first employed and**
11 **entered upon the payroll of his or her employer on or after the**
12 **effective date of this section shall elect in writing to become a**
13 **member of Tier 1 or to become a qualified participant in Tier 2**
14 **within 30 days after his or her employment. An election made by**
15 **an individual under this subsection is irrevocable. An**
16 **individual who does not make a written election or who does not**
17 **file the election during the period specified in this subsection**
18 **is considered to have elected to become a qualified participant**
19 **of Tier 2.**

20 (2) The retirement system shall provide an opportunity for
21 each qualified participant who is a qualified participant on the
22 effective date of the amendatory act that added this section to
23 elect in writing to terminate participation in Tier 2 and elect
24 to become a member in Tier 1. An election made by a qualified
25 participant under this subsection is irrevocable. The retirement
26 system shall accept written elections under this subsection from
27 qualified participants during the period beginning on the

1 effective date of this section and ending upon the expiration of
2 60 days after the effective date of the amendatory act that added
3 this section. A qualified participant who does not make a
4 written election or who does not file the election during the
5 period specified in this subsection continues to be a qualified
6 participant of Tier 2. A qualified participant who makes and
7 files a written election under this subsection elects to do all
8 of the following:

9 (a) Cease to be a member of Tier 2 effective 12 midnight on
10 the day before the first day of the payroll period that follows
11 the expiration of 90 days after the effective date of the
12 amendatory act that added this section.

13 (b) Become a member of Tier 1 effective 12:01 a.m. on the
14 first day of the payroll period described in subdivision (a).

15 (c) Waive all of his or her rights to a benefit under Tier 2
16 on the date he or she becomes a member of Tier 1.

17 (3) After consultation with the retirement system's actuary
18 and the retirement board, the department of management and budget
19 shall determine the method by which an individual shall make a
20 written election under this section. If the individual is
21 married at the time of the election, the election is not
22 effective unless the election is signed by the individual's
23 spouse. However, the retirement board may waive this requirement
24 if the spouse's signature cannot be obtained because of
25 extenuating circumstances.

26 (4) An election under this section is subject to the eligible
27 domestic relations order act, 1991 PA 46, MCL 38.1701 to

1 38.1711.

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

8 (6) For a qualified participant who elects to terminate
9 participation in Tier 2 under subsection (2), the retirement
10 system shall direct the state treasurer to transfer the qualified
11 participant's accumulated balance to the appropriate fund created
12 under section 11 on or before the expiration of 120 days after
13 the effective date of the amendatory act that added this
14 section. The retirement system shall calculate the amount to be
15 transferred, which shall be equal to the sum of the following:

16 (a) The portion of the participant's accumulated balance
17 attributable to employee contributions and earnings on those
18 contributions, if any, as of the date of transfer, to the
19 employee's savings fund.

20 (b) The portion of the participant's accumulated balance
21 attributable to employer contributions and earnings on those
22 contributions, if any, as of the date of transfer, to the
23 employer's accumulation fund.