

**SUBSTITUTE FOR  
HOUSE BILL NO. 5653**

A bill to amend 1943 PA 240, entitled  
"State employees' retirement act,"  
by amending section 49 (MCL 38.49), as amended by 2011 PA 264.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 49. (1) This section is enacted ~~pursuant to~~**UNDER** section  
2 401(a) of the internal revenue code, 26 USC 401, ~~that~~**WHICH** imposes  
3 certain administrative requirements and benefit limitations for  
4 qualified governmental plans. This state intends that the  
5 retirement system be a qualified pension plan created in trust  
6 under section 401 of the internal revenue code, 26 USC 401, and  
7 that the trust be an ~~exempt~~ organization **EXEMPT FROM TAXATION** under  
8 section 501 of the internal revenue code, 26 USC 501. The  
9 department shall administer the retirement system to fulfill this  
10 intent.

1           (2) The retirement system shall be administered in compliance  
2 with ~~the provisions of~~ section 415 of the internal revenue code, 26  
3 USC 415, and regulations under that section that are applicable to  
4 governmental plans and, beginning January 1, 2010, applicable  
5 provisions of the final regulations issued by the ~~internal revenue~~  
6 ~~service~~ **INTERNAL REVENUE SERVICE** on April 5, 2007. Employer-  
7 financed benefits provided by the retirement system under this act  
8 ~~shall~~ **MUST** not exceed the applicable limitations set forth in  
9 section 415 of the internal revenue code, 26 USC 415, as adjusted  
10 by the commissioner of internal revenue under section 415(d) of the  
11 internal revenue code, 26 USC 415, to reflect cost-of-living  
12 increases, and the retirement system shall adjust the benefits,  
13 including benefits payable to retirants and retirement allowance  
14 beneficiaries, subject to the limitation each calendar year to  
15 conform with the adjusted limitation. For purposes of section  
16 415(b) of the internal revenue code, 26 USC 415, the applicable  
17 limitation ~~shall apply~~ **APPLIES** to aggregated benefits received from  
18 all qualified pension plans for which the office of retirement  
19 services coordinates administration of that limitation. If there is  
20 a conflict between this section and another section of this act,  
21 this section prevails.

22           (3) The assets of the retirement system ~~shall~~ **MUST** be held in  
23 trust and invested for the sole purpose of meeting the legitimate  
24 obligations of the retirement system and ~~shall~~ **MUST** not be used for  
25 any other purpose. The assets ~~shall~~ **MUST** not be used for or  
26 diverted to a purpose other than for the exclusive benefit of the  
27 members, vested former members, retirants, and retirement allowance

1 beneficiaries before satisfaction of all retirement system  
2 liabilities.

3 (4) The retirement system shall return post-tax member  
4 contributions made by a member and received by the retirement  
5 system to a member ~~upon~~ **ON** retirement, ~~pursuant to internal revenue~~  
6 ~~service~~ **UNDER INTERNAL REVENUE SERVICE** regulations and approved  
7 ~~internal revenue service~~ **INTERNAL REVENUE SERVICE** exclusion ratio  
8 tables.

9 (5) The required beginning date for retirement allowances and  
10 other distributions ~~shall~~ **MUST** not be later than April 1 of the  
11 calendar year following the calendar year in which the employee  
12 attains age 70-1/2 or April 1 of the calendar year following the  
13 calendar year in which the employee retires. The required minimum  
14 distribution requirements imposed by section 401(a)(9) of the  
15 internal revenue code, 26 USC 401, ~~shall~~ apply to this act and **MUST**  
16 be administered in accordance with a reasonable and good faith  
17 interpretation of the required minimum distribution requirements  
18 for all years to which the required minimum distribution  
19 requirements apply to the retirement system.

20 (6) If the retirement system is terminated, the interest of  
21 the members, vested former members, retirants, and retirement  
22 allowance beneficiaries in the retirement system is nonforfeitable  
23 to the extent funded as described in section 411(d)(3) of the  
24 internal revenue code, 26 USC 411, and related ~~internal revenue~~  
25 ~~service~~ **INTERNAL REVENUE SERVICE** regulations applicable to  
26 governmental plans.

27 (7) Notwithstanding any other provision of this act to the

1 contrary that would limit a distributee's election under this act,  
 2 a distributee may elect, at the time and in the manner prescribed  
 3 by the retirement board, to have any portion of an eligible  
 4 rollover distribution paid directly to an eligible retirement plan  
 5 specified by the distributee in a direct rollover. This subsection  
 6 applies to distributions made ~~on or after January 1, 1993.~~ **DECEMBER**  
 7 **31, 1992.** Beginning October 1, 2010, a nonspouse beneficiary may  
 8 elect to have any portion of an amount payable under this act that  
 9 is an eligible rollover distribution treated as a direct rollover  
 10 that will be paid in a direct trustee-to-trustee transfer to an  
 11 individual retirement account or individual retirement annuity  
 12 described in section 408(a) or (b) of the internal revenue code, 26  
 13 USC 408, that is established for the purpose of receiving a  
 14 distribution on behalf of the beneficiary and that will be treated  
 15 as an inherited individual retirement account or individual  
 16 retirement annuity ~~pursuant to~~ **UNDER** section 402(c)(11) of the  
 17 internal revenue code, 26 USC 402.

18 (8) For purposes of determining actuarial equivalent  
 19 retirement allowances under sections ~~31(1)(a) and (b)~~ **31(1)** and  
 20 20(2), the actuarially assumed interest rate ~~shall~~ **MUST** be ~~8%~~ with  
 21 ~~utilization of the 1983 group annuity and mortality~~  
 22 ~~table.~~ **DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF TECHNOLOGY,**  
 23 **MANAGEMENT, AND BUDGET AND THE RETIREMENT BOARD IN CONSULTATION**  
 24 **WITH THE ACTUARY USING THE MORTALITY TABLES ADOPTED BY THE**  
 25 **DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET AND THE RETIREMENT**  
 26 **BOARD.**

27 (9) Notwithstanding any other provision of this act to the

1 contrary, the compensation of a member of the retirement system  
2 ~~shall~~**MUST** be taken into account for any year under the retirement  
3 system only to the extent that it does not exceed the compensation  
4 limit established in section 401(a)(17) of the internal revenue  
5 code, 26 USC 401, as adjusted by the commissioner of internal  
6 revenue. This subsection applies to ~~any person~~**AN INDIVIDUAL** who  
7 first becomes a member of the retirement system ~~on or after October~~  
8 ~~1,~~**SEPTEMBER 30**, 1996.

9 (10) Notwithstanding any other provision of this act to the  
10 contrary, contributions, benefits, and service credit with respect  
11 to qualified military service ~~will~~**MUST** be provided under the  
12 retirement system in accordance with section 414(u) of the internal  
13 revenue code, 26 USC 414. This subsection applies to all qualified  
14 military service ~~on or after December 12,~~**11**, 1994. Beginning on  
15 January 1, 2007, in accordance with section 401(a)(37) of the  
16 internal revenue code, 26 USC 401, if a member dies while  
17 performing qualified military service for purposes of determining  
18 death benefits payable under this act, the member ~~shall be~~**IS**  
19 treated as having resumed and then terminated employment because of  
20 death.