

Act No. 109
Public Acts of 2004
Approved by the Governor
May 20, 2004
Filed with the Secretary of State
May 20, 2004
EFFECTIVE DATE: May 20, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

**Introduced by Reps. Condino, Law, Spade, Rivet, Byrum, Meisner, Hood, Bieda, Anderson, Plakas,
Wojno, Sak, Farrah, Stewart, Clack and Accavitti**

ENROLLED HOUSE BILL No. 5093

AN ACT to amend 1943 PA 240, entitled "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 with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," by amending sections 17g, 23, 27, 33, and 67a (MCL 38.17g, 38.23, 38.27, 38.33, and 38.67a), sections 17g, 23, and 27 as amended by 1987 PA 241, section 33 as amended by 2002 PA 93, and section 67a as added by 1996 PA 487, and by adding section 27a.

The People of the State of Michigan enact:

Sec. 17g. (1) A member who left or leaves service with the state or who left or leaves service for a reporting unit of the public school employees retirement system for purposes of parental leave, and returned or returns to service with the state without other intervening employment of more than 20 hours per week for each week for which service credit is claimed, may purchase service credit for the time period or periods during which the person was separated or on leave of absence from service with the state or separated or on leave of absence from a reporting unit of the public school employees retirement system because of parental leave, upon submitting an application described in subsection (5) and upon payment to the retirement system of an amount that is equal to the actuarial cost multiplied by the member's full-time or equated full-time fiscal year compensation for the fiscal year in which payment is made multiplied by each year and fraction of a year of service to be purchased, up to the maximum. For the purpose of computing payment under this subsection, the compensation amount used shall not be less than the highest full-time or equated full-time fiscal year compensation previously received by the member as a member of the system. The total service credited under this section shall not exceed 5 years. A member requesting purchase of service credit under this section shall certify to the retirement system the purpose for which the member took leave or was separated from service with the state.

(2) Service credit purchased under this section shall not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance is not payable, or if the member leaves service with the state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the retirement system, or if a person is not designated, then to the member's legal representative.

(4) A member who reduces hours of employment with the state for purposes of parental leave may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member requesting purchase of service credit under this section shall submit an application as prescribed by the retirement system in which the member shall certify the time period claimed for parental leave and the purpose of the parental leave. If a request for purchase of service credit under this section is a result of leave taken to care for the member's child by birth or adoption, then the member also shall submit a certified copy of a birth certificate or adoption document from the appropriate court.

(6) Parental leave is creditable under this act until the child, by birth or adoption, attains age 18 or is married, whichever occurs first.

(7) For purposes of this section, "parental leave" means either of the following:

(a) The presence of the member in the active participation or supervision in the day-to-day, ongoing care or maintenance of his or her child by birth or adoption, for which the member reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

(b) A member's pregnancy, whether brought to full term or not, childbirth, and recuperation, for which the member reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

Sec. 23. (1) Upon retirement for disability as provided in section 21, a member who is less than 60 years old shall receive a disability retirement allowance calculated under section 20(1). A disability retirement allowance payable under this subsection is payable beginning on the first day of the month following the date the member becomes totally incapacitated for state employment. A disability retirement allowance payable under this subsection shall not be paid before the first day of the month after the later of the following:

(a) Twelve months before the date the application for a disability retirement allowance was filed with the retirement system under section 21.

(b) The date the disability retiree's name last appeared on the state payroll with pay.

(2) Upon attaining age 60 years, a disability retiree under subsection (1) shall receive a retirement allowance calculated under section 20. For the purpose of calculating that retiree's retirement allowance, the retiree shall be given membership service credit for the period during which the retiree was receiving the disability retirement allowance provided for in subsection (1). If the computation results in a retirement allowance less than the disability retirement allowance provided in subsection (1), the retiree shall receive a retirement allowance equal to the disability retirement allowance provided in subsection (1). Upon attaining age 60, the retiree may elect an option provided for in section 31(1).

(3) During the period a disability retiree is receiving a disability retirement allowance under subsection (1), the retiree's contributions to the employees' savings fund shall be suspended and the balance in the fund, that is credited to the retiree as of the date the disability retirement allowance begins, shall remain in the savings fund and shall be accumulated at regular interest. Upon attaining age 60 years, the disability retiree's accumulated contributions shall be transferred from the employees' savings fund to the pension reserve fund. If the disability retiree should die before attaining age 60 years, the accumulated contributions standing to the disability retiree's credit in the employees' savings fund shall be paid to the person or persons the disability retiree nominated by written designation executed and filed with the retirement system, or if there is not a designated person or persons surviving, then to the disability retiree's legal representative or estate.

(4) The disability retirement allowance payable to a disability retiree under this section shall not be less than \$6,000.00 per year. A disability retirement allowance first payable to a disability retiree under this section shall not be more than an amount that when added to the worker's compensation benefits payable to the disability retiree exceeds the disability retiree's final compensation.

(5) If the disability retiree who retired under section 21 dies before reaching age 60, the retirement allowance payable to the beneficiary designated by the disability retiree shall be calculated as provided in section 20(1). For the purpose of calculating the retirement allowance payable to the beneficiary designated by the disability retiree, the deceased retiree shall be given membership service credit for the period during which the retiree was receiving the disability retirement allowance provided for in subsection (1).

(6) The receipt of a disability retirement allowance under this section is subject to sections 33 and 34.

Sec. 27. (1) Except as provided in subsections (3), (4), and (5), if a member dies as a result of a personal injury or disease arising out of and in the course of his or her employment with the state and the personal injury or disease resulting in death is found by the retirement board to have been the sole and exclusive result of employment with the

state, the surviving spouse shall receive a retirement allowance calculated as if the deceased member had retired effective the day before the date of death, elected option A under section 31(1), and nominated his or her spouse as retirement allowance beneficiary. The retirement allowance shall be calculated based upon the amount of the deceased member's credited service. If the deceased member does not have the minimum number of years of credited service needed to vest in the retirement system, the amount of service necessary to reach that amount of credited service shall be granted.

(2) The retirement allowance payable to a surviving spouse under this section shall not be less than \$6,000.00 per year. The retirement allowance first payable to a surviving spouse under subsection (1) shall not be more than an amount that, when added to the statutory worker's disability compensation benefits payable to the surviving spouse of the deceased member, equals the deceased member's final compensation.

(3) If the requirements of subsection (1) are met but the deceased member is survived by a spouse and a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be payable as follows:

(a) One-half to the surviving spouse.

(b) One-half to the surviving child or children under 21 years of age, in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any. When there are no surviving children entitled to a share of the retirement allowance under this subsection, the children's share shall revert to the surviving spouse.

(4) If the requirements of subsection (1) are met and the deceased member is not survived by a spouse but is survived by a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be paid to the surviving child or children in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any.

(5) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. The allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 31(1)(a), and nominated the surviving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

Sec. 27a. (1) Beginning with retirement allowance payments due on or after June 1, 2004, retirement allowances granted under section 27 that began before the effective date of the amendatory act that added this section shall be adjusted as provided in this section.

(2) Except as otherwise provided in this section, a retirement allowance shall not be less than \$6,000.00 per year.

(3) A portion of a retirement allowance payable to a surviving child or parent shall not be less than that portion of a retirement allowance that the child or parent was entitled to receive under section 27 before the effective date of the amendatory act that added this section.

Sec. 33. (a) The retirement board may, and upon the application of anyone retired pursuant to section 21, 24, or 67a shall, require anyone retired under section 21, 24, or 67a who has not attained age 60 years to undergo a medical examination. The retirement board shall not require a person retired under section 21, 24, or 67a to undergo more than 1 medical examination in any calendar year. The examination is to be made by or under the direction of the medical advisor at the retirant's place of residence or other place mutually agreed upon. Should anyone retired under section 21, 24, or 67a who has not attained age 60 years refuse to submit to the medical examination, his or her disability retirement allowance or supplemental benefit provided for in section 67a may be discontinued until his or her withdrawal of the refusal. If the refusal continues for 1 year, all rights in and to his or her disability retirement allowance or supplemental benefit provided for in section 67a may be revoked by the retirement board. If upon the medical examination of a person retired under section 21, 24, or 67a, the medical advisor reports and his or her report is concurred in by the retirement board, that the person retired under section 21, 24, or 67a is physically capable of resuming employment, he or she shall be restored to active service with the state and his or her disability retirement allowance or supplemental benefit provided for in section 67a shall cease.

(b) If the secretary reports and certifies to the retirement board that a person retired under section 21, 24, or 67a is engaged in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her final compensation, and if the retirement board concurs in the report, then his or her retirement allowance shall be reduced to an amount which together with the amount earned by him or her shall equal his or her

final compensation. Should the earnings of the person retired under section 21, 24, or 67a be later changed, the amount of his or her retirement allowance shall be further modified in like manner.

Sec. 67a. (1) Except as otherwise provided in section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease shall be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, his or her department head, or the state personnel director files an application on behalf of the member with the retirement board.

(b) The retirement board finds that the qualified participant's personal injury or disease is the natural and proximate result of the qualified participant's performance of duty.

(c) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the qualified participant should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) If the retirement board grants the application of the qualified participant under subsection (1), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided in section 23 as if the former qualified participant had retired under section 21, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(3) If a qualified participant dies as a result of a personal injury or disease arising out of and in the course of his or her employment with this state, or if a former qualified participant who retired under subsection (1) who dies before becoming age 60 and within 3 years after the former qualified participant's disability retirement from the same causes from which he or she separated, and such death or illness or injuries resulting in death are found by the retirement board to have been the sole and exclusive result of employment with this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 27 had the former qualified participant been considered retired under section 27, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 67.

(4) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a duty disability retirement allowance pursuant to subsection (1), (2), or (3), is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

(5) Except as otherwise provided in section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the qualified participant's performance of duty may be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, the qualified participant's department head, or the state personnel director files an application on behalf of the qualified participant with the retirement board.

(b) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the qualified participant should be retired.

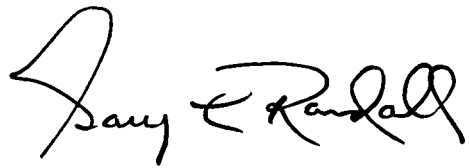
(c) The qualified participant has been a state employee for at least 10 years.

(6) If the retirement board grants the application of the qualified participant under subsection (5), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided for in section 25 as if the qualified participant had retired under section 24. The supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

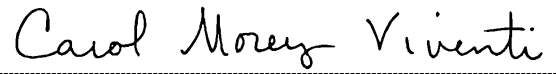
(7) If a qualified participant who has been a state employee for the number of years necessary to vest under Tier 1 dies as a result of causes occurring not in the performance of duty to this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 25 had the former qualified participant been considered retired under section 24, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(8) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a disability retirement allowance pursuant to subsection (4) or (5), is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor