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BILL ANALYSIS



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Senate Bills 1640 and 1642 (as enacted)
House Bills 6636, 6638, and 6640 (as enacted)
Sponsor: Senator Michael Switalski (S.B. 1640)
Senator Mark C. Jansen (S.B. 1642)
Representative Joan Bauer (H.B. 6636)
Representative Hoon-Yung Hopgood (H.B. 6638)
Representative Robert Jones (H.B. 6640)
Senate Committee: Appropriations
House Committee: Senior Health, Security and Retirement

PUBLIC ACTS 366 & 514 of 2008
PUBLIC ACTS 353-355 of 2008

Date Completed: 1-14-09

CONTENT

The bills amended the State Employees' Retirement Act, the Michigan Legislative Retirement System Act, the Public School Employees Retirement Act, the State Police Retirement Act, and the Judges Retirement Act to bring those statutes into compliance with Internal Revenue Service guidelines and the Internal Revenue Code.

Under the Michigan Legislative Retirement System Act, the State Police Retirement Act, and the Judges Retirement Act, for eligible rollover distributions to a surviving spouse on or before December 31, 2001, an eligible retirement plan was defined as an individual retirement account or an individual retirement annuity. The bills removed this designation. The bills retained this language in the Public School Employees Retirement Act and the State Employees' Retirement Act.

All of the bills include a Roth individual retirement account (IRA) in the definition of "eligible retirement plan" in the retirement Acts. A Roth IRA is subject to the rules that apply to rollovers from a traditional IRA to a Roth IRA in the State Employees' Retirement Act, the Michigan Legislative Retirement System Act, the State Police Retirement Act, and the Judges Retirement Act.

The bills require that beginning January 1, 2010, the State Employees Retirement

System (SERS), the Legislative Retirement System (LRS), the Public School Employees Retirement System (PSERS), the Judges Retirement System (JRS), and the State Police Retirement System (SPRS) be administered according to applicable provisions of the final regulations issued by the Internal Revenue Service on April 5, 2007.

The State Employees' Retirement Act, the Michigan Legislative Retirement System Act, and the State Police Retirement Act state that employer-financed benefits are subject to the adjusted limitations on the maximum amounts payable annually from the retirement systems to any individual member under Section 415 of the Internal Revenue Code. Under the bills, these benefits include benefits payable to both retirants and retirement allowance beneficiaries.

The bills amended the Public School Employees Retirement Act and the Judges Retirement Act to require compliance with the provisions of Section 415 of the Internal Revenue Code and require that employer-financed benefits, including benefits payable to retirants and retirement allowance beneficiaries, not exceed applicable limitations on the maximum amounts payable annually from the retirement systems to any individual member set forth

in that section. The bills removed outdated provisions relating to benefit limitations. (Amendments to the State Employees' Retirement Act, the Michigan Legislative Retirement System Act, and the State Police Retirement Act removed these outdated provisions in 2004.)

Under House Bill 6640, the benefit limitation requirements in Section 59a of the Michigan Legislative Retirement System Act prevail over any section with which it is in conflict. (The other Acts already stated that sections relating to benefit limitations prevail over any sections with which they are in conflict.)

Under the bills, the required minimum distribution requirements imposed by Section 401(a)(9) of the Internal Revenue Code apply to all of the retirement Acts, and must be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the requirements apply to the retirement systems.

The bills also require that beginning January 1, 2007, if a member of SERS, LRS, MPSERS, JRS, or SPRS dies while performing qualified military service, the member be treated as having resumed and then terminated employment because of death. This provision brings the retirement systems into compliance with the Federal Heroes Earnings Assistance and Relief Tax Act of 2008.

MCL 38.1603 & 38.1614a (S.B. 1640)
38.2105 & 38.2604 (S.B. 1642)
38.1d & 38.49 (H.B. 6636)
38.1304 & 38.1408 (H.B. 6638)
38.1008a & 38.1059a (H.B. 6640)

FISCAL IMPACT

The bills will have no fiscal impact on State government or the retirement systems, as the bills reflect current practice. The bills are "technical" in nature, and bring the retirement acts into conformity with Federal statute and regulation. Under Internal Revenue Service rules, in order to obtain updated determination letters confirming their tax-qualified status, all governmental entities must refile their retirement plans by January 31, 2009.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.