

SENATE BILL NO. 165

March 09, 2023, Introduced by Senators CHERRY, SHINK, MCDONALD RIVET, WOJNO, MCMORROW, IRWIN and CHANG and referred to the Committee on Labor.

A bill to amend 1986 PA 182, entitled "State police retirement act of 1986," by amending sections 3 and 4 (MCL 38.1603 and 38.1604), as amended by 2018 PA 674.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Banked leave time program" means the part B
2 annual leave hours within the state's annual and sick leave program

1 approved by a ruling of the Internal Revenue Service on September
2 5, 2003, in which a pay reduction or other concessions are applied
3 to a member in exchange for additional part B annual leave hours.

4 (2) "Credited service" means the sum of the prior service and
5 membership service credited to a member's account.

6 (3) "Deferred member" means a member who separates from
7 service with entitlement to a deferred retirement allowance as
8 provided in section 30, but who is not a retirant.

9 (4) "Department" means the department of technology,
10 management, and budget.

11 (5) "Direct rollover" means a payment by the retirement system
12 to the eligible retirement plan specified by the distributee.

13 (6) "Distributee" includes a member or deferred member.
14 Distributee also includes the member's or deferred member's
15 surviving spouse or the member's or deferred member's spouse or
16 former spouse under an eligible domestic relations order, with
17 regard to the interest of the spouse or former spouse.

18 (7) "DROP participant" means an officer who participates in
19 the deferred retirement option plan established in section 24a.

20 (8) Beginning January 1, 2002, except as otherwise provided in
21 this subsection, "eligible retirement plan" means 1 or more of the
22 following:

23 (a) An individual retirement account described in section
24 408(a) of the internal revenue code, 26 USC 408.

25 (b) An individual retirement annuity described in section
26 408(b) of the internal revenue code, 26 USC 408.

27 (c) An annuity plan described in section 403(a) of the
28 internal revenue code, 26 USC 403.

29 (d) A qualified trust described in section 401(a) of the

1 internal revenue code, 26 USC 401.

2 (e) An annuity contract described in section 403(b) of the
3 internal revenue code, 26 USC 403.

4 (f) An eligible plan under section 457(b) of the internal
5 revenue code, 26 USC 457, that is maintained by a state, political
6 subdivision of a state, or an agency or instrumentality of a state
7 or political subdivision of a state and that agrees to separately
8 account for amounts transferred into the eligible plan under
9 section 457(b) of the internal revenue code, 26 USC 457, from this
10 retirement system, that accepts the distributee's eligible rollover
11 distribution.

12 (g) Beginning January 1, 2008, a Roth individual retirement
13 account as described in section 408A of the internal revenue code,
14 26 USC 408A, subject to the rules that apply to rollovers from a
15 traditional individual retirement account to a Roth individual
16 retirement account.

17 (9) Beginning January 1, 2007, "eligible rollover
18 distribution" means a distribution of all or any portion of the
19 balance to the credit of the distributee. Eligible rollover
20 distribution does not include any of the following:

21 (a) A distribution made for the life or life expectancy of the
22 distributee or the joint lives or joint life expectancies of the
23 distributee and the distributee's designated beneficiary.

24 (b) A distribution for a specified period of 10 years or more.

25 (c) A distribution to the extent that the distribution is
26 required under section 401(a)(9) of the internal revenue code, 26
27 USC 401.

28 (d) The portion of any distribution that is not includable in
29 federal gross income, except to the extent the portion of the

1 distribution is paid to either of the following:

2 (i) An individual retirement account or annuity described in
3 section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

4 (ii) A qualified plan described in section 401(a) of the
5 internal revenue code, 26 USC 401, or an annuity contract described
6 in section 403(b) of the internal revenue code, 26 USC 403, and the
7 plan providers agree to separately account for the amounts paid,
8 including any portion of the distribution that is includable in
9 federal gross income, and the portion of the distribution that is
10 not so includable.

11 (10) "Final average compensation" means, except as otherwise
12 provided in this subsection, the average annual salary for the last
13 2 years of service with the department of state police, **department**
14 **of corrections, department of health and human services, department**
15 **of natural resources, or department of environment, Great Lakes,**
16 **and energy, as applicable,** for which the member was compensated as
17 defined in subsection (13). Except as otherwise provided in this
18 subsection, for a nonclassified member of the department holding
19 the rank of colonel, final average compensation means the same
20 average annual salary as that computed for the highest salaried
21 classified member of the department, or at the average annual
22 salary for the last 2 years of service with the department of state
23 police for which the member was compensated, whichever is greater.
24 Beginning ~~with the effective date of the amendatory act that added~~
25 ~~section 42a,~~ **December 28, 2018,** for a member who first became a
26 member on or after June 10, 2012, final average compensation means
27 the average salary for the last 5 years of service for which the
28 member was compensated as defined in subsection (14). Average
29 annual salary includes only the following compensation items:

1 (a) Beginning ~~with the effective date of the amendatory act~~
2 ~~that added section 42a, December 28, 2018,~~ for a member who first
3 became a member before June 10, 2012, only the following
4 compensation items:

5 (i) Regular salary paid for the last 2 years of service,
6 including, but not limited to, that salary that is deferred
7 pursuant to a state deferred compensation program.

8 (ii) Overtime, shift differential, and shift differential
9 overtime paid for the last 2 years of service.

10 (iii) Gross pay adjustments paid affecting the last 2 years of
11 service, including compensatory time and emergency response
12 compensation.

13 (iv) Up to a maximum of 240 hours of accumulated annual leave,
14 paid at the time of retirement separation excluding part B annual
15 leave hours paid at the time of retirement separation.

16 (v) Deferred hours under Plan B of the fiscal years ending
17 September 30, 1981, and September 30, 1982, that are paid at the
18 time of retirement separation.

19 (vi) Longevity pay equal to 2 full years.

20 (vii) Bomb squad pay paid for the last 2 years of service.

21 (viii) Post 29 freeway premium paid for the last 2 years of
22 service.

23 (ix) On-call pay paid for the last 2 years of service.

24 (x) Beginning October 1, 2003, the value of any unpaid
25 furlough hours or the value of any unpaid hours exchanged for part
26 B annual leave hours, calculated at the member's then-current
27 hourly rate or rates of pay, for a period during which a member is
28 participating in the banked leave time program.

29 (xi) Beginning May 1, 2009, the value of temporary layoff

1 hours. As used in this subparagraph, "temporary layoff hours" means
2 hours attributable to the layoff of a member if the layoff does not
3 exceed 1 month and has a fixed, predetermined, and announced recall
4 date.

5 (b) Beginning ~~with the effective date of the amendatory act~~
6 ~~that added section 42a, December 28, 2018,~~ for a member who first
7 became a member on or after June 10, 2012, only the following
8 compensation items:

9 (i) Regular salary paid for the last 5 years of service,
10 including, but not limited to, that salary that is deferred
11 pursuant to a state deferred compensation program.

12 (ii) Shift differential.

13 (iii) Gross pay adjustments paid affecting the last 5 years of
14 service, including compensatory time and emergency response
15 compensation.

16 (iv) Up to a maximum of 240 hours of accumulated annual leave,
17 paid at the time of retirement separation excluding part B annual
18 leave hours paid at the time of retirement separation.

19 (v) Longevity pay equal to 5 full years.

20 (vi) Bomb squad pay paid for the last 5 years of service.

21 (vii) Post 29 freeway premium paid for the last 5 years of
22 service.

23 (viii) On-call pay paid for the last 5 years of service.

24 (ix) The value of any unpaid furlough hours or the value of any
25 unpaid hours exchanged for part B annual leave hours, calculated at
26 the member's then-current hourly rate or rates of pay, for a period
27 during which a member is participating in the banked leave time
28 program.

29 (x) The value of temporary layoff hours. As used in this

1 subparagraph, "temporary layoff hours" means hours attributable to
2 the layoff of a member if the layoff does not exceed 1 month and
3 has a fixed, predetermined, and announced recall date.

4 (11) "Furlough hours" means unworked hours incurred in
5 conjunction with the banked leave time program.

6 (12) "Internal revenue code" means the United States internal
7 revenue code of 1986.

8 (13) "Last 2 years of service" means the 2-year period
9 immediately preceding the member's last day of service or that
10 period of 2 consecutive years of service with the department of
11 state police, **department of corrections, department of health and**
12 **human services, department of natural resources, or department of**
13 **environment, Great Lakes, and energy, as applicable,** immediately
14 preceding the date the duty disability occurred according to the
15 medical examinations conducted under section 29 or, if the officer
16 participated in the deferred retirement option plan, the 2-year
17 period immediately preceding participation in the deferred
18 retirement option plan.

19 (14) "Last 5 years of service" means the 5-year period
20 immediately preceding the member's last day of service or that
21 period of 5 consecutive years of service with the department of
22 state police, **department of corrections, department of health and**
23 **human services, department of natural resources, or department of**
24 **environment, Great Lakes, and energy, as applicable,** immediately
25 preceding the date the duty disability occurred according to the
26 medical examinations conducted under section 29.

27 Sec. 4. (1) "Member", except where the context otherwise
28 requires, means ~~an~~**any of the following:**

29 (a) **An** employee of the department of state police who has

1 subscribed to the constitutional oath of office.

2 (b) An individual employed in an eligible position who elected
3 to terminate his or her participation in the state employees'
4 retirement system under section 50b of the state employees
5 retirement act, 1943 PA 240, MCL 38.50b. An individual described in
6 this subdivision is treated as an individual who first becomes a
7 member after June 9, 2012. As used in this subdivision, "eligible
8 position" means that term as defined in section 50b of the state
9 employees' retirement act, 1943 PA 240, MCL 38.50b.

10 (c) An individual employed in an eligible position who is
11 first employed and entered on the payroll on or after October 1,
12 2024. An individual described in this subdivision is treated as an
13 individual who first becomes a member after June 9, 2012. As used
14 in this subdivision, "eligible position" means that term as defined
15 in section 50b of the state employees' retirement act, 1943 PA 240,
16 MCL 38.50b.

17 (d) A conservation officer who elected to terminate his or her
18 position in the state employees' retirement system under section
19 50c of the state employees' retirement act, 1943 PA 240, MCL
20 38.50c. An individual described in this subdivision is treated as
21 an individual who first becomes a member on or after June 10, 2012.
22 As used in this subdivision, "conservation officer" means that term
23 as defined in section 1b of the state employees' retirement act,
24 1943 PA 240, MCL 38.1b.

25 (e) A conservation officer who is first employed and entered
26 on the payroll after September 30, 2024. An individual described in
27 this subdivision is treated as an individual who first becomes a
28 member on or after June 10, 2012. As used in this subdivision,
29 "conservation officer" means that term as defined in section 1b of

1 the state employees' retirement act, 1943 PA 240, MCL 38.1b.

2 (f) A state police motor carrier or Michigan state police
3 properties securities officer who elected to terminate his or her
4 position in the state employees' retirement system under section
5 50d of the state employees' retirement act, 1943 PA 240, MCL
6 38.50d. An individual described in this subdivision is treated as
7 an individual who first becomes a member after June 9, 2012.

8 (g) A state police motor carrier or Michigan state police
9 properties securities officer who is first employed and entered on
10 the payroll after September 30, 2024. An individual described in
11 this subdivision is treated as an individual who first becomes a
12 member after June 9, 2012.

13 (2) "Officer" means a nonexclusively represented member of the
14 retirement system.

15 (3) "Qualified participant" means an individual who first
16 becomes a member ~~on or~~ after June ~~10,~~ 9, 2012 and who is also a
17 participant of Tier 2.

18 (4) "Regular interest" means a rate or rates per annum,
19 compounded annually, as the retirement board determines. For the
20 purposes of employee refunds, the interest rate payable must not
21 exceed 4% per annum, compounded annually.

22 (5) "Retirant" means a member who separates from service and
23 retires with a retirement allowance payable from the appropriate
24 reserve of the retirement system.

25 (6) "Retirement allowance" means the annual amount, payable
26 monthly, to which a retirant, retirement allowance beneficiary, or
27 refund beneficiary is entitled under this act.

28 (7) "Retirement allowance beneficiary" means a person who is
29 being paid or has entitlement to the payment of a retirement

1 allowance in the event of the death of a member, deferred member,
2 or retirant.

3 (8) "Retirement board" means the retirement board created in
4 section 6.

5 (9) "Retirement system" means the system of benefits for
6 members and qualified participants of the department of state
7 police and their survivors and beneficiaries provided by this act.

8 (10) "Surviving spouse" means the spouse at the time of death
9 of the member or retirant.

10 (11) "Tier 1" means the retirement plan available to a member
11 under this act.

12 (12) "Tier 2" means the retirement plan established pursuant
13 to section 401(k) of the internal revenue code, 26 USC 401, that is
14 available to qualified participants under sections 62 to 74.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 102nd Legislature are
17 enacted into law:

18 (a) Senate Bill No. 166.

19

20 (b) Senate Bill No. 167.

21