

# HOUSE BILL No. 5807

April 29, 1998, Introduced by Reps. DeHart, Schermesser, Vaughn, Hale, Quarles, Baade, Anthony, Wetters, Martinez, Bogardus, Cherry, Baird, Scott, Rocca, Basham, Tesanovich and Kelly and referred to the Committee on Public Retirement.

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), sections 1i and 13 as amended and section 55 as added by 1996 PA 487, and by adding section 56a.

## 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 calen-  
6 dar year. The retirement board shall not allow credit for serv-  
7 ice for any period of more than 1 month in any 1 calendar year  
8 during which the employee was absent without pay. However, full  
9 service credit shall be given for a period during which an

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

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

10 (3) "Tier 1" means the retirement plan available to a member  
11 under this act who MEETS 1 OF THE FOLLOWING REQUIREMENTS:

12 (A) THE INDIVIDUAL was first employed and entered upon the  
13 payroll before March 31, 1997 and ~~who~~ HE OR SHE does not elect  
14 to become a qualified participant of Tier 2 UNDER SECTION 50.

15 (B) THE INDIVIDUAL WAS FIRST EMPLOYED AND ENTERED UPON THE  
16 PAYROLL ON OR AFTER MARCH 31, 1997 AND HE OR SHE ELECTS TO BECOME  
17 A MEMBER OF TIER 1 UNDER SECTION 56A.

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

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

1 performed as an employee of this state in meeting the service  
2 requirements for the retirement allowances and death benefits  
3 provided by the retirement system. However, the prior service  
4 shall not be used in computing the amount of a retirement allow-  
5 ance to be paid by the retirement system unless the employee pays  
6 to the retirement system the amount the employee's contributions  
7 would have been had the employee become a member immediately upon  
8 employment by the state with interest compounded annually at the  
9 regular rate from a date 1 year after the date of employment by  
10 this state to the date of payment. A person who draws compensa-  
11 tion as a state employee of a political subdivision of this state  
12 is eligible for the benefits provided by this act to the extent  
13 of the person's compensation paid by this state. An individual  
14 who meets the requirements of section 44a is a member of the  
15 retirement system.

16 (2) Elected or appointed state officials may elect not to  
17 become or continue as members of the retirement system by filing  
18 written notice with the retirement board. An appointed state  
19 official who is a member of a state board, commission, or council  
20 and who receives a per diem rate in his or her capacity as a  
21 member of the board, commission, or council is excluded from mem-  
22 bership in the retirement system for the service rendered in his  
23 or her capacity as a member of the board, commission, or  
24 council. Service performed by an elected or appointed official  
25 during the time the official elects not to participate shall not  
26 be used in meeting the service requirement or in computing the  
27 amount of retirement allowance to be paid by the retirement

1 system. A member who elects not to participate shall be refunded  
2 all contributions made before the election.

3 (3) Membership in the retirement system does not include any  
4 of the following:

5 (a) A person who is a contributing member in the public  
6 school employees' retirement system provided for in the public  
7 school employees retirement act of 1979, ~~Act No. 300 of the~~  
8 ~~Public Acts of 1980, being sections 38.1301 to 38.1408 of the~~  
9 ~~Michigan Compiled Laws~~ 1980 PA 300, MCL 38.1301 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, ~~Act No. 234 of the Public Acts of 1992, being sec-~~  
13 ~~tions 38.2101 to 38.2608 of the Michigan Compiled Laws~~ 1992  
14 PA 234, MCL 38.2101 TO 38.2670.

15 (c) A person who comes within the Michigan state police  
16 retirement system provided for in the state police retirement act  
17 of 1986, ~~Act No. 182 of the Public Acts of 1986, being sections~~  
18 ~~38.1601 to 38.1648 of the Michigan Compiled Laws~~ 1986 PA 182,  
19 MCL 38.1601 TO 38.1648.

20 (d) An individual who is first employed and entered upon the  
21 payroll on or after March 31, 1997 for employment for which the  
22 individual would have been eligible for membership under this  
23 section before March 31, 1997, UNLESS THAT INDIVIDUAL ELECTS TO  
24 BECOME A MEMBER OF TIER 1 UNDER SECTION 56A. An individual  
25 described in this subdivision WHO DOES NOT MAKE THE ELECTION TO  
26 BECOME A MEMBER OF TIER 1 is eligible to be a qualified  
27 participant in Tier 2 subject to sections 50 to 69.

1 (e) An individual who elects to terminate membership under  
2 section 50 and who, but for that election, would otherwise be  
3 eligible for membership in Tier 1 under this section.

4 (4) A person who is hired in state classified or unclassi-  
5 fied service after June 30, 1974, who is first employed and  
6 entered upon the payroll before March 31, 1997, and who possesses  
7 a Michigan teaching certificate shall be a member of this retire-  
8 ment system. After June 30, 1974, but before March 31, 1997, a  
9 person who returns to state employment in the classified or  
10 unclassified service who previously was a contributing member of  
11 the Michigan public school employees' retirement system shall  
12 have the person's accumulated contributions and service trans-  
13 ferred to this retirement system, or having withdrawn the contri-  
14 butions, may pay into the retirement system the amount withdrawn  
15 together with regular interest and have credit restored as pro-  
16 vided for in section 16. On and after March 31, 1997, an indi-  
17 vidual described in this subsection who returns to state service  
18 shall make an irrevocable election to remain in Tier 1 or to  
19 become a qualified participant of Tier 2 in the manner prescribed  
20 in section 50.

21 (5) A person, not regularly employed by this state, who is  
22 employed through participation in 1 or more of the following pro-  
23 grams, shall not be a member of the retirement system and shall  
24 not receive service credit for the employment:

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

1 (b) A summer youth employment program established pursuant  
2 to the Michigan youth corps act, ~~Act No. 69 of the Public Acts~~  
3 ~~of 1983, being sections 409.221 to 409.229 of the Michigan~~  
4 ~~Compiled Laws~~ 1983 PA 69, MCL 409.221 TO 409.229.

5 (c) A program established pursuant to the job training part-  
6 nership act, Public Law 97-300, 96 Stat. 1322.

7 (d) A program established pursuant to the Michigan opportu-  
8 nity and skills training program, first established under sec-  
9 tions 12 to 23 of ~~Act No. 259 of the Public Acts of 1983~~ 1983  
10 PA 259.

11 (e) A program established pursuant to the Michigan community  
12 service corps program, first established under sections 25 to 35  
13 of ~~Act No. 259 of the Public Acts of 1983~~ 1983 PA 259.

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

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

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

15       Sec. 55. (1) "Qualified participant" means an individual  
16 who is a participant of Tier 2 and who meets 1 of the following  
17 requirements:

18       (a) An individual who is first employed and entered upon the  
19 payroll of his or her employer on or after March 31, 1997, and  
20 who ~~before March 31, 1997 would have been eligible~~ DOES NOT  
21 ELECT to be a member of Tier 1 UNDER SECTION 56A.

22       (b) An individual who elects to terminate membership in Tier  
23 1 and who elects to participate in Tier 2 in the manner pre-  
24 scribed in section 50.

25       (2) "Refund beneficiary" means an individual nominated by a  
26 qualified participant or a former qualified participant under

1 section 66 to receive a distribution of the participant's  
2 accumulated balance in the manner prescribed in section 67.

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

4 SEC. 56A. (1) AN INDIVIDUAL WHO IS FIRST EMPLOYED AND  
5 ENTERED UPON THE PAYROLL OF HIS OR HER EMPLOYER ON OR AFTER THE  
6 EFFECTIVE DATE OF THIS SECTION SHALL ELECT IN WRITING TO BECOME A  
7 MEMBER OF TIER 1 OR TO BECOME A QUALIFIED PARTICIPANT IN TIER 2  
8 WITHIN 30 DAYS OF HIS OR HER EMPLOYMENT. AN ELECTION MADE BY AN  
9 INDIVIDUAL UNDER THIS SUBSECTION IS IRREVOCABLE. AN INDIVIDUAL  
10 WHO DOES NOT MAKE A WRITTEN ELECTION OR WHO DOES NOT FILE THE  
11 ELECTION DURING THE PERIOD SPECIFIED IN THIS SUBSECTION IS CON-  
12 SIDERED TO HAVE ELECTED TO BECOME A QUALIFIED PARTICIPANT OF TIER  
13 2.

14 (2) THE RETIREMENT SYSTEM SHALL PROVIDE AN OPPORTUNITY FOR  
15 EACH QUALIFIED PARTICIPANT WHO IS A QUALIFIED PARTICIPANT ON THE  
16 EFFECTIVE DATE OF THIS SECTION TO ELECT IN WRITING TO TERMINATE  
17 PARTICIPATION IN TIER 2 AND ELECT TO BECOME A MEMBER IN TIER 1.  
18 AN ELECTION MADE BY A QUALIFIED PARTICIPANT UNDER THIS SUBSECTION  
19 IS IRREVOCABLE. THE RETIREMENT SYSTEM SHALL ACCEPT WRITTEN ELEC-  
20 TIONS UNDER THIS SUBSECTION FROM QUALIFIED PARTICIPANTS DURING  
21 THE PERIOD BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION AND  
22 ENDING UPON THE EXPIRATION OF 60 DAYS AFTER THE EFFECTIVE DATE OF  
23 THIS SECTION. A QUALIFIED PARTICIPANT WHO DOES NOT MAKE A WRIT-  
24 TEN ELECTION OR WHO DOES NOT FILE THE ELECTION DURING THE PERIOD  
25 SPECIFIED IN THIS SUBSECTION CONTINUES TO BE A QUALIFIED PARTICI-  
26 PANT OF TIER 2. A QUALIFIED PARTICIPANT WHO MAKES AND FILES A



1 WRITTEN ELECTION UNDER THIS SUBSECTION ELECTS TO DO ALL OF THE  
2 FOLLOWING:

3 (A) CEASE TO BE A MEMBER OF TIER 2 EFFECTIVE 12 MIDNIGHT ON  
4 THE DAY BEFORE THE FIRST DAY OF THE PAYROLL PERIOD THAT FOLLOWS  
5 THE EXPIRATION OF 90 DAYS AFTER THE EFFECTIVE DATE OF THIS  
6 SECTION.

7 (B) BECOME A MEMBER OF TIER 1 EFFECTIVE 12:01 A.M. ON THE  
8 FIRST DAY OF THE PAYROLL PERIOD DESCRIBED IN SUBDIVISION (A).

9 (C) WAIVE ALL OF HIS OR HER RIGHTS TO A BENEFIT UNDER TIER 2  
10 ON THE DATE HE OR SHE BECOMES A MEMBER OF TIER 1.

11 (3) AFTER CONSULTATION WITH THE RETIREMENT SYSTEM'S ACTUARY  
12 AND THE RETIREMENT BOARD, THE DEPARTMENT OF MANAGEMENT AND BUDGET  
13 SHALL DETERMINE THE METHOD BY WHICH AN INDIVIDUAL SHALL MAKE A  
14 WRITTEN ELECTION UNDER THIS SECTION. IF THE INDIVIDUAL IS MAR-  
15 RIED AT THE TIME OF THE ELECTION, THE ELECTION IS NOT EFFECTIVE  
16 UNLESS THE ELECTION IS SIGNED BY THE INDIVIDUAL'S SPOUSE.  
17 HOWEVER, THE RETIREMENT BOARD MAY WAIVE THIS REQUIREMENT IF THE  
18 SPOUSE'S SIGNATURE CANNOT BE OBTAINED BECAUSE OF EXTENUATING  
19 CIRCUMSTANCES.

20 (4) AN ELECTION UNDER THIS SECTION IS SUBJECT TO THE ELIGI-  
21 BLE DOMESTIC RELATIONS ORDER ACT, 1991 PA 46, MCL 38.1701 TO  
22 38.1711.

23 (5) IF THE DEPARTMENT OF MANAGEMENT AND BUDGET RECEIVES  
24 NOTIFICATION FROM THE UNITED STATES INTERNAL REVENUE SERVICE THAT  
25 THIS SECTION OR ANY PORTION OF THIS SECTION WILL CAUSE THE  
26 RETIREMENT SYSTEM TO BE DISQUALIFIED FOR TAX PURPOSES UNDER THE

1 INTERNAL REVENUE CODE, THEN THE PORTION THAT WILL CAUSE THE  
2 DISQUALIFICATION DOES NOT APPLY.

3 (6) FOR A QUALIFIED PARTICIPANT WHO ELECTS TO TERMINATE PAR-  
4 TICIPATION IN TIER 2 UNDER SUBSECTION (2), THE RETIREMENT SYSTEM  
5 SHALL DIRECT THE STATE TREASURER TO TRANSFER THE QUALIFIED  
6 PARTICIPANT'S ACCUMULATED BALANCE TO THE APPROPRIATE FUND CREATED  
7 UNDER SECTION 11 ON OR BEFORE THE EXPIRATION OF 120 DAYS AFTER  
8 THE EFFECTIVE DATE OF THIS SECTION. THE RETIREMENT SYSTEM SHALL  
9 CALCULATE THE AMOUNT TO BE TRANSFERRED, WHICH SHALL BE EQUAL TO  
10 THE SUM OF THE FOLLOWING:

11 (A) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE  
12 ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS AND EARNINGS ON THOSE CON-  
13 TRIBUTIONS, IF ANY, AS OF THE DAY OF TRANSFER, TO THE EMPLOYEES'  
14 SAVINGS FUND.

15 (B) THE PORTION OF THE PARTICIPANT'S ACCUMULATED BALANCE  
16 ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE CON-  
17 TRIBUTIONS, IF ANY, AS OF THE DAY OF TRANSFER, TO THE EMPLOYER'S  
18 ACCUMULATION FUND.