

Act No. 374
Public Acts of 2000
Approved by the Governor
January 1, 2001
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January 2, 2001
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Senators Hoffman, Goschka, North, Young, Byrum, V. Smith and Bullard

ENROLLED SENATE BILL No. 267

AN ACT to amend 1986 PA 182, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," by amending sections 3, 14, 25, and 26 (MCL 38.1603, 38.1614, 38.1625, and 38.1626), section 3 as amended by 1995 PA 192, section 14 as amended by 1989 PA 191, and section 26 as amended by 1991 PA 53, and by adding sections 13a and 40b.

The People of the State of Michigan enact:

Sec. 3. (1) "Credited service" means the sum of the prior service and membership service credited to a member's account.

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

(3) "Department" means the department of management and budget.

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

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

(6) Except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(7) "Eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

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

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

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

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(8) "Final average compensation" means the average annual salary for the last 2 years of service with the department of state police for which the member was compensated as defined in subsection (10). In the case of a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Average annual salary includes only the following compensation items:

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

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

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

(d) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation.

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

(f) Longevity pay equal to 2 full years.

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

(h) Post 29 freeway premium paid for the last 2 years of service.

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

(9) "Internal revenue code" means the United States internal revenue code of 1986.

(10) "Last 2 years of service" means the 2-year period immediately preceding the member's last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted pursuant to section 29.

Sec. 13a. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall as far as practical correct the error, and may adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, refund beneficiary, estate, or legal representative was correctly entitled. The retirement system shall not make an adjustment in benefits for an error totaling \$20.00 or less annually.

Sec. 14. (1) The funding objective of the retirement system is to establish and receive contributions during each fiscal year that are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of services rendered by members during the fiscal year, the normal cost requirements of the retirement system, and finance the unfunded actuarial costs of benefits likely to be paid on account of service rendered prior to the fiscal year, the unfunded actuarial accrued liability of the retirement system, and health, dental, and vision insurance.

(2) The annual level percentage of payroll contribution rate shall be actuarially determined using experience assumptions and level percent of payroll actuarial cost methods adopted by the retirement board and the department pursuant to an annual actuarial valuation, which shall be sufficient to finance benefits being provided and to be provided by the retirement system.

(3) For differences occurring in fiscal years beginning on or after October 1, 2001, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (2), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made.

Sec. 25. (1) A retirement allowance shall be paid to the surviving spouse of a member of the retirement system who while in the discharge of his or her duty is killed or receives injuries or contracts a disease or illness, by reason of his or her occupation, which results in his or her death. The retirement allowance shall be equal to 60% of the member's final average compensation. Upon the death of the surviving spouse, or if there is no surviving spouse at the time of the death of the member, the pension shall be paid to the children of the member under the age of 18 years, share and share alike. When each respective child attains the age of 18 years, payment to him or her shall cease and his or her share shall be prorated among the remaining children under 18 years of age. If there is a retirement allowance payable to a

surviving spouse under this section, a retirement allowance of \$100.00 per month shall be paid to each of the children under the age of 18 years, if any, of the deceased member, and all payments to the children shall continue until each respective child reaches the age of 18 years. If there is not a surviving spouse, nor children under the age of 18 years, then a retirement allowance equal to 60% of the member's final average compensation shall be paid to the mother or father, or both, of the member, if dependent on him or her for support, until the dependency ceases. If there is not a dependent mother or father, a retirement allowance of \$100.00 per month shall be paid to each of the sisters or brothers, if there are any under 18 years of age dependent upon the member for support. If there are not any dependents, then there shall be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions, or \$1,500.00, whichever is greater.

(2) The supplements to retirement allowances and minimum annual retirement allowance provisions of this act shall not apply to the special \$100.00 per month allowance to children and the allowance to dependent parents and siblings.

(3) When an active or retired member is killed or dies from injuries, disease, or illness, contracted by reason of his or her occupation as a member of the department of state police, the retirement board shall provide a sum not to exceed \$1,500.00 from the reserve for casualty experience for funeral expenses.

(4) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, shall not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police prior to his or her death.

Sec. 26. (1) A member who retires due to duty incurred disability after September 30, 1986, is entitled to receive a retirement allowance equal to 60% of the member's final average compensation.

(2) If a retirant receiving a retirement allowance under this section dies, the retirement allowance shall continue to be paid to the surviving spouse of the deceased retirant for the rest of the spouse's life.

(3) For purposes of this section, if there is no surviving spouse or upon the spouse's death, the retirement allowance shall be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there shall be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(4) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, shall not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police before the duty disability retirement allowance effective date.

Sec. 40b. The retirement system shall recalculate each retirant's or beneficiary's retirement allowance who retired under section 26 based upon the definition of last 2 years of service added under section 3(10) by the amendatory act that added this section. If the recalculation results in an increased retirement allowance, the retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning the first day of the month following the month that this section takes effect.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.