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BILL ANALYSIS

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House Bill 5266 (Substitute H-3 as passed by the House)
Sponsor: Representative Paul Condino
House Committee: Appropriations
Senate Committee: Appropriations

Date Completed: 3-3-04

CONTENT

The bill would amend the State Employees' Retirement Act to allow the banked leave time and furlough hours for State employees to count as full credited service for the purpose of determining an employee's retirement benefit. The bill also would include in the definition of "compensation" the furloughed and banked leave time hours. Finally, the bill would eliminate the current annual retirement benefit limit of \$90,000 and instead limit an annual retirement benefit to the limitations set forth under current Internal Revenue Service (IRS) regulations.

The bill would define "banked leave time program" as the Part B annual leave hours within the annual and sick leave program for State employees approved by the IRS on September 5, 2003, in which a pay reduction or other concessions are applied to a member or qualified participant in exchange for additional Part B annual leave hours (Part B annual leave is the banked leave time program). The bill also would define "furlough hours" as the unworked hours incurred in conjunction with the banked leave time program.

Currently, payment for accrued annual leave at separation in excess of 240 hours is not included in the determination of final average compensation (FAC). The bill would extend this prohibition to the payment for banked leave time hours. However, beginning October 1, 2003, the bill would allow the computation of an employee's FAC to include the value of any unpaid furlough hours and the value of any unpaid hours exchanged for Part B annual leave hours calculated at the member's then-current hourly rate of pay.

Under current law, a retirement benefit is limited to the lesser of \$90,000 per year or 100% of the member's highest three-year average compensation as described in Section 415(b)(3) of the Internal Revenue Code (IRC). The bill would delete the \$90,000 maximum retirement benefit that may be received by a member and instead provide that the benefit limitation would be solely limited by Section 415 of the IRC. Current IRS regulations set the limit at \$160,000 per year.

The Act defines "compensation" as the remuneration paid a participant on account of the participant's services rendered to his or her employer. The bill would expand this definition to include, beginning October 1, 2003, the value of any unpaid furlough hours and the value of any unpaid hours exchanged for Part B annual leave hours at the participant's then-current hourly rate of pay for the period during which the participant is participating in the banked leave time program. The definition also would be expanded to include the value of

hours not worked during which a participant is in a voluntary or involuntary pay reduction Plan A or on a one-day layoff or designated temporary layoff calculated at the participant's then-current hourly rate of pay.

The bill would define "year of service" as the period during which a qualified participant (a defined contribution participant) is employed by the employer and is credited with 2,080 hours of service. The number of hours worked that could count as a year of service could be adjusted by the Tier 2 plan (the defined contribution plan) administrator provided that no participant received more than one year of service for any 12-month period of employment. Beginning on January 1, 2003, full service credit also would have to be given to a participant for furlough hours, for required one-day layoffs, for required and designated temporary layoffs, for a year in which a participant temporarily left employment to enter active military duty and then died during that active military duty, and for participation in the banked leave time program.

Finally, under current law, a qualified (defined contribution) participant is immediately 100% vested in his or her contributions made to Tier 2 (the defined contribution plan). Under the bill, an employee also would be 100% vested in employer contributions made under the banked leave time program.

MCL 38.1a et al.

FISCAL IMPACT

The bill would have no fiscal impact on State or local resources. The banked leave time and the furlough days are days and work hours that would have been accumulated anyway, and thus are already accounted for in all actuarial assumptions.

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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.