

HOUSE BILL No. 5266

November 6, 2003, Introduced by Rep. Condino and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 1a, 1e, 1i, 17g, 23, 27, 33, 49, 53, 55, 64, and 67a (MCL 38.1a, 38.1e, 38.1i, 38.17g, 38.23, 38.27, 38.33, 38.49, 38.53, 38.55, 38.64, and 38.67a), section 1a as amended by 1998 PA 205, sections 1e and 1i as amended and sections 53, 55, 64, and 67a as added by 1996 PA 487, sections 17g, 23, and 27 as amended by 1987 PA 241, and sections 33 and 49 as amended by 2002 PA 93, and by adding section 27a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. (1) "Accumulated contributions" means the sum of
2 all amounts deducted from the compensation of a member and
3 credited to the member's individual account in the employees'
4 savings fund, together with regular interest on that account.

5 (2) "Actuarial cost" means an amount that shall be paid,

1 except as otherwise specifically provided by this act, by a
2 member to purchase additional service credit as allowed under
3 this act. Actuarial cost shall be computed as provided in
4 section 17j.

5 (3) "Annuity" means annual payments for life derived from the
6 accumulated contributions of a member. An annuity shall be paid
7 in equal monthly installments.

8 (4) "Annuity reserve" means the present value, computed upon
9 the basis of mortality and other tables adopted by the retirement
10 board, of all payments to be made on account of an annuity, or
11 benefits in lieu of an annuity, granted to a member under this
12 act.

13 (5) "Appointing authority" means the departmental officer who
14 has the responsibility of making appointments and handling all
15 other personnel transactions affecting the employees in the
16 agency that the officer represents.

17 (6) **"Banked leave time program" means the part B annual leave**
18 **hours within the annual and sick leave program for state**
19 **employees approved by a ruling of the internal revenue service on**
20 **September 5, 2003, in which a pay reduction or other concessions**
21 **are applied to a member or qualified participant in exchange for**
22 **additional part B annual leave hours.**

23 Sec. 1e. (1) "Final average compensation" means the average
24 of those years of highest annual compensation paid to a member
25 during a period of 5 consecutive years of credited service; or if
26 the member has less than 5 years of credited service, then the
27 average of the annual compensation paid to the member during the

1 member's total years of credited service. For a person whose
2 retirement allowance effective date is on or after October 1,
3 1987, "final average compensation" means the average of those
4 years of highest annual compensation paid to a member during a
5 period of 3 consecutive years of credited service; or if the
6 member has less than 3 years of credited service, then the
7 average of the annual compensation paid to the member during the
8 member's total years of credited service. A member's final
9 average compensation shall not be diminished because of required
10 1-day layoffs. The compensation used in computing the final
11 average compensation for a period during which a member is in a
12 voluntary or involuntary pay reduction plan A or on a designated
13 temporary layoff shall include the value of the hours not worked
14 calculated at the member's hourly rate or rates of pay in effect
15 immediately before the applicable final average compensation
16 period. A member's final average compensation shall not be
17 increased or decreased by the member's participation in voluntary
18 or involuntary pay reduction plan B. Payment for accrued annual
19 leave at separation in excess of 240 hours **and payment for part B**
20 **annual leave hours at separation** shall not be included in final
21 average compensation. **Beginning October 1, 2003, the**
22 **compensation used to compute the final average compensation for a**
23 **period during which a member is participating in the banked leave**
24 **time program shall include the value of any unpaid furlough hours**
25 **and the value of any unpaid hours exchanged for part B annual**
26 **leave hours calculated at the member's then current hourly rate**
27 **or rates of pay.**

1 (2) "Final compensation" means a member's annual rate of
2 compensation at the time the member last terminates employment
3 with this state.

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

6 (4) ~~(3)~~ "Internal revenue code" means the United States
7 internal revenue code of 1986.

8 Sec. 1i. (1) "Service" means service rendered to this state
9 by an elected or appointed state official or employee of this
10 state. Credit for service shall be determined by appropriate
11 rules and regulations of the retirement board, but not more than
12 1 year of service shall be creditable for all service in 1
13 calendar year. The retirement board shall not allow credit for
14 service for any period of more than 1 month in any 1 calendar
15 year during which the employee was absent without pay. However,
16 full service credit shall be given for a period during which an
17 employee is on leave of absence and is receiving worker's
18 compensation benefits as the result of a duty-incurred
19 disability. Full service credit shall also be given to an
20 employee for required 1-day layoffs, for voluntary or involuntary
21 participation in pay reduction plan A, pay reduction plan B, or
22 both, in effect during the fiscal years ending on and after
23 September 30, 1981, ~~and~~ for required and designated temporary
24 layoffs, **and, beginning October 1, 2003, for furlough hours, and
25 for participation in the banked leave time program.**

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

27 (3) "Tier 1" means the retirement plan available to a member

1 under this act who was first employed and entered upon the
2 payroll before March 31, 1997 and who does not elect to become a
3 qualified participant of Tier 2.

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

7 Sec. 17g. (1) A member who left or leaves service with the
8 state **or a reporting unit of the public school employees**
9 **retirement system** for purposes of ~~maternity or paternity or~~
10 ~~child-rearing~~ **parental leave**, and returned or returns to service
11 with the state without other intervening employment of more than
12 20 hours per week for each week for which service credit is
13 claimed, may purchase service credit for the time period or
14 periods during which the person was separated or on leave of
15 absence from service with the state **or a reporting unit of the**
16 **public school employees retirement system** because of ~~maternity~~
17 ~~or paternity or child-rearing~~ **parental leave**, upon **submittal of**
18 **the application required under subsection (5) and** payment to the
19 ~~board~~ **retirement system** of an amount ~~which~~ **that** is equal to
20 the actuarial cost multiplied by the member's full-time or
21 equated full-time fiscal year compensation for the fiscal year in
22 which payment is made multiplied by each year and fraction of a
23 year of service to be purchased, up to the maximum. For the
24 purpose of computing payment under this subsection, the
25 compensation amount used shall not be less than the highest
26 full-time or equated full-time fiscal year compensation
27 previously received by the member as a member of the system. The

1 total service credited under this section shall not exceed 5
2 years. A member requesting purchase of service credit under this
3 section shall certify to the ~~board~~ **retirement system** the
4 purpose for which the member took leave or was separated from
5 service with the state.

6 (2) Service credit purchased under this section shall not be
7 used to satisfy the minimum number of years of service credit
8 required to receive a retirement allowance under this act.

9 (3) If a member who made payment under this section dies and
10 a retirement allowance is not payable, or if the member leaves
11 service with the state before his or her retirement allowance
12 becomes effective, the payment made by the member shall be
13 refunded upon request to the member, to the person designated by
14 the member in writing to the ~~board~~ **retirement system**, or if a
15 person is not designated, then to the member's legal
16 representative.

17 (4) A member who reduces hours of employment with the state
18 for purposes of ~~maternity, paternity, or child rearing~~ **parental**
19 **leave** may purchase service credit for those hours by which
20 employment was reduced if all other requirements of this section
21 are met.

22 (5) A member requesting purchase of service credit under this
23 section shall submit an application as prescribed by the
24 retirement system in which the member shall certify the time
25 period claimed for parental leave and the purpose of the parental
26 leave. If request for purchase of service credit under this
27 section is a result of leave taken to care for the member's child

1 by birth or adoption, the member also shall submit a certified
2 copy of a birth certificate or adoption document from the
3 appropriate court.

4 (6) Parental leave is creditable under this act until the
5 child, by birth or adoption, attains age 18 or is married,
6 whichever occurs first.

7 (7) For the purposes of this section, "parental leave" means
8 either of the following:

9 (a) The presence of the member in the active participation or
10 supervision in the day-to-day, ongoing care or maintenance of his
11 or her child by birth or adoption, for which the member reduces
12 or eliminates the number of hours worked for the state or the
13 reporting unit in a normal work time period.

14 (b) A member's pregnancy that occurred while a member,
15 whether brought to full term or not, childbirth, and
16 recuperation, for which the member reduces or eliminates the
17 number of hours worked for the state or the reporting unit in a
18 normal work time period.

19 ~~Sec. 23. Upon retirement for disability, as provided for~~
20 ~~in section 21, a member who has not attained age 60 years shall~~
21 ~~receive the following benefits, subject to the provisions of~~
22 ~~sections 33 and 34:~~

23 ~~—— (a) A disability retirement allowance of 2/3 of the~~
24 ~~retirant's final average compensation, the retirement allowance~~
25 ~~to begin as of date of the retirant's disability, but not more~~
26 ~~than 6 months before the date the retirant's application for~~
27 ~~disability retirement was filed with the retirement board, and~~

~~1 not before the date the retirant's name last appeared on a state
2 payroll with pay, whichever is later, and to continue to the
3 attainment of age 60 years or recovery or death, whichever event
4 shall first occur. The disability retirement allowance payable
5 to a disability retirant shall not exceed \$6,000.00 per annum,
6 nor be more than an amount which when added to the statutory
7 worker's compensation benefits applicable in the retirant's case
8 shall exceed the retirant's final compensation. The increase in
9 the maximum amount payable under this subdivision as provided by
10 this 1987 amendatory act shall be payable to retirants on the
11 pension payroll as of July 1, 1987.~~

~~12 (b) Upon attaining age 60 years or July 1, 1987, whichever is
13 later, the disability retirant shall receive a retirement
14 allowance computed according to section 20. In computing the
15 retirant's retirement allowance, the retirant shall be given
16 membership service credit for the period during which the
17 retirant was receiving the disability retirement allowance
18 provided for in subdivision (a). If the computation results in a
19 retirement allowance less than the disability retirement
20 allowance provided in subdivision (a), the retirant shall receive
21 a retirement allowance equal to the disability retirement
22 allowance. Upon attaining age 60 years or July 1, 1987,
23 whichever is later, the retirant may elect an option provided for
24 in section 31(1).~~

~~25 (c) During the period a disability retirant is receiving a
26 disability retirement allowance, as provided for in subdivision
27 (a), the retirant's contributions to the employees' savings fund~~

~~1 shall be suspended and the balance in the fund, standing to the
2 retirant's credit as of the date the disability retirement
3 allowance begins, shall remain in the savings fund and shall be
4 accumulated at regular interest. Upon attaining age 60 years or
5 July 1, 1987, whichever is later, the retirant's accumulated
6 contributions shall be transferred from the employees' savings
7 fund to the pension reserve fund. If the disability retirant
8 should die before attaining age 60 years, the accumulated
9 contributions standing to the retirant's credit in the employees'
10 savings fund shall be paid to the person or persons the retirant
11 nominated by written designation duly executed and filed with the
12 retirement board, or if there is not a designated person or
13 persons surviving, then to the retirant's legal representative.~~

14 (1) Upon retirement for disability as provided in section
15 21, a member who is less than 60 years old shall receive a
16 disability retirement allowance calculated under section 20(1).
17 A disability retirement allowance payable under this subsection
18 is payable beginning on the first day of the month following the
19 date the member becomes totally incapacitated for state
20 employment. A disability retirement allowance payable under this
21 subsection shall not be paid before the first day of the month
22 after the later of the following:

23 (a) Twelve months before the date the application for a
24 disability retirement allowance was filed with the retirement
25 system under section 21.

26 (b) The date the disability retirant's name last appeared on
27 the state payroll with pay.

1 (2) Upon attaining age 60 years, a disability retirant under
2 subsection (1) shall receive a retirement allowance calculated
3 under section 20. For the purpose of calculating that retirant's
4 retirement allowance, the retirant shall be given membership
5 service credit for the period during which the retirant was
6 receiving the disability retirement allowance provided for in
7 subsection (1). If the computation results in a retirement
8 allowance less than the disability retirement allowance provided
9 in subsection (1), the retirant shall receive a retirement
10 allowance equal to the disability retirement allowance provided
11 in subsection (1). Upon attaining age 60, the retirant may elect
12 an option provided for in section 31(1).

13 (3) During the period a disability retirant is receiving a
14 disability retirement allowance under subsection (1), the
15 retirant's contributions to the employees' savings fund shall be
16 suspended and the balance in the fund, that is credited to the
17 retirant as of the date the disability retirement allowance
18 begins, shall remain in the savings fund and shall be accumulated
19 at regular interest. Upon attaining age 60 years, the disability
20 retirant's accumulated contributions shall be transferred from
21 the employees' savings fund to the pension reserve fund. If the
22 disability retirant should die before attaining age 60 years, the
23 accumulated contributions standing to the disability retirant's
24 credit in the employees' savings fund shall be paid to the person
25 or persons the disability retirant nominated by written
26 designation executed and filed with the retirement system, or if
27 there is not a designated person or persons surviving, then to

1 the disability retirant's legal representative or estate.

2 (4) The disability retirement allowance payable to a
3 disability retirant under this section shall not be less than
4 \$6,000.00 per year. A disability retirement allowance first
5 payable to a disability retirant under this section shall not be
6 more than an amount that when added to the worker's compensation
7 benefits payable to the disability retirant exceeds the
8 disability retirant's final compensation.

9 (5) If the disability retirant who retired under section 21
10 dies before reaching age 60, the retirement allowance payable to
11 the beneficiary designated by the disability retirant shall be
12 calculated as provided in section 20(1). For the purpose of
13 calculating the retirement allowance payable to the beneficiary
14 designated by the disability retirant, the deceased retirant
15 shall be given membership service credit for the period during
16 which the retirant was receiving the disability retirement
17 allowance provided for in subsection (1).

18 (6) The receipt of a disability retirement allowance under
19 this section is subject to sections 33 and 34.

20 Sec. 27. ~~(1) If a member dies as a result of a personal~~
21 ~~injury or disease arising out of and in the course of his or her~~
22 ~~employment with the state, or a disability retirant who retired~~
23 ~~under section 21 dies prior to becoming age 60 and within 3 years~~
24 ~~after the member's disability retirement from the same causes for~~
25 ~~which he or she was retired, and such death or illness or~~
26 ~~injuries resulting in death are found by the retirement board to~~
27 ~~have been the sole and exclusive result of employment with the~~

1 ~~state, the applicable benefits provided in subsections (2), (3),~~
2 ~~(4), and (5) shall be paid, subject to subsection (6).~~

3 ~~—— (2) The accumulated contributions standing to the member's~~
4 ~~account in the employees' savings fund shall be paid to such~~
5 ~~person or persons as the member has nominated by written~~
6 ~~designation duly executed and filed with the retirement board, or~~
7 ~~if there are no such designated person or persons surviving, then~~
8 ~~to the member's legal representative.~~

9 ~~—— (3) A retirement allowance of 1/3 of the final compensation~~
10 ~~of the deceased person shall be paid to the surviving spouse to~~
11 ~~whom the deceased person was married at the time he or she last~~
12 ~~terminated employment with the state. If a child or children~~
13 ~~under the age of 18 years also survives the deceased person, each~~
14 ~~such child shall receive an allowance of an equal share of 1/4 of~~
15 ~~the deceased person's final compensation. Upon the marriage,~~
16 ~~death, or attainment of age 18 years of any such child, there~~
17 ~~shall be a redistribution by the retirement board to the deceased~~
18 ~~person's remaining children under age 18 years.~~

19 ~~—— (4) If there is no surviving spouse or if the surviving~~
20 ~~spouse dies before the youngest surviving child of the deceased~~
21 ~~person reaches the age of 18 years, then each such child under~~
22 ~~age 18 shall each receive an allowance equal to 1/4 of the~~
23 ~~deceased person's final compensation, but the total so paid in~~
24 ~~any year to the children of a deceased person shall not exceed~~
25 ~~1/2 of his or her final compensation. If there are more than 2~~
26 ~~such surviving children under age 18 years, each such child shall~~
27 ~~receive an allowance of an equal share of 1/2 of the deceased~~

~~1 person's final compensation. Upon the marriage, death, or
2 attainment of age 18 years of any such child, the child's
3 allowance shall terminate and there shall be a redistribution by
4 the retirement board to any remaining eligible children of the
5 deceased under age 18, but a child shall not receive an allowance
6 more than 1/4 of the deceased person's final compensation.~~

~~7 — (5) If there is neither a spouse nor a child under age 18
8 years surviving the deceased person, then there shall be paid to
9 each parent of the deceased person whom the retirement board
10 after investigation determines to have been actually dependent
11 upon the deceased person through absence of earning power due to
12 disability, an allowance of 1/6 of the deceased person's final
13 compensation.~~

~~14 — (6) The total of the retirement allowances payable under
15 subsections (3), (4), and (5) on account of the death of a member
16 or retirant shall not exceed \$2,400.00 per annum, nor an amount
17 which, when added to the statutory worker's compensation benefit
18 to which the dependents of the member or retirant are entitled,
19 exceeds his or her final compensation.~~

20 (1) Except as provided in subsections (3), (4), and (5), if
21 a member dies as a result of a personal injury or disease arising
22 out of and in the course of his or her employment with the state
23 and the personal injury or disease resulting in death is found by
24 the retirement board to have been the sole and exclusive result
25 of employment with the state, the surviving spouse shall receive
26 a retirement allowance calculated as if the deceased member had
27 retired effective the day before the date of death, elected

1 option A under section 31(1), and nominated his or her spouse as
2 retirement allowance beneficiary. The retirement allowance shall
3 be calculated based upon the amount of the deceased member's
4 credited service. If the deceased member does not have the
5 minimum number of years of credited service needed to vest in the
6 retirement system, the amount of service necessary to reach that
7 amount of credited service shall be granted.

8 (2) The retirement allowance payable to a surviving spouse
9 under this section shall not be less than \$6,000.00 per year.
10 The retirement allowance first payable to a surviving spouse
11 under subsection (1) shall not be more than an amount that, when
12 added to the statutory worker's disability compensation benefits
13 payable to the surviving spouse of the deceased member, equals
14 the deceased member's final compensation.

15 (3) If the requirements of subsection (1) are met but the
16 deceased member is survived by a spouse and a child or children
17 under 18 years of age, then the retirement allowance calculated
18 under subsections (1) and (2) shall be payable as follows:

19 (a) One-half to the surviving spouse.

20 (b) One-half to the surviving child or children under 18
21 years of age, in equal shares. The retirement allowance payable
22 to a surviving child under this subsection shall terminate upon
23 that child's marriage, death, or becoming 18 years of age,
24 whichever occurs first. That child's share of the terminated
25 retirement allowance shall be redistributed among the remaining
26 children under 18 years of age, if any. When there are no
27 surviving children entitled to a share of the retirement

1 allowance under this subsection, the children's share shall
2 revert to the surviving spouse.

3 (4) If the requirements of subsection (1) are met and the
4 deceased member is not survived by a spouse but is survived by a
5 child or children under 18 years of age, then the retirement
6 allowance calculated under subsections (1) and (2) shall be paid
7 to the surviving child or children in equal shares. The
8 retirement allowance payable to a surviving child under this
9 subsection shall terminate upon that child's marriage, death, or
10 becoming 18 years of age, whichever occurs first. That child's
11 share of the terminated retirement allowance shall be
12 redistributed among the remaining children under 18 years of age,
13 if any.

14 (5) If the requirements of subsection (1) are met and the
15 deceased member is not survived by a spouse or a child or
16 children under 18 years of age but is survived by a parent or
17 parents who were dependent, as defined in section 152 of the
18 internal revenue code, 26 USC 152, upon the deceased member at
19 the time of his or her death, then the retirement allowance
20 calculated under subsections (1) and (2) shall be paid to the
21 surviving parent or parents in equal shares. The retirement
22 allowance payable to a surviving parent under this subsection
23 shall terminate upon that parent's death.

24 Sec. 27a. (1) Beginning with retirement allowance payments
25 due on or after March 1, 2004, retirement allowances granted
26 under section 27 that began before the effective date of the
27 amendatory act that added this section shall be adjusted as

1 provided in this section.

2 (2) Except as otherwise provided in this section, a
3 retirement allowance shall not be less than \$6,000.00 per year.

4 (3) A portion of a retirement allowance payable to a
5 surviving child or parent shall not be less than that portion of
6 a retirement allowance that the child or parent was entitled to
7 receive under section 27 before the effective date of the
8 amendatory act that added this section.

9 Sec. 33. (a) The retirement board may, and upon the
10 ~~retirant's~~ application of anyone retired pursuant to section
11 21, 24, or 67a shall, require ~~any disability retirant~~ anyone
12 retired under section 21, 24, or 67a who has not attained age 60
13 years to undergo a medical examination. The retirement board
14 shall not require a ~~disability retirant~~ person retired under
15 section 21, 24, or 67a to undergo more than 1 medical examination
16 in any calendar year. The examination is to be made by or under
17 the direction of the medical advisor at the retirant's place of
18 residence or other place mutually agreed upon. Should ~~any~~
19 ~~disability retirant~~ anyone retired under section 21, 24, or 67a
20 who has not attained age 60 years refuse to submit to the medical
21 examination, his or her disability retirement allowance or
22 supplemental benefit provided for in section 67a may be
23 discontinued until his or her withdrawal of the refusal. If the
24 refusal continues for 1 year, all rights in and to his or her
25 disability retirement allowance or supplemental benefit provided
26 for in section 67a may be revoked by the retirement board. If
27 upon the medical examination of a ~~disability retirant~~ person

1 **retired under section 21, 24, or 67a**, the medical advisor reports
2 and his or her report is concurred in by the retirement board,
3 that the ~~disability retirant~~ **person retired under section 21,**
4 **24, or 67a** is physically ~~able and~~ capable of resuming
5 employment, he or she shall be restored to active service with
6 the state and his or her disability retirement allowance **or**
7 **supplemental benefit provided for in section 67a** shall cease.

8 (b) If the secretary reports and certifies to the retirement
9 board that a ~~disability beneficiary~~ **person retired under**
10 **section 21, 24, or 67a** is engaged in a gainful occupation paying
11 more than the difference between his or her disability retirement
12 allowance and his or her final compensation, and if the
13 retirement board concurs in the report, then ~~the amount of~~ his
14 or her retirement allowance shall be reduced to an amount which
15 together with the amount earned by him or her shall equal his or
16 her final compensation. Should the earnings of the ~~disability~~
17 ~~retirant~~ **person retired under section 21, 24, or 67a** be later
18 changed, the amount of his or her retirement allowance shall be
19 further modified in like manner.

20 Sec. 49. (1) This section is enacted pursuant to
21 section 401(a) of the internal revenue code, **26 USC 401**, that
22 imposes certain administrative requirements and benefit
23 limitations for qualified governmental plans. This state intends
24 that the retirement system be a qualified pension plan created in
25 trust under section 401 of the internal revenue code, **26 USC 401**,
26 and that the trust be an exempt organization under section 501 of
27 the internal revenue code, **26 USC 501**. The department shall

1 administer the retirement system to fulfill this intent.

2 ~~(2) Except as otherwise provided in this section,~~
3 ~~employer-financed benefits provided by the retirement system~~
4 ~~under this act shall not exceed the lesser of \$90,000.00 or 100%~~
5 ~~of the member's average compensation for high 3 years as~~
6 ~~described in section 415(b)(3) of the internal revenue code for~~
7 ~~retirement occurring at age 62 or older.~~

8 ~~—— (3) The limitation on employer-financed benefits provided by~~
9 ~~the retirement system under subsection (2) applies unless~~
10 ~~application of subsections (4) and (5) produces a higher~~
11 ~~limitation, in which case the higher limitation applies.~~

12 ~~—— (4) If a member retires before age 62, the amount of~~
13 ~~\$90,000.00 in subsection (2) is actuarially reduced to reflect~~
14 ~~payment before age 62. The retirement system shall use an~~
15 ~~interest rate of 5% per year compounded annually to calculate the~~
16 ~~actuarial reduction in this subsection. If this subsection~~
17 ~~produces a limitation of less than \$75,000.00 at age 55, the~~
18 ~~limitation at age 55 is \$75,000.00 and the limitations for ages~~
19 ~~under age 55 shall be calculated from a limitation of \$75,000.00~~
20 ~~at age 55.~~

21 ~~—— (5) Section 415(d) of the internal revenue code requires the~~
22 ~~commissioner of internal revenue to adjust the \$90,000.00~~
23 ~~limitation in subsection (2) to reflect cost of living increases,~~
24 ~~beginning with calendar year 1988. This subsection shall be~~
25 ~~administered using the limitations applicable to each calendar~~
26 ~~year as adjusted by the commissioner of internal revenue under~~
27 ~~section 415(d) of the internal revenue code. The retirement~~

1 ~~system shall adjust the benefits subject to the limitation each~~
2 ~~year to conform with the adjusted limitation.~~

3 (2) The retirement system shall be administered in compliance
4 with the provisions of section 415 of the internal revenue code,
5 26 USC 415, and regulations under that section that are
6 applicable to governmental plans. Employer-financed benefits
7 provided by the retirement system under this act shall not exceed
8 the applicable limitations set forth in section 415 of the
9 internal revenue code, 26 USC 415, as adjusted by the
10 commissioner of internal revenue under section 415(d) of the
11 internal revenue code, 26 USC 415, to reflect cost-of-living
12 increases, and the retirement system shall adjust the benefits
13 subject to the limitation each calendar year to conform with the
14 adjusted limitation. For purposes of section 415(b) of the
15 internal revenue code, 26 USC 415, the applicable limitation
16 shall apply to aggregated benefits received from all qualified
17 pension plans for which the office of retirement services
18 coordinates administration of that limitation. If there is a
19 conflict between this section and another section of this act,
20 this section prevails.

21 (3) ~~-(6)-~~ The assets of the retirement system shall be held
22 in trust and invested for the sole purpose of meeting the
23 legitimate obligations of the retirement system and shall not be
24 used for any other purpose. The assets shall not be used for or
25 diverted to a purpose other than for the exclusive benefit of the
26 members, vested former members, retirants, and retirement
27 allowance beneficiaries before satisfaction of all retirement

1 system liabilities.

2 (4) ~~-(7)-~~ The retirement system shall return post-tax member
3 contributions made by a member and received by the retirement
4 system to a member upon retirement, pursuant to internal revenue
5 service regulations and approved internal revenue service
6 exclusion ratio tables.

7 (5) ~~-(8)-~~ The required beginning date for retirement
8 allowances and other distributions shall not be later than April
9 1 of the calendar year following the calendar year in which the
10 employee attains age 70-1/2 or April 1 of the calendar year
11 following the calendar year in which the employee retires.

12 (6) ~~-(9)-~~ If the retirement system is terminated, the
13 interest of the members, vested former members, retirants, and
14 retirement allowance beneficiaries in the retirement system is
15 nonforfeitable to the extent funded as described in section
16 411(d)(3) of the internal revenue code, **26 USC 411**, and related
17 internal revenue service regulations applicable to governmental
18 plans.

19 (7) ~~-(10)-~~ Notwithstanding any other provision of this act to
20 the contrary that would limit a distributee's election under this
21 act, a distributee may elect, at the time and in the manner
22 prescribed by the retirement board, to have any portion of an
23 eligible rollover distribution paid directly to an eligible
24 retirement plan specified by the distributee in a direct
25 rollover. This subsection applies to distributions made on or
26 after January 1, 1993.

27 (8) ~~-(11)-~~ For purposes of determining actuarial equivalent

1 retirement allowances under sections 31(1)(a) and (b) and 20(2),
2 the actuarially assumed interest rate shall be 8% with
3 utilization of the 1983 group annuity and mortality table.

4 ~~(12) Notwithstanding any other provision of this section,~~
5 ~~the retirement system shall be administered in compliance with~~
6 ~~the provisions of section 415 of the internal revenue code and~~
7 ~~revenue service regulations under that section that are~~
8 ~~applicable to governmental plans. If there is a conflict between~~
9 ~~this section and another section of this or any other act of this~~
10 ~~state, this section prevails.~~

11 **(9)** ~~-(13)-~~ Notwithstanding any other provision of this act,
12 the compensation of a member of the retirement system shall be
13 taken into account for any year under the retirement system only
14 to the extent that it does not exceed the compensation limit
15 established in section 401(a)(17) of the internal revenue code,
16 **26 USC 401**, as adjusted by the commissioner of internal revenue.
17 This subsection applies to any person who first becomes a member
18 of the retirement system on or after October 1, 1996.

19 **(10)** ~~-(14)-~~ Notwithstanding any other provision of this act,
20 contributions, benefits, and service credit with respect to
21 qualified military service will be provided under the retirement
22 system in accordance with section 414(u) of the internal revenue
23 code, **26 USC 414**. This subsection applies to all qualified
24 military service on or after December 12, 1994.

25 Sec. 53. (1) For the purposes of this section and sections
26 54 to 69, the words and phrases defined in this section and
27 sections 54 to 69 have the meanings ascribed to them in those

1 sections.

2 (2) "Accumulated balance" means the total balance in a
3 qualified participant's, former qualified participant's, or
4 refund beneficiary's individual account in Tier 2.

5 (3) "Compensation" means the remuneration paid a participant
6 on account of the participant's services rendered to his or her
7 employer ~~— Compensation includes only wages, tips, and other~~
8 ~~compensation as reported by the employer on the participant's~~
9 ~~federal form W-2, wage and tax statement.~~ **equal to the sum of**
10 **the following:**

11 (a) A participant's W-2 earnings for services performed for
12 the employer excluding part B annual leave hours paid at
13 separation.

14 (b) Any amount contributed or deferred at the election of the
15 participant which is excluded from gross income under section
16 125, 132(f)(4), 401(k), 403(b), or 457 of the internal revenue
17 code, 26 USC 125, 132, 401, 403, and 457.

18 (c) Beginning October 1, 2003, the value of any unpaid
19 furlough hours and the value of any unpaid hours exchanged for
20 part B annual leave hours calculated at the participant's then
21 current hourly rate or rates of pay for a period during which a
22 participant is participating in the banked leave time program.

23 (d) The value of hours not worked during which a participant
24 is in a voluntary or involuntary pay reduction plan A or on 1-day
25 layoff or designated temporary layoff calculated at the
26 participant's then current hourly rate or rates of pay.

27 Sec. 55. (1) "Plan document" means the document that

1 contains the provisions and procedures of Tier 2 in conformity
2 with this act and the internal revenue code.

3 (2) ~~-(1)-~~ "Qualified participant" means an individual who is
4 a participant of Tier 2 and who meets 1 of the following
5 requirements:

6 (a) An individual who is first employed and entered upon the
7 payroll of his or her employer on or after March 31, 1997, and
8 who before March 31, 1997 would have been eligible to be a member
9 of Tier 1.

10 (b) An individual who elects to terminate membership in Tier
11 1 and who elects to participate in Tier 2 in the manner
12 prescribed in section 50.

13 (3) ~~-(2)-~~ "Refund beneficiary" means an individual nominated
14 by a qualified participant or a former qualified participant
15 under section 66 to receive a distribution of the participant's
16 accumulated balance in the manner prescribed in section 67.

17 (4) ~~-(3)-~~ "State treasurer" means the treasurer of this
18 state.

19 (5) Except as otherwise provided in this subsection, "year of
20 service" means each period during which a qualified participant
21 is employed by the employer and is credited with 2,080 hours of
22 service. The Tier 2 plan administrator and the plan document may
23 provide for a lesser number of annual hours and a maximum number
24 of hours per pay period for any classification of employees,
25 provided that no participant shall receive credit for more than 1
26 year of service for any 12-month period of employment. Beginning
27 January 1, 2003, full service credit shall also be given to a

1 participant for furlough hours, for required 1-day layoffs, for
2 required and designated temporary layoffs, for a year in which a
3 participant temporarily leaves employment to enter active
4 military duty and then dies during that active military duty, and
5 for participation in the banked leave time program. In the event
6 a terminated participant is reemployed, such individual shall
7 retain credit for all full and partial years of service completed
8 prior to such reemployment, for purposes of determining his or
9 her vesting percentage in any employer contributions made
10 pursuant to section 63(2) and (3) after his or her reemployment.

11 Sec. 64. (1) A qualified participant is immediately 100%
12 vested in his or her contributions made to Tier 2 **and employer**
13 **contributions under the banked leave time program.** ~~A~~ **Except as**
14 **otherwise provided in this section,** a qualified participant shall
15 vest in the employer contributions made on his or her behalf to
16 Tier 2 according to the following schedule:

- 17 (a) Upon completion of 2 years of service, 50%.
18 (b) Upon completion of 3 years of service, 75%.
19 (c) Upon completion of 4 years of service, 100%.

20 (2) A qualified participant is vested in the health insurance
21 coverage provided in section 68 if the qualified participant
22 meets 1 of the following requirements:

23 (a) The qualified participant has completed 10 years of
24 service as a qualified participant and was not a member, deferred
25 member, or former nonvested member of Tier 1.

26 (b) The qualified participant was a member, deferred member,
27 or former nonvested member of Tier 1 who made an election to

1 participate in Tier 2 pursuant to section 50, and who has met the
2 service requirements he or she would have been required to meet
3 in order to vest in health benefits under section 20d.

4 Sec. 67a. ~~-(1) Upon the application of a qualified~~
5 ~~participant, his or her department head, or the state personnel~~
6 ~~director, a qualified participant who becomes totally~~
7 ~~incapacitated for duty in the service of this state without~~
8 ~~willful negligence on his or her part, by reason of a personal~~
9 ~~injury or disease, which the retirement board finds to have~~
10 ~~occurred as the natural and proximate result of the qualified~~
11 ~~participant's actual performance of duty in the service of this~~
12 ~~state, shall be granted a supplemental benefit equivalent to the~~
13 ~~amount provided for in section 23 as if the former qualified~~
14 ~~participant had retired under section 21, which supplemental~~
15 ~~benefit shall be offset by the value of the distribution of his~~
16 ~~or her accumulated balance upon becoming a former qualified~~
17 ~~participant pursuant to section 67.~~

18 (1) Except as otherwise provided in section 33, a qualified
19 participant who becomes totally incapacitated for duty because of
20 a personal injury or disease shall be retired if all of the
21 following apply:

22 (a) The qualified participant, the qualified participant's
23 personal representative or guardian, his or her department head,
24 or the state personnel director files an application on behalf of
25 the member with the retirement board no later than 1 year after
26 termination of the qualified participant's employment.

27 (b) The retirement board finds that the qualified

1 participant's personal injury or disease is the natural and
2 proximate result of the qualified participant's performance of
3 duty.

4 (c) A medical advisor conducts a medical examination of the
5 qualified participant and certifies in writing that the qualified
6 participant is mentally or physically totally incapacitated for
7 further performance of duty, that the total incapacitation is
8 probably permanent, and that the qualified participant should be
9 retired.

10 (d) The retirement board concurs in the recommendation of
11 the medical advisor.

12 (2) If the retirement board grants the application of the
13 qualified participant under subsection (1), the qualified
14 participant shall be granted a supplemental benefit equivalent to
15 the amount provided in section 23 as if the former qualified
16 participant had retired under section 21, which supplemental
17 benefit shall be offset by the value of the distribution of his
18 or her accumulated balance as determined by the retirement system
19 upon becoming a former qualified participant pursuant to section
20 67.

21 (3) ~~-(2)-~~ If a qualified participant dies as a result of a
22 personal injury or disease arising out of and in the course of
23 his or her employment with this state, or if a former qualified
24 participant who retired under subsection (1) who dies before
25 becoming age 60 and within 3 years after the former qualified
26 participant's disability retirement from the same causes from
27 which he or she separated, and such death or illness or injuries

1 resulting in death are found by the retirement board to have been
2 the sole and exclusive result of employment with this state, a
3 supplemental benefit shall be granted equivalent to the amount
4 provided for in section 27 had the former qualified participant
5 been considered retired under section 27, which supplemental
6 benefit shall be offset by the value of the distribution of his
7 or her accumulated balance upon becoming a former qualified
8 participant pursuant to section 67.

9 **(4)** ~~-(3)-~~ A qualified participant, former qualified
10 participant, or beneficiary of a deceased participant, which
11 participant is eligible for a duty disability retirement
12 allowance pursuant to subsection (1), ~~or~~ (2), **or (3)**, is
13 eligible for health insurance coverage under section 20d in all
14 respects and under the same terms as would be a retirant and his
15 or her beneficiaries under Tier 1.

16 ~~(4) Upon the application of a qualified participant, his or~~
17 ~~her department head, or the state personnel director, a qualified~~
18 ~~participant who has been a state employee for 10 years or more~~
19 ~~and who becomes totally and permanently incapacitated for duty as~~
20 ~~the result of causes occurring not in the performance of duty to~~
21 ~~this state shall be granted a supplemental benefit equivalent to~~
22 ~~the amount provided for in section 25 as if the former qualified~~
23 ~~participant had retired under section 24, which supplemental~~
24 ~~benefit shall be offset by the value of the distribution of his~~
25 ~~or her accumulated balance upon becoming a former qualified~~
26 ~~participant pursuant to section 67.~~

27 **(5) Except as otherwise provided in section 33, a qualified**

1 participant who becomes totally incapacitated for duty because of
2 a personal injury or disease that is not the natural and
3 proximate result of the qualified participant's performance of
4 duty may be retired if all of the following apply:

5 (a) The qualified participant, the qualified participant's
6 personal representative or guardian, the qualified participant's
7 department head, or the state personnel director files an
8 application on behalf of the qualified participant with the
9 retirement board no later than 1 year after termination of the
10 qualified participant's state employment.

11 (b) A medical advisor conducts a medical examination of the
12 qualified participant and certifies in writing that the qualified
13 participant is mentally or physically totally incapacitated for
14 further performance of duty, that the incapacitation is likely to
15 be permanent, and that the qualified participant should be
16 retired.

17 (c) The qualified participant has been a state employee for
18 at least 10 years.

19 (6) If the retirement board grants the application of the
20 qualified participant under subsection (5), the qualified
21 participant shall be granted a supplemental benefit equivalent to
22 the amount provided for in section 25 as if the qualified
23 participant had retired under section 24. The supplemental
24 benefit shall be offset by the value of the distribution of his
25 or her accumulated balance as determined by the retirement system
26 upon becoming a former qualified participant pursuant to section
27 67.

1 (7) Upon appeal to the retirement board, the retirement
2 board, for good cause, may accept an application for a disability
3 retirement allowance not later than 2 years after termination of
4 the qualified participant's state employment.

5 (8) ~~—(5)—~~ If a qualified participant who has been a state
6 employee for the number of years necessary to vest under Tier 1
7 dies as a result of causes occurring not in the performance of
8 duty to this state, a supplemental benefit shall be granted
9 equivalent to the amount provided for in section 25 had the
10 former qualified participant been considered retired under
11 section 24, which supplemental benefit shall be offset by the
12 value of the distribution of his or her accumulated balance **as**
13 **determined by the retirement system** upon becoming a former
14 qualified participant pursuant to section 67.

15 (9) ~~—(6)—~~ A qualified participant, former qualified
16 participant, or beneficiary of a deceased participant, which
17 participant is eligible for a disability retirement allowance
18 pursuant to subsection (4) or (5), is eligible for health
19 insurance coverage under section 20d in all respects and under
20 the same terms as would be a retirant and his or her
21 beneficiaries under Tier 1.