

SENATE BILL No. 1641

November 12, 2008, Introduced by Senators JANSEN and SWITALSKI and referred to the Committee on Appropriations.

A bill to amend 1957 PA 261, entitled
"Michigan legislative retirement system act,"
by amending sections 8a and 59a (MCL 38.1008a and 38.1059a),
section 8a as amended by 2002 PA 97 and section 59a as amended by
2006 PA 614.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8a. (1) Beginning January 1, 2002, except as otherwise
2 provided in this subsection, "eligible retirement plan" means ~~an~~ 1

3 OR MORE OF THE FOLLOWING:

4 (A) ~~AN~~ individual retirement account described in section
5 408(a) of the internal revenue code, ~~an~~ 26 USC 408.

6 (B) ~~AN~~ individual retirement annuity described in section
7 408(b) of the internal revenue code, ~~an~~ 26 USC 408.

8 (C) ~~AN~~ annuity plan described in section 403(a) of the

1 internal revenue code, ~~or a~~ **26 USC 403.**

2 (D) A qualified trust described in section 401(a) of the
3 internal revenue code, ~~an~~ **26 USC 401.**

4 (E) AN annuity contract described in section 403(b) of the
5 internal revenue code, ~~or an~~ **26 USC 403.**

6 (F) AN eligible plan under section 457(b) of the internal
7 revenue code, **26 USC 457**, that is maintained by a state, political
8 subdivision of a state, or an agency or instrumentality of a state
9 or political subdivision of a state and that agrees to separately
10 account for amounts transferred into the eligible plan under
11 section 457(b) of the internal revenue code, **26 USC 457**, from this
12 retirement system, that accepts the distributee's eligible rollover
13 distribution. ~~However, in the case of an eligible rollover~~
14 ~~distribution to a surviving spouse on or before December 31, 2001,~~
15 ~~an eligible retirement plan means an individual retirement account~~
16 ~~or an individual retirement annuity described above.~~

17 (G) BEGINNING JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT
18 ACCOUNT AS DESCRIBED IN SECTION 408A OF THE INTERNAL REVENUE CODE,
19 26 USC 408A, SUBJECT TO THE RULES THAT APPLY TO ROLLOVERS FROM A
20 TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT TO A ROTH INDIVIDUAL
21 RETIREMENT ACCOUNT.

22 (2) Beginning January 1, ~~2002~~ **2007**, "eligible rollover
23 distribution" means a distribution of all or any portion of the
24 balance to the credit of the distributee. Eligible rollover
25 distribution does not include any of the following:

26 (a) A distribution made for the life or life expectancy of the
27 distributee or the joint lives or joint life expectancies of the

1 distributee and the distributee's designated beneficiary.

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

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

5 ~~—— (d) The portion of any distribution that is not includable in~~
6 ~~federal gross income, determined without regard to the exclusion~~
7 ~~for net unrealized appreciation with respect to employer~~
8 ~~securities, except to the extent that the portion of the~~
9 ~~distribution that is not includable in federal gross income is paid~~
10 ~~to either of the following:~~

11 ~~—— (i) An individual retirement account or annuity described in~~
12 ~~section 408(a) or (b) of the internal revenue code.~~

13 ~~—— (ii) A qualified defined contribution plan as described in~~
14 ~~section 401(a) or 403(a) of the internal revenue code that agrees~~
15 ~~to separately account for amounts so transferred, including~~
16 ~~separately accounting for the portion of the distribution which is~~
17 ~~includable in gross income and the portion of such distribution~~
18 ~~which is not so includable.~~

19 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN
20 FEDERAL GROSS INCOME, EXCEPT TO THE EXTENT SUCH PORTION OF THE
21 DISTRIBUTION IS PAID TO EITHER OF THE FOLLOWING:

22 (i) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
23 SECTION 408(A) OR 408(B) OF THE INTERNAL REVENUE CODE, 26 USC 408.

24 (ii) A QUALIFIED PLAN DESCRIBED IN SECTION 401(A) OF THE
25 INTERNAL REVENUE CODE, 26 USC 401, OR AN ANNUITY CONTRACT DESCRIBED
26 IN SECTION 403(B) OF THE INTERNAL REVENUE CODE, 26 USC 403, AND THE
27 PLAN PROVIDERS AGREE TO SEPARATELY ACCOUNT FOR THE AMOUNTS PAID,

1 INCLUDING ANY PORTION OF THE DISTRIBUTION THAT IS INCLUDABLE IN
2 FEDERAL GROSS INCOME, AND THE PORTION OF THE DISTRIBUTION WHICH IS
3 NOT SO INCLUDABLE.

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

6 Sec. 59a. (1) This section is enacted pursuant to section
7 401(a) of the internal revenue code, 26 USC ~~401(a)~~ **401**, that
8 imposes certain administrative requirements and benefit limitations
9 for qualified governmental plans. This state intends that the
10 retirement system be a qualified pension plan created in trust
11 under section 401 of the internal revenue code, 26 USC 401, and
12 that the trust be an exempt organization under section 501 of the
13 internal revenue code, 26 USC 501. The board of trustees shall
14 administer the retirement system to fulfill this intent.

15 (2) Notwithstanding any other provision of this act, the
16 retirement system shall be administered in compliance with section
17 415 of the internal revenue code, 26 USC 415, and regulations under
18 that section that are applicable to governmental plans **AND**
19 **BEGINNING JANUARY 1, 2010, APPLICABLE PORTIONS OF THE FINAL**
20 **REGULATIONS ISSUED BY THE INTERNAL REVENUE SERVICE ON APRIL 5,**
21 **2007.** Employer-financed benefits provided by the retirement system
22 under this act shall not exceed the applicable limitations of
23 section 415 of the internal revenue code, 26 USC 415, as adjusted
24 by the commissioner of internal revenue under section 415(d) of the
25 internal revenue code, 26 USC ~~415(d)~~ **415**, to reflect cost of living
26 increases, and the retirement system shall adjust the benefits,
27 **INCLUDING BENEFITS PAYABLE TO RETIRANTS AND RETIREMENT ALLOWANCE**

1 **SURVIVORS**, subject to the limitation each calendar year to conform
2 with the adjusted limitation. For purposes of section 415(b) of the
3 internal revenue code, 26 USC ~~415(b)~~ **415**, the applicable limitation
4 shall apply to aggregated benefits received from all qualified
5 pension plans for which the office of retirement services
6 coordinates administration of that limitation. **IF THERE IS A**
7 **CONFLICT BETWEEN THIS SECTION AND ANOTHER SECTION OF THIS ACT, THIS**
8 **SECTION PREVAILS.**

9 (3) The assets of the retirement system shall be held in trust
10 and invested for the sole purpose of meeting the legitimate
11 obligations of the retirement system and shall not be used for any
12 other purpose. The assets shall not be used for or diverted to a
13 purpose other than for the exclusive benefit of the members, vested
14 former members, retirants, and retirement allowance beneficiaries
15 before satisfaction of all retirement system liabilities.

16 (4) The retirement system shall return post-tax member
17 contributions made by a member and received by the retirement
18 system to a member upon retirement, pursuant to internal revenue
19 service regulations and approved internal revenue service exclusion
20 ratio tables.

21 (5) The required beginning date for retirement allowances and
22 other distributions shall not be later than April 1 of the calendar
23 year following the calendar year in which the employee attains age
24 70-1/2 or April 1 of the calendar year following the calendar year
25 in which the employee retires. **THE REQUIRED MINIMUM DISTRIBUTION**
26 **REQUIREMENTS IMPOSED BY SECTION 401(A) (9) OF THE INTERNAL REVENUE**
27 **CODE, 26 USC 401, SHALL APPLY TO THIS ACT AND BE ADMINISTERED IN**

1 ACCORDANCE WITH A REASONABLE AND GOOD FAITH INTERPRETATION OF THE
2 REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS FOR ALL YEARS TO WHICH
3 THE REQUIRED MINIMUM DISTRIBUTION REQUIREMENTS APPLY TO THIS ACT.

4 (6) If the retirement system is terminated, the interest of
5 the members, deferred vested members, retirants, and retirement
6 allowance beneficiaries in the retirement system is nonforfeitable
7 to the extent funded as described in section 411(d)(3) of the
8 internal revenue code, 26 USC 411(d)(3), and related internal
9 revenue service regulations applicable to governmental plans.

10 (7) Notwithstanding any other provision of this act to the
11 contrary that would limit a distributee's election under this act,
12 a distributee may elect, at the time and in the manner prescribed
13 by the board of trustees, to have any portion of an eligible
14 rollover distribution paid directly to an eligible retirement plan
15 specified by the distributee in a direct rollover. This subsection
16 applies to distributions made on or after January 1, 1993.

17 (8) For purposes of determining actuarial equivalent
18 retirement allowances under this act, the actuarially assumed
19 interest rate shall be 7% with utilization of the 1971 group
20 annuity and mortality table.

21 (9) Notwithstanding any other provision of this act, the
22 compensation of a member of the retirement system shall be taken
23 into account for any year under the retirement system only to the
24 extent that it does not exceed the compensation limit established
25 in section 401(a)(17) of the internal revenue code, 26 USC
26 401(a)(17), as adjusted by the commissioner of internal revenue.
27 This subsection applies to any person who first becomes a member of

1 the retirement system on or after October 1, 1996.

2 (10) Notwithstanding any other provision of this act,
3 contributions, benefits, and service credit with respect to
4 qualified military service will be provided under the retirement
5 system in accordance with section 414(u) of the internal revenue
6 code, 26 USC 414(u). This subsection applies to all qualified
7 military service on or after December 12, 1994. **BEGINNING JANUARY**
8 **1, 2007, IN ACCORDANCE WITH SECTION 401(A)(37) OF THE INTERNAL**
9 **REVENUE CODE, 26 USC 401, IF A MEMBER DIES WHILE PERFORMING**
10 **QUALIFIED MILITARY SERVICE, FOR PURPOSES OF DETERMINING ANY DEATH**
11 **BENEFITS PAYABLE UNDER THIS ACT, THE MEMBER WILL BE TREATED AS**
12 **HAVING RESUMED AND THEN TERMINATED EMPLOYMENT ON ACCOUNT OF DEATH.**