



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

AMENDMENTS TO MERS ACT

House Bill 5684 (Substitute H-1)
Revised First Analysis (5-14-90)

Sponsor: Rep. Roland G. Niederstadt
Committee: Senior Citizens & Retirement

THE APPARENT PROBLEM:

In 1984, the legislature enacted an early retirement program for the State Employees Retirement System. The early retirement program induced older, relatively well paid employees, who were either eligible for retirement but did not choose to retire, or who were just short of retirement eligibility, to retire during a designated "window period." The inducement was accomplished through financial incentives which were expensive for the employer in the short run, but which produced overall savings in the long run, since the retiring employees were not replaced, or were replaced with younger, less well paid employees. The Municipal Employees' Retirement System (MERS) in the Department of Management and Budget's Retirement Bureau has received many calls since then from municipalities desirous of following the state's example. Currently, a municipality cannot change a retirement benefit program once it has been adopted; in order to encourage early retirement, legislation is needed that would permit municipalities to offer higher benefit programs during a designated "window period." In addition, the Municipal Employees' Retirement Act contains several other provisions that are inconsistent with current practices or conditions, or that result in inequities among members.

THE CONTENT OF THE BILL:

The bill would amend the Municipal Employees Retirement Act to allow participating municipalities or courts to adopt specific benefit programs on a temporary basis, to create two new benefit programs, to adopt administrative requirements and benefit limitations required to ensure that the retirement system is a "qualified governmental retirement plan" under the federal Internal Revenue Code, to allow elected officials to participate in the retirement system, and to make certain changes in provisions regarding the reinstatement of forfeited service credit and the required percentage of member contributions.

Temporary benefit programs. The bill would permit a participating municipality, by resolution, or a participating court, by administrative order, to adopt for a temporary period (60 to 180 days) any of the following benefit programs, or any legitimate combination of them: benefit programs E-2; FAC-3; F50; F55; B-1; B-2; B-3; B-4; C; C-1; C-2; and RS50%. The resolution or administrative order would have to provide details about the temporary benefit programs, including the classification of members eligible, and, for benefit programs F50 or F55, the required period of credited service applicable to the program. An eligible member could retire during the temporary benefit period and receive a retirement allowance under the applicable benefit program. A municipality or court could not adopt a temporary benefit program for the same classification of members more than twice in five years.

New benefit programs. The bill would create two new benefit programs, B-4 and RS50%. (As at present, a

participating municipality or court could choose whether or not to adopt particular benefit programs for its employees.)

Under benefit program B-4, the amount of a retirement allowance would be 2.5 percent of the vested former member's final average compensation, multiplied by the member's credited service, and could not exceed 80 percent of the member's final average compensation, or the amount of retirement allowance the member would have been entitled to if he or she had continued to be covered by the benefit program in effect immediately before coverage by benefit program B-4, whichever was greater. The above provision would be subject to existing provisions under the act that permit a participating court or municipality to elect to change its benefit and member contribution programs.

Benefit program RS50% would allow a surviving spouse of a deceased retiree to receive a retirement allowance for life. If a participating municipality or court adopted the program, the surviving spouse of a member who retired after the change in coverage would qualify, if payments made to the member during his or her lifetime had been made under the straight life retirement allowance option. After the member died, 50 percent of the retirement allowance would continue to be paid to the surviving spouse for his or her lifetime.

Federal requirements. The bill would specify that its language is intended to meet federal requirements for qualified governmental pension plans, and that the trust was intended to be an exempt organization under the Internal Revenue Code. The bill would require that the retirement system be administered to fulfill this intent. Under the bill, employer-financed benefits provided by the retirement system could not exceed \$50,000 per year for members who had been full-time police, fire or public safety members with 15 or more years of service, or \$10,000 per year for all other members, with certain exceptions. For members retiring at age 62 or older, the upper limit would be \$90,000 or member's three-year highest average earnings, whichever was less. For members retiring before age 62, the upper limit would be \$90,000 actuarially reduced to reflect payments made before age 62, using a five percent annual interest rate compounded annually, but could not be less than \$75,000 at age 55. For members retiring before age 55, the limitation would be calculated from a limitation of \$75,000 at age 55. The limits would be adjusted by the Internal Revenue Service to reflect changes in the cost of living.

The bill would specify that the assets of the retirement system be held and invested for the sole purpose of meeting the legitimate obligations of the system. Post-tax member contributions would be returned to the members for tax purposes upon retirement, according to Internal Revenue Service rules and regulations. Should a participating municipality or court discontinue participation in the retirement system, or if the system were discontinued, the interest of the members would be nonforfeitable, to the

extent funded. The bill would specify that these provisions would prevail in the event of any conflicts between them and other sections of the act or other statutes.

Reinstatement of service credit. The act specifies that a member who is not "vested" in the system (or, who has not earned enough service credit to receive a retirement allowance) forfeits his or her retirement service credit if he or she incurs a break in membership of more than 60 consecutive months. However, forfeited service credit may be reinstated under certain conditions, including the approval of the governing body or the chief judge. The bill would require each participating municipality or court to establish a written policy to implement the reinstatement provision in order to assure its uniform application to all members of the system. Further, the act requires repayment of any refunded contributions of forfeited service credit; the bill would require that the repayment be made within one year after the earliest date that the member qualified for reinstatement of service credit forfeited due to a break in service. For reinstatement of credited service forfeited for a reason other than a break in service, repayment of refunded contributions would have to be made within five years after the member rejoined the retirement system.

Participation by municipal officials. The act specifies that a mayor, village president, or member of a participating municipality's governing body may not be covered under the retirement system unless ten or more other municipal employees are members, and unless the individual is an employee of the municipality. The bill would delete this provision.

Member contributions. The act allows participating municipalities and courts to set the rate for member contributions, from 0 to 10 percent of a member's compensation. The bill would allow for contribution levels to be set from 0 to 10 percent in increments of 0.1 percent.

MCL 38.1502b et al.

FISCAL IMPLICATIONS:

According to the Retirement Bureau in the Department of Management and Budget, the bill would have no fiscal impact on the state. (5-3-90)

ARGUMENTS:

For:

The bill could produce substantial savings for municipalities which opted to provide early retirement incentives, and would make it possible for reductions in force to be made by voluntary retirement rather than forced layoffs. This would mean, as well, that younger employees would be able to obtain promotions without any expansion of programs, and that affirmative action employment goals could be more readily met. Although the cost to a municipality would be high during a "window period" (a compromise would have to be made with various unions), in the long run savings would be realized. The bill would also save municipalities costs involved in reinstatement of service credits that have been forfeited because the member had a break in membership: the longer a member waits to apply for reinstatement, the more costly it is to the municipality or court involved, since reinstatement involves the repayment of contributions that have been refunded, and the employer's contribution is higher than the employee's. Requiring members to apply for reinstatement

within a specific time period, would reduce this cost. By assuring that the language in the act meets federal requirements for qualified governmental pension plans, and that the trust is intended to be an exempt organization under the Internal Revenue Code, the bill would insure that member contributions are not taxed. If a retirement program does not meet federal requirements, all member contributions are taxed at the same rate as the member's salary.

For:

The bill provides amendments that would put into law practices that the Retirement Board has already adopted, and that have been negotiated under some union contracts, such as the provision that member contributions levels could be set in increments of 0.1 percent, rather than increments of simply 0 to 10 percent. The bill would also provide for two new benefit programs — B-4 and RS50% — that some municipal employee unions have successfully negotiated for.

For:

The bill would correct current inequities and inconsistencies in the act, such as the requirement that certain members of a municipality's governing body, such as a mayor or village president, may not be covered under MERS unless ten or more other municipal employees are members. No one seems to know why this provision was included in the act, and it seems unreasonable, since some small villages may only have two or three employees. The bill would permit all municipal employees — whether elected or not — to become MERS members. The bill would also provide equity among members by requiring that municipalities and courts establish written policies on provisions for reinstatement of retirement service credit that has been forfeited because the member incurred a break in service.

POSITIONS:

The Retirement Bureau in the Department of Management and Budget supports the bill. (5-3-90)

The Michigan Municipal League has no position on the bill at this time. (5-8-90)