

Act No. 51  
Public Act of 1989  
June 13, 1989  
Filed by the Secretary of State  
June 13, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Hart, Barns, Gagliardi, Gire, Webb and Jonker

# **ENROLLED HOUSE BILL No. 4507**

AN ACT to amend sections 2b, 2c, 6, 10, 12, 21, 22, 37, 41, 41a, and 53 of Act No. 427 of the Public Acts of 1984, entitled as amended "An act to provide for a retirement system for municipal and judicial employees; to create a retirement board and to prescribe its powers and duties; to prescribe the powers and duties of certain other state officers and agencies; and to repeal certain acts and parts of acts," sections 2b, 2c, 6, 10, 21, 22, and 37 as amended and section 41a as added by Act No. 500 of the Public Acts of 1988 and section 53 as amended by Act No. 37 of the Public Acts of 1985, being sections 38.1502b, 38.1502c, 38.1506, 38.1510, 38.1512, 38.1521, 38.1522, 38.1537, 38.1541, 38.1541a, and 38.1553 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 2b, 2c, 6, 10, 12, 21, 22, 37, 41, 41a, and 53 of Act No. 427 of the Public Acts of 1984, sections 2b, 2c, 6, 10, 21, 22, and 37 as amended and section 41a as added by Act No. 500 of the Public Acts of 1988 and section 53 as amended by Act No. 37 of the Public Acts of 1985, being sections 38.1502b, 38.1502c, 38.1506, 38.1510, 38.1512, 38.1521, 38.1522, 38.1537, 38.1541, 38.1541a, and 38.1553 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2b. (1) "Member" means a municipal employee or judicial employee who is included in the membership of the retirement system.

(2) "Membership service" means personal service rendered a participating municipality or participating court while a member of the retirement system.

(3) "Municipal employee" means an individual who is paid compensation for personal services rendered for a participating municipality. Payment of compensation by a hospital, board, commission, public corporation, or instrumentality created by a municipality is considered payment by the municipality. Municipal employee does not include any of the following:

(a) The mayor, village president, or a member of the governing body of a participating municipality, unless 10 or more other municipal employees are members of the retirement system, and unless the individual makes written application for membership and is covered by the federal social security old age, survivors, disability, and hospital insurance program, under the social security act, chapter 531, 49 Stat. 620, on account of employment by the participating municipality. Written application must be filed with the retirement system within 60 days from the more recent of the date the individual last qualified for the position and the date the municipality becomes a participating municipality.

(b) An individual who is employed on a basis that exempts the participating municipality from the withholding provisions of the internal revenue code.

(c) An individual, except a county elected official, who is wholly paid on a fee basis.

(d) An individual who is an active member of the Michigan probate judges' retirement system created by the probate judges retirement act, Act No. 165 of the Public Acts of 1954, being sections 38.901 to 38.933 of the Michigan Compiled Laws.

(e) A person, not regularly employed by the participating municipality, who is employed by the municipality through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322. In addition, a person described in this subdivision shall not receive service credit for the employment described in this subdivision even though the person subsequently becomes or has been a member of the retirement system.

(f) A person, not regularly employed by the participating municipality, who is employed by the municipality through participation in a program established pursuant to the Michigan opportunity and skills training program first provided for under sections 12 to 23 of Act No. 259 of the Public Acts of 1983. In addition, a person described in this subdivision shall not receive service credit for the employment described in this subdivision even though the person subsequently becomes or has been a member of this retirement system.

(g) A person, not regularly employed by the participating municipality, who is employed by the municipality through participation in a program established pursuant to the Michigan community service corps program first provided for under sections 25 to 35 of Act No. 259 of the Public Acts of 1983 and sections 148 to 160 of Act No. 246 of the Public Acts of 1984. In addition, a person described in this subdivision shall not receive service credit for the employment described in this subdivision even though the person subsequently becomes or has been a member of this retirement system.

(h) A person, not regularly employed by the participating municipality, who is employed by the municipality to administer a program described in subdivision (e), (f), or (g) shall not be a member of this retirement system.

(i) An individual who is, on the effective date of the municipality's or court's participation under this act, a member of another retirement system that is sponsored by the participating municipality or participating court if that individual remains as a member of the other retirement system.

(4) "Municipality" means a county, county road commission, city, village, township, or a combination of these units; a lawful public corporation or instrumentality established by 1 or more counties, cities, villages, townships, or a combination of these units; or a public corporation or instrumentality charged by law with the performance of a governmental function and whose jurisdiction is coextensive with 1 or more counties, cities, villages, townships, or a combination of these units.

Sec. 2c. (1) "Participating court" means a judicial circuit court, a judicial district court, or a judicial probate court that has elected to be governed by the provisions of this act.

(2) "Participating municipality" means a municipality that has elected to be governed by the provisions of this act. Two or more municipalities may enter into an agreement with each other and the retirement system to participate as a combined unit.

(3) "Prior service" means certified personal service rendered a municipality or a judicial circuit court, judicial district court, or judicial probate court by a member prior to the date the municipality or judicial circuit court, judicial district court, or judicial probate court became a participating municipality or participating court. The participating municipality or participating court shall certify to the retirement system, in writing, the amount of prior service to be credited each member in its employ. The participating municipality or participating court may limit the period of certified prior service to either a percentage of the member's total period of prior service or a stated number of years. Certification of prior service shall be made prior to the retirement of a member, in the form and at the time prescribed by the retirement board.

(4) "Retirant" means an individual who is being paid a retirement allowance on account of the individual's membership in the retirement system.

(5) "Retirement allowance" means an annual amount payable in monthly installments by the retirement system, whether payable for a temporary period or throughout the future life of a retirant or beneficiary.

(6) "Retirement board" means the retirement board provided for in section 36 to administer the retirement system.

(7) "Retirement system" or "system" means the municipal employees retirement system established by former Act No. 135 of the Public Acts of 1945 and continued and restated by this act.

(8) "Vested former member" means a person who meets the requirements of section 12.

Sec. 6. (1) The retirement board shall credit a member for qualifying service in the employ of the United States government, a state, or a political subdivision of a state, if each of the following conditions is satisfied:

(a) The governing body of the participating municipality that employs the member adopts a resolution, or the chief judge of the participating court that employs the member issues an administrative order, requesting the retirement board to credit the member with a specific period of qualifying service and files a certified copy of the resolution or administrative order with the retirement system within 10 days after adoption or issuance.

(b) The qualifying governmental service was not rendered prior to any break of 180 or more months in the member's employment by the United States government, a state, or a political subdivision of a state.

(c) The member pays to the retirement system the amount the participating municipality or participating court may require of the member in consideration for the crediting of qualifying governmental service. The required payment shall not exceed the larger of the following amounts multiplied by the period of qualifying governmental service to be credited the member:

(i) Five percent of the member's annual compensation at time of payment.

(ii) The member's annual compensation at time of payment multiplied by the percent specified under the member contribution program applicable to the member.

(2) For purposes of this section, service is qualifying if it is not and will not be recognized for the purpose of obtaining or increasing a benefit under another retirement system. A member may qualify service by making an irrevocable forfeiture of all rights in and to the actual or potential benefit from the other retirement system.

(3) Service in the armed forces of the United States is not qualifying service and shall not be credited to a member under this section.

(4) The payment under subsection (1)(c) shall be credited to the member's individual account in the reserve for employee contributions.

Sec. 10. (1) A member or a vested former member may retire upon satisfaction of each of the following requirements:

(a) A written application for retirement, on a form established by the retirement system, has been filed with the retirement system. The retirement board may establish required time periods, preceding or surrounding the date of retirement, for the filing of an application for retirement.

(b) One of the following applies:

(i) The member or vested former member has attained age 50 years or older and has 25 or more years of credited service.

(ii) The member or vested former member has attained age 55 years or older and has 15 or more years of credited service.

(iii) The member or vested former member has attained age 60 years or older and has 10 or more years of credited service.

(iv) The member or vested former member has attained age 60 years or older and has 8 or more years of credited service if the member's participating municipality or participating court adopts the termination of membership vesting benefit program V-8 for the member.

(v) The member or vested former member has attained age 60 years or older and has 6 or more years of credited service if the member's participating municipality or participating court adopts the termination of membership vesting benefit program V-6 for the member.

(c) The member terminates membership prior to the date of retirement.

(2) Upon retirement the member or vested former member shall be paid a retirement allowance computed in accordance with the benefit programs that are applicable to the member's or vested former member's credited service and the provisions of subsection (3). The benefit programs applicable to a vested former member shall be determined as of the date of termination of membership and shall not be affected by any subsequent change in benefit programs that is applicable to the classifications held by the vested former member.

(3) If the date of retirement precedes the date the member or vested former member attains the full retirement allowance age as determined under subsection (4) or (5), the amount of retirement allowance shall be reduced. The amount of reduction shall be  $1/2$  of 1% of the retirement allowance multiplied by the number of months, rounded to the next higher number of months and not less than zero, by which the date of retirement precedes the date the member or vested former member attains the full retirement allowance age. The reduction called for in this subsection shall not be applied to benefit component (i) under benefit program B, as provided in section 14.

(4) A participating municipality or participating court may adopt benefit program F50, or benefit program F55, or both. Under benefit program F50, the full retirement allowance age shall be age 50 years with a required period of credited service of either 25 years or 30 years. Under benefit program F55, the full retirement allowance age shall be age 55 years with a required period of credited service of 15 years, 20 years, 25 years, or 30 years.

(5) Full retirement allowance age shall be age 60 years, unless the participating municipality or participating court has adopted benefit program F50 or benefit program F55, or both, and the member or vested former member has the required period of credited service. The governing body of the participating municipality or chief judge of the participating court shall specify, at the time benefit program F50 or benefit program F55, or both, are adopted, the required period of credited service that shall be applicable to the benefit program.

Sec. 12. (1) A member who ceases to be a member, for a reason other than retirement or death, is a vested former member if 1 of the following requirements is met:

(a) The member has 10 or more years of credited service at the time membership terminates.

(b) The member has 8 or more years of credited service and is covered under the termination of membership vesting benefit program V-8 at the time the membership terminates.

(c) The member has 6 or more years of credited service and is covered under the termination of membership vesting benefit program V-6 at the time the membership terminates.

(2) A vested former member may retire upon satisfaction of the requirements of section 10. The benefit programs applicable to a vested former member shall be determined as of the date of termination of membership and shall not be affected by a subsequent change in benefit programs applicable to the classifications held by the vested former member.

Sec. 21. (1) A participating municipality may by resolution of its governing body or a participating court may by administrative order of its chief judge adopt or readopt benefit program E-1. The resolution or administrative order shall specify the effective date of the change in coverage. Benefit program E-1 shall apply to each retirement allowance that has an effective date prior to the effective date of the change in coverage and is not subject to adjustment under benefit program E-2.

(2) The first adjustment date under benefit program E-1 shall be the first January 1 coincident with or subsequent to the effective date of change in coverage and which is also at least 30 days after the adoption of benefit program E-1. Subsequent adjustment dates shall occur on each January 1 after the first adjustment date.

(3) The amount of the retirement allowance of a retirant whose participating municipality or participating court has adopted or readopted benefit program E-1 shall be adjusted on each adjustment date except the adjustment date, if any, that is less than 6 months after the effective date of the retirement allowance. The amount of adjustment, subject to application of the maximum cumulative adjustment limitation, shall be equal to the adjustment factor multiplied by the amount of base retirement allowance.

(4) Effective January 1, 1987, the maximum cumulative adjustment limitation is 100% of the percentage increase, if any, in the average consumer price index monthly values from the base index period to the current index period. The base index period is the 12-month period ending on the September 30 that is 15 months before the first adjustment date. The current index period is the 12-month period ending on the September 30 that is immediately before the current adjustment date. The limitation shall be applied to the base amount of retirement allowance. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, as published by the United States department of labor. If this index is discontinued or restructured after 1983 in a manner materially changing its character, the retirement board shall select the alternative index that most closely preserves the intent implied in the selection of the specified index. The retirement board shall select the index most closely resembling the specified index for application to periods for which the specified index was not published.

(5) The base amount of retirement allowance is the amount that would be payable if the retirement allowance had never been adjusted under the provisions of benefit program E-1.

(6) The adjustment factor shall be 2.5%.

Sec. 22. (1) A participating municipality may by resolution of its governing body or a participating court may by administrative order of its chief judge adopt benefit program E-2. The resolution shall specify the effective date of the change in coverage. Benefit program E-2 shall apply to each retirement allowance that has an effective date on or after the effective date of the change in coverage.

(2) The first adjustment date under benefit program E-2 shall be the first January 1 coincident with or subsequent to the effective date of the change in coverage and which is also at least 30 days after the adoption of benefit program E-2. Subsequent adjustment dates shall occur on each January 1 after the first adjustment date.

(3) The amount of a retirement allowance shall be adjusted on each adjustment date except the adjustment date, if any, that is less than 6 months after the effective date of the retirement allowance. The amount of adjustment, subject to application of the maximum cumulative adjustment limitation, shall be equal to the adjustment factor multiplied by the amount of base retirement allowance.

(4) Effective January 1, 1987, the maximum cumulative adjustment limitation is 100% of the percentage increase, if any, in the average consumer price index monthly values from the base index period to the current index period. The base index period is the 12-month period ending on the September 30 that is 15 months before the first adjustment date. The current index period is the 12-month period ending on the September 30 that is immediately before the current adjustment date. The limitation shall be applied to the base amount of

retirement allowance. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, as published by the United States department of labor. If this index is discontinued or restructured subsequent to 1983 in a manner materially changing its character, the retirement board shall select the alternative index that most closely preserves the intent implied in the selection of the specified index. The retirement board shall select the index most closely resembling the specified index for application to periods for which the specified index was not published.

(5) The base amount of retirement allowance is the amount that would be payable if the retirement allowance had never been adjusted under the provisions of benefit program E-2.

(6) The adjustment factor shall be 2.5%.

Sec. 37. (1) The retirement system shall prepare an annual report for each fiscal year. The report shall contain information regarding the financial, actuarial, and other activities of the retirement system during the fiscal year. A copy of the report shall be furnished to each participating municipality, participating court, and to any other individual or organization requesting a copy.

(2) The auditor general, or a certified public accountant appointed by the auditor general, shall at least biennially conduct financial and compliance audits of the books and financial records of the retirement system. The auditor general or certified public accountant shall submit copies of each audit report to the governor, the retirement board, and the bureau of retirement systems not later than the February 28 that follows the fiscal year end of the period audited.

(3) Each member or vested former member who applies for retirement shall be given a written explanation, prior to retirement, of the optional forms of payment provided in section 23. The explanation shall be written in simple language.

Sec. 41. (1) A municipality may elect to become a participating municipality by either an affirmative vote by a majority of the members on the municipality's governing body, or an affirmative vote by the qualified electors of the municipality. The municipality's governing body shall specify the effective date of participation and the benefit programs and member contribution programs that shall apply to the employees of the municipality. The retirement board shall establish benefit program coverage classifications and member contribution program coverage classifications. All employees of a municipality who are in the same benefit program coverage classification shall be covered by the same benefit program. All employees of a municipality who are in the same member contribution program coverage classification shall be covered by the same member contribution program.

(2) The clerk or secretary of the municipality shall certify to the retirement system, in the manner and form prescribed by the retirement board, the determination of the municipality to participate in the retirement system. The certification shall be made within 10 days from the date of the vote by the governing body or the date of the canvass of votes of the qualified electors.

(3) A municipality shall not participate under this act unless on the effective date of participation 10% or more of all employees of the municipality are included as members of the retirement system. However, a municipality that includes less than 10% of all municipal employees as members of a retirement system under this act may participate if the municipality has elected to include only individuals first hired after the effective date of the municipality's participation.

Sec. 41a. (1) A judicial circuit court, judicial district court, or judicial probate court may elect to become a participating court by administrative order of the court's chief judge that is concurred in by resolution of the governing bodies of the municipalities that are required by law to fund the judicial circuit court, judicial district court, or judicial probate court or by resolution of the joint board or commission of the municipalities that are required by law to fund the judicial circuit court, judicial district court, or judicial probate court if those municipalities have entered into a contract to transfer functions and responsibilities pursuant to Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws. The chief judge, in the administrative order, shall specify the effective date of participation and the benefit programs and member contribution programs that shall apply to the employees of the court. The retirement board shall establish benefit program coverage classifications and member contribution program coverage classifications. All employees of a court who are in the same benefit program coverage classification shall be covered by the same benefit program. All employees of a court who are in the same member contribution program coverage classification shall be covered by the same member contribution program.

(2) The chief judge of the judicial circuit court, judicial district court, or judicial probate court shall certify to the retirement system, in the manner and form prescribed by the retirement board, the determination of the court to participate in the retirement system. The certification shall be made within 10 days after the date of concurrence of the governing bodies of the municipalities that are required by law to fund the court or the joint board or commission of the municipalities that are required by law to fund the court.

(3) A court shall not participate under this act unless on the effective date of participation 10% or more of all employees of the court are included as members of the retirement system. However, a court that includes less than 10% of all judicial employees as members of a retirement system under this act may participate if the court has elected to include only individuals first hired after the effective date of the court's participation.

Sec. 53. (1) The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, any other right accrued or accruing to any individual under the provisions of the retirement system, and any money belonging to the retirement system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is otherwise specifically provided in this act.

(2) The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, or other benefit under the provisions of this act shall be subject to award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court pertaining to child support. However, nothing in this subsection shall be construed to permit or require a benefit to be paid or to be provided that is not otherwise available under the terms of this act.

(3) If an award or order described in subsection (2) requires the retirement system to withhold payment of a pension, deferred pension, accumulated contributions, or other benefit from the person to whom it is due or requires the retirement system to make payment or requires the person to request that the retirement system make payment of a pension, deferred pension, accumulated contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse or child, as provided in subsection (2), the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the person receiving a retirement allowance. The limitation contained in this subsection shall not apply to the accumulated contributions of a person who has terminated employment prior to acquiring a vested member status.

(4) The retirement system shall have the right of setoff to recover overpayments made by the retirement system and to satisfy any claim arising from embezzlement or fraud by a member, retirant, or beneficiary. Transfers of money and assets to another retirement system authorized by an affirmative vote by a majority of the members on the municipality's governing body shall not be considered a violation of this section.

This act is ordered to take immediate effect.

.....  
Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

.....  
Governor.

