

HOUSE BILL No. 4506

March 22, 1989, Introduced by Reps. Hart, Barns, Gagliardi, Niederstadt, Gubow, Gire and Webb and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 24, 25, and 29 of Act No. 427 of the Public Acts of 1984, entitled as amended "Municipal employees retirement act of 1984," as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1524, 38.1525, and 38.1529 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 24, 25, and 29 of Act No. 427 of the
2 Public Acts of 1984, as amended by Act No. 500 of the Public Acts
3 of 1988, being sections 38.1524, 38.1525, and 38.1529 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 24. (1) The retirement board may retire a member who
6 becomes incapacitated for continued employment by the member's
7 participating municipality or participating court if each of the
8 following conditions is met:

1 (a) ~~Application for disability retirement is filed with the~~
2 ~~retirement system by either the~~ THE member or the member's par-
3 ticipating municipality or participating court FILES AN APPLICA-
4 TION FOR DISABILITY RETIREMENT WITH THE RETIREMENT BOARD within 1
5 year after the date the member ceases to be paid by the partici-
6 pating municipality or participating court.

7 (b) The member has 10 or more years of credited service.

8 (c) The member undergoes the medical examinations and tests
9 ordered by the retirement system.

10 (d) The medical adviser certifies TO THE RETIREMENT BOARD
11 AND THE RETIREMENT BOARD CONCURS IN all of the following: ~~to~~
12 ~~the retirement board.~~

13 (i) The member is mentally or physically incapacitated for
14 ~~any~~ continued employment by the participating municipality or
15 participating court IN THE POSITION HELD BY THE MEMBER AT THE
16 TIME OF THE INCAPACITY.

17 (ii) The incapacity is likely to ~~be permanent~~ CONTINUE FOR
18 2 YEARS OR MORE.

19 ~~(iii) The member should be retired.~~

20 (E) THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
21 CERTIFIES TO THE RETIREMENT BOARD THAT THE MUNICIPALITY OR COURT
22 IS NOT ABLE TO EMPLOY THE MEMBER IN ANY POSITION THAT IS COMPEN-
23 SATED AT A LEVEL THAT IS 80% OR MORE OF THE COMPENSATION LEVEL OF
24 THE POSITION HELD BY THE MEMBER AT THE TIME OF THE INCAPACITY.

25 (2) Medical examinations shall be made by or under the
26 direction of a medical adviser selected by the retirement board.

1 The effective date of a disability retirement shall not predate
2 either of the following:

3 (a) The date of the disability.

4 (b) The date the member ceases to be paid by the participat-
5 ing municipality or participating court.

6 (3) The amount of a disability retirement allowance shall be
7 computed BY THE RETIREMENT BOARD in accordance with the benefit
8 programs that are applicable to the disability retirant's cred-
9 ited service. The early retirement reduction provisions of sec-
10 tion 10(3) ~~shall not be applied~~ DO NOT APPLY TO THE COMPUTATION
11 OF THE DISABILITY RETIREMENT ALLOWANCE.

12 (4) The following exceptions to the provisions of subsec-
13 tions (1) to (3) shall apply if the retirement board finds that
14 the member's disability was the natural and proximate result of a
15 personal injury or disease arising out of and in the course of
16 the member's actual performance of duty in the employ of the par-
17 ticipating municipality or participating court:

18 (a) The requirement of 10 or more years of credited service
19 shall be waived.

20 (b) The amount of retirement allowance shall be computed as
21 if the member had acquired exactly 10 years of credited service
22 if the member had actually acquired less than 10 years of cred-
23 ited service.

24 Sec. 25. (1) The retirement board may require a disability
25 retirant who has not attained age 60 years to undergo periodic
26 medical examination by or under the direction of a medical
27 adviser selected by the retirement board. If a disability

1 retirant refuses to submit to a medical examination, payment of
2 the retirement allowance may be suspended by the retirement board
3 until withdrawal of the refusal. If the refusal continues for 1
4 year, all of the disability retirant's rights in and to a dis-
5 ability ~~pension~~ RETIREMENT ALLOWANCE may be revoked by the
6 retirement board. ~~A~~ PAYMENT OF A disability retirement allow-
7 ance shall be ~~discontinued if following the medical examination~~
8 SUSPENDED IF the medical adviser certifies that the disability
9 retirant is mentally and physically ~~able and~~ capable of
10 ~~resuming gainful~~ employment with the participating municipality
11 or participating court ~~from which retired, and the retirement~~
12 ~~board concurs in the certification of the medical adviser~~ IN THE
13 POSITION HELD BY THE DISABILITY RETIRANT AT THE TIME OF THE INCA-
14 PACITY AND THE MUNICIPALITY OR COURT OFFERS EMPLOYMENT TO THE
15 DISABILITY RETIRANT IN A POSITION THAT IS COMPENSATED AT A LEVEL
16 THAT IS 80% OR MORE OF THE COMPENSATION LEVEL OF THE POSITION
17 HELD BY THE DISABILITY RETIRANT AT THE TIME OF THE INCAPACITY.
18 THE DISABILITY RETIREMENT ALLOWANCE SHALL BE SUSPENDED FOR ANY
19 PERIOD DURING WHICH ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

20 (A) THE DISABILITY RETIRANT IS EMPLOYED BY THE PARTICIPATING
21 MUNICIPALITY OR PARTICIPATING COURT UNDER THIS SUBSECTION.

22 (B) THE DISABILITY RETIRANT IS EMPLOYED BY THE PARTICIPATING
23 MUNICIPALITY OR PARTICIPATING COURT FOR A TRIAL PERIOD OF EMPLOY-
24 MENT AS PROVIDED IN SUBSECTION (4).

25 (C) THE DISABILITY RETIRANT REFUSES TO ACCEPT EMPLOYMENT
26 OFFERED BY THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
27 THAT IS COMPENSATED AT A LEVEL THAT IS 80% OR MORE OF THE

1 COMPENSATION LEVEL OF THE POSITION HELD BY THE DISABILITY
2 RETIRANT AT THE TIME OF THE INCAPACITY.

3 (2) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE member-
4 ship status of a ~~terminated~~ disability retirant who is subse-
5 quently employed by a participating municipality or participating
6 court shall be governed by the provisions of section 3. The
7 ~~terminated~~ disability retirant's actual credited service at the
8 time of disability retirement shall be restored upon again
9 acquiring membership if both of the following conditions are
10 satisfied:

11 (a) Membership is on account of employment with the same
12 participating municipality or participating court from which the
13 member previously retired.

14 (b) Membership is reacquired within 5 years from the date of
15 termination of the disability retirement allowance.

16 (3) Service shall not be credited for ~~the period~~ ANY MONTH
17 FOR WHICH a disability retirant is ~~being~~ paid a disability
18 retirement allowance.

19 (4) A ~~terminated~~ disability retirant ~~who does not again~~
20 ~~become a member with restoration of credited service pursuant to~~
21 ~~subsection (2) shall become a vested former member~~ MAY BE SUBSE-
22 QUENTLY EMPLOYED BY A PARTICIPATING MUNICIPALITY, PARTICIPATING
23 COURT, OR OTHER EMPLOYER FOR A TRIAL PERIOD OF NOT MORE THAN 120
24 DAYS UPON PRIOR APPROVAL OF THE RETIREMENT BOARD. THE DISABILITY
25 RETIRANT DOES NOT BECOME A MEMBER OF THE RETIREMENT SYSTEM DURING
26 THE TRIAL PERIOD OF EMPLOYMENT AND THE DISABILITY RETIRANT'S
27 DISABILITY STATUS IS NOT AFFECTED BY THE TRIAL PERIOD OF

1 EMPLOYMENT. A DISABILITY RETIRANT MAY RECEIVE APPROVAL FOR UP TO
2 2 TRIAL PERIODS OF EMPLOYMENT IN ANY 5-YEAR PERIOD. THE AMOUNT
3 OF COMPENSATION PAID TO A DISABILITY RETIRANT DURING A TRIAL
4 PERIOD OF EMPLOYMENT IS NOT CONSIDERED INCOME AS DEFINED IN
5 SECTION 29.

6 Sec. 29. (1) This section shall apply during the period
7 between the effective date of a retirement allowance arising from
8 disability retirement under section 24 and the date the disabil-
9 ity retirant attains age 60 years. Application of the limitation
10 shall be to the amount of retirement allowance under form of pay-
11 ment SL. The effect of an election of any other form of payment
12 shall be taken into account after application of this section.

13 (2) The amount of a retirement allowance shall not exceed
14 the difference between:

15 (a) One hundred percent of the retired member's final aver-
16 age compensation.

17 (b) The amount of the retired member's considered income.

18 (3) ~~A retired member's~~ FOR PURPOSES OF THIS SECTION,
19 "considered income" ~~is~~ MEANS the annual sum of income from the
20 following sources:

21 (a) Remuneration for personal services rendered in any gain-
22 ful employment. ~~Gainful~~ CONSIDERED INCOME DOES NOT INCLUDE
23 REMUNERATION FOR GAINFUL employment existing at the time of dis-
24 ability retirement, other than with the participating municipal-
25 ity or participating court from which retired, ~~shall not be~~
26 ~~considered~~ to the extent of the amount of THAT remuneration
27 EARNED in the last calendar year preceding retirement.

1 CONSIDERED INCOME DOES NOT INCLUDE REMUNERATION PAID TO A
2 DISABILITY RETIRANT DURING A TRIAL PERIOD OF EMPLOYMENT UNDER
3 SECTION 25.

4 (b) Worker's compensation weekly benefits, redemptions, and
5 settlements, on account of the same disability for which
6 retired. ~~Worker's~~ CONSIDERED INCOME DOES NOT INCLUDE WORKER'S
7 compensation benefits for bona fide medical expenses ~~shall not~~
8 ~~be considered~~ OR COST OF LIVING INCREASES IN THE WORKER'S COM-
9 PENSATION WEEKLY BENEFITS.

10 (c) Payments from any program of salary continuance, sick-
11 ness and accident insurance, disability insurance, or program of
12 similar purpose, financed in whole or in part by a participating
13 municipality or participating court.

14 (d) Payments from the federal social security old-age, sur-
15 vivors, disability and health insurance program. CONSIDERED
16 INCOME DOES NOT INCLUDE COST OF LIVING INCREASES IN THE FEDERAL
17 SOCIAL SECURITY BENEFITS.

18 ~~(4) Cost of living increases in the amount of considered~~
19 ~~income from worker's compensation and federal social security~~
20 ~~shall be disregarded for the purposes of this section.~~

21 (4) ~~(5)~~ The retirement system shall compute the initial
22 amount of retirement allowance on the presumption that the retir-
23 ant is receiving social security disability benefits and worker's
24 compensation weekly benefits. The presumed amounts shall be
25 determined on the basis of the retirant's final average compensa-
26 tion and the single person statutory benefits. The retirant may,
27 at any time, submit evidence of receipt of a lesser amount of

1 social security and worker's compensation. The retirement system
2 shall adjust the amount of retirement allowance to reflect the
3 actual amount of social security and worker's compensation being
4 received if it finds the submitted evidence substantiates the
5 retirant's claim.

6 (5) ~~(6)~~ A disability retirant may submit an affidavit
7 declaring that applications for social security and worker's com-
8 pensation benefits have not and will not be made to avoid appli-
9 cation of the presumption of receipt UNDER SUBSECTION (4). The
10 affidavit shall also contain the promise that the disability
11 retirant will immediately notify the retirement system if an
12 application for social security or worker's compensation benefits
13 is filed at a later date.

14 (6) ~~(7)~~ The retirement system shall periodically request
15 substantiated income information from retirants subject to this
16 section. Failure to provide requested information within 90 days
17 of the request shall cause suspension of payment of the retire-
18 ment allowance until the information is received.