

HOUSE BILL No. 5684

April 25, 1990, Introduced by Reps. Niederstadt and O'Neill and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 2b, 4, and 32 of Act No. 427 of the Public Acts of 1984, entitled as amended "Municipal employees retirement act of 1984," section 2b as amended by Act No. 51 of the Public Acts of 1989 and sections 4 and 32 as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1502b, 38.1504, and 38.1532 of the Michigan Compiled Laws; and to add sections 10a, 16b, 23a, and 56.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2b, 4, and 32 of Act No. 427 of the
2 Public Acts of 1984, section 2b as amended by Act No. 51 of the
3 Public Acts of 1989 and sections 4 and 32 as amended by Act
4 No. 500 of the Public Acts of 1988, being sections 38.1502b,
5 38.1504, and 38.1532 of the Michigan Compiled Laws, are amended
6 and sections 10a, 16b, 23a, and 56 are added to read as follows:

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

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

7 (3) "Municipal employee" means an individual who is paid
8 compensation for personal services rendered for a participating
9 municipality. Payment of compensation by a hospital, board, com-
10 mission, public corporation, or instrumentality created by a
11 municipality is considered payment by the municipality.

12 Municipal employee does not include any of the following:

13 (a) The mayor, village president, or a member of the govern-
14 ing body of a participating municipality, ~~unless 10 or more~~
15 ~~other municipal employees are members of the retirement system,~~
16 ~~and~~ unless the individual makes written application for
17 membership. ~~and is covered by the federal social security old~~
18 ~~age, survivors, disability, and hospital insurance program, under~~
19 ~~the social security act, chapter 531, 49 Stat. 620, on account of~~
20 ~~employment by the participating municipality.~~ Written applica-
21 tion must be filed with the retirement system within 60 days from
22 the more recent of the date the individual last qualified for the
23 position and the date the municipality becomes a participating
24 municipality.

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

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

3 (d) An individual who is an active member of the STATE OF
4 Michigan probate ~~judges~~ JUDGES retirement system created by
5 the probate judges retirement act, Act No. 165 of the Public Acts
6 of 1954, being sections 38.901 to 38.933 of the Michigan Compiled
7 Laws.

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

16 (f) A person, not regularly employed by the participating
17 municipality, who is employed by the municipality through partic-
18 ipation in a program established pursuant to the Michigan oppor-
19 tunity and skills training program first provided for under sec-
20 tions 12 to 23 of Act No. 259 of the Public Acts of 1983. In
21 addition, a person described in this subdivision shall not
22 receive service credit for the employment described in this sub-
23 division even though the person subsequently becomes or has been
24 a member of this retirement system.

25 (g) A person, not regularly employed by the participating
26 municipality, who is employed by the municipality through
27 participation in a program established pursuant to the Michigan

1 community service corps program first provided for under sections
2 25 to 35 of Act No. 259 of the Public Acts of 1983 and sections
3 148 to 160 of Act No. 246 of the Public Acts of 1984. In addi-
4 tion, a person described in this subdivision shall not receive
5 service credit for the employment described in this subdivision
6 even though the person subsequently becomes or has been a member
7 of this retirement system.

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

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

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

25 Sec. 4. (1) Prior service and membership service to which a
26 member is entitled shall be credited to the member's individual
27 service account. Service shall be credited in years and twelfths

1 of a year. Not more than 1 year of credited service shall be
2 credited a member on account of all service rendered to a partic-
3 ipating municipality or participating court in any period of
4 12 consecutive months. Not more than 1/12 of a year of credited
5 service shall be credited a member on account of all service
6 rendered to a participating municipality or participating court
7 in a calendar month. Credited service shall not be credited for
8 any calendar month during which a member acquires less than
9 10 days of work, as defined by the member's participating munici-
10 pality or participating court ~~in accordance with~~ PURSUANT TO
11 section 3(1).

12 (2) All or a portion of an individual's credited service
13 shall be forfeited under the following conditions:

14 (a) All credited service shall be forfeited if the individ-
15 ual incurs a break in membership of more than 60 consecutive
16 months and is not a vested former member pursuant to section 12.

17 (b) Credited service for which the individual has made
18 member contributions shall be forfeited if the individual's accu-
19 mulated contributions are paid to the individual, the
20 individual's designated beneficiary, or the individual's legal
21 representative.

22 (3) Credited service forfeited because of a break in member-
23 ship of more than 60 consecutive months shall be reinstated in
24 the member's service account if each of the following conditions
25 is satisfied:

26 (a) The break in membership was for less than 180
27 consecutive months.

1 (b) The member has been credited with at least
2 60 consecutive months of service subsequent to the break in serv-
3 ice ~~which~~ THAT caused the forfeiture.

4 (c) The governing body of the participating municipality or
5 the chief judge of the participating court with which the member
6 is employed approves the reinstatement. THE PARTICIPATING MUNIC-
7 IPALITY SHALL BY RESOLUTION OF ITS GOVERNING BODY OR THE PARTICI-
8 PATING COURT SHALL BY ADMINISTRATIVE ORDER OF ITS CHIEF JUDGE
9 ESTABLISH A WRITTEN POLICY TO IMPLEMENT THE PROVISIONS OF THIS
10 SUBDIVISION IN ORDER TO PROVIDE UNIFORM APPLICATION OF THIS SUB-
11 DIVISION TO ALL MEMBERS OF THE RETIREMENT SYSTEM.

12 (d) The forfeited credited service was acquired while the
13 member was in the employ of the same participating municipality
14 or participating court.

15 (e) The member pays to the retirement system all accumulated
16 contributions previously paid to the member plus compound inter-
17 est from the date of payment to the member to the date of repay-
18 ment to the retirement system. PAYMENT SHALL BE MADE WITHIN 1
19 YEAR AFTER THE EARLIEST DATE ON WHICH THE MEMBER MEETS THE
20 REQUIREMENT PRESCRIBED IN SUBDIVISION (B).

21 (4) Credited service forfeited for a reason other than a
22 break in membership of more than 60 consecutive months shall be
23 reinstated in the member's service account if each of the follow-
24 ing conditions is satisfied:

25 (a) The forfeited credited service was acquired while the
26 member was in the employ of the same participating municipality
27 or participating court.

1 (b) The member pays to the retirement system all accumulated
2 contributions previously paid to the member plus compound inter-
3 est from the date of payment to the member to the date of repay-
4 ment to the retirement system. PAYMENT SHALL BE MADE WITHIN 5
5 YEARS AFTER THE DATE THE MEMBER REACQUIRES MEMBERSHIP IN THE
6 RETIREMENT SYSTEM ON ACCOUNT OF EMPLOYMENT WITH THE SAME PARTICI-
7 PATING MUNICIPALITY OR PARTICIPATING COURT.

8 (5) The rates of compound interest applicable to repayment
9 of accumulated contributions shall be as determined by the
10 retirement board.

11 (6) Forfeited credited service acquired while a member was
12 in the employ of another participating municipality or partici-
13 pating court shall not be reinstated under this section but shall
14 be creditable subject to the requirements of section 6.

15 SEC. 10A. (1) SUBJECT TO SECTIONS 43 AND 43A, A PARTICIPAT-
16 ING MUNICIPALITY MAY BY RESOLUTION OF ITS GOVERNING BODY OR A
17 PARTICIPATING COURT MAY BY ADMINISTRATIVE ORDER OF ITS CHIEF
18 JUDGE ADOPT FOR A TEMPORARY PERIOD ANY OF THE FOLLOWING BENEFIT
19 PROGRAMS OR ANY LEGITIMATE COMBINATION OF THE FOLLOWING BENEFIT
20 PROGRAMS:

21 (A) BENEFIT PROGRAM E-2 UNDER SECTION 22.

22 (B) BENEFIT PROGRAM FAC-3 UNDER SECTION 2A(5)(B).

23 (C) BENEFIT PROGRAM F50 UNDER SECTION 10(4).

24 (D) BENEFIT PROGRAM F55 UNDER SECTION 10(4).

25 (E) BENEFIT PROGRAM B-1 UNDER SECTION 15.

26 (F) BENEFIT PROGRAM B-2 UNDER SECTION 16.

1 (G) BENEFIT PROGRAM B-3 UNDER SECTION 16A.

2 (H) BENEFIT PROGRAM B-4 UNDER SECTION 16B.

3 (I) BENEFIT PROGRAM C, NEW UNDER SECTION 17(1).

4 (J) BENEFIT PROGRAM C-1, NEW UNDER SECTION 18(1).

5 (K) BENEFIT PROGRAM C-2 UNDER SECTION 19.

6 (L) BENEFIT PROGRAM RS50% UNDER SECTION 23A.

7 (2) THE RESOLUTION OR ADMINISTRATIVE ORDER SHALL CONTAIN ALL
8 OF THE FOLLOWING THAT ARE APPLICABLE:

9 (A) THE BENEFIT PROGRAM OR COMBINATION OF BENEFIT PROGRAMS
10 ADOPTED UNDER SUBSECTION (1).

11 (B) THE BEGINNING AND ENDING DATES OF THE TEMPORARY PERIOD
12 SELECTED UNDER SUBSECTION (1). THE TEMPORARY PERIOD SELECTED
13 SHALL BE FOR NOT LESS THAN 60 DAYS AND NOT MORE THAN 180 DAYS.

14 (C) THE CLASSIFICATION OF MEMBERS COVERED BY THE BENEFIT
15 PROGRAM OR COMBINATION OF BENEFIT PROGRAMS FOR THE TEMPORARY
16 PERIOD UNDER SUBSECTION (1).

17 (D) IF BENEFIT PROGRAM F50 OR F55 IS ADOPTED FOR A TEMPORARY
18 PERIOD UNDER SUBSECTION (1), THE REQUIRED PERIOD OF CREDITED
19 SERVICE APPLICABLE TO THE BENEFIT PROGRAM.

20 (3) A MEMBER WHO IS IN THE CLASSIFICATION OF MEMBERS COVERED
21 UNDER THE BENEFIT PROGRAM OR COMBINATION OF BENEFIT PROGRAMS FOR
22 THE TEMPORARY PERIOD UNDER THIS SECTION AND WHO RETIRES UNDER
23 SECTION 10 DURING THE TEMPORARY PERIOD SHALL RECEIVE A RETIREMENT
24 ALLOWANCE COMPUTED PURSUANT TO THE BENEFIT PROGRAM OR COMBINATION
25 OF BENEFIT PROGRAMS ADOPTED FOR THE TEMPORARY PERIOD.

26 (4) A PARTICIPATING MUNICIPALITY OR A PARTICIPATING COURT
27 SHALL NOT ADOPT A TEMPORARY PERIOD UNDER THIS SECTION FOR THE

1 SAME CLASSIFICATION OF MEMBERS ON MORE THAN 2 OCCASIONS IN ANY
2 PERIOD OF 5 CONSECUTIVE CALENDAR YEARS.

3 SEC. 16B. (1) THE AMOUNT OF A RETIREMENT ALLOWANCE UNDER
4 BENEFIT PROGRAM B-4 SHALL BE 2.5% OF THE MEMBER'S FINAL AVERAGE
5 COMPENSATION MULTIPLIED BY THE MEMBER'S CREDITED SERVICE, SUBJECT
6 TO THE MAXIMUM STATED IN SUBSECTION (2).

7 (2) THE AMOUNT OF RETIREMENT ALLOWANCE UNDER BENEFIT PROGRAM
8 B-4 SHALL NOT EXCEED 80% OF THE MEMBER'S FINAL AVERAGE COMPENSA-
9 TION, OR THE AMOUNT OF RETIREMENT ALLOWANCE THE MEMBER WOULD HAVE
10 BEEN ENTITLED TO HAD THE MEMBER CONTINUED TO BE COVERED BY THE
11 BENEFIT PROGRAM IN EFFECT IMMEDIATELY BEFORE COVERAGE BY BENEFIT
12 PROGRAM B-4, WHICHEVER IS GREATER.

13 (3) FOR PURPOSES OF THIS SECTION, "MEMBER" INCLUDES VESTED
14 FORMER MEMBER.

15 SEC. 23A. (1) A PARTICIPATING MUNICIPALITY MAY BY RESOLU-
16 TION OF ITS GOVERNING BODY OR A PARTICIPATING COURT MAY BY ADMIN-
17 ISTRATIVE ORDER OF ITS CHIEF JUDGE ADOPT BENEFIT PROGRAM RS50%.
18 THE RESOLUTION OR ADMINISTRATIVE ORDER SHALL SPECIFY THE EFPEC-
19 TIVE DATE OF THE CHANGE IN COVERAGE.

20 (2) UNDER BENEFIT PROGRAM RS50%, A SURVIVING SPOUSE OF A
21 DECEASED RETIRANT SHALL BE PAID A RETIREMENT ALLOWANCE FOR LIFE
22 IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

23 (A) THE DECEASED RETIRANT'S RETIREMENT ALLOWANCE EFFECTIVE
24 DATE WAS ON OR AFTER THE EFFECTIVE DATE OF THE CHANGE IN
25 COVERAGE.

1 (B) ALL PAYMENTS OF THE DECEASED RETIRANT'S RETIREMENT
2 ALLOWANCE WERE MADE PURSUANT TO FORM OF PAYMENT SL AS PRESCRIBED
3 IN SECTION 23(2)(A).

4 (3) THE AMOUNT OF THE RETIREMENT ALLOWANCE PAYABLE TO A SUR-
5 VIVING SPOUSE UNDER BENEFIT PROGRAM RS50% IS 50% OF THE RETIRE-
6 MENT ALLOWANCE PAYABLE TO THE DECEASED RETIRANT AT THE TIME OF
7 HIS OR HER DEATH.

8 (4) AS USED IN THIS SECTION, "SURVIVING SPOUSE" MEANS A
9 PERSON WHO MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

10 (A) HE OR SHE WAS MARRIED TO THE DECEASED RETIRANT DURING
11 THE PERIOD BEGINNING 1 YEAR BEFORE THE DECEASED RETIRANT'S
12 RETIREMENT ALLOWANCE EFFECTIVE DATE AND ENDING ON THE RETIREMENT
13 ALLOWANCE EFFECTIVE DATE.

14 (B) HE OR SHE WAS MARRIED TO THE DECEASED RETIRANT ON THE
15 DATE OF THE DECEASED RETIRANT'S DEATH.

16 Sec. 32. (1) A member shall contribute the percentage of
17 compensation selected by the participating municipality or par-
18 ticipating court from the available contribution programs. The
19 contribution programs available for selection are ~~0%, 1%, 2%,~~
20 ~~3%, 4%, 5%, 6%, 7%, 8%, 9%, and 10%~~ ANY PERCENTAGE of compensa-
21 tion FROM 0% TO 10% IN INCREMENTS OF 0.1%.

22 (2) Contribution programs selected ~~prior to the effective~~
23 ~~date of this act~~ BEFORE JANUARY 2, 1985 under former Act No. 135
24 of the Public Acts of 1945 shall continue to be applicable until
25 a different contribution program is selected.

26 (3) A participating municipality or participating court may
27 select contribution program P as provided in section 33 in

1 conjunction with any of the above contribution programs except
2 the 0% contribution program and contribution programs continued
3 ~~in accordance with~~ UNDER subsection (2).

4 SEC. 56. (1) THIS SECTION IS ENACTED PURSUANT TO FEDERAL
5 LAW THAT IMPOSES CERTAIN ADMINISTRATIVE REQUIREMENTS AND BENEFIT
6 LIMITATIONS FOR QUALIFIED GOVERNMENTAL PLANS. THIS STATE INTENDS
7 THAT THE RETIREMENT SYSTEM IS A QUALIFIED PENSION PLAN UNDER SEC-
8 TION 401 OF THE INTERNAL REVENUE CODE AND THAT THE TRUST IS AN
9 EXEMPT ORGANIZATION UNDER SECTION 501 OF THE INTERNAL REVENUE
10 CODE.

11 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
12 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
13 UNDER THIS ACT SHALL NOT EXCEED 1 OF THE FOLLOWING:

14 (A) \$50,000.00 OR THE ADJUSTED AMOUNT DESCRIBED IN SUBSEC-
15 TION (4) PER YEAR FOR A RETIRANT WHO WAS A FULL-TIME EMPLOYEE OF
16 A POLICE DEPARTMENT OR FIRE DEPARTMENT AND WHO HAD 15 OR MORE
17 YEARS OF CREDITED SERVICE AS A POLICE OFFICER, FIRE FIGHTER, OR
18 PUBLIC SAFETY OFFICER AT RETIREMENT.

19 (B) \$10,000.00 PER YEAR FOR ALL OTHER RETIRANTS.

20 (3) THE LIMITATION UNDER SUBSECTION (2) APPLIES UNLESS
21 APPLICATION OF THIS SUBSECTION RESULTS IN A HIGHER LIMITATION.
22 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
23 SHALL NOT EXCEED THE LESSER OF THE FOLLOWING:

24 (A) ONE OF THE FOLLOWING AMOUNTS THAT IS APPLICABLE TO THE
25 MEMBER:

26 (i) IF A MEMBER RETIRES AT AGE 62 OR OLDER, \$90,000.00 OR
27 THE ADJUSTED AMOUNT DESCRIBED IN SUBSECTION (4).

1 (ii) IF A MEMBER RETIRES AT OR AFTER AGE 55 BUT BEFORE AGE
2 62, THE ACTUARIALLY REDUCED AMOUNT OF THE LIMITATION PRESCRIBED
3 IN SUBPARAGRAPH (i). THE RETIREMENT SYSTEM SHALL USE AN INTEREST
4 RATE OF 5% PER ANNUM COMPOUNDED ANNUALLY TO CALCULATE THE ACTUAR-
5 IAL REDUCTION IN THIS SUBPARAGRAPH. HOWEVER, THE LIMITATION IN
6 THIS SUBPARAGRAPH SHALL NOT BE ACTUARIALLY REDUCED BELOW
7 \$75,000.00.

8 (iii) IF A MEMBER RETIRES BEFORE AGE 55, THE ACTUARIALLY
9 REDUCED AMOUNT OF THE AGE 55 LIMITATION PRESCRIBED IN
10 SUBPARAGRAPH (ii). THE RETIREMENT SYSTEM SHALL USE AN INTEREST
11 RATE OF 5% PER ANNUM COMPOUNDED ANNUALLY TO CALCULATE THE ACTUAR-
12 IAL REDUCTION IN THIS SUBPARAGRAPH.

13 (B) 100% OF THE MEMBER'S FINAL 3-YEAR HIGHEST AVERAGE
14 EARNINGS.

15 (4) SECTION 415(d) OF THE INTERNAL REVENUE CODE REQUIRES THE
16 SECRETARY TO ANNUALLY ADJUST THE LIMITATIONS DESCRIBED IN SUBSEC-
17 TIONS (2) AND (3) FOR INCREASES IN COST OF LIVING, BEGINNING IN
18 1988. THIS SECTION SHALL BE ADMINISTERED USING THE ADJUSTED LIM-
19 ITATIONS APPLICABLE TO EACH CALENDAR YEAR AS ADJUSTED BY THE SEC-
20 RETARY UNDER SECTION 415(d). THE BENEFITS AFFECTED BY THE LIM-
21 TATION EACH YEAR SHALL BE ADJUSTED TO CONFORM TO THE ADJUSTED
22 LIMIT.

23 (5) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD AND
24 INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE OBLIGA-
25 TIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR ANY
26 OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED TO A
27 PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,

1 VESTED FORMER MEMBERS, RETIRANTS, AND BENEFICIARIES BEFORE
2 SATISFACTION OF ALL RETIREMENT SYSTEM LIABILITIES.

3 (6) THE RETIREMENT SYSTEM SHALL RETURN POST-TAX MEMBER CON-
4 TRIBUTIONS MADE BY MEMBERS AND RECEIVED BY THE RETIREMENT SYSTEM
5 TO THE MEMBERS UPON RETIREMENT PURSUANT TO INTERNAL REVENUE
6 SERVICE REGULATIONS AND APPROVED INTERNAL REVENUE SERVICE EXCLU-
7 SION RATIO TABLES.

8 (7) IF A PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
9 DISCONTINUES PARTICIPATION IN THE RETIREMENT SYSTEM, OR IF THE
10 RETIREMENT SYSTEM IS DISCONTINUED, THE INTEREST OF THE MEMBERS,
11 VESTED FORMER MEMBERS, RETIRANTS, AND BENEFICIARIES IN THE PLAN
12 IS NONFORFEITABLE TO THE EXTENT FUNDED AS DESCRIBED IN SECTION
13 411(d)(3) OF THE INTERNAL REVENUE CODE AND THE RELATED INTERNAL
14 REVENUE CODE REGULATIONS APPLICABLE TO GOVERNMENTAL PLANS.

15 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
16 RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH THE
17 PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE THAT ARE
18 APPLICABLE TO GOVERNMENTAL PLANS. IF THERE IS A CONFLICT BETWEEN
19 THIS SECTION, ANOTHER SECTION OF THIS ACT, OR ANOTHER SECTION OF
20 A LAW OF THIS STATE, THIS SECTION PREVAILS.