

HOUSE BILL No. 5270

January 24, 2012, Introduced by Reps. Dillon, Hovey-Wright, Bauer, Brunner, Cavanagh, Barnett, Ananich, Geiss, Slavens, Roy Schmidt, Haugh, Lane, Heise and Oakes and referred to the Committee on Education.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending section 61 (MCL 38.1361), as amended by 2010 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61. (1) Except as otherwise provided in this section, if
2 a retirant is receiving a retirement allowance other than a
3 disability allowance payable under this act or under former 1945 PA
4 136, on account of either age or years of personal service
5 performed, or both, and becomes employed by a reporting unit, the
6 following shall take ~~place~~:**APPLY:**

7 (a) The retirant ~~shall~~**IS** not ~~be~~ entitled to a new final
8 average compensation or additional service credit under this
9 retirement system unless additional service is performed equivalent
10 to 5 or more years of service credit or, if the retirant has

1 contributed to the member investment plan, the equivalent of 3 or
2 more years of service credit. The retirant may elect to have the
3 retirement allowance recomputed based on the added credit or the
4 final average compensation resulting from the added service, or
5 both. A retirement allowance shall not be recomputed until the
6 retirant pays into the retirement system an amount equal to the
7 retirant's new final average compensation multiplied by the
8 percentage determined under section 41(2) for normal cost and
9 unfunded actuarial accrued liabilities, not including the
10 percentage required for the funding of health benefits, multiplied
11 by the total service credit in the period in which the retirant's
12 additional service was performed.

13 (b) The retirant's retirement allowance shall be reduced by
14 the lesser of the amount that the earnings in a calendar year
15 exceed the amount permitted without a reduction of benefits under
16 the social security act, chapter 531, 49 Stat. 620, or 1/3 of the
17 retirant's final average compensation. For purposes of computing
18 allowable earnings under this subdivision, the final average
19 compensation shall be increased by 5% for each full year of
20 retirement.

21 (2) The retirement system may offset retirement benefits
22 payable under this act against amounts owed to the retirement
23 system by a retirant or retirement allowance beneficiary.

24 (3) Subsection (1) does not apply to a retirant if all of the
25 following circumstances exist:

26 (a) The retirant is a former teacher or administrator employed
27 in a teaching or research capacity by a university that is

1 considered a reporting unit for the limited purpose described in
2 section 7(3). **A UNIVERSITY THAT EMPLOYS A RETIRANT UNDER THIS**
3 **SUBSECTION SHALL REPORT THAT EMPLOYMENT TO THE RETIREMENT SYSTEM BY**
4 **JULY 1 OF EACH YEAR. THE UNIVERSITY SHALL INCLUDE THE NAME OF THE**
5 **RETIRANT, THE CAPACITY IN WHICH THE RETIRANT IS EMPLOYED, AND THE**
6 **TOTAL ANNUAL COMPENSATION PAID TO THE RETIRANT IN THE REPORT.**

7 (b) The retirant is not eligible to use any service or
8 compensation attributable to the employment described in
9 subdivision (a) for a recomputation of his or her retirement
10 allowance.

11 ~~—— (c) A university which employs a retirant pursuant to this~~
12 ~~subsection shall report such employment to the retirement system by~~
13 ~~July 1 of each year. The report to be filed shall include the name~~
14 ~~of the retirant, the capacity in which the retirant is employed,~~
15 ~~and the total annual compensation paid to the retirant.~~

16 ~~—— (4) Until July 1, 2011, subsection (1) does not apply to a~~
17 ~~retirant if all of the following circumstances exist:~~

18 ~~—— (a) The retirant is employed by a reporting unit that has an~~
19 ~~approved emergency situation, not including a situation caused by a~~
20 ~~labor dispute, that necessitates the hiring of a retirant in the~~
21 ~~capacity of a teacher, principal, stationary engineer,~~
22 ~~administrator, or other category as determined by the~~
23 ~~superintendent of public instruction to prevent depriving students~~
24 ~~of an education. The chief executive officer or superintendent of~~
25 ~~the school district shall include with the written notification~~
26 ~~documentation showing that more than 8% of all classes in the~~
27 ~~district during the 1998-99 school year are taught by full time~~

~~1 substitute teachers who are not certificated in the subjects or
2 grade levels which they teach. Within 30 days after receipt of the
3 notification and documentation under this subdivision, the
4 department of education shall notify the chief executive officer or
5 superintendent and the retirement system of its approval or
6 disapproval of the emergency situation. If disapproved by the
7 department of education, this subsection does not apply.~~

~~8 (b) The retirant is employed under an emergency situation
9 described in subdivision (a) for a period not to exceed 6 years.~~

~~10 (c) The retirant is not eligible to use any service or
11 compensation attributable to the employment described in
12 subdivision (a) for a recomputation of his or her retirement
13 allowance.~~

~~14 (5) The state superintendent of public instruction shall
15 compile a listing of critical shortage disciplines. This listing
16 shall be updated annually.~~

~~17 (6) Until July 1, 2011, subsection (1) does not apply to a
18 retirant if all of the following circumstances exist:~~

~~19 (a) The retirant is employed by a reporting unit that has a
20 situation, not including a situation caused by a labor dispute,
21 that necessitates the hiring of a retirant in an area that has been
22 identified by the state superintendent of public instruction as a
23 critical shortage discipline pursuant to subsection (5).~~

~~24 (b) The retirant is employed under a situation described in
25 subdivision (a) for a period not to exceed 6 years.~~

~~26 (c) The retirant is not eligible to use any service or
27 compensation attributable to the employment described in~~

1 ~~subdivision (a) for a recomputation of his or her retirement~~
2 ~~allowance.~~

3 ~~—— (7) Subsection (6) shall only apply for retirants who have~~
4 ~~been retired for at least 12 months before becoming employed under~~
5 ~~this section.~~

6 (4) ~~(8)~~Notwithstanding any other provision of this act **TO THE**
7 **CONTRARY**, for ~~any~~**A** retirant who retires on ~~and~~**OR** after July 1,
8 2010, and following a bona fide termination, including not working
9 in the month of the retirant's retirement effective date, and who
10 becomes employed by a reporting unit **OR AS OTHERWISE DESCRIBED IN**
11 **THIS SUBSECTION** and the retirant's amount of earnings in a calendar
12 year exceeds 1/3 of the retirant's final average compensation, the
13 retirant shall forfeit his or her retirement allowance and the
14 retirement system subsidy for health care benefits from the
15 retirement system for as long as the retirant is employed at the
16 reporting unit **OR AS OTHERWISE DESCRIBED IN THIS SUBSECTION**. Any
17 retirant who has forfeited the retirement system subsidy for health
18 care benefits and wants to retain health care benefits shall pay
19 the retirant's and retirement system's costs for such health care
20 benefits. Upon termination of employment at the reporting unit **OR**
21 **AS OTHERWISE DESCRIBED IN THIS SUBSECTION**, the retirement allowance
22 and health care benefits shall resume without recalculation. **A**
23 **RETIRANT WHO RETIRES ON OR AFTER JULY 1, 2010, WHO PERFORMS**
24 **SUBSTITUTE TEACHING SERVICES AT A REPORTING UNIT, BUT WHO IS**
25 **EMPLOYED BY AN ENTITY OTHER THAN THE REPORTING UNIT OR IS AN**
26 **INDEPENDENT CONTRACTOR, IS SUBJECT TO THIS SUBSECTION AND NOT**
27 **SUBSECTION (5).**

1 (5) ~~(9)~~ Notwithstanding any other provision of this act **TO THE**
2 **CONTRARY, EXCEPT AS PROVIDED IN SUBSECTION (4)**, for ~~any~~ **A** retirant
3 who retires on ~~and~~ **OR** after July 1, 2010, who performs core
4 services at a reporting unit as determined by the retirement
5 system, but who is employed by an entity other than the reporting
6 unit or is an independent contractor, the retirant shall forfeit
7 his or her retirement allowance and the retirement system subsidy
8 for health care benefits from the retirement system for as long as
9 the retirant is performing core services at the reporting unit. Any
10 retirant who has forfeited the retirement system subsidy for health
11 care benefits and wants to retain health care benefits shall pay
12 the retirant's and retirement system's costs for such health care
13 benefits. Upon termination of services at the reporting unit, the
14 retirement allowance and health care benefits shall resume without
15 recalculation.