



HOUSE BILL No. 4869

May 18, 1995, Introduced by Rep. Rhead and referred to the Committee on Appropriations.

A bill to amend sections 2a, 10a, and 56 of Act No. 427 of the Public Acts of 1984, entitled as amended "Municipal employees retirement act of 1984," section 2a as amended by Act No. 500 of the Public Acts of 1988, section 10a as added by Act No. 99 of the Public Acts of 1990, and section 56 as amended by Act No. 63 of the Public Acts of 1992, being sections 38.1502a, 38.1510a, and 38.1556 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2a, 10a, and 56 of Act No. 427 of the
2 Public Acts of 1984, section 2a as amended by Act No. 500 of the
3 Public Acts of 1988, section 10a as added by Act No. 99 of the
4 Public Acts of 1990, and section 56 as amended by Act No. 63 of
5 the Public Acts of 1992, being sections 38.1502a, 38.1510a, and

1 38.1556 of the Michigan Compiled Laws, are amended to read as
2 follows:

3 Sec. 2a. (1) "Accumulated contributions" means the sum of
4 all amounts credited to a member's individual account in the
5 reserve for employee contributions.

6 (2) "Beneficiary" means an individual who is being paid or
7 who has entitlement to the future payment of a retirement allow-
8 ance or a return of contributions on account of a reason other
9 than the individual's membership in the retirement system.

10 (3) "Chief judge" means the chief judge of a judicial cir-
11 cuit court, a judicial district court, or a judicial probate
12 court as provided in the revised judicature act of 1961, Act
13 No. 236 of the Public Acts of 1961, being sections 600.101 to
14 600.9947 of the Michigan Compiled Laws.

15 (4) "Compensation" means the salary or wages paid a member
16 for personal services rendered the member's participating munici-
17 pality or participating court while a member of the retirement
18 system. Salary and wages shall include longevity pay; overtime
19 pay; shift differentials; pay for periods of absence from work by
20 reason of vacation, holiday, and sickness; deferred compensation
21 amounts under deferred compensation programs recognized by the
22 RETIREMENT board, including premiums for annuities and permanent
23 life insurance policies that are transferred to the ownership of
24 the member upon retirement; and items of a similar nature that
25 are recognized as compensation by the RETIREMENT board.

26 Compensation does not include any remuneration or reimbursement
27 not specifically described in this subsection or recognized by

1 the RETIREMENT board, such as allowances for clothing, equipment,
2 cleaning, and travel; reimbursement of expenses; bonuses; termi-
3 nation pay; severance pay; payments in consideration of unused
4 sick leave; the value of fringe benefits; and items of remunera-
5 tion that are the basis of a potential or actual benefit from
6 another retirement program.

7 (5) "DIRECT ROLLOVER" MEANS A PAYMENT BY THE RETIREMENT
8 SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE
9 DISTRIBUTEES.

10 (6) "DISTRIBUTEES" INCLUDES A MEMBER OR VESTED FORMER
11 MEMBER. DISTRIBUTEES ALSO INCLUDES THE MEMBER'S OR VESTED FORMER
12 MEMBER'S SURVIVING SPOUSE OR THE MEMBER'S OR VESTED FORMER
13 MEMBER'S SPOUSE OR FORMER SPOUSE UNDER AN ELIGIBLE DOMESTIC RELA-
14 TIONS ORDER, WITH REGARD TO THE INTEREST OF THE SPOUSE OR FORMER
15 SPOUSE.

16 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
17 "ELIGIBLE RETIREMENT PLAN" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT
18 DESCRIBED IN SECTION 408(a) OF THE INTERNAL REVENUE CODE, AN
19 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF THE
20 INTERNAL REVENUE CODE, AN ANNUITY PLAN DESCRIBED IN SECTION
21 403(a) OF THE INTERNAL REVENUE CODE, OR A QUALIFIED TRUST
22 DESCRIBED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE, THAT
23 ACCEPTS THE DISTRIBUTEES'S ELIGIBLE ROLLOVER DISTRIBUTION.
24 HOWEVER, IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A
25 SURVIVING SPOUSE, AN ELIGIBLE RETIREMENT PLAN MEANS AN INDIVIDUAL
26 RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED
27 ABOVE.

1 (8) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A DISTRIBUTION OF
2 ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE
3 DISTRIBUTE. ELIGIBLE ROLLOVER DISTRIBUTION DOES NOT INCLUDE ANY
4 OF THE FOLLOWING:

5 (A) A DISTRIBUTION MADE FOR THE LIFE OR LIFE EXPECTANCY OF
6 THE DISTRIBUTE OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF
7 THE DISTRIBUTE AND THE DISTRIBUTE'S DESIGNATED BENEFICIARY.

8 (B) A DISTRIBUTION FOR A SPECIFIED PERIOD OF 10 YEARS OR
9 MORE.

10 (C) A DISTRIBUTION TO THE EXTENT THAT THE DISTRIBUTION IS
11 REQUIRED UNDER SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

12 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE
13 IN FEDERAL GROSS INCOME, DETERMINED WITHOUT REGARD TO THE EXCLU-
14 SION FOR NET UNREALIZED APPRECIATION WITH RESPECT TO EMPLOYER
15 SECURITIES.

16 (9) ~~(5)~~ "Final average compensation" means any of the
17 following:

18 (a) One-fifth of the aggregate amount of compensation paid a
19 member during the period of 5 consecutive years of the member's
20 credited service in which the aggregate amount of compensation
21 paid is highest, known as FAC-5. If the member has less than
22 5 years of credited service, final average compensation means the
23 aggregate amount of compensation paid the member divided by the
24 member's credited service. A member who has credited service in
25 force with more than 1 participating municipality or participat-
26 ing court shall have a separate final average compensation

1 computed based on the member's compensation record with each
2 participating municipality and participating court.

3 (b) If the participating municipality or participating court
4 has adopted benefit program FAC-3, 1/3 of the aggregate amount of
5 compensation paid a member during the period of 3 consecutive
6 years of the member's credited service in which the aggregate
7 amount of compensation paid is highest. If the member has less
8 than 3 years of credited service, final average compensation
9 means the aggregate amount of compensation paid the member
10 divided by the member's credited service. A member who has cred-
11 ited service in force with more than 1 participating municipality
12 or participating court shall have a separate final average com-
13 pensation computed based on the member's compensation record with
14 each participating municipality or participating court.

15 (c) For a member who is a judge of the district court, the
16 recorder's court of the city of Detroit, or the circuit court,
17 and has converted a portion or all of his or her state salary
18 standardization payment as provided for in ~~sections 14a and 14c~~
19 ~~of the judges~~ SECTION 504 OF THE JUDGES retirement act OF 1992,
20 Act No. ~~+98-~~ 234 of the Public Acts of ~~+95+~~ 1992, being
21 ~~sections 38.814a and 38.814c~~ SECTION 38.2504 of the Michigan
22 Compiled Laws, as an addition to his or her state base salary
23 under Act No. ~~+98-~~ 234 of the Public Acts of ~~+95+~~ 1992, being
24 sections ~~38.80+~~ 38.2101 to ~~38.83+~~ 38.2608 of the Michigan
25 Compiled Laws, the difference between the figure that would oth-
26 erwise be used under subdivision (a) to compute the member's

1 retirement benefits, and the amount of the state salary
2 standardization payment converted.

3 (10) ~~(6)~~ "Governing body" means the representative legis-
4 lative body of a municipality, or the administrative board or
5 commission of a public corporation or instrumentality that does
6 not have a representative legislative body.

7 (11) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTER-
8 NAL REVENUE CODE OF 1986.

9 (12) ~~(7)~~ "Judicial circuit court" means a judicial circuit
10 of the circuit court as provided in section 11 of article VI of
11 the state constitution of 1963.

12 (13) ~~(8)~~ "Judicial district court" means a judicial dis-
13 trict of the district court as provided in section 8101 of the
14 revised judicature act of 1961, Act No. 236 of the Public Acts of
15 1961, being section 600.8101 of the Michigan Compiled Laws.

16 (14) ~~(9)~~ "Judicial employee" means an individual who is
17 paid compensation for personal service rendered for a participat-
18 ing court. Judicial employee does not include anyone who is a
19 municipal employee under section 2b(3) or anyone who is specifi-
20 cally excluded as a municipal employee under section 2b(3).

21 (15) ~~(10)~~ "Judicial probate court" means a county probate
22 court or probate court district as provided in section 15 of
23 article VI of the state constitution of 1963.

24 Sec. 10a. (1) Subject to sections 43 and 43a, a participat-
25 ing municipality may by resolution of its governing body or a
26 participating court may by administrative order of its chief
27 judge adopt for a temporary period any of the following benefit

1 programs or any legitimate combination of the following benefit
2 programs:

3 (a) Benefit program E-2 under section 22.

4 (b) Benefit program FAC-3 under section ~~2a(5)(b)~~
5 2A(9)(B).

6 (c) Benefit program F50 under section 10(4).

7 (d) Benefit program F55 under section 10(4).

8 (e) Benefit program B-1 under section 15.

9 (f) Benefit program B-2 under section 16.

10 (g) Benefit program B-3 under section 16a.

11 (h) Benefit program B-4 under section 16b.

12 (i) Benefit program C, new under section 17(1).

13 (j) Benefit program C-1, new under section 18(1).

14 (k) Benefit program C-2 under section 19.

15 (l) Benefit program RS50% under section 23a.

16 (2) The resolution or administrative order shall contain all
17 of the following that are applicable:

18 (a) The benefit program or combination of benefit programs
19 adopted under subsection (1).

20 (b) The beginning and ending dates of the temporary period
21 selected under subsection (1). The temporary period selected
22 shall be for not less than 60 days and not more than 180 days.

23 (c) The classification of members covered by the benefit
24 program or combination of benefit programs for the temporary
25 period under subsection (1).

1 (d) If benefit program F50 or F55 is adopted for a temporary
2 period under subsection (1), the required period of credited
3 service applicable to the benefit program.

4 (3) A member who is in the classification of members covered
5 under the benefit program or combination of benefit programs for
6 the temporary period under this section and who retires under
7 section 10 during the temporary period shall receive a retirement
8 allowance computed pursuant to the benefit program or combination
9 of benefit programs adopted for the temporary period.

10 (4) A participating municipality or a participating court
11 shall not adopt a temporary period under this section for the
12 same classification of members on more than 2 occasions in any
13 period of 5 consecutive calendar years.

14 Sec. 56. (1) This section is enacted pursuant to federal
15 law that imposes certain administrative requirements and benefit
16 limitations for qualified governmental plans. This state intends
17 that the retirement system be a qualified pension plan under
18 section 401 of the internal revenue code and that the trust be an
19 exempt organization under section 501 of the internal revenue
20 code. The department of management and budget, bureau of retire-
21 ment systems, shall administer the retirement system to fulfill
22 this intent.

23 (2) Except as otherwise provided in this section,
24 employer-financed benefits provided by the retirement system
25 under this act shall not exceed the following:

26 (a) \$50,000.00 or the adjusted amount described in
27 subsection (4) per year for a retirant who was a full-time

1 employee of a police department or fire department and who has 15
2 or more years of credited service as a police officer, fire
3 fighter, or public safety officer at retirement.

4 (b) \$10,000.00 per year for all other retirants.

5 (3) Employer-financed benefits provided by the retirement
6 system under this act shall not exceed the limitation under sub-
7 section (2) unless application of this subsection results in a
8 higher limitation. Employer-financed benefits provided by the
9 retirement system shall not exceed the lesser of the following:

10 (a) One of the following amounts that is applicable to the
11 member:

12 (i) If a member retires at age 62 or older, \$90,000.00 or
13 the adjusted amount described in subsection (4) per year.

14 (ii) If a member retires at or after age 55 but before age
15 62, the actuarially reduced amount of the limitation prescribed
16 in subparagraph (i) per year. The retirement system shall use an
17 interest rate of 5% per year compounded annually to calculate the
18 actuarial reduction in this subparagraph. However, the limita-
19 tion in this subparagraph shall not be actuarially reduced below
20 \$75,000.00.

21 (iii) If a member retires before age 55, the actuarially
22 reduced amount of the limitation prescribed in subparagraph (ii)
23 per year. The retirement system shall use an interest rate of 5%
24 per year compounded annually to calculate the actuarial reduction
25 in this subparagraph.

1 (b) 100% of the member's average compensation for high 3
2 years as described in section 415(b)(3) of the internal revenue
3 code.

4 (4) Section 415(d) of the internal revenue code requires the
5 secretary of the treasury or his or her delegate to annually
6 adjust the \$10,000.00 limitation described in subsection (2)(b)
7 and the \$90,000.00 limitation described in subsection (3)(a)(i)
8 for increases in cost of living, beginning in 1988. This section
9 shall be administered using the limitations applicable to each
10 calendar year as adjusted by the secretary of the treasury or his
11 or her delegate under section 415(d) of the internal revenue
12 code. The retirement system shall adjust the benefits subject to
13 the limitation each year to conform with the adjusted
14 limitation.

15 (5) The assets of the retirement system shall be held and
16 invested for the sole purpose of meeting the legitimate obliga-
17 tions of the retirement system and shall not be used for any
18 other purpose. The assets shall not be used for or diverted to a
19 purpose other than for the exclusive benefit of the members,
20 vested former members, retirants, and beneficiaries before satis-
21 faction of all retirement system liabilities.

22 (6) The retirement system shall return post-tax member con-
23 tributions made by a member and received by the retirement system
24 to a member upon retirement, pursuant to internal revenue service
25 regulations and approved internal revenue service exclusion ratio
26 tables.

1 (7) THE REQUIRED BEGINNING DATE FOR RETIREMENT ALLOWANCES
2 AND OTHER DISTRIBUTIONS SHALL NOT BE LATER THAN APRIL 1 OF THE
3 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE EMPLOYEE
4 ATTAINS AGE 70-1/2 OR APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE
5 CALENDAR YEAR IN WHICH THE EMPLOYEE RETIRES.

6 (8) ~~(7)~~ If a participating municipality or participating
7 court discontinues participation in the retirement system, or if
8 the retirement system is ~~discontinued~~ TERMINATED, the interest
9 of the members, vested former members, retirants, and beneficia-
10 ries in the plan is nonforfeitable to the extent funded as
11 described in section 411(d)(3) of the internal revenue code and
12 the related internal revenue service regulations applicable to
13 governmental plans.

14 (9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
15 CONTRARY THAT WOULD LIMIT A DISTRIBUTEES ELECTION UNDER THIS
16 ACT, A DISTRIBUTEE MAY ELECT, AT THE TIME AND IN THE MANNER PRE-
17 SCRIBED BY THE RETIREMENT BOARD, TO HAVE ANY PORTION OF AN ELIGI-
18 BLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT
19 PLAN SPECIFIED BY THE DISTRIBUTEE IN A DIRECT ROLLOVER. THIS
20 SUBSECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY 1,
21 1993.

22 (10) FOR PURPOSES OF DETERMINING ACTUARIAL EQUIVALENT
23 RETIREMENT ALLOWANCES UNDER SECTION 23(2)(B) THROUGH (E), THE
24 ACTUARIALLY ASSUMED INTEREST RATE SHALL BE 8% WITH UTILIZATION OF
25 THE 1983 GROUP ANNUITY AND MORTALITY TABLE.

26 (11) ~~(8)~~ Notwithstanding any other provision of this
27 section, the retirement system shall be administered in

1 compliance with the provisions of section 415 of the internal
2 revenue code AND REVENUE SERVICE REGULATIONS UNDER THAT SECTION
3 that are applicable to governmental plans. If there is a con-
4 flict between this section and another section of this or any
5 other act of this state, this section prevails.