



# HOUSE BILL No. 4871

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

A bill to amend sections 104, 105, 106, and 604 of Act No. 234 of the Public Acts of 1992, entitled "The judges retirement act of 1992," being sections 38.2104, 38.2105, 38.2106, and 38.2604 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 104, 105, 106, and 604 of Act No. 234  
2 of the Public Acts of 1992, being sections 38.2104, 38.2105,  
3 38.2106, and 38.2604 of the Michigan Compiled Laws, are amended  
4 to read as follows:

5 Sec. 104. (1) "Compensation" means 1 of the following:

6 (a) For a plan 1 member or plan 2 member, the salary paid by  
7 this state.

8 (b) For a plan 3 member, the salary paid by this state,  
9 except that for a plan 3 member who is a judge of the recorder's

1 court of the city of Detroit, compensation means an amount equal  
2 to the salary paid by this state to a judge of the circuit court  
3 and for a plan 3 member who is a judge of the probate court, com-  
4 pensation means an amount equal to the salary paid by this state  
5 to a judge of the district court. In addition, compensation for  
6 a plan 3 member includes salary standardization payments con-  
7 verted as an addition to the state base salary as provided by  
8 section 504, if any.

9 (c) For a plan 4 member, the total judicial salary payable  
10 from all sources.

11 (d) For a plan 5 member, the total salary paid by this state  
12 and the district control unit of the district court in the  
13 thirty-sixth district.

14 (e) For a plan 6 or 7 member, the salary approved by the  
15 county board of commissioners and includes salary standardization  
16 payments made to the member by the county.

17 (2) "County retirement plan" means a county retirement plan  
18 established under section 12a of Act No. 156 of the Public Acts  
19 of 1851, being section 46.12a of the Michigan Compiled Laws.

20 (3) "Court fees" means a court filing fee or costs earmarked  
21 for the retirement system and collected by a county clerk, clerk  
22 of the circuit court, or clerk of the district court pursuant to  
23 sections 880, ~~2528,~~ 2529, 5756, 8371, 8381, and 8420 of the  
24 revised judicature act of 1961, Act No. 236 of the Public Acts of  
25 1961, being sections 600.880, ~~600.2528,~~ 600.2529, 600.5756,  
26 600.8371, 600.8381, and 600.8420 of the Michigan Compiled Laws.

1 (4) "Credited service" means all of the following:

2 (a) Service credited to a member under this act, the former  
3 judges retirement system, and the former probate judges retire-  
4 ment system.

5 (b) Other public service purchased under section 403.

6 (c) Service purchased under section 404.

7 (5) "Department" means the department of management and  
8 budget.

9 (6) "DIRECT ROLLOVER" MEANS A PAYMENT BY THE RETIREMENT  
10 SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE  
11 DISTRIBUTE.

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

18 (8) ~~(6)~~ "District control unit" means district control  
19 unit as defined in section 8104 of the revised judicature act of  
20 1961, Act No. 236 of the Public Acts of 1961, being  
21 section 600.8104 of the Michigan Compiled Laws.

22 Sec. 105. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSEC-  
23 TION, "ELIGIBLE RETIREMENT PLAN" MEANS AN INDIVIDUAL RETIREMENT  
24 ACCOUNT DESCRIBED IN SECTION 408(a) OF THE INTERNAL REVENUE CODE,  
25 AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF  
26 THE INTERNAL REVENUE CODE, AN ANNUITY PLAN DESCRIBED IN SECTION  
27 403(a) OF THE INTERNAL REVENUE CODE, OR A QUALIFIED TRUST

1 DESCRIBED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE, THAT  
2 ACCEPTS THE DISTRIBUTEES' ELIGIBLE ROLLOVER DISTRIBUTION.  
3 HOWEVER, IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A  
4 SURVIVING SPOUSE, AN ELIGIBLE RETIREMENT PLAN MEANS AN INDIVIDUAL  
5 RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED  
6 ABOVE.

7 (2) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A DISTRIBUTION OF  
8 ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE  
9 DISTRIBUTEES. ELIGIBLE ROLLOVER DISTRIBUTION DOES NOT INCLUDE ANY  
10 OF THE FOLLOWING:

11 (A) A DISTRIBUTION MADE FOR THE LIFE OR LIFE EXPECTANCY OF  
12 THE DISTRIBUTEES OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF  
13 THE DISTRIBUTEES AND THE DISTRIBUTEES' DESIGNATED BENEFICIARY.

14 (B) A DISTRIBUTION FOR A SPECIFIED PERIOD OF 10 YEARS OR  
15 MORE.

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

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

22 (3) "Executive secretary" means the executive secretary of  
23 the retirement system as provided in section 205.

24 (4) ~~(2)~~ Except as otherwise provided in this subsection,  
25 "final compensation" means the annual rate of compensation for  
26 the calendar year of retirement. For a member who retires on  
27 January 1, final compensation means the annual rate of

1 compensation for the calendar year immediately preceding the date  
2 of retirement. Final compensation does not include an amount  
3 that exceeds the maximum salary set forth for that particular  
4 member or vested former member in the revised judicature act, if  
5 applicable. For a member who is a judge and who performs judi-  
6 cial duties for a limited period or a specific assignment as  
7 authorized by the supreme court pursuant to section 23 of  
8 article VI of the state constitution of 1963, final compensation  
9 means the annual rate of compensation the member was being paid  
10 at the termination of his or her tenure in office as an elected  
11 judge.

12 (5) ~~(3)~~ "Former elected official" means a member who held  
13 a state elective office before membership in this retirement  
14 system, the former judges retirement system, or the former pro-  
15 bate judges retirement system.

16 (6) ~~(4)~~ "Former judges retirement system" means the state  
17 of Michigan judges' retirement system created by former Act No.  
18 198 of the Public Acts of 1951.

19 (7) ~~(5)~~ "Former probate judges retirement system" means  
20 the state of Michigan probate judges retirement system created by  
21 former Act No. 165 of the Public Acts of 1954.

22 Sec. 106. (1) "Interest" means the rate or rates of inter-  
23 est per annum, compounded annually, as determined by the retire-  
24 ment board.

25 (2) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTERNAL  
26 REVENUE CODE OF 1986.

1       (3) ~~(2)~~ "Judge" means a duly elected or appointed justice  
2 of the supreme court, judge of the court of appeals, judge of the  
3 circuit court, judge of the district court, judge of the probate  
4 court, or judge of the recorder's court of the city of Detroit.

5       (4) ~~(3)~~ "Medical adviser" means the medical adviser of the  
6 retirement system as provided in section 205.

7       (5) ~~(4)~~ "Member" means a judge or state official who is  
8 included in the membership of the retirement system as provided  
9 in section 401.

10       (6) ~~(5)~~ "Membership service" means service performed as a  
11 member under this act or under the former judges retirement  
12 system or former probate judges retirement system.

13       Sec. 604. (1) This section is enacted pursuant to  
14 section 401(a) of the internal revenue code that imposes certain  
15 administrative requirements and benefit limitations for qualified  
16 governmental plans. This state intends that the retirement  
17 system be a qualified pension plan created in trust under section  
18 401 of the internal revenue code and that the trust be an exempt  
19 organization under section 501 of the internal revenue code. The  
20 department shall administer the retirement system to fulfill this  
21 intent.

22       (2) Except as otherwise provided in this section,  
23 employer-financed benefits provided by the retirement system  
24 under this act shall not exceed the lesser of \$90,000.00 or 100%  
25 of the member's average compensation for high 3 years as  
26 described in section 415(b)(3) of the internal revenue code for  
27 retirement occurring at age 62 or older.

1 (3) The limitation on employer financed benefits provided by  
2 the retirement system under subsection (2) applies unless appli-  
3 cation of subsections (4) and (5) produces a higher limitation,  
4 in which case the higher limitation applies.

5 (4) If a member retires before age 62, the amount of  
6 \$90,000.00 in subsection (1) is actuarially reduced to reflect  
7 payment before age 62. The retirement system shall use an inter-  
8 est rate of 5% per year compounded annually to calculate the  
9 actuarial reduction in this subsection. If this subsection  
10 produces a limitation of less than \$75,000.00 at age 55, the lim-  
11 itation at age 55 is \$75,000.00 and the limitations for ages  
12 under age 55 shall be calculated from a limitation of \$75,000.00  
13 at age 55.

14 (5) Section 415(d) of the internal revenue code requires the  
15 commissioner of internal revenue to adjust the \$90,000.00 limita-  
16 tion in subsection (2) to reflect cost of living increases,  
17 beginning with calendar year 1988. This subsection shall be  
18 administered using the limitations applicable to each calendar  
19 year as adjusted by the commissioner of internal revenue under  
20 section 415(d) of the internal revenue code. The retirement  
21 system shall adjust the benefits subject to the limitation each  
22 year to conform with the adjusted limitation.

23 (6) The assets of the retirement system shall be held in  
24 trust and invested for the sole purpose of meeting the legitimate  
25 obligations of the retirement system and shall not be used for  
26 any other purpose. The assets shall not be used for or diverted  
27 to a purpose other than for the exclusive benefit of the members,

1 vested former members, retirants, and retirement allowance  
2 beneficiaries before satisfaction of all retirement system  
3 liabilities.

4 (7) The retirement system shall return post-tax member con-  
5 tributions made by a member and received by the retirement system  
6 to a member upon retirement, pursuant to internal revenue service  
7 regulations and approved internal revenue service exclusion ratio  
8 tables.

9 (8) THE REQUIRED BEGINNING DATE FOR RETIREMENT ALLOWANCES  
10 AND OTHER DISTRIBUTIONS SHALL NOT BE LATER THAN APRIL 1 OF THE  
11 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE EMPLOYEE  
12 ATTAINS AGE 70-1/2 OR APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE  
13 CALENDAR YEAR IN WHICH THE EMPLOYEE RETIRES.

14 (9) ~~(8)~~ If the retirement system is ~~discontinued~~  
15 TERMINATED, the interest of the members, vested former members,  
16 retirants, and retirement allowance beneficiaries in the retire-  
17 ment system is nonforfeitable to the extent funded as described  
18 in section 411(d)(3) of the internal revenue code and related  
19 internal revenue service regulations applicable to governmental  
20 plans.

21 (10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE  
22 CONTRARY THAT WOULD LIMIT A DISTRIBUTEES ELECTION UNDER THIS  
23 ACT, A DISTRIBUTEES MAY ELECT, AT THE TIME AND IN THE MANNER PRE-  
24 SCRIBED BY THE RETIREMENT BOARD, TO HAVE ANY PORTION OF AN ELIGI-  
25 BLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT  
26 PLAN SPECIFIED BY THE DISTRIBUTEES IN A DIRECT ROLLOVER. THIS



1 SUBSECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY 1,  
2 1993.

3 (11) FOR PURPOSES OF DETERMINING ACTUARIAL EQUIVALENT  
4 RETIREMENT ALLOWANCES UNDER SECTIONS 506(1)(A) AND (B) AND 602,  
5 THE ACTUARIALLY ASSUMED INTEREST RATE SHALL BE 8% WITH UTILIZA-  
6 TION OF THE 1983 GROUP ANNUITY AND MORTALITY TABLE.

7 (12) ~~(9)~~ Notwithstanding any other provision of this sec-  
8 tion, the retirement system shall be administered in compliance  
9 with the provisions of section 415 of the internal revenue code  
10 AND REVENUE SERVICE REGULATIONS UNDER THAT SECTION that are  
11 applicable to governmental plans. If there is a conflict between  
12 this section and another section of this or any other act of this  
13 state, this section prevails.