

Act No. 464
Public Acts of 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Rep. Hughes

ENROLLED HOUSE BILL No. 5261

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to authorize and make appropriations for the retirement system; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 61 (MCL 38.1361), as amended by 2010 PA 75.

The People of the State of Michigan enact:

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

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

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

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

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

(a) The retirant is a former teacher or administrator employed in a teaching or research capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3). A university that employs a retirant under this subsection shall report that employment to the retirement system by July 1 of each year. The university shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

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

(4) The state superintendent of public instruction shall compile a listing of critical shortage disciplines. This listing shall be updated annually.

(5) Until July 1, 2014, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has a situation, not including a situation caused by a labor dispute, that necessitates the hiring of a retirant in an area that has been identified by the state superintendent of public instruction as a critical shortage discipline pursuant to subsection (4).

(b) The retirant is employed under any situation described in subdivision (a) for a period not to exceed 3 years for that retirant.

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

(d) The reporting unit shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for each retirant who becomes employed by a reporting unit under this subsection.

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

(7) Notwithstanding any other provision of this act to the contrary, for a retirant who retires on or after July 1, 2010, and following a bona fide termination, including not working in the month of the retirant's retirement effective date, and who becomes employed by a reporting unit and the retirant's amount of earnings in a calendar year exceeds $\frac{1}{3}$ of the retirant's final average compensation, the retirant shall forfeit his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for as long as the retirant is employed at the reporting unit unless the retirant is employed under subsection (5), (9), or (10). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. Upon termination of employment at the reporting unit, the retirement allowance and health care benefits shall resume without recalculation.

(8) Notwithstanding any other provision of this act to the contrary, for a retirant who retires on or after July 1, 2010, who performs core services at a reporting unit as determined by the retirement system, but who is employed by an entity other than the reporting unit or is an independent contractor, the retirant shall forfeit his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for as long as the retirant is performing core services at the reporting unit, unless the retirant is employed under subsection (9) or (10). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. Upon termination of services at the reporting unit, the retirement allowance and health care benefits shall resume without recalculation.

(9) Until July 1, 2014, subsection (1) does not apply to a retirant who retires on or after July 1, 2010; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as a substitute teacher by a reporting unit, by an entity other than the reporting unit, or as an independent contractor; and whose amount of earnings attributable to employment by or at a reporting unit in a calendar year does not exceed $\frac{1}{3}$ of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides substitute teacher services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of substitute teachers to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the substitute teacher and the total earnings paid to the substitute teacher for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit that engages substitute teachers through an entity other than a reporting unit or as independent contractors shall obtain from the substitute teacher's employer a list of all substitute teachers the employer supplies to that reporting unit and the total earnings paid to each substitute teacher for the reporting period. An employer other than a reporting unit that employs substitute teachers as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor.

(10) Until July 1, 2014, subsection (1) does not apply to a retirant who retires on or after July 1, 2010; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as an instructional coach or a school improvement facilitator by an entity other than the reporting unit or as an independent contractor; and whose amount of earnings attributable to employment at a reporting unit in a calendar

year does not exceed 1/3 of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides the services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of instructional coaches or school improvement facilitators to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the instructional coach or school improvement facilitator and the total earnings paid to the coach or facilitator for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit shall obtain from the coach's or facilitator's employer a list of all instructional coaches and school improvement facilitators the employer supplies to that reporting unit and the total earnings paid to each coach or facilitator for the reporting period. An employer other than a reporting unit that employs instructional coaches or school improvement facilitators as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor. As used in this subsection, "instructional coach" and "school improvement facilitator" mean those terms as used in the listing of critical shortage disciplines developed by the state superintendent of public instruction under subsection (4).

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor