

# HOUSE BILL No. 4422

March 28, 2017, Introduced by Reps. Hughes, Marino, Lucido, Faris, Maturen, Crawford, Barrett, Chatfield, Graves, Victory, Sheppard, Tedder and Glenn and referred to the Committee on Education Reform.

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 2015 PA 219.

**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 must occur:

7           (a) The retirant is not entitled to a new final average

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

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

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

27 (3) Subsection (1) does not apply to a retirant if all of the

1 following circumstances exist:

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

10 (b) 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 (4) Not later than April 1 of each year, the superintendent of  
15 public instruction shall compile a listing of critical shortage  
16 disciplines based on evidence of a shortage for each discipline.  
17 The department of education shall post the listing and the  
18 accompanying evidence on its website. If a discipline is not  
19 included in the listing of critical shortage disciplines, 2 or more  
20 contiguous reporting units may submit a written request to the  
21 superintendent of public instruction to add a discipline to the  
22 listing. The request must include evidence of a shortage of the  
23 discipline in those contiguous reporting units. If the  
24 superintendent of public instruction determines that there is a  
25 shortage of the discipline in those contiguous reporting units, the  
26 superintendent of public instruction shall add the discipline to  
27 the listing. A discipline added under a request under this

1 subsection is applicable only to those contiguous reporting units.  
2 For purposes of this subsection, a reporting unit that is a public  
3 school academy is considered contiguous to any other reporting unit  
4 in which the public school academy is located.

5 (5) ~~Until July 1, 2018, subsection~~ **SUBSECTION** (1) does not  
6 apply to a retirant if all of the following circumstances exist:

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

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

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

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

24 (6) Subsection (5) only applies for retirants who have been  
25 retired for at least 12 months before becoming employed under this  
26 section.

27 (7) Notwithstanding any other provision of this act to the

1 contrary, for a retirant who retires after June 30, 2010, and  
2 following a bona fide termination, including not working in the  
3 month of the retirant's retirement effective date, and who becomes  
4 employed by a reporting unit and the retirant's amount of earnings  
5 in a calendar year exceeds 1/3 of the retirant's final average  
6 compensation, the retirant forfeits his or her retirement allowance  
7 and the retirement system subsidy for health care benefits from the  
8 retirement system for the entire month of each month in which the  
9 retirant is employed at the reporting unit unless the retirant is  
10 employed as described in subsection (5), (9), (10), or (11). A  
11 retirant who has forfeited the retirement system subsidy for health  
12 care benefits under this subsection and who wants to retain health  
13 care benefits shall pay the retirant's and retirement system's  
14 costs for the health care benefits. The retirement allowance and  
15 retirement system subsidy for health care benefits shall resume  
16 without recalculation on the first of the month following the month  
17 in which the retirant has terminated reporting unit employment.

18 (8) Notwithstanding any other provision of this act to the  
19 contrary, for a retirant who retires after June 30, 2010, who  
20 performs core services at a reporting unit as determined by the  
21 retirement system, but who is employed by an entity other than the  
22 reporting unit or is an independent contractor, the retirant  
23 forfeits his or her retirement allowance and the retirement system  
24 subsidy for health care benefits from the retirement system for the  
25 entire month of each month in which the retirant is performing core  
26 services at the reporting unit, unless the retirant is employed as  
27 described in subsection (9), (10), or (12). A retirant who has

1 forfeited the retirement system subsidy for health care benefits  
2 under this subsection and who wants to retain health care benefits  
3 shall pay the retirant's and retirement system's costs for the  
4 health care benefits. The retirement allowance and retirement  
5 system subsidy for health care benefits shall resume without  
6 recalculation on the first of the month following the month in  
7 which the retirant has terminated performing core services, as  
8 described in this subsection.

9 (9) ~~Until July 1, 2018, subsection~~ **SUBSECTION** (1) does not  
10 apply to a retirant who retires after June 30, 2010 and ~~on or~~  
11 before September 1, ~~2015;~~ **2, 2016;** who following a bona fide  
12 termination, including not working in the month of his or her  
13 retirement effective date, becomes employed as a substitute teacher  
14 by a reporting unit, by an entity other than the reporting unit, or  
15 as an independent contractor; and whose amount of earnings  
16 attributable to employment by or at a reporting unit in a calendar  
17 year does not exceed 1/3 of his or her final average compensation.  
18 A retirant described in this subsection is not eligible to use any  
19 service or compensation attributable to the employment described in  
20 this subsection for a recomputation of his or her retirement  
21 allowance. ~~The reporting unit at which the retirant provides~~  
22 ~~substitute teacher services described in this subsection shall pay~~  
23 ~~100% of the contribution rates for the unfunded actuarial accrued~~  
24 ~~liability for retiree health care and the unfunded actuarial~~  
25 ~~accrued liability for pension to the retirement system for the~~  
26 ~~employment described in this subsection.~~ The reporting unit shall  
27 report the engagement of substitute teachers to the retirement

1 system at the same interval the reporting unit reports information  
2 to the retirement system with regard to its other employees. The  
3 reporting unit shall include in the report the name of the  
4 substitute teacher and the total earnings paid to the substitute  
5 teacher for that reporting period. In order to comply with the  
6 reporting requirements of this subsection, a reporting unit that  
7 engages substitute teachers through an entity other than a  
8 reporting unit or as independent contractors shall obtain from the  
9 substitute teacher's employer a list of all substitute teachers the  
10 employer supplies to that reporting unit and the total earnings  
11 paid to each substitute teacher for the reporting period. An  
12 employer other than a reporting unit that employs substitute  
13 teachers as described in this subsection shall provide to the  
14 reporting unit all information that the reporting unit is required  
15 to report to the retirement system under this subsection. For the  
16 purposes of this subsection, an employer includes an independent  
17 contractor.

18 (10) ~~Until July 1, 2018, subsection~~ **SUBSECTION** (1) does not  
19 apply to a retirant who retires after June 30, 2010 and ~~on or~~  
20 before September ~~1,~~ **2**, 2015; who following a bona fide termination,  
21 including not working in the month of his or her retirement  
22 effective date, becomes employed as an instructional coach or a  
23 school improvement facilitator by an entity other than the  
24 reporting unit or as an independent contractor; and whose amount of  
25 earnings attributable to employment at a reporting unit in a  
26 calendar year does not exceed 1/3 of his or her final average  
27 compensation. A retirant described in this subsection is not

1 eligible to use any service or compensation attributable to the  
2 employment described in this subsection for a recomputation of his  
3 or her retirement allowance. The reporting unit at which the  
4 retirant provides the services described in this subsection shall  
5 pay 100% of the contribution rates for the unfunded actuarial  
6 accrued liability for retiree health care and the unfunded  
7 actuarial accrued liability for pension to the retirement system  
8 for the employment described in this subsection. The reporting unit  
9 shall report the engagement of instructional coaches or school  
10 improvement facilitators to the retirement system at the same  
11 interval the reporting unit reports information to the retirement  
12 system with regard to its other employees. The reporting unit shall  
13 include in the report the name of the instructional coach or school  
14 improvement facilitator and the total earnings paid to the coach or  
15 facilitator for that reporting period. In order to comply with the  
16 reporting requirements of this subsection, a reporting unit shall  
17 obtain from the coach's or facilitator's employer a list of all  
18 instructional coaches and school improvement facilitators the  
19 employer supplies to that reporting unit and the total earnings  
20 paid to each coach or facilitator for the reporting period. An  
21 employer other than a reporting unit that employs instructional  
22 coaches or school improvement facilitators as described in this  
23 subsection shall provide to the reporting unit all information that  
24 the reporting unit is required to report to the retirement system  
25 under this subsection. For the purposes of this subsection, an  
26 employer includes an independent contractor. As used in this  
27 subsection, "instructional coach" and "school improvement



1 facilitator" mean those terms as used in the listing of critical  
2 shortage disciplines developed by the superintendent of public  
3 instruction under subsection (4).

4 (11) Subsection (1) does not apply to a retirant who is a  
5 former teacher or administrator who retires after June 30, 2010 and  
6 ~~en or~~ before October ~~1, 2~~, 2014, who following a bona fide  
7 termination, including not working in the month of his or her  
8 retirement effective date, becomes employed in a teaching or  
9 research capacity or in a program-department direction capacity by  
10 a university that is considered a reporting unit for the limited  
11 purpose described in section 7(3). A retirant described in this  
12 subsection is not eligible to use any service or compensation  
13 attributable to the employment described in this subsection for  
14 recomputation of his or her retirement allowance. The reporting  
15 unit at which the retirant provides the services described in this  
16 subsection shall pay 100% of the contribution rates for the  
17 unfunded actuarial accrued liability for retiree health care and  
18 the unfunded actuarial accrued liability for pension to the  
19 retirement system for the employment described in this subsection.  
20 The reporting unit shall report the employment of a retirant as  
21 described in this subsection to the retirement system by July 1 of  
22 each year. The reporting unit shall include in the report the name  
23 of the retirant, the capacity in which the retirant is employed,  
24 and the total annual compensation paid to the retirant.

25 (12) ~~Until July 1, 2018, notwithstanding~~ **NOTWITHSTANDING** any  
26 provision of this act to the contrary, for a retirant who retires  
27 after June 30, 2010, who is employed as an independent contractor

1 at a reporting unit for a situation described in subsection (5) (a)  
2 or is employed at a reporting unit for a situation described in  
3 subsection (5) (a) by an entity other than the reporting unit, who  
4 has been retired for at least 12 months before becoming employed  
5 under this subsection, and whose employment under this subsection  
6 does not exceed 3 years, the reporting unit at which the retirant  
7 provides services under this subsection shall pay 100% of the  
8 contribution rates for the unfunded actuarial accrued liability for  
9 retiree health care and the unfunded actuarial accrued liability  
10 for pension to the retirement system for the employment described  
11 in this subsection.