

Act No. 193
Public Act of 1989
September 20, 1989
Filed by the Secretary of State
September 20, 1989

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Reps. Barns, Hart, Gubow, Gire, Stallworth, Varga, Niederstadt, Bartnik, Owen, DeMars, Webb, Kilpatrick, Berman, Murphy, Jonker, Stabenow, Hollister, Jondahl, Porreca, Bankes, Law, DeBeaussaert, Pitoniak, Runco, Griffin, Stopczynski, Honigman, Martin, Brown and Mathieu
Rep. Rocca named co-sponsor

ENROLLED HOUSE BILL No. 4433

AN ACT to amend sections 4 and 91 of Act No. 300 of the Public Acts of 1980, 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 within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of management and budget; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 91 of the Public Acts of 1985, being sections 38.1304 and 38.1391 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 4 and 91 of Act No. 300 of the Public Acts of 1980, as amended by Act No. 91 of the Public Acts of 1985, being sections 38.1304 and 38.1391 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 4. (1) "Compensation" means the remuneration earned by a member for service performed as a public school employee. If part of a member's remuneration is not paid in money, the retirement board shall fix the value of that part of the remuneration not paid in money. Compensation includes, on a current basis, investments made in a tax sheltered annuity for a public school employee as remuneration for service under this act. The remuneration shall be valued at the amount of money actually paid into the annuity. Compensation includes all amounts deducted from the pay of a public school employee, including amounts deducted pursuant to the member investment plan. Compensation includes longevity pay, overtime pay, vacation pay, and holiday pay while absent from work, sick leave pay while absent from work, and items of deferred compensation, exclusive of employer contributions to the retirement system. Compensation does not include terminal payments for unused sick leave, annual leave, bonus payments, hospitalization insurance and life insurance premiums, other fringe benefits paid by and from the funds of employers of public school employees, and remuneration paid for the specific purpose of increasing the final average compensation. Compensation for the period on which final average compensation is based, for the purpose of computing final average compensation, does not include an amount over the compensation for the preceding year except increases provided by the normal salary schedule for the reporting unit. The retirement board shall require a sworn affidavit from the member that final compensation does not include remuneration paid either directly or indirectly for actual or anticipated expenses.

(2) "Compound interest" means interest compounded annually on July 1 on the contributions on account as of the previous July 1 and computed at the rate of investment return determined under section 104a(1) for the last completed state fiscal year.

(3) "Contributory service" means credited service other than noncontributory service.

(4) "Deferred member" means a member who has ceased to be a public school employee and has satisfied the requirements of section 82 for a deferred vested service retirement allowance.

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

(6) "Employee organization professional services leave" or "professional services leave" means a leave of absence that is renewed annually by the reporting unit so that a member may accept a position with a public school employee organization to which he or she belongs and which represents employees of a reporting unit in employment matters. The member shall be included in membership of the retirement system during a professional services leave if all of the conditions of section 71(5) are satisfied.

(7) "Employee organization professional services released time" or "professional services released time" means a portion of the school fiscal year during which a member is released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs. The member's compensation received and service rendered by a member while on professional services released time shall be reportable to the retirement system if all of the conditions of section 71(5) are satisfied.

(8) "Final average compensation" means the aggregate amount of a member's compensation earned within the averaging period in which the aggregate amount of compensation was highest divided by the member's number of years, including any fraction of a year, of credited service during the averaging period. The averaging period shall be 36 consecutive calendar months if the member contributes to the member investment plan; otherwise, the averaging period shall be 60 consecutive calendar months. If the member has less than 1 year of credited service in the averaging period, the number of consecutive calendar months in the averaging period shall be increased to the lowest number of consecutive calendar months that contains 1 year of credited service.

(9) "Health benefits" means hospital, medical-surgical, and sick care benefits and dental, vision, and hearing benefits for retirants, retirement allowance beneficiaries, and health insurance dependents provided pursuant to section 91.

(10) "Member investment plan" means the program of member contributions described in section 43a.

Sec. 91. (1) The retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department.

(2) The retirement system may pay up to the maximum of the amount payable under subsection (1) toward the monthly premium for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary enrolled in a group health insurance or prepaid service plan not authorized by the retirement board and the department, if enrolled prior to June 1, 1975, for whom the retirement system on July 18, 1983 was making a payment towards his or her monthly premium.

(3) A retirant or retirement allowance beneficiary receiving hospital, medical-surgical, and sick care benefits coverage under subsection (1) or (2), until eligible for medicare, shall have an amount equal to the cost chargeable to a medicare recipient for part B of medicare deducted from his or her retirement allowance.

(4) The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider.

(5) The retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection and subsection (6) shall begin October 1, 1985 for health insurance dependents who on July 10, 1985 are covered by the hospital,

medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986.

(6) The payment described in subsection (5) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retiree if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retiree as provided in section 43c(c), 89, or 90. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100%. This subsection shall apply to any member attaining deferred status under section 82 after October 31, 1980.

(8) Any retiree or retirement allowance beneficiary excluded from payments under this section may participate in the hospital, medical-surgical, and sick care benefits plan and/or the dental plan, vision plan, and hearing plan described in this section at his or her own cost.

(9) The hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirees, retirement allowance beneficiaries, and health insurance dependents pursuant to this section shall contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under the hospital, medical-surgical, and sick care benefits plan is also eligible for medicare or medicaid, or both, then the benefits under medicare or medicaid, or both, shall be determined before the benefits of the hospital, medical-surgical, and sick care benefits plan provided pursuant to this section.

(b) If the person covered under any of the plans provided by this section is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided by the coordination of benefits act, Act No. 64 of the Public Acts of 1984, being sections 550.251 to 550.255 of the Michigan Compiled Laws.

(c) If the person covered under any of the plans provided by this section is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan shall be determined before the benefits of the plan provided pursuant to this section.

(10) For purposes of this section:

(a) "Health insurance dependent" means any of the following:

(i) The spouse of the retiree or the surviving spouse to whom the retiree or deceased member was married at the time of the retiree's or deceased member's death.

(ii) An unmarried child, by birth or adoption, of the retiree or deceased member, until December 31 of the calendar year in which the child becomes 19 years of age.

(iii) An unmarried child, by birth or adoption, of the retiree or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of the retiree's or deceased member's death a dependent of the retiree or deceased member as defined in section 152 of the internal revenue code.

(iv) An unmarried child, by birth or adoption, of the retiree or deceased member who is incapable of self-sustaining employment because of mental or physical handicap, and who is or was at the time of the retiree's or deceased member's death a dependent of the retiree or deceased member as defined in section 152 of the internal revenue code.

(v) The parents of the retiree or deceased member, or the parents of his or her spouse, who are residing in the household of the retiree or retirement allowance beneficiary.

(b) "Medicaid" means benefits under the federal medicaid program established under title XIX of the social security act.

(c) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act.

Section 2. This amendatory act shall not take effect unless House Bill No. 4466 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.