

Act No. 37
Public Acts of 1990
Approved by the Governor
March 26, 1990
Filed with the Secretary of State
March 27, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Stupak, Perry Bullard, Palamara, Ciaramitaro, Gubow, Power, Stabenow and Gagliardi

ENROLLED HOUSE BILL No. 5446

AN ACT to amend section 16 of Act No. 198 of the Public Acts of 1951, entitled as amended "An act to provide for a retirement system for judges, the constitutional court administrator, and certain elected and appointed state officials; to provide for the retirement of judges, the constitutional court administrator, and certain elected and appointed state officials due to age or disability; to provide for the payment of annuities; to create a retirement board and prescribe its powers and duties; to establish certain funds in connection with the system; to provide for the funding of the system; to provide for contributions to the system by judges, the constitutional court administrator, and certain elected and appointed state officials and by the state; and to prescribe penalties," as amended by Act No. 102 of the Public Acts of 1987, being section 38.816 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 16 of Act No. 198 of the Public Acts of 1951, as amended by Act No. 102 of the Public Acts of 1987, being section 38.816 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 16. (1) Upon written application of a member, or the written application of the chair of the judicial tenure commission or the chief justice of the supreme court, filed with the board and the governor, a member who has 8 or more years of service credit, or who is 65 years of age or older and who has 6 or more years, but less than 8 years, of service credit, who becomes physically or mentally totally and permanently incapacitated to perform his or her judicial duties, shall be retired by the board if, after a medical examination of the member made by or under the direction of the medical director, the medical director certifies in writing to the board that the member is physically or mentally totally incapacitated to perform his or her judicial duties, that the incapacity is likely to be permanent, and that the member should be retired.

(2) For the period beginning April 1, 1990 and ending September 30, 1990 only, upon written application of a member, or the written application of the chair of the judicial tenure commission or the chief justice of the supreme court, filed with the board and the governor, a member who has 7 or more years of service credit and becomes physically or mentally totally and permanently incapacitated to perform his or her judicial duties shall be retired by the board, with a pension or survivor's benefit reduced by 1/8 of the amount that would otherwise apply, if, after a medical examination of the member made by or under the direction of the medical director, the medical director certifies in writing to the board that the member is physically or mentally totally incapacitated to perform his or her judicial duties, that the incapacity is likely to be permanent, and that the member should be retired. Upon retirement under this subsection, a member shall be paid an annuity computed according to section 14.

(3) A member, by agreeing to become a member of the retirement system, agrees to submit to a medical examination to be made by or under the direction of the medical director. Due notice of the board's decision under subsection (1) or (2) shall be given to the member and the governor. The member, within 30 days following the giving of the notice, may appeal to a medical committee consisting of 3 physicians, 1 designated by the board, 1 by the member, and 1 by the first 2 physicians designated. After a medical examination of the member made by or under the direction of the medical committee, the medical committee shall report its findings to the board. The majority opinion of the medical committee, filed in writing with the board, shall be binding on the board and the member. If the member refuses to submit to medical examinations as required and the refusal continues for 90 days, or if the decision of the board or the medical committee, if a medical committee is requested, is that the member should retire and he or she fails to retire within 60 days following the date of notification of the decision by registered mail sent to the member's last known residence address, he or she shall forfeit for the member and his or her heirs all rights in and to benefits, except the refund of accumulated contributions, accrued or accruing under this act, and the member shall not again become a member or beneficiary of the retirement system.

(4) Upon retirement under subsection (1), a member, other than a member who qualifies under this section because he or she is 65 years of age or older and has 6 or more years, but less than 8 years, of service credit, shall be paid an annuity computed according to section 14. Upon retirement under subsection (1), a member who qualifies under this section because he or she is 65 years of age or older and has 6 or more years, but less than 8 years, of service credit shall be paid an annuity equal to 50% of the member's final salary multiplied by a fraction the numerator of which is equal to the member's number of years and fraction of a year of service and the denominator of which is 8.

(5) Payment of annuities under this section is subject to section 15.

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.

