

MERS: MEMBER CONTRIBUTIONS

House Bill 5375

Sponsor: Rep. Clark Harder
Committee: Senior Citizens
and Retirement

Complete to 2-28-92

A SUMMARY OF HOUSE BILL 5375 INTRODUCED 12-5-91

House Bill 5375 would amend the Municipal Employees Retirement Act to require that participating municipalities and courts allow members of the Municipal Employees Retirement System (MERS) the option of participating in contribution program "P" or not; to permit the extension of the repayment period for accumulated contributions by members who wish to be reinstated in the retirement system; and to amend provisions of the act regarding benefit limitations to achieve compliance with the United States Internal Revenue Service (IRS) rules.

Contribution Program "P." Public Act 427 of 1984 recodified the old Municipal Employees Retirement Act to simplify provisions of the act, to require conformity with applicable provisions of federal law, and to provide flexibility to participating municipalities or courts (the act was later amended by Public Act 500 of 1988 to include certain court employees under MERS) with regard to optional retirement plans and member contribution programs. Public Act 427 also introduced benefit program P, which permits members to defer federal income taxes on mandatory contributions, in accordance with Internal Revenue Code provisions. Under the act, municipalities or courts that adopt contribution program P "pick up" the member contributions that are required of members on account of compensation earned (as opposed to contributions based on a fixed percentage of the member's compensation). The contributions are then treated as municipality or court contributions when determining tax treatment under the code. Member contributions are picked up from funds in the retirement deduction account that would otherwise have been designated as member contributions and paid to the retirement system. House Bill 5375 would amend these provisions of the act to give members the option of participating in the program, and to require the following:

--Those municipalities or courts that required member contributions on account of compensation earned as of the effective date of the bill would be required to adopt -- by resolution or administrative order -- contribution program P before January 1, 1992.

--Within 30 days of the date of the resolution or administrative order, the municipality or court would allow each member to decide whether or not the municipality or court should pick up that member's required contributions on account of compensation earned.

--For each member who elected to have his or her contributions picked up under contribution program P, the program would become effective on the date of the resolution

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or administrative order, or on the date the retirement system received approval from the IRS, whichever came later. Members who chose not to participate would not be required to do so.

--A member who was employed by the participating municipality or court after the date of the resolution or administrative order would have his or her required contributions picked up under contribution program P.

--Those municipalities or courts that required member contributions on account of compensation earned after the effective date of the bill would be required to adopt contribution program P -- by resolution or administrative order -- to pick up member contributions required on account of compensation earned after the effective date of the program. The program would be effective on the date of the resolution or administrative order, or on the date the retirement system received approval from the IRS, whichever occurred later.

--The participating municipality or court would pay contributions picked up under contribution program P from the same source of funds that are used to pay compensation to the member. Member contributions would be picked up by a reduction in the member's cash salary, or an offset against a future salary increase, or both, and designated as employer contributions in lieu of employee contributions. Members would not have the option of receiving the contributed amounts directly, instead of having those amounts paid to the retirement system.

Repayment of Accumulated Contributions. Currently, the act specifies that a member who is not "vested" in the system, or who has not earned enough service credit to receive a retirement allowance, forfeits his or her retirement service credit if he or she leaves the employ of the municipality. However, forfeited service credit may be reinstated under certain conditions. Reinstatement is made if the service credit was forfeited for a reason other than a break in membership of more than 60 consecutive months, the service was due to employment by the same participating municipality or court, and the member was rehired by that municipality or court and repaid all accumulated contributions within five years. The bill would permit a municipality or court to adopt a resolution or administrative order establishing a written policy to extend the period for payment beyond five years. The policy would be uniformly applicable to all members.

Benefit Limitations. At present, the Municipal Employees Retirement Act specifies that it conforms to the applicable provisions of federal law for qualified governmental pension plans, and that the trust is intended to be an exempt organization under the federal Internal Revenue Code. In conformance with the code, the act provides that employer-financed benefits provided by MERS may not exceed \$50,000 per year for police, fire or public safety members with 15 or more years of credited service, or \$10,000 per year for all other members. However, if application of the following guidelines produces a higher limitation, then the higher limitation applies: for members retiring at age 62 or older, the upper limit is \$90,000, or member's three-year highest average earnings, whichever is less; for members retiring before age 62, the upper limit is \$90,000, actuarially reduced to reflect

payments made before age 62, but not less than \$75,000; for members retiring before age 55, the limitation is calculated from a limitation of \$75,000 at age 55.

The act also specifies that the \$50,000 and \$90,000 limitations be adjusted by the IRS to reflect cost of living increases.

House Bill 5375 would amend the guidelines under which exceptions to the \$50,000 and \$10,000 limitations are calculated to comply with applicable provisions of the Internal Revenue Code for governmental plans. Under the bill, employer-financed benefits could not exceed the lesser of 100 percent of the member's three-year highest average compensation, as prescribed under the code, or one of the following:

a) For members retiring at age 62 or older, the upper limit would be \$90,000 or the amount that results when this figure is adjusted annually to reflect increases in cost of living.

b) For members retiring at, or after, age 55, but before age 62, the actuarially reduced amount of the above \$90,000 limitation, using a five percent annual interest rate, compounded annually, but not less than \$75,000.

c) For members retiring before age 55, the actuarially reduced amount of the above \$75,000 limitation, using a five percent annual interest rate, compounded annually.

The bill would delete the requirement that the \$50,000 and \$90,000 limitation be adjusted annually by the IRS. Under the bill, the secretary of the treasury would be required to adjust these limitations, as prescribed under the Internal Revenue Code, and the Retirement Bureau in the Department of Management and Budget would administer the retirement system.

MCL 38.1504 et al.