Act No. 107
Public Acts of 1991
Approved by the Governor
October 8, 1991
Filed with the Secretary of State
October 8, 1991

STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991

Introduced by Senators Arthurhultz and Posthumus

ENROLLED SENATE BILL No. 349

AN ACT to amend 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 act and parts of acts," as amended, being sections 38.1301 to 38.1407 of the Michigan Compiled Laws, by adding section 108.

The People of the State of Michigan enact:

Section 1. Act No. 300 of the Public Acts of 1980, as amended, being sections 38.1301 to 38.1407 of the Michigan Compiled Laws, is amended by adding section 108 to read as follows:

Sec. 108. (1) This section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed $10,000.00 per year for a retirant who has 15 or more years of credited service at retirement.

(3) Employer-financed benefits provided by the retirement system under this act shall not exceed the limitation under subsection (2) unless application of this subsection results in a higher limitation. The higher limitation of this subsection applies to employer-financed benefits provided by the retirement system and, for purposes of section 415(b) of the internal revenue code, applies to aggregated benefits received from all qualified pension plans administered by the department of management and budget, bureau of retirement systems. Employer-financed benefits provided by the retirement system shall not exceed the lesser of the following:

(a) One of the following amounts that is applicable to the member:

(*i*) If a member retires at age 62 or older, $90,000.00 or the adjusted amount described in subsection (4) per year.

(*ii*) If a member retires at or after age 55 but before age 62, the actuarially reduced amount of the limitation prescribed in subparagraph (*i*) per year. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subparagraph. However, the limitation in this subparagraph shall not be actuarially reduced below $75,000.00.

(*iii*) If a member retires before age 55, the actuarially reduced amount of the limitation prescribed in subparagraph (*ii*) per year. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subparagraph.

(b) 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code.

(4) Section 415(d) of the internal revenue code requires the secretary of the treasury or his or her delegate to annually adjust the $10,000.00 limitation described in subsection (2) and the $90,000.00 limitation described in subsection (3)(a)(*i*) for increases in cost of living, beginning in 1988. This section shall be administered using the limitations applicable to each calendar year as adjusted by the secretary of the treasury or his or her delegate under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(5) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and retirement allowance beneficiaries.

(6) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(7) If the retirement system is discontinued, the interest of the members, deferred members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and the related internal revenue service regulations applicable to governmental plans.

(8) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved ....

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Governor.