

HOUSE BILL No. 4405

February 28, 1991, Introduced by Rep. Porreca and referred to the Committee on Senior Citizens and Retirement.

A bill entering into the compact for pension portability for educators.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. The compact for pension portability for educators
2 is enacted into law and entered into with all jurisdictions
3 legally joining therein, in the form substantially as follows:

4 Article I Findings

5 The parties to this compact find as follows:

6 (A) Interstate mobility of professional employees of public
7 schools, colleges, and universities serves the public interest by
8 providing for a more flexible workforce that is better able to
9 match jobs to employees, thereby helping to avoid shortages in
10 particular geographic areas.

11 (B) Interstate mobility of professional employees of public
12 schools, colleges, and universities is impeded by the fact that,

1 under the pension plans in which most of them participate, such
2 employees who move from one state to another generally suffer a
3 substantial forfeiture of earned pension benefits.

4 (C) An agreement among the states to provide increased pen-
5 sion portability for the professional employees of public
6 schools, colleges, and universities will reduce one of the major
7 barriers to the interstate mobility of such employees.

8 Article II Definitions

9 As used in this compact, unless the context clearly indi-
10 cates otherwise:

11 (A) A pension plan is "associated" with a state if the pen-
12 sion plan is maintained by the state or a political subdivision
13 thereof.

14 (B) "Educator" means an individual who is employed as a
15 teacher or in another professional position by a public school,
16 college, or university.

17 (C) "Eligible educator" means an educator who (1) accrues
18 pensionable service in a pension plan associated with a state by
19 reason of his or her employment by a public school, college, or
20 university in such state after this compact becomes effective;
21 and (2) accrued at least 1 year of pensionable services in a pen-
22 sion plan associated with another state by reason of his or her
23 employment by a public school, college, or university in such
24 state.

25 (D) "Exporting plan" means a pension plan in which an eligi-
26 ble educator previously accrued, but is no longer accruing,

1 pensionable service, and from which the eligible educator has not
2 received any pension benefits.

3 (E) "Importing plan" means the pension plan in which an eli-
4 gible educator presently is accruing pensionable service.

5 (F) "Pensionable service" means a period of employment of an
6 eligible educator by a public school, college, or university
7 which is included by a pension plan in calculating the pension
8 benefits to which the eligible educator is entitled.

9 (G) "Pension plan" means a plan, program, system, fund, or
10 other operation that provides pension benefits to educators.

11 (H) "State" means a State of the United States, the District
12 of Columbia, or any Territory or possession of the United States
13 that is a party to this compact.

14 (I) "Stipulated rate" means:

15 (1) For an exporting plan, the average annual yield on pen-
16 sion plan assets, net of administrative costs, experienced by the
17 pension plan during the period from the first day of the fiscal
18 year to which the contribution in question applies through the
19 end of the fiscal year immediately preceding the date on which
20 the money is either transferred from the exporting plan to the
21 importing plan, or paid to the eligible educator, as the case may
22 be; and

23 (2) For an importing plan, the average annual yield on pen-
24 sion plan assets experienced by the pension plan during the
25 period from the first day of the fiscal year to which the contri-
26 bution would have applied through the end of the fiscal year

1 immediately preceding the date on which the money is transferred
2 from the exporting plan to the importing plan.

3 Article III Procedures

4 Each state that is a party to this compact shall establish
5 and maintain procedures adequate to effectuate the transfer of
6 money and pensionable service from an exporting plan to an
7 importing plan in accordance with the following provisions:

8 (A) At the request of an eligible educator who has complied
9 with the application procedures of the states with which the
10 exporting plan and importing plan are associated, the exporting
11 plan shall transfer to the importing plan an amount of money that
12 is equal to the lesser of the following 2 sums:

13 (1) The local contributions made to the exporting plan by or
14 on behalf of the eligible educator, plus interest calculated at
15 the stipulated rate for the exporting plan; or

16 (2) The total contributions that would have been made to the
17 importing plan by or on behalf of the eligible educator if the
18 eligible educator had been accruing pensionable service in the
19 importing plan for the entire period during which he or she was
20 accruing pensionable service in the exporting plan, assuming
21 employment at the same salary, plus interest calculated at the
22 stipulated rate for the importing plan.

23 (B) Upon receipt of the money transferred pursuant to
24 Article III (A), the importing plan shall credit the eligible
25 educator with pensionable service in the importing plan as
26 follows:

1 (1) When the amount of money transferred is the sum
2 calculated pursuant to Article III (A)(1), the importing plan
3 shall, for purposes of vesting and date of eligibility to begin
4 receiving pension benefits, credit the eligible educator with the
5 amount of pensionable service that he or she accrued in the
6 exporting plan. For purposes of the amount of the pension bene-
7 fits to be received by the eligible educator, the importing plan
8 shall credit the eligible educator with an amount of pensionable
9 service calculated as follows:

10 (a) The amount of pensionable service that the eligible edu-
11 cator accrued in the exporting plan multiplied by

12 (b) A fraction, the numerator of which is the amount of
13 money calculated under Article III (A)(1), plus any supplementary
14 payments made pursuant to Article III (B)(2), and the denominator
15 of which is the amount of money calculated under
16 Article III (A)(2).

17 (2) When the amount of money transferred to the importing
18 plan on behalf of an eligible educator is the sum calculated
19 under Article III (A)(1), the eligible educator may elect to make
20 supplementary payments to the importing plan up to the amount of
21 the difference between the sum transferred and the sum calculated
22 under Article III (A)(2). Such supplementary payments may be
23 made by the eligible educator in conjunction with the transfer of
24 money from the exporting plan to the importing plan, or at any
25 time thereafter before the eligible educator receives any pension
26 benefits from the importing plan, in such minimum amounts as may
27 be required by the importing plan, provided that the monetary

1 value of any supplementary payments made subsequent to the
2 transfer of money from the exporting plan to the importing plan
3 shall be adjusted, as determined by the actuary of the importing
4 plan, to reflect the period elapsed between the date the money is
5 transferred from the exporting plan and the date the supplemen-
6 tary payment is made;

7 (c) When the amount of money transferred from the exporting
8 plan to the importing plan is the sum calculated pursuant to
9 Article III (A)(2), any money remaining to the credit of the eli-
10 gible educator in the exporting plan shall be retained in the
11 exporting plan and used as follows:

12 (1) For transfer to another importing plan at the request of
13 the eligible educator in accordance with the terms of this com-
14 pact;

15 (2) To pay pension benefits to the eligible educator if he
16 or she again becomes a participant in the exporting plan; or

17 (3) If not used for purpose (1) or (2) above, for payment to
18 the eligible educator, plus interest calculated at the stipulated
19 rate for the exporting plan, when notification has been received
20 from the eligible educator that he or she has begun to receive
21 pension benefits from the importing plan.

22 (D) There shall be no limit on the number of transfers of
23 money and pensionable service that an eligible educator may take
24 from an exporting plan to an importing plan under this compact.
25 In the case of a subsequent transfer, money previously trans-
26 ferred to an importing plan from an exporting plan shall for
27 purpose of such subsequent transfer be considered "contributions

1 made to the exporting plan by or on behalf of the eligible
2 educator" within the meaning of Article III (A)(1).

3 Article IV Effective Date of Compact; Withdrawal from
4 Compact

5 A. When 2 or more states enact statutes adopting this com-
6 pact, it shall become effective in those states on the dates
7 specified in such statutes. Any other state may thereafter
8 become a party to this compact by enacting a statute adopting it,
9 and the compact shall become effective in that state on the date
10 specified in such statute.

11 B. A party state may withdraw from this compact by repeal-
12 ing the statute adopting this compact, provided that no such
13 withdrawal shall be effective until at least 1 year after the
14 governor of the withdrawing state has given written notice of the
15 repeal of the statute adopting this compact to the governors of
16 all other party states. The withdrawal of a party state shall
17 not relieve any pension plan associated with such state of its
18 obligation to pay to an eligible educator on whose behalf has
19 been transferred under this compact prior to the effective date
20 of such withdrawal the pension benefits to which he or she is
21 entitled under this compact.

22 Article V Other Arrangements Unaffected

23 Nothing contained in this compact shall be construed to pre-
24 vent or inhibit states that are parties to this compact from
25 entering into other arrangements, not inconsistent with the terms
26 of this compact, to effectuate the purpose set forth in
27 Article I.

1 Article VI Construction and Severability

2 A. This compact shall be liberally construed so as to
3 effectuate the purpose set forth in Article I.

4 B. If any provision of this compact, or application there-
5 of, is held by a state or federal court to be invalid with
6 respect to a particular party state, said holding shall not
7 affect the validity of such provision, or application thereof, in
8 any other party state. The provisions of this compact shall be
9 severable, and, as to the party state subject to the court hold-
10 ing, this compact shall in all other respects remain in full
11 force and effect. If the party states that are not subject to
12 the court holding believe that the provision of this compact, or
13 application thereof, that has been declared invalid is not sever-
14 able, they may, by majority vote, require the party state that is
15 subject to the court holding to withdraw from this compact, in
16 which event the withdrawal shall be effective immediately upon
17 such vote, provided that the withdrawal shall not relieve any
18 pension plan associated with such party state of its obligation
19 to pay to an eligible educator on whose behalf money has been or
20 is in the process of being transferred under this compact prior
21 to the effective date of such withdrawal the pension benefits to
22 which he or she is entitled under this compact.

23 Sec. 2. This act shall take effect January 1, 1992.