

# HOUSE BILL No. 4901

June 4, 1991, Introduced by Reps. O'Neill, Joe Young, Sr., Barns, London, Gubow and Dobronski and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 43a and 104a of Act No. 300 of the Public Acts of 1980, entitled

"The public school employees retirement act of 1979,"

section 43a as amended by Act No. 298 of the Public Acts of 1990 and section 104a as amended by Act No. 194 of the Public Acts of 1989, being sections 38.1343a and 38.1404a of the Michigan Compiled Laws; and to add section 108.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 43a and 104a of Act No. 300 of the  
2 Public Acts of 1980, section 43a as amended by Act No. 298 of the  
3 Public Acts of 1990 and section 104a as amended by Act No. 194 of  
4 the Public Acts of 1989, being sections 38.1343a and 38.1404a of  
5 the Michigan Compiled Laws, are amended and section 108 is added  
6 to read as follows:

1       Sec. 43a. (1) The contributions of a member who contributes  
2 to the member investment plan shall be deducted by the employer  
3 and remitted as employer contributions to the retirement system  
4 pursuant to section 42. A member who contributes to the member  
5 investment plan is entitled to the benefits provided in sections  
6 43b and 43c.

7       (2) Until December 31, 1989, a member who first became a  
8 member on or before December 31, 1989, and who elected ~~or~~  
9 ~~elects~~ on or before December 31, 1989 to contribute to the  
10 member investment plan shall contribute 4% of the member's com-  
11 pensation to the member investment plan and beginning January 1,  
12 1990 shall contribute 3.9% of the member's compensation to the  
13 member investment plan.

14       (3) On or before January 1, 1993, a member who first became  
15 a member on or before December 31, 1989, except as otherwise pro-  
16 vided in subsection (4), and who did not elect to make contribu-  
17 tions to the member investment plan, may irrevocably elect to  
18 make the contributions described in subsection (2). In addition  
19 to making the contributions required under subsection (2), a  
20 member who elects to make contributions to the member investment  
21 plan under this subsection shall make a contribution of 4% of the  
22 compensation received on or after January 1, 1987 to December 31,  
23 1989, and 3.9% of the compensation received on or after January  
24 1, 1990 to the date of the election, plus an amount equal to the  
25 compound interest that would have accumulated on those contribu-  
26 tions as described in section 33, plus an amount equal to the net  
27 actuarial cost of the additional benefits attributable to service

1 credited before January 1, 1987, as determined by the retirement  
2 board. The method and timing of payment by a member under this  
3 subsection shall be determined by the retirement board. The con-  
4 tributions made under this subsection shall be deposited into the  
5 reserve for employee contributions. This subsection shall not  
6 apply until the department receives notification from the United  
7 States internal revenue service that this subsection will not  
8 cause the retirement system not to be qualified for tax purposes  
9 under the internal revenue code.

10 (4) Except as otherwise provided in subsection (8), a member  
11 who first became a member on or before December 31, 1986 but did  
12 not perform membership service between December 31, 1986 and  
13 January 1, 1990, and who returns to membership service on or  
14 after January 1, 1990 shall make the contributions described in  
15 subsection (7).

16 (5) Except as otherwise provided in subsection (8), a member  
17 who first became a member on or after January 1, 1990 shall make  
18 the contributions described in subsection (7).

19 (6) A member who first became a member on or after  
20 January 1, 1987 but before January 1, 1990 shall have 30 days  
21 from his or her first date of employment to irrevocably elect to  
22 make the contributions described in subsection (2).

23 (7) Except as otherwise provided in subsection (8), a member  
24 who first became a member on or after January 1, 1990 shall con-  
25 tribute the following amounts to the member investment plan:

1 <u>Member's annual school fiscal</u>	<u>Amount payable to the</u>
2 <u>year earned compensation</u>	<u>member investment plan</u>
3 Not over \$5,000.00	3% of member's compensation
4 Over \$5,000.00 but not	\$150.00, plus 3.6% of the excess
5 over \$15,000.00	over \$5,000.00
6 Over \$15,000.00	\$510.00, plus 4.3% of the excess
7	over \$15,000.00

8 (8) A member who contributes to the member investment plan  
 9 pursuant to subsection (4) or (5) may irrevocably elect to dis-  
 10 continue contributions to the member investment plan as provided  
 11 in this subsection. The member may ~~not~~ IRREVOCABLY elect to  
 12 discontinue contributions to the member investment plan ~~until~~  
 13 ~~the expiration of~~ DURING THE PERIOD BEGINNING ON THE DATE THAT  
 14 IS 3 school fiscal years following the date he or she first con-  
 15 tributes to the member investment plan ~~or after the expiration~~  
 16 ~~of~~ AND ENDING ON THE DATE THAT IS 4 school fiscal years follow-  
 17 ing the date he or she first ~~contributed~~ CONTRIBUTES to the  
 18 member investment plan. A member who pursuant to this subsection  
 19 ~~makes an election~~ IRREVOCABLY ELECTS to discontinue contribu-  
 20 tions to the member investment plan shall receive a refund of  
 21 those contributions plus interest, as determined by the retire-  
 22 ment board, payable before the expiration of 6 months after the  
 23 date ~~of notification by the reporting unit~~ ON WHICH THE CIRCUM-  
 24 STANCE UNDER SUBDIVISION (A), (B), (C), OR (D) OCCURS. A member  
 25 who IRREVOCABLY elects to discontinue making contributions pursu-  
 26 ant to this subsection is not entitled to the benefits provided  
 27 in sections 43b and 43c. A member who contributes to the member

1 investment plan shall be given advance written notice of his or  
2 her opportunity to IRREVOCABLY elect to discontinue contributions  
3 to the member investment plan pursuant to this subsection in a  
4 manner prescribed by the retirement board. This subsection shall  
5 not apply until the department receives notification from the  
6 United States internal revenue service that this subsection will  
7 not cause the retirement system not to be qualified for tax pur-  
8 poses under the internal revenue code. THE RETIREMENT SYSTEM  
9 SHALL NOT RETURN MEMBER CONTRIBUTIONS PURSUANT TO THIS SUBSECTION  
10 EXCEPT UNDER 1 OF THE FOLLOWING CIRCUMSTANCES:

11 (A) THE MEMBER TERMINATES EMPLOYMENT AS A PUBLIC SCHOOL  
12 EMPLOYEE AND IS NOT ENTITLED TO RECEIVE A RETIREMENT ALLOWANCE  
13 UNDER SECTION 81 OR 43B.

14 (B) THE MEMBER IS RECEIVING A DISABILITY RETIREMENT ALLOW-  
15 ANCE UNDER SECTION 86 OR 87.

16 (C) THE MEMBER DIES AND A SURVIVOR IS ELIGIBLE TO RECEIVE A  
17 RETIREMENT ALLOWANCE UNDER SECTION 89 OR 90.

18 (D) THE MEMBER IS RECEIVING A RETIREMENT ALLOWANCE UNDER  
19 SECTION 81 OR 43B.

20 (9) This section ~~and sections 43b and 43c~~ shall not apply  
21 until the department receives notification from the United States  
22 internal revenue service that contributions under this section  
23 picked up by the employer pursuant to section 42 shall not be  
24 included as gross income of the member until they are distributed  
25 or made available to the member, retirant, retirement allowance  
26 beneficiary, or refund beneficiary.

1       Sec. 104a. (1) After the end of each state fiscal year, the  
2 department shall determine the rate of investment return earned  
3 on retirement system assets during the fiscal year, based upon  
4 methods established by the retirement board.

5       (2) At the end of each state fiscal year, the retirement  
6 system's actuary shall determine the present value of retirement  
7 allowances to be paid after the end of the fiscal year to retir-  
8 ants and retirement allowance beneficiaries in receipt of retire-  
9 ment allowances at the end of the fiscal period. The assumed  
10 interest rate used in the determination shall be 8% per year,  
11 compounded annually.

12       (3) The distribution income at the end of each state fiscal  
13 year shall be equal to the product of the present value of  
14 retirement allowances determined in subsection (2) at the end of  
15 the previous fiscal year times the positive excess, if any, of  
16 the rate of investment return determined in subsection (1)  
17 exceeding 8%. The distribution income calculated pursuant to  
18 this subsection at the end of the fiscal years 1984-85 and  
19 1985-86 shall be reduced by the cost of prior postretirement  
20 adjustments paid from the appropriated credit for excess interest  
21 earnings on retired life assets during the fiscal year pursuant  
22 to sections 101, 102, 103, and 104.

23       (4) After the end of each state fiscal year, each retirant  
24 and retirement allowance beneficiary in receipt of a retirement  
25 allowance at the end of the fiscal year, and whose effective date  
26 of retirement allowance preceded the beginning of that fiscal  
27 year, shall be credited with 1 distribution unit for each full

1 year between the effective date of retirement and the end of the  
2 fiscal year and 1 distribution unit for each full year of service  
3 credit in force on the effective date of retirement.

4 Distribution units shall not accumulate from 1 year to the next  
5 year.

6 (5) The distribution amount for an individual retirant or  
7 retirement allowance beneficiary shall be equal to the product of  
8 the distribution income determined in subsection (3) times the  
9 individual's number of distribution units determined in subsec-  
10 tion (4) divided by the total number of distribution units for  
11 all eligible retirants and retirement allowance beneficiaries in  
12 receipt of retirement allowances at the end of the fiscal year.  
13 ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE dis-  
14 tribution amount for an individual retirant or retirement allow-  
15 ance beneficiary of a retirant or member who contributed to the  
16 member investment plan is zero. THE DISTRIBUTION AMOUNT FOR AN  
17 INDIVIDUAL RETIRANT OR RETIREMENT ALLOWANCE BENEFICIARY OF A  
18 RETIRANT OR MEMBER WHO CONTRIBUTED TO THE MEMBER INVESTMENT PLAN  
19 BUT WHO IRREVOCABLY ELECTED TO DISCONTINUE CONTRIBUTIONS TO THE  
20 MEMBER INVESTMENT PLAN AS PROVIDED IN SECTION 43A(8) SHALL BE  
21 CALCULATED AS PROVIDED IN THIS SUBSECTION.

22 (6) Each retirement allowance that was effective on or  
23 before January 1, 1987 shall be increased effective on the later  
24 of January 1, 1986 or the retirement allowance effective date.  
25 The amount of the increase shall be 8% of the retirement allow-  
26 ance that would be payable as of the date of the increase without  
27 application of this subsection, except that if the retirement

1 allowance is being paid under section 85(2), the increase shall  
2 be based on the retirement allowance that would have been paid  
3 under the option selected by the member under section ~~85(1)(a)~~,  
4 ~~(b), or (c)~~ 85(1).

5 (7) Until and including October 1, 1989, each retirement  
6 allowance that was effective on or before January 1, 1987 shall  
7 be increased each October 1 beginning with the later of  
8 October 1, 1986 or the first October 1 following the retirement  
9 allowance effective date. The amount of the annual increase  
10 shall be equal to 40.5% of the increase computed in subsection  
11 (6).

12 (8) After the end of each state fiscal year, the cumulative  
13 increase amount shall be computed for each retirant or retirement  
14 allowance beneficiary affected by subsections (6), (7), and  
15 (11). The cumulative increase amount shall be equal to the dif-  
16 ference between the total retirement allowance paid during the  
17 state fiscal year and the retirement allowance that would have  
18 been payable without application of subsections (6), (7), and  
19 (11). The cumulative increase amount for any retirant or retire-  
20 ment allowance beneficiary whose effective date of retirement is  
21 after January 1, 1987 is zero.

22 (9) In March of each year, beginning in March, 1986, each  
23 retirant or retirement allowance beneficiary shall be paid, in a  
24 single supplemental payment, the excess, if any, of the distribu-  
25 tion amount over the cumulative increase amount for the previous  
26 state fiscal year. If a retirant dies before receipt of a  
27 supplemental payment, the supplemental payment shall be made to



1 the retirant's retirement allowance beneficiary, if any. If both  
 2 the retirant and the retirement allowance beneficiary die before  
 3 receipt of a supplemental payment, no payment shall be made.

4 (10) Each retirement allowance that was effective before  
 5 October 1, 1981 shall be increased effective January 1, 1990.  
 6 The amount of the increase shall be a percentage of the retire-  
 7 ment allowance that is payable as of January 1, 1990 without  
 8 application of this subsection, except that if the retirement  
 9 allowance is being paid under section 85(2), the increase shall  
 10 be based on the retirement allowance that would have been paid  
 11 under section ~~85(1)(a), (b), or (c)~~ 85(1). The percentage is  
 12 as follows:

13	<u>Effective date of retirement</u>	<u>Percentage</u>
14	October 1, 1980 to September 30, 1981	1%
15	October 1, 1979 to September 30, 1980	2%
16	October 1, 1978 to September 30, 1979	3%
17	October 1, 1977 to September 30, 1978	4%
18	October 1, 1976 to September 30, 1977	5%
19	October 1, 1975 to September 30, 1976	6%
20	October 1, 1974 to September 30, 1975	7%
21	October 1, 1973 to September 30, 1974	8%
22	October 1, 1972 to September 30, 1973	9%
23	October 1, 1971 to September 30, 1972	10%
24	October 1, 1970 to September 30, 1971	11%
25	October 1, 1969 to September 30, 1970	12%
26	October 1, 1968 to September 30, 1969	13%

1	October 1, 1967 to September 30, 1968	14%
2	October 1, 1966 to September 30, 1967	15%
3	October 1, 1965 to September 30, 1966	16%
4	October 1, 1964 to September 30, 1965	17%
5	October 1, 1963 to September 30, 1964	18%
6	October 1, 1962 to September 30, 1963	19%
7	October 1, 1961 to September 30, 1962	20%
8	October 1, 1960 to September 30, 1961	21%
9	Before October 1, 1960	22%

10 (11) Each retirement allowance that was effective on or  
 11 before January 1, 1987 shall be increased each October 1 begin-  
 12 ning October 1, 1990. The amount of the annual increase shall be  
 13 equal to 3% of the retirement allowance that would be payable  
 14 without application of this subsection, except that if the  
 15 retirement allowance is being paid under section 85(2), the  
 16 increase shall be based on the retirement allowance that would  
 17 have been paid under section ~~85(1)(a), (b), or (c)~~ 85(1).

18 SEC. 108. (1) THIS SECTION IS ENACTED PURSUANT TO FEDERAL  
 19 LAW THAT IMPOSES CERTAIN ADMINISTRATIVE REQUIREMENTS AND BENEFIT  
 20 LIMITATIONS FOR QUALIFIED GOVERNMENTAL PLANS. THIS STATE INTENDS  
 21 THAT THE RETIREMENT SYSTEM BE A QUALIFIED PENSION PLAN UNDER  
 22 SECTION 401 OF THE INTERNAL REVENUE CODE AND THAT THE TRUST BE AN  
 23 EXEMPT ORGANIZATION UNDER SECTION 501 OF THE INTERNAL REVENUE  
 24 CODE. THE DEPARTMENT OF MANAGEMENT AND BUDGET, BUREAU OF RETIRE-  
 25 MENT SYSTEMS, SHALL ADMINISTER THE RETIREMENT SYSTEM TO FULFILL  
 26 THIS INTENT.

1 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
2 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM  
3 UNDER THIS ACT SHALL NOT EXCEED \$10,000.00 PER YEAR FOR A RETIR-  
4 ANT WHO HAS 15 OR MORE YEARS OF CREDITED SERVICE AT RETIREMENT.

5 (3) EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT  
6 SYSTEM UNDER THIS ACT SHALL NOT EXCEED THE LIMITATION UNDER SUB-  
7 SECTION (2) UNLESS APPLICATION OF THIS SUBSECTION RESULTS IN A  
8 HIGHER LIMITATION. THE HIGHER LIMITATION OF THIS SUBSECTION  
9 APPLIES TO EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT  
10 SYSTEM AND, FOR PURPOSES OF SECTION 415(b) OF THE INTERNAL REVE-  
11 NUE CODE, APPLIES TO AGGREGATED BENEFITS RECEIVED FROM ALL QUALI-  
12 FIED PENSION PLANS ADMINISTERED BY THE DEPARTMENT OF MANAGEMENT  
13 AND BUDGET, BUREAU OF RETIREMENT SYSTEMS. EMPLOYER-FINANCED BEN-  
14 EFITS PROVIDED BY THE RETIREMENT SYSTEM SHALL NOT EXCEED THE  
15 LESSER OF THE FOLLOWING:

16 (A) ONE OF THE FOLLOWING AMOUNTS THAT IS APPLICABLE TO THE  
17 MEMBER:

18 (i) IF A MEMBER RETIRES AT AGE 62 OR OLDER, \$90,000.00 OR  
19 THE ADJUSTED AMOUNT DESCRIBED IN SUBSECTION (4) PER YEAR.

20 (ii) IF A MEMBER RETIRES AT OR AFTER AGE 55 BUT BEFORE AGE  
21 62, THE ACTUARIALLY REDUCED AMOUNT OF THE LIMITATION PRESCRIBED  
22 IN SUBPARAGRAPH (i) PER YEAR. THE RETIREMENT SYSTEM SHALL USE AN  
23 INTEREST RATE OF 5% PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE  
24 ACTUARIAL REDUCTION IN THIS SUBPARAGRAPH. HOWEVER, THE LIMITA-  
25 TION IN THIS SUBPARAGRAPH SHALL NOT BE ACTUARIALLY REDUCED BELOW  
26 \$75,000.00.

1 (iii) IF A MEMBER RETIRES BEFORE AGE 55, THE ACTUARIALLY  
2 REDUCED AMOUNT OF THE LIMITATION PRESCRIBED IN SUBPARAGRAPH (ii)  
3 PER YEAR. THE RETIREMENT SYSTEM SHALL USE AN INTEREST RATE OF 5%  
4 PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE ACTUARIAL REDUCTION  
5 IN THIS SUBPARAGRAPH.

6 (B) 100% OF THE MEMBER'S AVERAGE COMPENSATION FOR HIGH 3  
7 YEARS AS DESCRIBED IN SECTION 415(b)(3) OF THE INTERNAL REVENUE  
8 CODE.

9 (4) SECTION 415(d) OF THE INTERNAL REVENUE CODE REQUIRES THE  
10 SECRETARY OF THE TREASURY OR HIS OR HER DELEGATE TO ANNUALLY  
11 ADJUST THE \$10,000.00 LIMITATION DESCRIBED IN SUBSECTION (2) AND  
12 THE \$90,000.00 LIMITATION DESCRIBED IN SUBSECTION (3)(A)(i) FOR  
13 INCREASES IN COST OF LIVING, BEGINNING IN 1988. THIS SECTION  
14 SHALL BE ADMINISTERED USING THE LIMITATIONS APPLICABLE TO EACH  
15 CALENDAR YEAR AS ADJUSTED BY THE SECRETARY OF THE TREASURY OR HIS  
16 OR HER DELEGATE UNDER SECTION 415(d) OF THE INTERNAL REVENUE  
17 CODE. THE RETIREMENT SYSTEM SHALL ADJUST THE BENEFITS SUBJECT TO  
18 THE LIMITATION EACH YEAR TO CONFORM WITH THE ADJUSTED  
19 LIMITATION.

20 (5) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD AND  
21 INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE OBLIGA-  
22 TIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR ANY  
23 OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED TO A  
24 PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,  
25 DEFERRED MEMBERS, RETIRANTS, AND RETIREMENT ALLOWANCE  
26 BENEFICIARIES.

1       (6) THE RETIREMENT SYSTEM SHALL NOT RETURN CONTRIBUTIONS  
2 MADE BY A MEMBER AND RECEIVED BY THE RETIREMENT SYSTEM TO A  
3 MEMBER EXCEPT UNDER 1 OF THE FOLLOWING CIRCUMSTANCES:

4       (A) THE MEMBER TERMINATES EMPLOYMENT AS A PUBLIC SCHOOL  
5 EMPLOYEE AND IS NOT ENTITLED TO RECEIVE A RETIREMENT ALLOWANCE  
6 UNDER SECTION 81 OR 43B.

7       (B) THE MEMBER IS RECEIVING A DISABILITY RETIREMENT ALLOW-  
8 ANCE UNDER SECTION 86 OR 87.

9       (C) THE MEMBER DIES AND A SURVIVOR IS ELIGIBLE TO RECEIVE A  
10 RETIREMENT ALLOWANCE UNDER SECTION 89 OR 90.

11       (D) THE MEMBER IS RECEIVING A RETIREMENT ALLOWANCE UNDER  
12 SECTION 81 OR 43B.

13       (7) THE RETIREMENT SYSTEM SHALL RETURN POST-TAX MEMBER CON-  
14 TRIBUTIONS MADE BY A MEMBER AND RECEIVED BY THE RETIREMENT SYSTEM  
15 TO A MEMBER UPON RETIREMENT, PURSUANT TO INTERNAL REVENUE SERVICE  
16 REGULATIONS AND APPROVED INTERNAL REVENUE SERVICE EXCLUSION RATIO  
17 TABLES.

18       (8) IF THE RETIREMENT SYSTEM IS DISCONTINUED, THE INTEREST  
19 OF THE MEMBERS, DEFERRED MEMBERS, RETIRANTS, AND RETIREMENT  
20 ALLOWANCE BENEFICIARIES IN THE RETIREMENT SYSTEM IS NONFORFEIT-  
21 ABLE TO THE EXTENT FUNDED AS DESCRIBED IN SECTION 411(d)(3) OF  
22 THE INTERNAL REVENUE CODE AND THE RELATED INTERNAL REVENUE SERV-  
23 ICE REGULATIONS APPLICABLE TO GOVERNMENTAL PLANS.

24       (9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE  
25 RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH THE  
26 PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE THAT ARE  
27 APPLICABLE TO GOVERNMENTAL PLANS. IF THERE IS A CONFLICT BETWEEN

1 THIS SECTION AND ANOTHER SECTION OF THIS OR ANY OTHER ACT OF THIS  
2 STATE, THIS SECTION PREVAILS.