

HOUSE BILL No. 5375

December 5, 1991, Introduced by Reps. Harder, Barns, Baade, Olshove, DeMars, Yokich, London and Dobronski and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 4, 33, and 56 of Act No. 427 of the Public Acts of 1984, entitled as amended

"Municipal employees retirement act of 1984,"

section 4 as amended and section 56 as added by Act No. 99 of the Public Acts of 1990 and section 33 as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1504, 38.1533, and 38.1556 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 33, and 56 of Act No. 427 of the
2 Public Acts of 1984, section 4 as amended and section 56 as added
3 by Act No. 99 of the Public Acts of 1990 and section 33 as
4 amended by Act No. 500 of the Public Acts of 1988, being sections
5 38.1504, 38.1533, and 38.1556 of the Michigan Compiled Laws, are
6 amended to read as follows:

1 Sec. 4. (1) Prior service and membership service to which a
2 member is entitled shall be credited to the member's individual
3 service account. Service shall be credited in years and twelfths
4 of a year. Not more than 1 year of credited service shall be
5 credited a member on account of all service rendered to a partic-
6 ipating municipality or participating court in any period of
7 12 consecutive months. Not more than 1/12 of a year of credited
8 service shall be credited a member on account of all service
9 rendered to a participating municipality or participating court
10 in a calendar month. Credited service shall not be credited for
11 any calendar month during which a member acquires less than
12 10 days of work, as defined by the member's participating munici-
13 pality or participating court pursuant to section 3(1).

14 (2) All or a portion of an individual's credited service
15 shall be forfeited under the following conditions:

16 (a) All credited service shall be forfeited if the individ-
17 ual incurs a break in membership of more than 60 consecutive
18 months and is not a vested former member pursuant to section 12.

19 (b) Credited service for which the individual has made
20 member contributions shall be forfeited if the individual's accu-
21 mulated contributions are paid to the individual, the
22 individual's designated beneficiary, or the individual's legal
23 representative.

24 (3) Credited service forfeited because of a break in member-
25 ship of more than 60 consecutive months shall be reinstated in
26 the member's service account if each of the following conditions
27 is satisfied:

1 (a) The break in membership was for less than 180
2 consecutive months.

3 (b) The member has been credited with at least
4 60 consecutive months of service subsequent to the break in serv-
5 ice that caused the forfeiture.

6 (c) The governing body of the participating municipality or
7 the chief judge of the participating court with which the member
8 is employed approves the reinstatement. The participating munic-
9 ipality shall by resolution of its governing body or the partici-
10 pating court shall by administrative order of its chief judge
11 establish a written policy to implement the provisions of this
12 subdivision in order to provide uniform application of this sub-
13 division to all members of the retirement system.

14 (d) The forfeited credited service was acquired while the
15 member was in the employ of the same participating municipality
16 or participating court.

17 (e) The member pays to the retirement system all accumulated
18 contributions previously paid to the member plus compound inter-
19 est from the date of payment to the member to the date of repay-
20 ment to the retirement system. Payment shall be made within 1
21 year after the earliest date on which the member meets the
22 requirement prescribed in subdivision (b).

23 (4) Credited service forfeited for a reason other than a
24 break in membership of more than 60 consecutive months shall be
25 reinstated in the member's service account if each of the follow-
26 ing conditions is satisfied:

1 (a) The forfeited credited service was acquired while the
2 member was in the employ of the same participating municipality
3 or participating court.

4 (b) The member pays to the retirement system all accumulated
5 contributions previously paid to the member plus compound inter-
6 est from the date of payment to the member to the date of repay-
7 ment to the retirement system. Payment shall be made within 5
8 years after the date the member reacquires membership in the
9 retirement system on account of employment with the same partici-
10 pating municipality or participating court. HOWEVER, A PARTICI-
11 PATING MUNICIPALITY MAY BY RESOLUTION OF ITS GOVERNING BODY OR A
12 PARTICIPATING COURT MAY BY ADMINISTRATIVE ORDER OF ITS CHIEF
13 JUDGE ESTABLISH A WRITTEN POLICY TO EXTEND BEYOND 5 YEARS THE
14 PERIOD FOR PAYMENT REQUIRED UNDER THIS SUBDIVISION. THE POLICY
15 SHALL BE UNIFORMLY APPLICABLE TO ALL MEMBERS OF THE RETIREMENT
16 SYSTEM.

17 (5) The rates of compound interest applicable to repayment
18 of accumulated contributions shall be as determined by the
19 retirement board.

20 (6) Forfeited credited service acquired while a member was
21 in the employ of another participating municipality or partici-
22 pating court shall not be reinstated under this section but shall
23 be creditable subject to the requirements of section 6.

24 Sec. 33. (1) A participating municipality or participating
25 court ~~electing~~ THAT REQUIRES, ON THE EFFECTIVE DATE OF THE 1991
26 AMENDATORY ACT THAT AMENDED THIS SECTION, MEMBER CONTRIBUTIONS ON
27 ACCOUNT OF COMPENSATION EARNED, BY RESOLUTION OF THE GOVERNING

1 BODY OF THE MUNICIPALITY OR BY ADMINISTRATIVE ORDER OF THE CHIEF
2 JUDGE OF THE COURT, SHALL ADOPT CONTRIBUTION PROGRAM P BEFORE
3 JANUARY 1, 1992. THE RESOLUTION OR ADMINISTRATIVE ORDER ADOPTING
4 contribution program P shall ALLOW EACH MEMBER OF THE RETIREMENT
5 SYSTEM OF THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
6 TO ELECT WHETHER THE PARTICIPATING MUNICIPALITY OR PARTICIPATING
7 COURT SHALL pick up ~~the member~~ THAT MEMBER'S REQUIRED contribu-
8 tions ~~required of members~~ on account of compensation earned
9 after the effective date of ~~an election of~~ contribution program
10 P. THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT SHALL
11 PROVIDE FOR THE ELECTION WITHIN 30 DAYS OF THE DATE OF THE RESO-
12 LUTION OR ADMINISTRATIVE ORDER. FOR EACH MEMBER WHO ELECTS TO
13 HAVE HIS OR HER CONTRIBUTIONS PICKED UP UNDER CONTRIBUTION PRO-
14 GRAM P, THE PROGRAM SHALL BECOME EFFECTIVE ON THE DATE OF THE
15 RESOLUTION OR THE ADMINISTRATIVE ORDER, OR ON THE DATE THE
16 RETIREMENT SYSTEM RECEIVES NOTIFICATION FROM THE UNITED STATES
17 INTERNAL REVENUE SERVICE OF APPROVAL OF THIS PROGRAM, WHICHEVER
18 OCCURS LATER. FOR EACH MEMBER WHO ELECTS TO NOT HAVE HIS OR HER
19 CONTRIBUTIONS PICKED UP UNDER CONTRIBUTION PROGRAM P, THE PROGRAM
20 SHALL NOT BECOME EFFECTIVE. A MEMBER WHO IS EMPLOYED BY THE PAR-
21 TICIPATING MUNICIPALITY OR PARTICIPATING COURT AFTER THE DATE OF
22 THE RESOLUTION OR ADMINISTRATIVE ORDER ADOPTING CONTRIBUTION PRO-
23 GRAM P SHALL HAVE HIS OR HER REQUIRED CONTRIBUTIONS PICKED UP
24 UNDER CONTRIBUTION PROGRAM P.

25 (2) A PARTICIPATING MUNICIPALITY OR A PARTICIPATING COURT
26 THAT REQUIRES MEMBER CONTRIBUTIONS ON ACCOUNT OF COMPENSATION
27 EARNED AFTER THE EFFECTIVE DATE OF THE 1991 AMENDATORY ACT THAT

1 AMENDED THIS SECTION SHALL ADOPT, BY RESOLUTION OR ADMINISTRATIVE
2 ORDER, CONTRIBUTION PROGRAM P TO PICK UP MEMBER CONTRIBUTIONS
3 REQUIRED ON ACCOUNT OF COMPENSATION EARNED AFTER THE EFFECTIVE
4 DATE OF CONTRIBUTION PROGRAM P. CONTRIBUTION PROGRAM P SHALL
5 BECOME EFFECTIVE ON THE DATE OF THE RESOLUTION OR ADMINISTRATIVE
6 ORDER, OR ON THE DATE THE RETIREMENT SYSTEM RECEIVES NOTIFICATION
7 FROM THE UNITED STATES INTERNAL REVENUE SERVICE OF APPROVAL OF
8 THIS PROGRAM, WHICHEVER OCCURS LATER.

9 (3) The picked up contributions shall be treated as partici-
10 pating municipality or participating court contributions for the
11 purpose of determining tax treatment under the ~~United States~~
12 internal revenue code. ~~The effective date of an election of~~
13 ~~contribution program P shall not be earlier than 90 days after~~
14 ~~the retirement system has received notification from the United~~
15 ~~States internal revenue service that pursuant to section 414(h)~~
16 ~~of the internal revenue code the member contributions picked up~~
17 ~~shall not be included in gross income for income tax purposes~~
18 ~~until such time as the picked up contributions are distributed by~~
19 ~~refund or retirement allowance payments.~~

20 ~~(2) A participating municipality or participating court~~
21 ~~electing contribution program P shall pick up the member contri-~~
22 ~~butions from funds established and available in the retirement~~
23 ~~deduction account, which funds would otherwise have been desig-~~
24 ~~nated as member contributions and paid to the retirement system.~~
25 THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT SHALL PAY
26 CONTRIBUTIONS PICKED UP UNDER CONTRIBUTION PROGRAM P FROM THE

1 SAME SOURCE OF FUNDS THAT ARE USED FOR PAYING COMPENSATION TO THE
2 MEMBER.

3 (4) A PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
4 SHALL PICK UP MEMBER CONTRIBUTIONS BY A REDUCTION IN THE MEMBER'S
5 CASH SALARY OR AN OFFSET AGAINST A FUTURE SALARY INCREASE, OR
6 BOTH. THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
7 SHALL DESIGNATE CONTRIBUTIONS THAT ARE PICKED UP AND PAID TO THE
8 RETIREMENT SYSTEM AS EMPLOYER CONTRIBUTIONS IN LIEU OF EMPLOYEE
9 CONTRIBUTIONS TO THE RETIREMENT SYSTEM. THE MEMBERS WHO PARTICI-
10 PATE IN CONTRIBUTION PROGRAM P SHALL NOT HAVE THE OPTION OF
11 RECEIVING THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF HAVING
12 THOSE AMOUNTS PAID TO THE RETIREMENT SYSTEM. Member contributions
13 picked up pursuant to contribution program P shall be treated for
14 all other purposes in the same manner and to the same extent as
15 member contributions made ~~prior to~~ BEFORE the effective date of
16 an election of contribution program P.

17 Sec. 56. ~~The provisions of this section are enacted pursu-~~
18 ~~ant to federal law which imposes certain administrative require-~~
19 ~~ments and benefit limitations for qualified governmental retire-~~
20 ~~ment plans. The state intends the retirement system to be a~~
21 ~~qualified pension plan under section 401 of the internal revenue~~
22 ~~code, as amended, and that the trust be an exempt organization~~
23 ~~under section 501 of the internal revenue code. The retirement~~
24 ~~system shall be administered so as to fulfill this intent.~~

25 ~~(a) Except as provided in the remainder of this subsection,~~
26 ~~employer financed benefits provided by the retirement system~~
27 ~~shall not exceed \$50,000 per year for police, fire or~~

~~1 public safety members with 15 or more years of credited service
2 or \$10,000 per year for all other members.~~

~~3 (b) The limitations provided in subsection (a) shall apply
4 unless application of subsections (c), (d) or (e) produces a
5 higher limitation, in which case such higher limitation shall
6 apply.~~

~~7 (c) For retirements occurring at age 62 or older, the upper
8 limit is the lesser of \$90,000 or 100% of the member's 3 year
9 highest average earnings.~~

~~10 (d) For retirements occurring prior to age 62 the amount of
11 \$90,000 in subsection (c) is actuarially reduced to reflect pay-
12 ment prior to age 62. In calculating the actuarial reduction,
13 the interest rate shall be 5% per annum, compounded annually. If
14 this subsection produces a limitation of less than \$75,000 at age
15 55, the limitation at age 55 shall be \$75,000 and the limitations
16 for ages under age 55 shall be calculated from a limitation of
17 \$75,000 at age 55.~~

~~18 (e) Section 415(d) of the internal revenue code provides
19 that the \$50,000 limitation in subsection (a) and the \$90,000
20 limitation in subsection (c) are to be adjusted by the commis-
21 sioner of internal revenue to reflect cost of living increases,
22 commencing with calendar year 1988. The provisions of this sub-
23 section shall be administered using the adjusted limitations
24 applicable to each calendar year and benefits affected by the
25 limitation shall be adjusted each year to conform to the adjusted
26 limitation.~~

1 ~~(f) The provisions of this subsection notwithstanding, the~~
2 ~~retirement system shall at all times be administered in~~
3 ~~compliance with the provisions of section 415 of the internal~~
4 ~~revenue code applicable to public employee retirement plans.~~

5 ~~(g) All assets of the retirement system shall be held and~~
6 ~~invested for the sole purpose of meeting the legitimate obliga-~~
7 ~~tions of the retirement system and shall be used for no other~~
8 ~~purpose. No part of the assets shall be used for or diverted to~~
9 ~~purposes other than for the exclusive benefit of members, vested~~
10 ~~former members, retirants and beneficiaries prior to satisfaction~~
11 ~~of all retirement system liabilities.~~

12 ~~(h) Post tax member contributions received by the system,~~
13 ~~upon retirement shall be returned to members for tax purposes in~~
14 ~~accordance with I.R.S. regulations and approved I.R.S. exclusion~~
15 ~~ratio tables.~~

16 ~~(i) In the event a participating municipality or participat-~~
17 ~~ing court shall discontinue municipal employees retirement system~~
18 ~~participation, or in the event of discontinuance of the retire-~~
19 ~~ment system, all members and retirees interest in the plan shall~~
20 ~~be nonforfeitable to the extent funded, as described in IRC~~
21 ~~section 411(d)(3) and related IRC regulations applicable to gov-~~
22 ~~ernmental plans.~~

23 ~~(j) The provisions of this section shall prevail in the~~
24 ~~event of conflicts between this section, other sections of this~~
25 ~~act, or, other state statutes. (1) THIS SECTION IS ENACTED PUR-~~
26 ~~SUANT TO FEDERAL LAW THAT IMPOSES CERTAIN ADMINISTRATIVE~~
27 ~~REQUIREMENTS AND BENEFIT LIMITATIONS FOR QUALIFIED GOVERNMENTAL~~

1 PLANS. THIS STATE INTENDS THAT THE RETIREMENT SYSTEM BE A
2 QUALIFIED PENSION PLAN UNDER SECTION 401 OF THE INTERNAL REVENUE
3 CODE AND THAT THE TRUST BE AN EXEMPT ORGANIZATION UNDER
4 SECTION 501 OF THE INTERNAL REVENUE CODE. THE DEPARTMENT OF MAN-
5 AGEMENT AND BUDGET, BUREAU OF RETIREMENT SYSTEMS, SHALL ADMINIS-
6 TER THE RETIREMENT SYSTEM TO FULFILL THIS INTENT.

7 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
8 EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT SYSTEM
9 UNDER THIS ACT SHALL NOT EXCEED THE FOLLOWING:

10 (A) \$50,000.00 OR THE ADJUSTED AMOUNT DESCRIBED IN SUBSEC-
11 TION (4) PER YEAR FOR A RETIRANT WHO WAS A FULL-TIME EMPLOYEE OF
12 A POLICE DEPARTMENT OR FIRE DEPARTMENT AND WHO HAS 15 OR MORE
13 YEARS OF CREDITED SERVICE AS A POLICE OFFICER, FIRE FIGHTER, OR
14 PUBLIC SAFETY OFFICER AT RETIREMENT.

15 (B) \$10,000.00 PER YEAR FOR ALL OTHER RETIRANTS.

16 (3) EMPLOYER-FINANCED BENEFITS PROVIDED BY THE RETIREMENT
17 SYSTEM UNDER THIS ACT SHALL NOT EXCEED THE LIMITATION UNDER SUB-
18 SECTION (2) UNLESS APPLICATION OF THIS SUBSECTION RESULTS IN A
19 HIGHER LIMITATION. EMPLOYER-FINANCED BENEFITS PROVIDED BY THE
20 RETIREMENT SYSTEM SHALL NOT EXCEED THE LESSER OF THE FOLLOWING:

21 (A) ONE OF THE FOLLOWING AMOUNTS THAT IS APPLICABLE TO THE
22 MEMBER:

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

25 (ii) IF A MEMBER RETIRES AT OR AFTER AGE 55 BUT BEFORE AGE
26 62, THE ACTUARIALLY REDUCED AMOUNT OF THE LIMITATION PRESCRIBED
27 IN SUBPARAGRAPH (i) PER YEAR. THE RETIREMENT SYSTEM SHALL USE AN

1 INTEREST RATE OF 5% PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE
2 ACTUARIAL REDUCTION IN THIS SUBPARAGRAPH. HOWEVER, THE LIMITA-
3 TION IN THIS SUBPARAGRAPH SHALL NOT BE ACTUARIALLY REDUCED BELOW
4 \$75,000.00.

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

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

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

24 (5) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD AND
25 INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE OBLIGA-
26 TIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR ANY
27 OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED TO A

1 PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,
2 VESTED FORMER MEMBERS, RETIRANTS, AND BENEFICIARIES BEFORE SATIS-
3 FACTION OF ALL RETIREMENT SYSTEM LIABILITIES.

4 (6) THE RETIREMENT SYSTEM SHALL RETURN POST-TAX MEMBER CON-
5 TRIBUTIONS MADE BY A MEMBER AND RECEIVED BY THE RETIREMENT SYSTEM
6 TO A MEMBER UPON RETIREMENT, PURSUANT TO INTERNAL REVENUE SERVICE
7 REGULATIONS AND APPROVED INTERNAL REVENUE SERVICE EXCLUSION RATIO
8 TABLES.

9 (7) IF A PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
10 DISCONTINUES PARTICIPATION IN THE RETIREMENT SYSTEM, OR IF THE
11 RETIREMENT SYSTEM IS DISCONTINUED, THE INTEREST OF THE MEMBERS,
12 VESTED FORMER MEMBERS, RETIRANTS, AND BENEFICIARIES IN THE PLAN
13 IS NONFORFEITABLE TO THE EXTENT FUNDED AS DESCRIBED IN
14 SECTION 411(d)(3) OF THE INTERNAL REVENUE CODE AND THE RELATED
15 INTERNAL REVENUE SERVICE REGULATIONS APPLICABLE TO GOVERNMENTAL
16 PLANS.

17 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
18 RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE WITH THE
19 PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE THAT ARE
20 APPLICABLE TO GOVERNMENTAL PLANS. IF THERE IS A CONFLICT BETWEEN
21 THIS SECTION AND ANOTHER SECTION OF THIS OR ANY OTHER ACT OF THIS
22 STATE, THIS SECTION PREVAILS.