

# SENATE BILL No. 349

May 29, 1991, Introduced by Senators ARTHURHULTZ and POSTHUMUS and referred to the Committee on Mental Health, Human Resources, and Senior Citizens.

A bill to amend Act No. 300 of the Public Acts of 1980, entitled

"The public school employees retirement act of 1979," 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:

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

5 SEC. 108. (1) THIS SECTION IS ENACTED PURSUANT TO FEDERAL  
6 LAW THAT IMPOSES CERTAIN ADMINISTRATIVE REQUIREMENTS AND BENEFIT  
7 LIMITATIONS FOR QUALIFIED GOVERNMENTAL PLANS. THIS STATE INTENDS  
8 THAT THE RETIREMENT SYSTEM BE A QUALIFIED PENSION PLAN CREATED IN  
9 TRUST UNDER SECTION 401 OF THE INTERNAL REVENUE CODE AND THAT THE

1 TRUST BE AN EXEMPT ORGANIZATION UNDER SECTION 501 OF THE INTERNAL  
2 REVENUE CODE. THE DEPARTMENT SHALL ADMINISTER THE RETIREMENT  
3 SYSTEM TO FULFILL THIS INTENT.

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

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

19 (A) ONE OF THE FOLLOWING AMOUNTS THAT IS APPLICABLE TO THE  
20 MEMBER:

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

23 (ii) IF A MEMBER RETIRES AT OR AFTER AGE 55 BUT BEFORE AGE  
24 62, THE ACTUARIALLY REDUCED AMOUNT OF THE LIMITATION PRESCRIBED  
25 IN SUBPARAGRAPH (i) PER YEAR. THE RETIREMENT SYSTEM SHALL USE AN  
26 INTEREST RATE OF 5% PER YEAR COMPOUNDED ANNUALLY TO CALCULATE THE  
27 ACTUARIAL REDUCTION IN THIS SUBPARAGRAPH. HOWEVER, THE

1 LIMITATION IN THIS SUBPARAGRAPH SHALL NOT BE ACTUARIALLY REDUCED  
2 BELOW \$75,000.00.

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

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

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

22 (5) THE ASSETS OF THE RETIREMENT SYSTEM SHALL BE HELD IN  
23 TRUST AND INVESTED FOR THE SOLE PURPOSE OF MEETING THE LEGITIMATE  
24 OBLIGATIONS OF THE RETIREMENT SYSTEM AND SHALL NOT BE USED FOR  
25 ANY OTHER PURPOSE. THE ASSETS SHALL NOT BE USED FOR OR DIVERTED  
26 TO A PURPOSE OTHER THAN FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS,

1 DEFERRED MEMBERS, RETIRANTS, AND RETIREMENT ALLOWANCE  
2 BENEFICIARIES.

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

8 (7) IF THE RETIREMENT SYSTEM IS DISCONTINUED, THE INTEREST  
9 OF THE MEMBERS, DEFERRED MEMBERS, RETIRANTS, AND RETIREMENT  
10 ALLOWANCE BENEFICIARIES IN THE RETIREMENT SYSTEM IS NONFORFEIT-  
11 ABLE TO THE EXTENT FUNDED AS DESCRIBED IN SECTION 411(d)(3) OF  
12 THE INTERNAL REVENUE CODE AND THE RELATED INTERNAL REVENUE SERV-  
13 ICE REGULATIONS APPLICABLE TO GOVERNMENTAL PLANS.

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