

SENATE BILL No. 606

November 14, 1991, Introduced by Senator N. SMITH and referred to the Committee on Finance.

A bill to amend section 9 of Act No. 345 of the Public Acts of 1937, entitled as amended "Fire fighters and police officers retirement act," as amended by Act No. 54 of the Public Acts of 1991, being section 38.559 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 345 of the Public Acts of
2 1937, as amended by Act No. 54 of the Public Acts of 1991, being
3 section 38.559 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 9. (1) The contributions of a member to the retirement
6 system shall be 5% of the salary paid to the member by the
7 municipality. The officer responsible for making up the payroll
8 shall cause the contributions provided for in this subsection to
9 be deducted from the salary of each member on each payroll for

1 each payroll period so long as he or she remains an active member
2 in the employ of the municipality. The amounts deducted shall be
3 paid into the funds of the retirement system. The members' con-
4 tributions provided for in this act shall be made notwithstanding
5 that the minimum salary provided for by law is changed by the
6 members' contributions. Every member shall be considered to con-
7 sent and to agree to the deductions made and provided for in this
8 act and shall receipt for his or her full salary and payment of
9 his or her salary less the deduction, which is a full and com-
10 plete discharge and acquittance of all claims and demands for the
11 services rendered by the member during the period covered by the
12 payment, except as to benefits provided by this retirement
13 system.

14 (2) For the purpose of creating and maintaining a fund for
15 the payment of the pensions and other benefits payable as pro-
16 vided in this act, the municipality, subject to the provisions of
17 this act, shall appropriate, at the end of such regular intervals
18 as may be adopted, quarterly, semiannually, or annually, an
19 amount sufficient to maintain actuarially determined reserves
20 covering pensions payable or that might be payable on account of
21 service performed and to be performed by active members, and pen-
22 sions being paid to retired members and beneficiaries. The
23 appropriations to be made by the municipality in any fiscal year
24 shall be sufficient to pay all pensions due and payable in that
25 fiscal year to all retired members and beneficiaries. The amount
26 of the appropriation in a fiscal year shall not be less than 10%
27 of the aggregate pay received during that fiscal year by members

1 of the retirement system unless, by actuarial determination, it
2 is satisfactorily established that a lesser percentage is
3 needed. All deductions and appropriations shall be payable to
4 the treasurer of the municipality and he or she shall pay the
5 deductions and appropriations into the retirement system. Except
6 in municipalities that are subject to the 15 mill tax limitation
7 as provided by section 6 of article IX of the state constitution
8 of 1963, the amount required by taxation to meet the appropria-
9 tions to be made by municipalities under this act shall be in
10 addition to any tax limitation imposed upon tax rates in those
11 municipalities by charter provisions or by state law subject to
12 section 25 of article IX of the state constitution of 1963.

13 (3) If, at the beginning OF or during any fiscal year, it
14 has been satisfactorily determined by the retirement board that
15 the accumulated funds of the retirement system plus the
16 municipality's contribution of 10% of the aggregate pay received
17 during that fiscal year by members of the retirement system plus
18 members' contributions of 5% of payroll, are insufficient to pay
19 all pensions and other benefits due and payable in that year out
20 of funds of the retirement system, then all pensions and other
21 benefits payable shall be prorated for the remainder of the
22 fiscal year by the retirement board.

23 (4) Any clerical, legal, actuarial, or medical expenses
24 required by the retirement board, or any other necessary expense
25 for the operation of the retirement system, shall be provided for
26 by the municipality or shall be paid from the investment income
27 of the retirement system, as determined by the governing body of

1 the municipality. The retirement board shall submit expenses
2 periodically to the governing body of the municipality. If use
3 of investment income to pay these expenses causes an actuarial
4 insufficiency in the assets of the retirement system used to pay
5 pensions, the insufficiency shall be made up by the
6 municipality.

7 (5) All pensions allowed and payable to retired members and
8 beneficiaries under this act shall become obligations of and be
9 payable from the funds of the retirement system.

10 (6) The right of a person to a pension, to the return of
11 member contributions, to any optional benefits, or any other
12 right accrued or accruing to a member or beneficiary under this
13 act and the money belonging to the retirement system is unassign-
14 able and is not subject to execution, garnishment, attachment,
15 the operation of bankruptcy or insolvency law, or any other pro-
16 cess of law, except as is specifically provided in this act. A
17 PENSION, A RETIREMENT BENEFIT OR ALLOWANCE, THE RETURN OF MEMBER
18 CONTRIBUTIONS, AN OPTIONAL BENEFIT, OR ANY OTHER BENEFIT ACCRUED
19 OR ACCRUING TO A PERSON UNDER THIS ACT IS SUBJECT TO TAXATION
20 UNDER THE INCOME TAX ACT OF 1967, ACT NO. 281 OF THE PUBLIC ACTS
21 OF 1967, BEING SECTIONS 206.1 TO 206.532 OF THE MICHIGAN COMPILED
22 LAWS.

23 (7) The right of a member, deferred vested member who meets
24 the requirements of section 6(1)(d), or retired member to a pen-
25 sion, to the return of member contributions, to any optional ben-
26 efit, or any other benefit under this act is subject to award by
27 a court pursuant to section 18 of chapter 84 of the Revised

1 Statutes of 1846, being section 552.18 of the Michigan Compiled
2 Laws, and to any other order of a court pertaining to alimony or
3 child support. The right of a member, deferred vested member
4 under section 6(1)(d), or retired member to a pension, to the
5 return of member contributions, to any optional benefits, or to
6 any other benefit under this act is subject to an eligible domes-
7 tic relations order under the eligible domestic relations order
8 act.

9 (8) If an award or order described in subsection (7)
10 requires the retirement system to withhold payment of a pension,
11 deferred pension, accumulated contributions, or other benefit
12 from the person to whom it is due or requires the retirement
13 system to make payment or requires the person to request that the
14 retirement system make payment of a pension, deferred pension,
15 accumulated contributions, or other benefit, for the purpose of
16 meeting the person's obligations to a spouse, former spouse, or
17 child, as provided in subsection (7), the withholding or payment
18 provisions of the award or order is effective only against such
19 amounts as they become payable to the person receiving a retire-
20 ment allowance unless otherwise provided in an eligible domestic
21 relations order under the eligible domestic relations order act,
22 ACT NO. 46 OF THE PUBLIC ACTS OF 1991, BEING SECTIONS 38.1701 TO
23 38.1711 OF THE MICHIGAN COMPILED LAWS. The limitation contained
24 in this subsection does not apply to the accumulated contribu-
25 tions of a person who terminates employment before acquiring a
26 vested member status.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. 131 of the 86th Legislature is enacted into law.