



# HOUSE BILL No. 4873

May 18, 1995, Introduced by Rep. Rhead and referred to the Committee on Appropriations.

A bill to amend sections 4 and 108 of Act No. 300 of the Public Acts of 1980, entitled "The public school employees retirement act of 1979," section 4 as amended by Act No. 193 of the Public Acts of 1989 and section 108 as added by Act No. 107 of the Public Acts of 1991, being sections 38.1304 and 38.1408 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 4 and 108 of Act No. 300 of the Public  
2 Acts of 1980, section 4 as amended by Act No. 193 of the Public  
3 Acts of 1989 and section 108 as added by Act No. 107 of the  
4 Public Acts of 1991, being sections 38.1304 and 38.1408 of the  
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 4. (1) "Compensation" means the remuneration earned by  
7 a member for service performed as a public school employee. If

1 part of a member's remuneration is not paid in money, the  
2 retirement board shall fix the value of that part of the remuner-  
3 ation not paid in money. Compensation includes, on a current  
4 basis, investments made in a tax sheltered annuity for a public  
5 school employee as remuneration for service under this act. The  
6 remuneration shall be valued at the amount of money actually paid  
7 into the annuity. Compensation includes all amounts deducted  
8 from the pay of a public school employee, including amounts  
9 deducted pursuant to the member investment plan. Compensation  
10 includes longevity pay, overtime pay, vacation pay, and holiday  
11 pay while absent from work, sick leave pay while absent from  
12 work, and items of deferred compensation, exclusive of employer  
13 contributions to the retirement system. Compensation does not  
14 include terminal payments for unused sick leave, annual leave,  
15 bonus payments, hospitalization insurance and life insurance pre-  
16 miums, other fringe benefits paid by and from the funds of  
17 employers of public school employees, and remuneration paid for  
18 the specific purpose of increasing the final average  
19 compensation. Compensation for the period on which final average  
20 compensation is based, for the purpose of computing final average  
21 compensation, does not include an amount over the compensation  
22 for the preceding year except increases provided by the normal  
23 salary schedule for the reporting unit. The retirement board  
24 shall require a sworn affidavit from the member that final com-  
25 pensation does not include remuneration paid either directly or  
26 indirectly for actual or anticipated expenses.

1 (2) "Compound interest" means interest compounded annually  
2 on July 1 on the contributions on account as of the previous  
3 July 1 and computed at the rate of investment return determined  
4 under section 104a(1) for the last completed state fiscal year.

5 (3) "Contributory service" means credited service other than  
6 noncontributory service.

7 (4) "Deferred member" means a member who has ceased to be a  
8 public school employee and has satisfied the requirements of sec-  
9 tion 82 for a deferred vested service retirement allowance.

10 (5) "Department" means the department of management and  
11 budget.

12 (6) "DIRECT ROLLOVER" MEANS A PAYMENT BY THE RETIREMENT  
13 SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE  
14 DISTRIBUTE.

15 (7) "DISTRIBUTE" INCLUDES A MEMBER OR DEFERRED MEMBER.  
16 DISTRIBUTE ALSO INCLUDES THE MEMBER'S OR DEFERRED MEMBER'S SUR-  
17 VIVING SPOUSE OR THE MEMBER'S OR DEFERRED MEMBER'S SPOUSE OR  
18 FORMER SPOUSE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, WITH  
19 REGARD TO THE INTEREST OF THE SPOUSE OR FORMER SPOUSE.

20 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,  
21 "ELIGIBLE RETIREMENT PLAN" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT  
22 DESCRIBED IN SECTION 408(a) OF THE INTERNAL REVENUE CODE, AN  
23 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF THE  
24 INTERNAL REVENUE CODE, AN ANNUITY PLAN DESCRIBED IN SECTION  
25 403(a) OF THE INTERNAL REVENUE CODE, OR A QUALIFIED TRUST  
26 DESCRIBED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE, THAT  
27 ACCEPTS THE DISTRIBUTE'S ELIGIBLE ROLLOVER DISTRIBUTION.

1 HOWEVER, IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A  
2 SURVIVING SPOUSE, AN ELIGIBLE RETIREMENT PLAN MEANS AN INDIVIDUAL  
3 RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED  
4 ABOVE.

5 (9) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A DISTRIBUTION OF  
6 ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE  
7 DISTRIBUTE. ELIGIBLE ROLLOVER DISTRIBUTION DOES NOT INCLUDE ANY  
8 OF THE FOLLOWING:

9 (A) A DISTRIBUTION MADE FOR THE LIFE OR LIFE EXPECTANCY OF  
10 THE DISTRIBUTE OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF  
11 THE DISTRIBUTE AND THE DISTRIBUTE'S DESIGNATED BENEFICIARY.

12 (B) A DISTRIBUTION FOR A SPECIFIED PERIOD OF 10 YEARS OR  
13 MORE.

14 (C) A DISTRIBUTION TO THE EXTENT THAT THE DISTRIBUTION IS  
15 REQUIRED UNDER SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

16 (D) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE  
17 IN FEDERAL GROSS INCOME, DETERMINED WITHOUT REGARD TO THE EXCLU-  
18 SION FOR NET UNREALIZED APPRECIATION WITH RESPECT TO EMPLOYER  
19 SECURITIES.

20 (10) ~~(6)~~ "Employee organization professional services  
21 leave" or "professional services leave" means a leave of absence  
22 that is renewed annually by the reporting unit so that a member  
23 may accept a position with a public school employee organization  
24 to which he or she belongs and which represents employees of a  
25 reporting unit in employment matters. The member shall be  
26 included in membership of the retirement system during a

1 professional services leave if all of the conditions of section  
2 71(5) are satisfied.

3       (11) ~~(7)~~ "Employee organization professional services  
4 released time" or "professional services released time" means a  
5 portion of the school fiscal year during which a member is  
6 released by the reporting unit from his or her regularly assigned  
7 duties to engage in employment matters for a public school  
8 employee organization to which he or she belongs. The member's  
9 compensation received and service rendered by a member while on  
10 professional services released time shall be reportable to the  
11 retirement system if all of the conditions of section 71(5) are  
12 satisfied.

13       (12) ~~(8)~~ "Final average compensation" means the aggregate  
14 amount of a member's compensation earned within the averaging  
15 period in which the aggregate amount of compensation was highest  
16 divided by the member's number of years, including any fraction  
17 of a year, of credited service during the averaging period. The  
18 averaging period shall be 36 consecutive calendar months if the  
19 member contributes to the member investment plan; otherwise, the  
20 averaging period shall be 60 consecutive calendar months. If the  
21 member has less than 1 year of credited service in the averaging  
22 period, the number of consecutive calendar months in the averag-  
23 ing period shall be increased to the lowest number of consecutive  
24 calendar months that contains 1 year of credited service.

25       (13) ~~(9)~~ "Health benefits" means hospital,  
26 medical-surgical, and sick care benefits and dental, vision, and  
27 hearing benefits for retirants, retirement allowance

1 beneficiaries, and health insurance dependents provided pursuant  
2 to section 91.

3 (14) "INTERNAL REVENUE CODE" MEANS THE UNITED STATES INTER-  
4 NAL REVENUE CODE OF 1986.

5 (15) ~~(10)~~ "Member investment plan" means the program of  
6 member contributions described in section 43a.

7 Sec. 108. (1) This section is enacted pursuant to federal  
8 law that imposes certain administrative requirements and benefit  
9 limitations for qualified governmental plans. This state intends  
10 that the retirement system be a qualified pension plan created in  
11 trust under section 401 of the internal revenue code and that the  
12 trust be an exempt organization under section 501 of the internal  
13 revenue code. The department shall administer the retirement  
14 system to fulfill this intent.

15 (2) Except as otherwise provided in this section,  
16 employer-financed benefits provided by the retirement system  
17 under this act shall not exceed \$10,000.00 per year for a retir-  
18 ant who has 15 or more years of credited service at retirement.

19 (3) Employer-financed benefits provided by the retirement  
20 system under this act shall not exceed the limitation under sub-  
21 section (2) unless application of this subsection results in a  
22 higher limitation. The higher limitation of this subsection  
23 applies to employer-financed benefits provided by the retirement  
24 system and, for purposes of section 415(b) of the internal reve-  
25 nue code, applies to aggregated benefits received from all quali-  
26 fied pension plans administered by the department of management  
27 and budget, bureau of retirement systems. Employer-financed

1 benefits provided by the retirement system shall not exceed the  
2 lesser of the following:

3 (a) One of the following amounts that is applicable to the  
4 member:

5 (i) If a member retires at age 62 or older, \$90,000.00 or  
6 the adjusted amount described in subsection (4) per year.

7 (ii) If a member retires at or after age 55 but before age  
8 62, the actuarially reduced amount of the limitation prescribed  
9 in subparagraph (i) per year. The retirement system shall use an  
10 interest rate of 5% per year compounded annually to calculate the  
11 actuarial reduction in this subparagraph. However, the limita-  
12 tion in this subparagraph shall not be actuarially reduced below  
13 \$75,000.00.

14 (iii) If a member retires before age 55, the actuarially  
15 reduced amount of the limitation prescribed in subparagraph (ii)  
16 per year. The retirement system shall use an interest rate of 5%  
17 per year compounded annually to calculate the actuarial reduction  
18 in this subparagraph.

19 (b) 100% of the member's average compensation for high 3  
20 years as described in section 415(b)(3) of the internal revenue  
21 code.

22 (4) Section 415(d) of the internal revenue code requires the  
23 secretary of the treasury or his or her delegate to annually  
24 adjust the \$10,000.00 limitation described in subsection (2) and  
25 the \$90,000.00 limitation described in subsection (3)(a)(i) for  
26 increases in cost of living, beginning in 1988. This section  
27 shall be administered using the limitations applicable to each

1 calendar year as adjusted by the secretary of the treasury or his  
2 or her delegate under section 415(d) of the internal revenue  
3 code. The retirement system shall adjust the benefits subject to  
4 the limitation each year to conform with the adjusted  
5 limitation.

6 (5) The assets of the retirement system shall be held in  
7 trust and invested for the sole purpose of meeting the legitimate  
8 obligations of the retirement system and shall not be used for  
9 any other purpose. The assets shall not be used for or diverted  
10 to a purpose other than for the exclusive benefit of the members,  
11 deferred members, retirants, and retirement allowance  
12 beneficiaries.

13 (6) 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 (7) THE REQUIRED BEGINNING DATE FOR RETIREMENT ALLOWANCES  
19 AND OTHER DISTRIBUTIONS SHALL NOT BE LATER THAN APRIL 1 OF THE  
20 CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE EMPLOYEE  
21 ATTAINS AGE 70-1/2 OR APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE  
22 CALENDAR YEAR IN WHICH THE EMPLOYEE RETIRES.

23 (8) ~~(7)~~ If the retirement system is ~~discontinued~~  
24 TERMINATED, the interest of the members, deferred members, retir-  
25 ants, and retirement allowance beneficiaries in the retirement  
26 system is nonforfeitable to the extent funded as described in  
27 section 411(d)(3) of the internal revenue code and the related

1 internal revenue service regulations applicable to governmental  
2 plans.

3 (9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE  
4 CONTRARY THAT WOULD LIMIT A DISTRIBUTEES ELECTION UNDER THIS  
5 ACT, A DISTRIBUTE MAY ELECT, AT THE TIME AND IN THE MANNER PRE-  
6 SCRIBED BY THE RETIREMENT BOARD, TO HAVE ANY PORTION OF AN ELIGI-  
7 BLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT  
8 PLAN SPECIFIED BY THE DISTRIBUTE IN A DIRECT ROLLOVER. THIS  
9 SUBSECTION APPLIES TO DISTRIBUTIONS MADE ON OR AFTER JANUARY 1,  
10 1993.

11 (10) FOR PURPOSES OF DETERMINING ACTUARIAL EQUIVALENT  
12 RETIREMENT ALLOWANCES UNDER SECTIONS 45 AND 85(1)(B), (1)(C), AND  
13 (2), THE ACTUARIALY ASSUMED INTEREST RATE SHALL BE 8% WITH UTIL-  
14 IZATION OF THE 1983 GROUP ANNUITY AND MORTALITY TABLE.

15 (11) ~~(8)~~ Notwithstanding any other provision of this sec-  
16 tion, the retirement system shall be administered in compliance  
17 with the provisions of section 415 of the internal revenue code  
18 AND REVENUE SERVICE REGULATIONS UNDER THAT SECTION that are  
19 applicable to governmental plans. If there is a conflict between  
20 this section and another section of this or any other act of this  
21 state, this section prevails.