

# HOUSE BILL No. 4897

June 5, 1997, Introduced by Reps. DeHart, Schermesser, Hale, Wojno, Schauer, Wetters, Freeman, Kelly, Cherry, Hanley, Martinez, Kilpatrick, Prusi, Quarles, LaForge, Goschka, Kukuk and Scott and referred to the Committee on Public Retirement.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 43c, 85, 104a, and 108 (MCL 38.1343c, 38.1385, 38.1404a, and 38.1408), sections 43c and 104a as amended by 1989 PA 194, section 85 as amended by 1991 PA 47, and section 108 as amended by 1995 PA 177.

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

1       Sec. 43c. A member who contributes to the member investment  
2 plan, or the retirement allowance beneficiary of that member,  
3 shall be entitled to all of the following:

4       (a) A 36-month averaging period for the computation of final  
5 average compensation, as provided in section 4.

6       (b) An annual increase in the retirement allowance. The  
7 first increase will occur on the first October 1 that is at least  
8 1 full year after the effective date of the retirement

1 allowance. Subsequent annual increases will occur on October 1  
2 of each subsequent year. The amount of the annual increase shall  
3 be equal to 3% of the retirement allowance that would be payable  
4 as of the date of the increase without application of this  
5 subdivision. However, if the retirement allowance is being paid  
6 under section 85(2), the increase shall be based on the retire-  
7 ment allowance that would have been paid under the PAYMENT option  
8 selected by the member under section ~~85(1)(a), (b), or (c)~~  
9 85(1).

10 (c) The credited service eligibility requirement applicable  
11 to the survivor benefits provided in section 89 shall be reduced  
12 as follows:

13 (i) The 15 years of credited service requirement shall be 10  
14 years.

15 (ii) The 10 years of credited service requirement shall be 5  
16 years.

17 Sec. 85. (1) A retiring member or retiring deferred member  
18 who meets the requirements of section 81 or 81a or a member whom  
19 the retirement board finds to be totally and permanently disabled  
20 and eligible to receive a retirement allowance under section 86  
21 or 87 shall elect to receive his or her retirement allowance  
22 under 1 of the payment options provided in this subsection. The  
23 election shall be in writing and filed with the retirement board  
24 at least 15 days before the effective date of the retirement  
25 allowance except as provided for a disability retirant under sec-  
26 tion 86 or 87. The amount of retirement allowance under ~~either~~  
27 subdivision (b), ~~or~~ (c), OR (D) shall be the actuarial

1 equivalent of the amount of retirement allowance under  
2 subdivision (a). The options are as follows:

3 (a) A retirant shall be paid a straight retirement allowance  
4 for life computed pursuant to section 84. An additional retire-  
5 ment allowance payment shall not be made upon the retirant's  
6 death.

7 (b) A retirant shall be paid a reduced retirement allowance  
8 for life with the provision that upon the retirant's death, pay-  
9 ment of the reduced retirement allowance is continued throughout  
10 the lifetime of the retirement allowance beneficiary whom the  
11 member or deferred member designates in a writing filed with the  
12 retirement board at the time of election of this option. A  
13 member or deferred member may elect this option and designate a  
14 retirement allowance beneficiary under the conditions set forth  
15 in section 82(2) or 89(3).

16 (c) A retirant shall be paid a reduced retirement allowance  
17 for life with the provision that upon the retirant's death, pay-  
18 ment of 1/2 of the reduced retirement allowance is continued  
19 throughout the lifetime of the retirement allowance beneficiary  
20 whom the member designated in a writing filed with the retirement  
21 board at the time of election of the option.

22 (D) A RETIRANT SHALL BE PAID A REDUCED RETIREMENT ALLOWANCE  
23 FOR LIFE WITH THE PROVISION THAT UPON THE RETIRANT'S DEATH, PAY-  
24 MENT OF 75% OF THE REDUCED RETIREMENT ALLOWANCE IS CONTINUED  
25 THROUGHOUT THE LIFETIME OF THE RETIREMENT ALLOWANCE BENEFICIARY  
26 WHOM THE MEMBER DESIGNATED IN A WRITING FILED WITH THE RETIREMENT  
27 BOARD AT THE TIME OF ELECTION OF THE OPTION.

1           (2) In addition to the election under subsection (1), a  
2   retirant, other than a disability retirant who is 60 years of age  
3   or less, may elect to coordinate his or her retirement allowance  
4   with an estimated primary social security benefit. The retirant  
5   shall be paid an increased retirement allowance until 62 years of  
6   age and a reduced retirement allowance after 62 years of age.  
7   The increased retirement allowance paid until 62 years of age  
8   shall approximate the sum of the reduced retirement allowance  
9   payable after 62 years of age and the retirant's estimated social  
10   security primary insurance amount. The estimated social security  
11   primary insurance amount shall be determined by the retirement  
12   system. The election under this subsection shall be made at the  
13   same time and in the same manner as required under  
14   subsection (1).

15           (3) Except as otherwise provided in this section, the elec-  
16   tion of a payment option in subsections (1) and (2) shall not be  
17   changed on or after the effective date of the retirement  
18   allowance. Except as provided in subsection (5), the retirement  
19   allowance beneficiary selected under subsection (1)(b), ~~or~~ (c),  
20   OR (D) shall not be changed on or after the effective date of the  
21   retirement allowance and shall be either a spouse, brother,  
22   sister, parent, or child, including an adopted child, of the  
23   member, deferred member, retiring member, or retiring deferred  
24   member entitled to make the election under this act. Another  
25   retirement allowance beneficiary shall not be selected. If a  
26   member, deferred member, retiring member, or retiring deferred  
27   member is married at the retirement allowance effective date, an

1 election under subsection (1), other than an election under  
2 subsection (1)(b), ~~or~~ (c), OR (D) naming the spouse as retire-  
3 ment allowance beneficiary, shall not be effective unless the  
4 election is signed by the spouse, except that this requirement  
5 may be waived by the board if the signature of a spouse cannot be  
6 obtained because of extenuating circumstances. For purposes of  
7 this subsection, "spouse" means the person to whom the member,  
8 deferred member, retiring member, or retiring deferred member is  
9 married at the retirement allowance effective date. Payment to a  
10 retirement allowance beneficiary shall start the first day of the  
11 month following the retirant's death.

12 (4) If the retirement allowance beneficiary selected under  
13 subsection (1)(b), ~~or~~ (c), OR (D) predeceases the retirant, the  
14 retirant's benefit shall revert to a straight retirement allow-  
15 ance including post-retirement adjustments, if any, shall be  
16 effective the first of the month following the death, and shall  
17 be paid during the remainder of the retirant's life. This sub-  
18 section applies to a retirant whose effective date of retirement  
19 is after June 28, 1976, but the straight retirement allowance  
20 shall not be payable for any month beginning before the later of  
21 the retirement allowance beneficiary's death or October 31,  
22 1980. This subsection also applies to a retirant whose effective  
23 date of retirement was on or before June 28, 1976, but the  
24 straight retirement allowance shall not be payable for any month  
25 beginning before the later of the retirement allowance  
26 beneficiary's death or January 1, 1986. A retirant who on  
27 January 1, 1986 is receiving a reduced retirement allowance

1 because the retirant designated a retirement allowance  
2 beneficiary and the retirement allowance beneficiary predeceased  
3 the retirant is eligible to receive the straight retirement  
4 allowance beginning January 1, 1986, but the straight retirement  
5 allowance shall not be payable for any month beginning before  
6 January 1, 1986.

7 (5) A retirant who returns to service pursuant to section 61  
8 and whose retirement allowance beneficiary selected under  
9 subsection (1)(b), ~~or~~ (c), OR (D) predeceases the member before  
10 he or she again becomes a retirant may again choose a retirement  
11 allowance beneficiary pursuant to subsection (1)(b), ~~or~~ (c), OR  
12 (D) .

13 (6) If a retirant receiving a reduced retirement allowance  
14 under subsection (1)(b), ~~or~~ (c), OR (D) is divorced from the  
15 spouse who had been designated as the retirant's retirement  
16 allowance beneficiary under subsection (1)(b), ~~or~~ (c), OR (D),  
17 the election of a reduced retirement allowance payment option  
18 shall be considered void by the retirement system if the judgment  
19 of divorce or award or order of the court, or an amended judgment  
20 of divorce or award or order of the court, described in section  
21 46 and dated after ~~the effective date of the amendatory act that~~  
22 ~~added this subsection~~ JUNE 27, 1991 provides that the election  
23 of a reduced retirement allowance payment option under subsection  
24 (1)(b), ~~or~~ (c), OR (D) is to be considered void by the retire-  
25 ment system and the retirant provides a certified copy of the  
26 judgment of divorce or award or order of the court, or an amended  
27 judgment of divorce or award or order of the court, to the

1 retirement system. If the election of a reduced retirement  
2 allowance payment option under subsection (1)(b), ~~or~~ (c), OR  
3 (D) is considered void by the retirement system under this sub-  
4 section, the retirant's retirement allowance shall revert to a  
5 straight retirement allowance, including postretirement adjust-  
6 ments, if any, subject to an award or order of the court as  
7 described in section 46. The retirement allowance shall revert  
8 to a straight retirement allowance under this subsection effec-  
9 tive the first of the month after the date the retirement system  
10 receives a certified copy of the judgment of divorce or award or  
11 order of the court. This subsection does not supersede a judg-  
12 ment of divorce or award or order of the court in effect on ~~the~~  
13 ~~effective date of the amendatory act that added this subsection~~  
14 JUNE 27, 1991. This subsection does not require the retirement  
15 system to distribute or pay retirement assets on behalf of a  
16 retirant in an amount that exceeds the actuarially determined  
17 amount that would otherwise become payable if a judgment of  
18 divorce had not been rendered.

19 (7) If the retirement allowance payments terminate before an  
20 aggregate amount equal to the retirant's accumulated contribu-  
21 tions has been paid, the difference between the retirant's accu-  
22 mulated contributions and the aggregate amount of retirement  
23 allowance payments made shall be paid to the person designated in  
24 a writing filed with the retirement board on a form provided by  
25 the retirement board. If the designated person does not survive  
26 the retirant or retirement allowance beneficiary, the difference

1 shall be paid to the deceased recipient's estate or to the legal  
2 representative of the deceased recipient.

3 (8) A retirement allowance payable under a payment option  
4 provided in this section is subject to an eligible domestic rela-  
5 tions order under the eligible domestic relations order act, 1991  
6 PA 46, MCL 38.1701 TO 38.1711.

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

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

18 (3) The distribution income at the end of each state fiscal  
19 year shall be equal to the product of the present value of  
20 retirement allowances determined in subsection (2) at the end of  
21 the previous fiscal year times the positive excess, if any, of  
22 the rate of investment return determined in subsection (1)  
23 exceeding 8%. The distribution income calculated pursuant to  
24 this subsection at the end of the fiscal years 1984-85 and  
25 1985-86 shall be reduced by the cost of prior postretirement  
26 adjustments paid from the appropriated credit for excess interest

1 earnings on retired life assets during the fiscal year pursuant  
2 to sections 101, 102, 103, and 104.

3 (4) After the end of each state fiscal year, each retirant  
4 and retirement allowance beneficiary in receipt of a retirement  
5 allowance at the end of the fiscal year, and whose effective date  
6 of retirement allowance preceded the beginning of that fiscal  
7 year, shall be credited with 1 distribution unit for each full  
8 year between the effective date of retirement and the end of the  
9 fiscal year and 1 distribution unit for each full year of service  
10 credit in force on the effective date of retirement.

11 Distribution units shall not accumulate from 1 year to the next  
12 year.

13 (5) The distribution amount for an individual retirant or  
14 retirement allowance beneficiary shall be equal to the product of  
15 the distribution income determined in subsection (3) times the  
16 individual's number of distribution units determined in subsec-  
17 tion (4) divided by the total number of distribution units for  
18 all eligible retirants and retirement allowance beneficiaries in  
19 receipt of retirement allowances at the end of the fiscal year.  
20 The distribution amount for an individual retirant or retirement  
21 allowance beneficiary of a retirant or member who contributed to  
22 the member investment plan is zero.

23 (6) Each retirement allowance that was effective on or  
24 before January 1, 1987 shall be increased effective on the later  
25 of January 1, 1986 or the retirement allowance effective date.  
26 The amount of the increase shall be 8% of the retirement  
27 allowance that would be payable as of the date of the increase

1 without application of this subsection, except that if the  
2 retirement allowance is being paid under section 85(2), the  
3 increase shall be based on the retirement allowance that would  
4 have been paid under the PAYMENT option selected by the member  
5 under section ~~85(1)(a), (b), or (c)~~ 85(1).

6 (7) Until and including October 1, 1989, each retirement  
7 allowance that was effective on or before January 1, 1987 shall  
8 be increased each October 1 beginning with the later of  
9 October 1, 1986 or the first October 1 following the retirement  
10 allowance effective date. The amount of the annual increase  
11 shall be equal to 40.5% of the increase computed in subsection  
12 (6).

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

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

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

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

14

15	<u>Effective date of retirement</u>	<u>Percentage</u>
16	October 1, 1980 to September 30, 1981	1%
17	October 1, 1979 to September 30, 1980	2%
18	October 1, 1978 to September 30, 1979	3%
19	October 1, 1977 to September 30, 1978	4%
20	October 1, 1976 to September 30, 1977	5%

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1	October 1, 1975 to September 30, 1976	6%
2	October 1, 1974 to September 30, 1975	7%
3	October 1, 1973 to September 30, 1974	8%
4	October 1, 1972 to September 30, 1973	9%
5	October 1, 1971 to September 30, 1972	10%
6	October 1, 1970 to September 30, 1971	11%
7	October 1, 1969 to September 30, 1970	12%
8	October 1, 1968 to September 30, 1969	13%
9	October 1, 1967 to September 30, 1968	14%
10	October 1, 1966 to September 30, 1967	15%
11	October 1, 1965 to September 30, 1966	16%
12	October 1, 1964 to September 30, 1965	17%
13	October 1, 1963 to September 30, 1964	18%

1	October 1, 1962 to September 30, 1963	19%
2	October 1, 1961 to September 30, 1962	20%
3	October 1, 1960 to September 30, 1961	21%
4	Before October 1, 1960	22%

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

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

22 (2) Except as otherwise provided in this section,  
23 employer-financed benefits provided by the retirement system  
24 under this act shall not exceed \$10,000.00 per year for a

1 retirant who has 15 or more years of credited service at  
2 retirement.

3 (3) Employer-financed benefits provided by the retirement  
4 system under this act shall not exceed the limitation under sub-  
5 section (2) unless application of this subsection results in a  
6 higher limitation. The higher limitation of this subsection  
7 applies to employer-financed benefits provided by the retirement  
8 system and, for purposes of section 415(b) of the internal reve-  
9 nue code, applies to aggregated benefits received from all quali-  
10 fied pension plans administered by the department of management  
11 and budget, ~~bureau~~ OFFICE of retirement systems.

12 Employer-financed benefits provided by the retirement system  
13 shall not exceed the lesser of the following:

14 (a) One of the following amounts that is applicable to the  
15 member:

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

18 (ii) If a member retires at or after age 55 but before age  
19 62, the actuarially reduced amount of the limitation prescribed  
20 in subparagraph (i) per year. The retirement system shall use an  
21 interest rate of 5% per year compounded annually to calculate the  
22 actuarial reduction in this subparagraph. However, the limita-  
23 tion in this subparagraph shall not be actuarially reduced below  
24 \$75,000.00.

25 (iii) If a member retires before age 55, the actuarially  
26 reduced amount of the limitation prescribed in subparagraph (ii)  
27 per year. The retirement system shall use an interest rate of 5%

1 per year compounded annually to calculate the actuarial reduction  
2 in this subparagraph.

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

6 (4) Section 415(d) of the internal revenue code requires the  
7 secretary of the treasury or his or her delegate to annually  
8 adjust the \$10,000.00 limitation described in subsection (2) and  
9 the \$90,000.00 limitation described in subsection (3)(a)(i) for  
10 increases in cost of living, beginning in 1988. This section  
11 shall be administered using the limitations applicable to each  
12 calendar year as adjusted by the secretary of the treasury or his  
13 or her delegate under section 415(d) of the internal revenue  
14 code. The retirement system shall adjust the benefits subject to  
15 the limitation each year to conform with the adjusted  
16 limitation.

17 (5) The assets of the retirement system shall be held in  
18 trust and invested for the sole purpose of meeting the legitimate  
19 obligations of the retirement system and shall not be used for  
20 any other purpose. The assets shall not be used for or diverted  
21 to a purpose other than for the exclusive benefit of the members,  
22 deferred members, retirants, and retirement allowance  
23 beneficiaries.

24 (6) The retirement system shall return post-tax member con-  
25 tributions made by a member and received by the retirement system  
26 to a member upon retirement, pursuant to internal revenue service

1 regulations and approved internal revenue service exclusion ratio  
2 tables.

3 (7) The required beginning date for retirement allowances  
4 and other distributions shall not be later than April 1 of the  
5 calendar year following the calendar year in which the employee  
6 attains age 70-1/2 or April 1 of the calendar year following the  
7 calendar year in which the employee retires.

8 (8) If the retirement system is terminated, the interest of  
9 the members, deferred members, retirants, and retirement allow-  
10 ance beneficiaries in the retirement system is nonforfeitable to  
11 the extent funded as described in section 411(d)(3) of the inter-  
12 nal revenue code and the related internal revenue service regula-  
13 tions applicable to governmental plans.

14 (9) Notwithstanding any other provision of this act to the  
15 contrary that would limit a distributee's election under this  
16 act, a distributee may elect, at the time and in the manner pre-  
17 scribed by the retirement board, to have any portion of an eligi-  
18 ble rollover distribution paid directly to an eligible retirement  
19 plan specified by the distributee in a direct rollover. This  
20 subsection applies to distributions made on or after January 1,  
21 1993.

22 (10) For purposes of determining actuarial equivalent  
23 retirement allowances under sections 45 and 85(1)(b), (1)(c),  
24 (1)(D), and (2), the actuarially assumed interest rate shall be  
25 8% with utilization of the 1983 group annuity and mortality  
26 table.

1           (11) Notwithstanding any other provision of this section,  
2 the retirement system shall be administered in compliance with  
3 the provisions of section 415 of the internal revenue code and  
4 revenue service regulations under that section that are applica-  
5 ble to governmental plans. If there is a conflict between this  
6 section and another section of this or any other act of this  
7 state, this section prevails.