

# HOUSE BILL No. 5730

(As passed the Senate, December 11, 2002)

February 21, 2002, Introduced by Reps. Williams, Richardville, Birkholz, Meyer, Vander Veen, Vander Roest and Lemmons and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1851 PA 156, entitled

"An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act,"

by amending section 12a (MCL 46.12a), as amended by 1998 PA 502.

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

1       Sec. 12a. (1) A county board of commissioners at a lawfully  
2 held meeting may do 1 or more of the following:

3       (a) Provide group life, health, accident and hospitaliza-  
4 tion, and disability coverage for a county employee, retired  
5 employee, or an employee of an office, board, or department of  
6 the county, including the board of county road commissioners, and  
7 a dependent of an employee, either with or without cost  
8 participation by the employee, and appropriate the necessary  
9 funds for the insurance. For a county with 100 employees or

**HB 5730, As Passed Senate, December 11, 2002**

2

1 more, self-insure for health, accident and hospitalization, and  
2 group disability coverage for a county employee, retired employ-  
3 ee, or an employee of an office, board, or department of the  
4 county, including the board of county road commissioners, and a  
5 dependent of an employee, either with or without cost participa-  
6 tion by the employee, and appropriate the necessary funds.

7       (b) Adopt and establish a plan by which the county purchases  
8 or participates in the cost of an endowment policy or retirement  
9 annuity for a county employee or an employee of an office, board,  
10 or department of the county, including the board of county road  
11 commissioners, to provide monthly pension or retirement benefits  
12 for each employee 60 years of age or older in an amount not to  
13 exceed \$150.00 per month or 2% of the average monthly earnings of  
14 the employee for 5 years immediately before retirement times the  
15 years of service of the employee, whichever is the lesser sum.  
16 As an option, a county board of commissioners may adopt and  
17 establish a plan by which the county pays pension or retirement  
18 benefits to a county employee or an employee of an office, board,  
19 or department of the county, including the board of county road  
20 commissioners, who has been employed for not less than 25 years,  
21 or who is 60 years of age or older and has been employed for not  
22 less than 5 years, in monthly payments not to exceed 2.5% of the  
23 employee's highest average monthly compensation or earnings  
24 received from the county or county road fund for 5 years of serv-  
25 ice times the total number of years of service of the employee,  
26 including a fraction of a year, not to exceed 3/4 of the average  
27 final compensation of the employee. A plan may also pay early

**HB 5730, As Passed Senate, December 11, 2002**

3

1 retirement benefits at 55 years of age or older to the extent of  
2 actuarially equivalent benefits not increasing the costs of the  
3 plan. Except as provided in subsection ~~-(28)-~~ (27), endowment  
4 policies, retirement benefits, pensions, or annuity retirement  
5 benefits in excess of the amounts stipulated in this subdivision  
6 may be provided for by a plan of employee participation to cover  
7 the cost of the excess. If the employment or the pension or  
8 retirement benefits of an employee who participated in the cost  
9 of pension or retirement benefits are terminated before the  
10 employee receives pension or retirement benefits equal to the  
11 total amount of the employee's participation, the balance of the  
12 total participation shall be refunded to the employee at the time  
13 of termination, if living, or if deceased, to the employee's  
14 heir, estate, legal representative, or designated beneficiary as  
15 provided in the plan adopted and established by the county board  
16 of commissioners. If a terminated employee is subsequently  
17 rehired by the county, the employee may repay the amount of par-  
18 ticipation refunded to the employee upon the employee's termina-  
19 tion, together with compound interest from the date of refund to  
20 the dates of repayment at the rates provided in the plan. As  
21 conditions for repayment, the plan may require return to employ-  
22 ment for a period not to exceed 3 years and may require that  
23 repayment be completed within a period of not less than 1 year  
24 following return to employment. A plan adopted for the payment  
25 of retirement benefits or a pension shall grant benefits to an  
26 employee eligible for pension or retirement benefits according to  
27 a uniform scale for all persons in the same general class or

**HB 5730, As Passed Senate, December 11, 2002**

4

1 classification. An employee shall not be denied benefits by  
2 termination of his or her employment after the employee becomes  
3 eligible for benefits under the plan and this section. An endow-  
4 ment policy or annuity purchased pursuant to this section shall  
5 be purchased from an insurer authorized to write endowment poli-  
6 cies or annuities in this state.

7 (2) In a plan adopted under this section, at least 60% of  
8 the total pension or retirement benefit granted to an employee  
9 from county funds shall consist of a percentage not to exceed  
10 2.5% of the employee's average final compensation times the  
11 employee's years of service and shall be granted to each employee  
12 eligible for retirement under the plan uniformly and without  
13 restriction or limitation other than those prescribed in this  
14 section. As used in this section:

15 (a) "Average final compensation" means the annual average of  
16 the highest actual compensation received by a county employee,  
17 other than a county employee who is a judge of a municipal court  
18 of record subject to subsection ~~-(21)-~~ (20) or a judge subject to  
19 subsection ~~-(24)-~~ (23), during a period of 5 consecutive years of  
20 service contained within the employee's 10 years of service imme-  
21 diately before the employee's retirement or a period of 5 years  
22 of service as specified in the plan. In a county that adopts a  
23 plan for granting longevity pay, the county board of commission-  
24 ers may exclude this longevity pay from average final compensa-  
25 tion for the purpose of computing the rate of employee contribu-  
26 tion and the amount of benefits payable to an employee upon  
27 retirement.

**HB 5730, As Passed Senate, December 11, 2002**

5

1       (b) "Longevity pay" means increments of compensation payable  
2 at annual or semiannual intervals and based upon years of service  
3 to the county, exclusive of compensation provided for a given  
4 class of positions.

5       (3) A circuit court stenographer is eligible for membership  
6 in, and the benefits of, a pension or retirement benefit under a  
7 plan established pursuant to this section, or a social security  
8 plan established by the county or 1 of the counties that pays a  
9 portion of the compensation of a circuit court stenographer.

10       (4) If the employment of a county employee eligible to  
11 receive a pension or retirement benefit under a plan established  
12 pursuant to this section is terminated after the employee has  
13 completed 8 or more years of service in county employment, the  
14 employee shall receive the amount of pension or retirement bene-  
15 fit to which the employee's service would have entitled the  
16 employee under the plan established, if the employee waives the  
17 employee's right to a refund of the employee's total participa-  
18 tion upon the termination of employment. The payment of pension  
19 or retirement benefits shall begin, as provided in the plan,  
20 after the employee would have become eligible for retirement  
21 under the plan had the employee's employment not been terminated,  
22 but not later than 90 days after the employee becomes 65 years of  
23 age. The payment of pension or retirement benefits shall not  
24 begin until the employee has applied for pension or retirement  
25 benefits in the manner prescribed in the plan established.

26       (5) A plan established under this section may provide for  
27 pension or retirement benefits for a county employee who becomes

**HB 5730, As Passed Senate, December 11, 2002**

6

1 totally disabled for work in the county service from any cause,  
2 after not less than 10 years of county employment, to the extent  
3 of the limitations provided in this section. A plan may also  
4 provide for pension or retirement benefits to the extent of the  
5 limitations provided in this section or \$400.00 per month, which-  
6 ever is the greater sum, for an employee who becomes totally dis-  
7 abled for work in the county service from causes that are the  
8 direct and proximate result of county employment, to continue for  
9 the duration of the disability or until the employee becomes eli-  
10 gible for retirement pursuant to other provisions of the plan  
11 authorized by this section. A plan may also provide for pension  
12 or retirement benefits, to the extent of the limitations provided  
13 in this section, for the actual dependents of a county employee  
14 who dies while still employed by the county after not less than  
15 10 years of county employment, or who dies after leaving county  
16 employment with not less than the number of years of service  
17 required to vest in the plan but before becoming eligible to  
18 receive a pension or retirement benefit. A plan may also provide  
19 for pension or retirement benefits to the extent of the limita-  
20 tions provided in this section or \$400.00 per month, whichever is  
21 greater, for the actual dependents of a deceased county employee  
22 whose death is the direct and proximate result of county  
23 employment. The plan may provide that the period from the end of  
24 the deceased or disabled employee's period of service to the date  
25 that employee would have become eligible for retirement be used  
26 as service for the sole purpose of computing the amount of  
27 disability or death pension.

02687'01

**HB 5730, As Passed Senate, December 11, 2002**

7

1       (6) As used in this section, "county employee" includes a  
2 bailiff of the district court in the thirty-sixth district who  
3 serves pursuant to section 8322 of the revised judicature act of  
4 1961, 1961 PA 236, MCL 600.8322, and a person who receives more  
5 than 50% of all compensation for personal services, rendered to  
6 governmental units, from a county fund or county road fund,  
7 except a person, other than a bailiff of the district court in  
8 the thirty-sixth district, engaged for special services on a con-  
9 tract or fee basis. Until December 31, 1979, a plan adopted  
10 under this section may include as a county employee a person on  
11 leave of absence from county employment who is not a member of  
12 another retirement system except as a retirant and who pays or  
13 arranges payment of contributions equal to the contributions that  
14 would have been required to be paid under the plan by both the  
15 county and the employee, based upon the compensation the employee  
16 would have received from the county, if the employee had not  
17 taken a leave of absence or a person who complies with the  
18 requirements of such a provision approved for inclusion in a plan  
19 by the county board of commissioners before January 1, 1976, who  
20 shall be considered to be a county employee during the period of  
21 compliance. A plan adopted under this section may exclude a  
22 person who is employed on a temporary basis and a person employed  
23 in a position normally requiring less than 1,000 hours, or some  
24 lesser specified number of hours, work per year. A bailiff serv-  
25 ing in the district court in the thirty-sixth district is eligi-  
26 ble to receive benefits under this section if a plan has been  
27 established by law by which the cost of benefits is payable from

**HB 5730, As Passed Senate, December 11, 2002**

8

1 sources including charges on all legal instruments in which the  
2 service of process by a bailiff is required and earmarked by law  
3 for benefits, and contributions made by the city of Detroit and  
4 each bailiff pursuant to section 8322(6) of the revised judica-  
5 ture act of 1961, 1961 PA 236, MCL 600.8322. The plan shall  
6 include provisions by which a bailiff or former bailiff who  
7 served as bailiff as of January 1, 1967, may retire after 25  
8 years of service regardless of age, with maximum benefits to be  
9 computed as follows: starting as of January 1, 1969, the average  
10 of any 5 years of earnings of the previous 10 years served in  
11 succession before retirement multiplied by 1.9% times the years  
12 of service; starting as of June 1, 1975, the average of any 5  
13 years of earnings multiplied by 2% times the years of service.  
14 As used in this subsection, "earnings" means the salary and fees,  
15 other than mileage, received by a bailiff pursuant to section  
16 8322(5) of the revised judicature act of 1961, 1961 PA 236,  
17 MCL 600.8322. The plan shall include provisions by which health,  
18 accident, and hospitalization insurance premiums may be paid out  
19 of the earnings of this fund. These payments shall be made at  
20 the discretion of the pension board of trustees. A county that  
21 has a retirement fund for bailiffs under this section shall annu-  
22 ally review the retirement fund and shall ensure that the fund is  
23 maintained in an actuarially sound condition. Copies of the  
24 actuarial reports shall be provided to the employer designated  
25 under section 8274(2) or (3) of the revised judicature act of  
26 1961, 1961 PA 236, MCL 600.8274, and to the state court  
27 administrator.

02687'01



**HB 5730, As Passed Senate, December 11, 2002**

9

1       (7) An employee while receiving a pension or retirement  
2 benefit because of disability, pursuant to this section, may be  
3 considered as employed in the county service for the purpose of  
4 retirement under this section.

5       (8) A county employee who is included by law in another pen-  
6 sion or retirement system by reason of the compensation the  
7 employee receives from the county may be excluded from a plan  
8 established under this section or included only to the extent of  
9 the difference between benefits granted under this section and  
10 the other pension or retirement system.

11       (9) The county board of commissioners, upon the request of a  
12 county employee, by not less than a 3/5 vote may credit that  
13 county employee with the amount of government service resulting  
14 from employment with the United States government, except mili-  
15 tary service, employment with a state, or employment with any of  
16 their political subdivisions under the following conditions:

17       (a) Employment by the county occurred within 15 years fol-  
18 lowing the county employee's separation from service of the last  
19 unit of government by which the county employee was employed.

20       (b) Service rendered before the last break in service of  
21 more than 15 years shall not be credited.

22       (c) Service that is recognized for the purpose of a deferred  
23 retirement allowance under a retirement system or other  
24 employer-funded retirement benefit plan, except for a retirement  
25 benefit plan under the social security act, chapter 531, 49  
26 Stat. 620, of the United States government, a state, or a  
27 political subdivision of a state shall not be credited if the

**HB 5730, As Passed Senate, December 11, 2002**

10

1 county employee retired under a retirement system of the United  
2 States government, a state, or any of their political subdivi-  
3 sions or until the county employee irrevocably forfeits the right  
4 to the deferred retirement allowance.

5       (d) The county employee deposits in the plan established  
6 under this section an amount equal to the aggregate amount of  
7 contributions the county employee would have made had the service  
8 been acquired in the employ of the county, plus interest from the  
9 dates the contributions would have been made to the date of  
10 deposit, at rates determined by the county board of  
11 commissioners. If records are insufficient or unavailable to  
12 compute the exact amount of required deposit, the county board of  
13 commissioners may estimate the amount.

14       (e) The county employee has 8 or more years of credited  
15 service in county employment, has legal vesting in the county  
16 plan, and deposits in the county employees' retirement system an  
17 amount equal to the aggregate amount of contributions the  
18 employer would have made had the government service being cred-  
19 ited under this section been acquired in the employ of the  
20 county.

21       (10) A plan adopted under this section may provide for  
22 annual or less frequent postretirement redetermination of a  
23 pension. The redetermined amount of pension shall be not greater  
24 than the amount of pension otherwise payable multiplied by the  
25 sum of 100% and the percentage the county board of commissioners  
26 determines appropriate for each full year, excluding a fraction  
27 of a year, in the period from the effective date of payments of

**HB 5730, As Passed Senate, December 11, 2002**

11

1 the pension and the date as of which the redetermination is being  
2 made. The redetermined amount shall not be less than the amount  
3 of pension otherwise payable. A provision of this section that  
4 limits the amount of a pension shall not apply to the operation  
5 of this subsection redetermining the amount of a pension. As  
6 used in this subsection, "the amount of pension otherwise  
7 payable" means the amount of pension that would be payable with-  
8 out regard to this subsection. The application of a provision  
9 redetermining pension amounts may be restricted to pensions that  
10 have an effective date of payment either before or after a speci-  
11 fied date.

12 (11) The cost of pension or retirement benefits for a county  
13 employee under this section may be paid from the same fund from  
14 which the employee receives compensation, and the county board of  
15 commissioners may appropriate the necessary funds to carry out  
16 the purposes of this section. If a county establishes a plan by  
17 which the county pays pension or retirement benefits to an  
18 employee pursuant to this section, the county, pursuant to provi-  
19 sions for pension or retirement benefits that are incorporated in  
20 the plan, shall establish and maintain reserves on an actuarial  
21 basis in the manner provided in this subsection sufficient to  
22 finance the pension and retirement and death benefit liabilities  
23 under the plan and sufficient to pay the pension and retirement  
24 and death benefits as they become due. A county that adopts a  
25 retirement plan under this section and establishes reserves on an  
26 actuarial basis shall maintain the reserves as provided in this  
27 subsection. The reserves shall be determined by an actuarial

**HB 5730, As Passed Senate, December 11, 2002**

12

1 valuation and established and maintained by yearly appropriations  
2 by the county and contributions by employees. The reserves shall  
3 be established, maintained, and funded to cover the pension and  
4 other benefits provided for in the plan in the same manner and  
5 within the same limits as to time as is provided for Benefit  
6 Program B in the municipal employees retirement system described  
7 in former section 14 of the municipal employees retirement act of  
8 1984, 1984 PA 427. These reserves are trust funds and shall not  
9 be used for any other purpose than the payment of pension,  
10 retirement, and other benefits and refunds of employee contribu-  
11 tions pursuant to the plan established in a county. An  
12 employee's contributions shall be kept and accumulated in a sepa-  
13 rate fund and used only for the payment of annuities and refunds  
14 to employees. This subsection does not apply to a county that  
15 adopted a retirement plan under this section and did not estab-  
16 lish reserves on an actuarial basis before October 11, 1947.

17 ~~-(12) A plan established by a county for the payment of pen-~~  
18 ~~sion and retirement benefits to an employee under this section~~  
19 ~~shall be approved as complying with this section by a county pen-~~  
20 ~~sion plan committee consisting of the attorney general, the state~~  
21 ~~treasurer, and the executive secretary of the state employees'~~  
22 ~~retirement system created by the state employees' retirement act,~~  
23 ~~1943 PA 240, MCL 38.1 to 38.69, before the plan becomes effective~~  
24 ~~or operative in the county. Each county retirement plan operat-~~  
25 ~~ing under this section shall be approved by the committee as com-~~  
26 ~~plying with this section biennially. A financial statement for~~  
27 ~~each county retirement plan operating under this section shall be~~

**HB 5730, As Passed Senate, December 11, 2002**

13

1 ~~submitted annually to the county pension plan committee by the~~  
2 ~~county board, official, or employee designated by the county~~  
3 ~~board of commissioners. The financial statement shall be in the~~  
4 ~~form, contain the information, and be submitted as the county~~  
5 ~~pension plan committee prescribes. The state treasurer shall~~  
6 ~~audit the funds and accounts of county retirement plans estab-~~  
7 ~~lished under this section in the same manner as the state trea-~~  
8 ~~surer audits other county accounts and may audit and investigate~~  
9 ~~county retirement plan funds and accounts to the extent necessary~~  
10 ~~to effectuate the purposes of this section. This subsection does~~  
11 ~~not apply to a county that adopted a retirement plan under this~~  
12 ~~section and did not establish reserves on an actuarial basis~~  
13 ~~before October 11, 1947.~~

14       (12) ~~-(13)-~~ If a county establishes a plan for the payment  
15 of pension and retirement benefits to its employees pursuant to  
16 this section, the county board of commissioners may provide for a  
17 board of trustees to administer the plan and for the manner of  
18 election or appointment of the members of the board of trustees.  
19 The county board of commissioners may grant authority to the  
20 board of trustees to fully administer and operate the plan and to  
21 deposit, invest, and reinvest the funds and reserves of the plan  
22 within the limitations prescribed by the county board of commis-  
23 sioners in the plan. The county board of commissioners may  
24 authorize the investment of funds of a county retirement plan  
25 established under this section in anything in which the funds of  
26 the state employees' retirement system or the funds of the  
27 municipal employees retirement system may be invested, pursuant

**HB 5730, As Passed Senate, December 11, 2002**

14

1 to the state employees' retirement act, 1943 PA 240, MCL 38.1 to  
2 38.69, and the municipal employees retirement act of 1984, 1984  
3 PA 427, MCL 38.1501 to 38.1555. A county retirement plan estab-  
4 lished under this section may provide for financing, funding, and  
5 the payment of benefits in the same manner and to the same extent  
6 as is provided for in the state employees' retirement act, 1943  
7 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement  
8 act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, may provide for  
9 and require contributions by county employees, and may permit  
10 additional employee contributions on a voluntary basis.

11 (13) ~~(14)~~ Upon the approval of the county board of commis-  
12 sioners, a member who entered the armed service of the United  
13 States before June 1, 1980 or who entered the armed service of  
14 the United States on or after June 1, 1980 during a time of war  
15 or emergency condition as described in section 1 of 1965 PA 190,  
16 MCL 35.61, may elect to receive credited service for not more  
17 than 5 years of active military service. Credit for military  
18 service shall be given upon request and payment to the retirement  
19 system of an amount equal to 5% of the member's full-time or  
20 equated full-time annual compensation for the year in which pay-  
21 ment is made multiplied by the number of years, and fraction of a  
22 year, of credited service that the member elects to purchase up  
23 to the maximum. Service shall not be credited if the service is  
24 or would be credited under any other federal, state, or local  
25 publicly supported retirement system, except for service that is  
26 or would be credited under the federal government for services in  
27 the reserve. Service shall not be credited under this subsection

**HB 5730, As Passed Senate, December 11, 2002**

15

1 until the member has the number of years of credited service  
2 needed to vest under the plan. Only completed years and months  
3 of armed service shall be credited under this subsection.

4 (14) ~~-(15)-~~ A member who enters or entered any armed service  
5 of the United States may purchase credited service for periods of  
6 continuous active duty lasting 30 days or more, subject to the  
7 following conditions:

8 (a) The county board of commissioners authorizes the pur-  
9 chase of credited service under this subsection by an affirmative  
10 vote of a majority of the members of the county board of  
11 commissioners. The county board of commissioners shall establish  
12 a written policy to implement the provisions of this subsection  
13 in order to provide uniform application of this subsection to all  
14 members of the plan.

15 (b) The member has at least the number of years of credited  
16 service needed to vest under the plan, not including any credited  
17 service purchased under this subsection and subsection ~~-(14)-~~  
18 (13).

19 (c) The member pays the plan 5% of the member's annual com-  
20 pensation multiplied by the period of credited service being  
21 purchased. As used in this subdivision, "annual compensation"  
22 means the aggregate amount of compensation paid the member during  
23 the 4 most recent calendar quarters for each of which the member  
24 was credited 3/12 of a year of credited service.

25 (d) Fractional months of armed service shall not be recog-  
26 nized for the purposes of this subsection.

**HB 5730, As Passed Senate, December 11, 2002**

16

1 (e) Armed service credited a member under subsection ~~-(14)~~  
2 (13) shall not be the basis of credited service under this  
3 section.

4 (f) Armed service credited a member under this subsection  
5 shall not exceed either 5 years or the difference between 5 years  
6 and the armed service credited the member under subsection ~~-(14)~~  
7 (13).

8 (g) Credited service shall not be granted for periods of  
9 armed service that are or could be used for obtaining or increas-  
10 ing a benefit from another retirement system, except for service  
11 that is or would be credited under the federal government for  
12 services in the reserve.

13 (15) ~~-(16)-~~ As used in this subsection, "transitional public  
14 employment program" means a public service employment program in  
15 the area of environmental quality, health care, education, public  
16 safety, crime prevention and control, prison rehabilitation,  
17 transportation, recreation, maintenance of parks, streets, and  
18 other public facilities, solid waste removal, pollution control,  
19 housing and neighborhood improvements, rural development, conser-  
20 vation, beautification, veterans' outreach, or any other area of  
21 human betterment and community improvement as part of a program  
22 of comprehensive manpower services authorized, undertaken, and  
23 financed pursuant to the former comprehensive employment and  
24 training act of 1973, Public Law 93-203. A person participating  
25 in a transitional public employment program shall not be eligible  
26 for membership in a retirement system or pension plan established  
27 under this section. If the person later becomes a member of a



**HB 5730, As Passed Senate, December 11, 2002**

17

1 retirement system or pension plan established under this section  
2 within 12 months after the date of termination as a participant  
3 in a transitional public employment program, service credit shall  
4 be given for employment in the transitional public employment  
5 program for purposes of determining a retirement allowance upon  
6 the payment by the person and the person's employer under the  
7 transitional public employment program from funds provided under  
8 the former comprehensive employment and training act of 1973,  
9 Public Law 93-203, as funds permit, to the retirement system of  
10 the contributions, plus regular interest, the person and the  
11 employer would have paid had the employment been rendered in a  
12 position covered by this section. During the person's employment  
13 in the transitional public employment program, the person's  
14 employer shall provide an opportunity by payroll deduction for  
15 the person to make his or her employee contribution to the appli-  
16 cable pension system. To provide for the eventual payment of the  
17 employer's contribution, the person's employer shall during this  
18 same period place in reserve a reasonable but not necessarily an  
19 actuarially determined amount equal to the contributions that the  
20 employer would have paid to the retirement system for those  
21 employees in the transitional public employment program as if  
22 they were members under this section, but only for that number of  
23 employees that the employer determined would transfer from the  
24 transitional public employment program into positions covered by  
25 this section. If the funds provided under the former comprehen-  
26 sive employment and training act of 1973, Public Law 93-203, are

**HB 5730, As Passed Senate, December 11, 2002**

18

1 insufficient, the remainder of the employer contributions shall  
2 be paid by the person's current employer.

3       (16) ~~-(17)-~~ Subsection ~~-(16)-~~ (15) does not exclude the par-  
4 ticipant in a transitional public employment program from the  
5 accident, disability, or other benefits available to members of  
6 the retirement system covered by this section.

7       (17) ~~-(18)-~~ If a probate judge who is a member of a plan  
8 established under this section contributes for 20 years or more,  
9 the county board of commissioners may allow the probate judge to  
10 cease further contributions.

11       (18) ~~-(19)-~~ An employee of the circuit court in the third  
12 judicial circuit, the common pleas court of the city of Detroit,  
13 or the recorder's court of the city of Detroit who became an  
14 employee of the state judicial council on September 1, 1981, and  
15 who was 44 years of age or older as of that date, and who will  
16 have accumulated 25 or more years of service credit by  
17 September 1, 1987, shall continue to be eligible for membership  
18 in, and the benefits of, a pension or retirement benefit plan  
19 established pursuant to this section in the same manner as the  
20 employee was eligible before September 1, 1981. A person who was  
21 an employee of the circuit court in the third judicial circuit,  
22 the common pleas court of the city of Detroit, or the recorder's  
23 court of the city of Detroit on August 31, 1981, who last entered  
24 county employment before November 2, 1956, who became an employee  
25 of the state judicial council on September 1, 1981, and who accu-  
26 mulated not less than 24 years of service credit by August 31,  
27 1981, shall continue to be eligible for membership in, and the

**HB 5730, As Passed Senate, December 11, 2002**

19

1 benefits of, a pension or retirement benefit plan established  
2 pursuant to this section in the same manner as the employee was  
3 eligible before September 1, 1981. An election to continue to be  
4 a member of a pension or retirement benefit plan established pur-  
5 suant to this section as authorized by section 594(2) of the  
6 revised judicature act of 1961, 1961 PA 236, MCL 600.594, as that  
7 section read on February 8, 1985, or former section 36(2) of 1919  
8 PA 369, is not effective unless the employee has made the elec-  
9 tion in the manner prescribed by those sections and has made the  
10 payments required by those sections.

11       (19) ~~-(20)-~~ A plan adopted under this section may provide  
12 that an employee of the circuit court in the third judicial cir-  
13 cuit, the common pleas court of the city of Detroit, or the  
14 recorder's court of the city of Detroit who is a member of the  
15 Wayne county employees' retirement system on August 31, 1981, who  
16 becomes an employee of the state judicial council and a member of  
17 the state employees' retirement system on September 1, 1981,  
18 receive a benefit based on the annual average of the highest  
19 actual compensation received by the employee during a period of 5  
20 years of county or state service.

21       (20) ~~-(21)-~~ Beginning September 1, 1981, for determining the  
22 retirement benefit for a county employee who is a judge of a  
23 municipal court of record pursuant to subsection (2), "average  
24 final compensation" means the annual average of the highest  
25 actual compensation received by the judge as additional salary  
26 pursuant to former section 13(2) of 1919 PA 369, or section  
27 9932(3) of the revised judicature act of 1961, 1961 PA 236,

**HB 5730, As Passed Senate, December 11, 2002**

20

1 MCL 600.9932, during a period of 5 years of service as specified  
2 in the plan. This subsection shall not be construed to diminish  
3 or impair an accrued financial benefit.

4       (21) ~~—(22)—~~ Beginning September 1, 1981, for each county  
5 employee who is a judge of a municipal court of record, or of the  
6 circuit or district court, the sum of the average final compensa-  
7 tion determined for that county employee pursuant to this section  
8 and the final salary determined for that county employee as a  
9 member of the state of Michigan judges' retirement system created  
10 by former 1951 PA 198, or as a member of the Michigan judges  
11 retirement system created by the judges retirement act of 1992,  
12 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the  
13 employee's total annual judicial salary payable from all sources  
14 at the time of his or her retirement. This subsection shall not  
15 be construed to diminish or impair an accrued financial benefit.

16       (22) ~~—(23)—~~ Beginning September 1, 1981, for each county  
17 employee who is a judge of the probate court, the sum of the  
18 average final compensation calculated for that employee pursuant  
19 to this section and the final salary calculated for that employee  
20 as a member of the state of Michigan probate judges retirement  
21 system created by former 1954 PA 165 or as a member of the  
22 Michigan judges retirement system created by the judges retire-  
23 ment act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not  
24 exceed the employee's total annual judicial salary payable from  
25 all sources at the time of his or her retirement. This subsec-  
26 tion shall not be construed to diminish or impair an accrued  
27 financial benefit.

**HB 5730, As Passed Senate, December 11, 2002**

21

1       (23) ~~—(24)—~~ Beginning September 1, 1981, for determining a  
2 retirement benefit pursuant to subsection (2) for a county  
3 employee who is a judge who receives an annuity pursuant to sec-  
4 tion 14(5) of former 1951 PA 198 or pursuant to section 503(2)(c)  
5 of the judges retirement act of 1992, 1992 PA 234, MCL 38.2503,  
6 "average final compensation" means the difference between the  
7 judge's total annual salary payable from all sources on August  
8 31, 1981, and the judge's state base salary payable on August 31,  
9 1981. This subsection shall not be construed to diminish or  
10 impair an accrued financial benefit.

11       (24) ~~—(25)—~~ Beginning January 1, 1983, the sum of the final  
12 salary determined for each county employee who is a judge of the  
13 probate court used as the basis for determining the judge's  
14 retirement allowance as a member of a retirement system estab-  
15 lished pursuant to this section and the salary or compensation  
16 figure used as the basis for determining the judge's retirement  
17 allowance as a member of the state of Michigan judges' retirement  
18 system created by former 1951 PA 198 or as a member of the  
19 Michigan judges retirement system created by the judges retire-  
20 ment act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not  
21 exceed the judge's total annual salary payable from all sources  
22 at the time of his or her retirement. This subsection shall not  
23 be construed to diminish or impair an accrued financial benefit.

24       (25) ~~—(26)—~~ The county board of commissioners, upon the  
25 request of a county employee, by not less than a 3/5 vote may  
26 credit that county employee with the amount of membership service  
27 that the county employee was previously credited with by the

1 retirement system established under this section under the  
2 following conditions:

3 (a) The membership service previously credited to the county  
4 employee was service rendered for the same county.

5 (b) Service that is recognized for the purpose of a deferred  
6 retirement allowance under a retirement system or other  
7 employer-funded retirement benefit plan, except for a retirement  
8 benefit plan under the social security act, chapter 531, 49  
9 Stat. 620, of the United States government, a state, or a politi-  
10 cal subdivision of a state shall not be credited if the county  
11 employee retired under a retirement system of the United States  
12 government, a state, or any of their political subdivisions or  
13 until the county employee irrevocably forfeits the right to the  
14 deferred retirement allowance.

15 (c) The county employee deposits in the plan established  
16 under this section an amount equal to the aggregate amount of  
17 contributions the county employee made at the time of the previ-  
18 ous membership service plus interest from the date of withdrawal  
19 of the accumulated contributions to the date of deposit, at rates  
20 determined by the county board of commissioners. If records are  
21 insufficient or unavailable to compute the exact amount of  
22 required deposit, the county board of commissioners may estimate  
23 the amount.

24 (d) The county employee deposits in the county employees'  
25 retirement system an amount equal to the aggregate amount of con-  
26 tributions the employer made at the time of the previous  
27 membership service plus interest from the date of separation to

1 the date of deposit, at rates determined by the county board of  
2 commissioners.

3       (26) ~~—(27)—~~ A person participating in a program described in  
4 this subsection is not eligible for membership in a retirement  
5 system or pension plan established under this section. In addi-  
6 tion, that person shall not receive service credit for the  
7 employment described in this subsection even though the person  
8 subsequently becomes or has been a member of the retirement  
9 system. This subsection applies to all of the following:

10       (a) A person, not regularly employed by the county, who is  
11 employed by the county through participation in a program estab-  
12 lished pursuant to the job training partnership act, Public Law  
13 97-300, 96 Stat. 1322.

14       (b) A person, not regularly employed by the county, who is  
15 employed by the county through participation in a program estab-  
16 lished pursuant to the Michigan opportunity and skills training  
17 program, first established under sections 12 to 23 of 1983  
18 PA 259.

19       (c) A person, not regularly employed by the county, who is  
20 employed by the county through participation in a program estab-  
21 lished pursuant to the Michigan community service corps program,  
22 first established under sections 25 to 35 of 1983 PA 259 and sec-  
23 tions 148 to 160 of 1984 PA 246.

24       (d) A person, not regularly employed by the county, who is  
25 hired by the county to administer a program described in subdivi-  
26 sion (a), (b), or (c).

1       (27) ~~—(28)—~~ If a county enters into a collective bargaining  
2 agreement pursuant to 1947 PA 336, MCL 423.201 to 423.217, that  
3 provides for retirement benefits that are in excess of the  
4 retirement benefits otherwise authorized to be provided under  
5 this section for employees of the county who are covered by a  
6 plan under this section, then the county board of commissioners  
7 may amend or adopt a plan under this section to provide those  
8 benefits to employees who are members of the bargaining unit cov-  
9 ered by the agreement, and may, after December 31, 1987, amend or  
10 adopt a plan under this section to provide those benefits to  
11 other employees of the county.

12       (28) ~~—(29)—~~ One of the following conditions applies to a  
13 retirant who is receiving a pension or retirement benefit from a  
14 plan under this section if the retirant becomes employed by a  
15 county that has established a plan under this section:

16       (a) Payment of the pension or retirement benefit to the  
17 retirant shall be suspended if the retirant is employed by the  
18 county from which the retirant retired and the retirant does not  
19 meet the requirements of subdivision (b) or (d). Suspension of  
20 the payment of the pension or retirement benefit shall become  
21 effective the first day of the calendar month that follows the  
22 sixtieth day after the retirant is employed by the county.  
23 Payment of the pension or retirement benefit shall resume on the  
24 first day of the calendar month that follows termination of the  
25 employment. Payment of the pension or retirement benefit shall  
26 be resumed without change in amount or conditions by reason of



1 the employment. The retirant shall not be a member of the plan  
2 during the period of employment.

3 (b) Payment of the pension or retirement benefit to the  
4 retirant shall continue without change in amount or conditions by  
5 reason of employment by the county from which the retirant  
6 retired if all of the following requirements are met:

7 (i) The retirant meets 1 of the following requirements:

8 (A) For any retirant, is employed by the county for not more  
9 than 1,000 hours in any 12-month period.

10 (B) For a retirant who was not an elected or appointed  
11 county official at retirement, is elected or appointed as a  
12 county official for a term of office that begins after the  
13 retirant's retirement allowance effective date.

14 (C) For a retirant who was an elected or appointed county  
15 official at retirement, is elected or appointed as a county offi-  
16 cial to a different office from which the retirant retired for a  
17 term of office that begins after the retirant's retirement allow-  
18 ance effective date.

19 (D) For a retirant who was an elected or appointed county  
20 official at retirement, is elected or appointed as a county offi-  
21 cial to the same office from which the retirant retired for a  
22 term of office that begins 2 years or more after the retirant's  
23 retirement allowance effective date.

24 (ii) The retirant is not eligible for any benefits from the  
25 county other than those required by law or otherwise provided to  
26 the retirant by virtue of his or her being a retirant.

1       (iii) The retirant is not a member of the plan during the  
2 period of reemployment, does not receive additional retirement  
3 credits during the period of reemployment, and does not receive  
4 any increase in pension or retirement benefits because of the  
5 employment under this subdivision.

6       (c) Payment of the pension or retirement benefit to the  
7 retirant shall continue without change in amount or conditions by  
8 reason of the employment if the retirant becomes employed by a  
9 county other than the county from which the retirant retired.  
10 For the purposes of membership and potential benefit entitlement  
11 under the plan of the other county, the retirant shall be consid-  
12 ered in the same manner as an individual with no previous record  
13 of employment by that county.

14       (d) Payment of the pension or retirement benefit to the  
15 retirant shall continue without change in amount or conditions by  
16 reason of employment by the county from which the retirant  
17 retired if the retirant was an employee of the state judicial  
18 council on September 30, 1996, and becomes a county-paid employee  
19 of the recorder's court of the city of Detroit or the third judi-  
20 cial circuit of the circuit court on October 1, 1996.

21       (29) ~~-(30)-~~ A county may increase the percentage of the  
22 highest average monthly compensation or earnings that was used to  
23 calculate the pension or retirement benefit under  
24 subsection (1)(b) of a person receiving a pension or retirement  
25 benefit under this section on the date the county increases the  
26 percentage of compensation or earnings. The county shall  
27 recalculate the pension or retirement benefit using the increased

1 percentage of compensation or earnings. The person receiving the  
2 pension or retirement benefit is eligible to receive an adjusted  
3 pension or retirement benefit based upon the recalculation effec-  
4 tive the first day of the month following the date the county  
5 increases the percentage of compensation or earnings under this  
6 subsection.

7       (30) ~~-(31)-~~ The payment of pension or retirement benefits  
8 under a plan established pursuant to this section is subject to  
9 an eligible domestic relations order under the eligible domestic  
10 relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

11       (31) ~~-(32)-~~ If a county retirement plan established under  
12 this section provides an optional form of payment of a retirement  
13 allowance and if a retirant receiving a reduced retirement allow-  
14 ance under that plan is divorced from the spouse who had been  
15 named the retirant's survivor beneficiary, the election of a  
16 reduced retirement allowance form of payment shall be considered  
17 void by the retirement system if the judgment of divorce or award  
18 or order of the court, or an amended judgment of divorce or award  
19 or order of the court dated after July 18, 1991 provides that the  
20 election of a reduced retirement allowance form of payment is to  
21 be considered void by the retirement system and the retirant pro-  
22 vides a certified copy of the judgment of divorce or award or  
23 order of the court, or an amended judgment of divorce or award or  
24 order of the court, to the retirement system. If the election of  
25 a reduced retirement allowance form of payment is considered void  
26 by the retirement system under this subsection, the retirant's  
27 retirement allowance shall revert to a straight life retirement

1 allowance, including postretirement adjustments, if any, subject  
2 to an award or order of the court. The retirement allowance  
3 shall revert to a straight life retirement allowance under this  
4 subsection effective the first of the month after the date the  
5 retirement system receives a certified copy of the judgment of  
6 divorce or award or order of the court. This subsection does not  
7 supersede a judgment of divorce or award or order of the court in  
8 effect on July 18, 1991. This subsection does not require the  
9 retirement system to distribute or pay retirement assets on  
10 behalf of a retirant in an amount that exceeds the actuarially  
11 determined amount that would otherwise become payable if a judg-  
12 ment of divorce had not been rendered.

13       (32) ~~-(33)-~~ A county board of commissioners of a county  
14 having a population of more than 400,000 but less than 800,000,  
15 which county has an employee credit union organized under 1925  
16 PA 285, MCL 490.1 to 490.31, may include as a member of a plan  
17 under this section a past or present employee of the credit  
18 union, if that past or present employee has 5 or more years of  
19 service credit with that credit union on or before June 30,  
20 1990.

21       (33) ~~-(34)-~~ The county board of commissioners shall estab-  
22 lish a written policy to implement the provisions of this section  
23 in order to provide uniform application of this section to all  
24 members of the plan.