

# HOUSE BILL No. 5572

November 3, 2009, Introduced by Rep. Miller and referred to the Committee on Labor.

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 2003 PA 219.

**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 hospitalization,  
4 and disability coverage for a county employee, retired employee, or  
5 an employee of an office, board, or department of the county,  
6 including the board of county road commissioners, and a dependent  
7 of an employee, either with or without cost participation by the  
8 employee, and appropriate the necessary funds for the insurance.

1 For a county with 100 employees or more, self-insure for health,  
2 accident and hospitalization, and group disability coverage for a  
3 county employee, retired employee, or an employee of an office,  
4 board, or department of the county, including the board of county  
5 road commissioners, and a dependent of an employee, either with or  
6 without cost participation by the employee, and appropriate the  
7 necessary funds.

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

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

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

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

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

26 (b) "Longevity pay" means increments of compensation payable  
27 at annual or semiannual intervals and based upon years of service

1 to the county, exclusive of compensation provided for a given class  
2 of positions.

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

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

24 (5) A plan established under this section may provide for  
25 pension or retirement benefits for a county employee who becomes  
26 totally disabled for work in the county service from any cause,  
27 after not less than 10 years of county employment, to the extent of

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

25 (6) As used in this section, "county employee" includes a  
26 bailiff of the district court in the thirty-sixth district who  
27 serves pursuant to section 8322 of the revised judicature act of

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

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

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

27 (8) A county employee who is included by law in another

1 pension or retirement system by reason of the compensation the  
2 employee receives from the county may be excluded from a plan  
3 established under this section or included only to the extent of  
4 the difference between benefits granted under this section and the  
5 other pension or retirement system.

6 (9) The county board of commissioners, upon the request of a  
7 county employee, by not less than a 3/5 vote may credit that county  
8 employee with the amount of government service resulting from  
9 employment with the United States government, except military  
10 service, employment with a state, or employment with any of their  
11 political subdivisions under the following conditions:

12 (a) Employment by the county occurred within 15 years  
13 following the county employee's separation from service of the last  
14 unit of government by which the county employee was employed.

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

17 (c) Service that is recognized for the purpose of a deferred  
18 retirement allowance under a retirement system or other employer-  
19 funded retirement benefit plan, except for a retirement benefit  
20 plan under the social security act, chapter 531, 49 Stat. 620, of  
21 the United States government, a state, or a political subdivision  
22 of a state shall not be credited if the county employee retired  
23 under a retirement system of the United States government, a state,  
24 or any of their political subdivisions or until the county employee  
25 irrevocably forfeits the right to the deferred retirement  
26 allowance.

27 (d) The county employee deposits in the plan established under

1 this section an amount equal to the aggregate amount of  
2 contributions the county employee would have made had the service  
3 been acquired in the employ of the county, plus interest from the  
4 dates the contributions would have been made to the date of  
5 deposit, at rates determined by the county board of commissioners.  
6 If records are insufficient or unavailable to compute the exact  
7 amount of required deposit, the county board of commissioners may  
8 estimate the amount.

9 (e) The county employee has 8 or more years of credited  
10 service in county employment, has legal vesting in the county plan,  
11 and deposits in the county employees' retirement system an amount  
12 equal to the aggregate amount of contributions the employer would  
13 have made had the government service being credited under this  
14 section been acquired in the employ of the county.

15 (10) A plan adopted under this section may provide for annual  
16 or less frequent postretirement redetermination of a pension. The  
17 redetermined amount of pension shall be not greater than the amount  
18 of pension otherwise payable multiplied by the sum of 100% and the  
19 percentage the county board of commissioners determines appropriate  
20 for each full year, excluding a fraction of a year, in the period  
21 from the effective date of payments of the pension and the date as  
22 of which the redetermination is being made. The redetermined amount  
23 shall not be less than the amount of pension otherwise payable. A  
24 provision of this section that limits the amount of a pension shall  
25 not apply to the operation of this subsection redetermining the  
26 amount of a pension. As used in this subsection, "the amount of  
27 pension otherwise payable" means the amount of pension that would

1 be payable without regard to this subsection. The application of a  
2 provision redetermining pension amounts may be restricted to  
3 pensions that have an effective date of payment either before or  
4 after a specified date.

5 (11) The cost of pension or retirement benefits for a county  
6 employee under this section may be paid from the same fund from  
7 which the employee receives compensation, and the county board of  
8 commissioners may appropriate the necessary funds to carry out the  
9 purposes of this section. If a county establishes a plan by which  
10 the county pays pension or retirement benefits to an employee  
11 pursuant to this section, the county, pursuant to provisions for  
12 pension or retirement benefits that are incorporated in the plan,  
13 shall establish and maintain reserves on an actuarial basis in the  
14 manner provided in this subsection sufficient to finance the  
15 pension and retirement and death benefit liabilities under the plan  
16 and sufficient to pay the pension and retirement and death benefits  
17 as they become due. A county that adopts a retirement plan under  
18 this section and establishes reserves on an actuarial basis shall  
19 maintain the reserves as provided in this subsection. The reserves  
20 shall be determined by an actuarial valuation and established and  
21 maintained by yearly appropriations by the county and contributions  
22 by employees. The reserves shall be established, maintained, and  
23 funded to cover the pension and other benefits provided for in the  
24 plan in the same manner and within the same limits as to time as is  
25 provided for Benefit Program B in the municipal employees  
26 retirement system described in former section 14 of the municipal  
27 employees retirement act of 1984, 1984 PA 427. These reserves are

1 trust funds and shall not be used for any other purpose than the  
2 payment of pension, retirement, and other benefits and refunds of  
3 employee contributions pursuant to the plan established in a  
4 county. An employee's contributions shall be kept and accumulated  
5 in a separate fund and used only for the payment of annuities and  
6 refunds to employees. This subsection does not apply to a county  
7 that adopted a retirement plan under this section and did not  
8 establish reserves on an actuarial basis before October 11, 1947.

9 (12) If a county establishes a plan for the payment of pension  
10 and retirement benefits to its employees pursuant to this section,  
11 the county board of commissioners may provide for a board of  
12 trustees to administer the plan and for the manner of election or  
13 appointment of the members of the board of trustees. The county  
14 board of commissioners may grant authority to the board of trustees  
15 to fully administer and operate the plan and to deposit, invest,  
16 and reinvest the funds and reserves of the plan within the  
17 limitations prescribed by the county board of commissioners in the  
18 plan. The county board of commissioners may authorize the  
19 investment of funds of a county retirement plan established under  
20 this section in anything in which the funds of the state employees'  
21 retirement system or the funds of the municipal employees  
22 retirement system may be invested, pursuant to the state employees'  
23 retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal  
24 employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to  
25 38.1555. A county retirement plan established under this section  
26 may provide for financing, funding, and the payment of benefits in  
27 the same manner and to the same extent as is provided for in the

1 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69,  
2 and the municipal employees retirement act of 1984, 1984 PA 427,  
3 MCL 38.1501 to 38.1555, may provide for and require contributions  
4 by county employees, and may permit additional employee  
5 contributions on a voluntary basis.

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

26 (14) A member who enters or entered any armed service of the  
27 United States may purchase credited service for periods of

1 continuous active duty lasting 30 days or more, subject to the  
2 following conditions:

3 (a) The county board of commissioners authorizes the purchase  
4 of credited service under this subsection by an affirmative vote of  
5 a majority of the members of the county board of commissioners. The  
6 county board of commissioners shall establish a written policy to  
7 implement the provisions of this subsection in order to provide  
8 uniform application of this subsection to all members of the plan.

9 (b) The member has at least the number of years of credited  
10 service needed to vest under the plan, not including any credited  
11 service purchased under this subsection and subsection (13).

12 (c) The member pays the plan 5% of the member's annual  
13 compensation multiplied by the period of credited service being  
14 purchased. As used in this subdivision, "annual compensation" means  
15 the aggregate amount of compensation paid the member during the 4  
16 most recent calendar quarters for each of which the member was  
17 credited 3/12 of a year of credited service.

18 (d) Fractional months of armed service shall not be recognized  
19 for the purposes of this subsection.

20 (e) Armed service credited a member under subsection (13)  
21 shall not be the basis of credited service under this section.

22 (f) Armed service credited a member under this subsection  
23 shall not exceed either 5 years or the difference between 5 years  
24 and the armed service credited the member under subsection (13).

25 (g) Credited service shall not be granted for periods of armed  
26 service that are or could be used for obtaining or increasing a  
27 benefit from another retirement system, except for service that is

1 or would be credited under the federal government for services in  
2 the reserve.

3 (15) As used in this subsection, "transitional public  
4 employment program" means a public service employment program in  
5 the area of environmental quality, health care, education, public  
6 safety, crime prevention and control, prison rehabilitation,  
7 transportation, recreation, maintenance of parks, streets, and  
8 other public facilities, solid waste removal, pollution control,  
9 housing and neighborhood improvements, rural development,  
10 conservation, beautification, veterans' outreach, or any other area  
11 of human betterment and community improvement as part of a program  
12 of comprehensive manpower services authorized, undertaken, and  
13 financed pursuant to the former comprehensive employment and  
14 training act of 1973, Public Law 93-203. A person participating in  
15 a transitional public employment program shall not be eligible for  
16 membership in a retirement system or pension plan established under  
17 this section. If the person later becomes a member of a retirement  
18 system or pension plan established under this section within 12  
19 months after the date of termination as a participant in a  
20 transitional public employment program, service credit shall be  
21 given for employment in the transitional public employment program  
22 for purposes of determining a retirement allowance upon the payment  
23 by the person and the person's employer under the transitional  
24 public employment program from funds provided under the former  
25 comprehensive employment and training act of 1973, Public Law 93-  
26 203, as funds permit, to the retirement system of the  
27 contributions, plus regular interest, the person and the employer

1 would have paid had the employment been rendered in a position  
2 covered by this section. During the person's employment in the  
3 transitional public employment program, the person's employer shall  
4 provide an opportunity by payroll deduction for the person to make  
5 his or her employee contribution to the applicable pension system.  
6 To provide for the eventual payment of the employer's contribution,  
7 the person's employer shall during this same period place in  
8 reserve a reasonable but not necessarily an actuarially determined  
9 amount equal to the contributions that the employer would have paid  
10 to the retirement system for those employees in the transitional  
11 public employment program as if they were members under this  
12 section, but only for that number of employees that the employer  
13 determined would transfer from the transitional public employment  
14 program into positions covered by this section. If the funds  
15 provided under the former comprehensive employment and training act  
16 of 1973, Public Law 93-203, are insufficient, the remainder of the  
17 employer contributions shall be paid by the person's current  
18 employer.

19 (16) Subsection (15) does not exclude the participant in a  
20 transitional public employment program from the accident,  
21 disability, or other benefits available to members of the  
22 retirement system covered by this section.

23 (17) If a probate judge who is a member of a plan established  
24 under this section contributes for 20 years or more, the county  
25 board of commissioners may allow the probate judge to cease further  
26 contributions.

27 (18) An employee of the circuit court in the third judicial

1 circuit, the common pleas court of the city of Detroit, or the  
2 recorder's court of the city of Detroit who became an employee of  
3 the state judicial council on September 1, 1981, and who was 44  
4 years of age or older as of that date, and who will have  
5 accumulated 25 or more years of service credit by September 1,  
6 1987, shall continue to be eligible for membership in, and the  
7 benefits of, a pension or retirement benefit plan established  
8 pursuant to this section in the same manner as the employee was  
9 eligible before September 1, 1981. A person who was an employee of  
10 the circuit court in the third judicial circuit, the common pleas  
11 court of the city of Detroit, or the recorder's court of the city  
12 of Detroit on August 31, 1981, who last entered county employment  
13 before November 2, 1956, who became an employee of the state  
14 judicial council on September 1, 1981, and who accumulated not less  
15 than 24 years of service credit by August 31, 1981, shall continue  
16 to be eligible for membership in, and the benefits of, a pension or  
17 retirement benefit plan established pursuant to this section in the  
18 same manner as the employee was eligible before September 1, 1981.  
19 An election to continue to be a member of a pension or retirement  
20 benefit plan established pursuant to this section as authorized by  
21 section 594(2) of the revised judicature act of 1961, 1961 PA 236,  
22 MCL 600.594, as that section read on February 8, 1985, or former  
23 section 36(2) of 1919 PA 369, is not effective unless the employee  
24 has made the election in the manner prescribed by those sections  
25 and has made the payments required by those sections.

26 (19) A plan adopted under this section may provide that an  
27 employee of the circuit court in the third judicial circuit, the

1 common pleas court of the city of Detroit, or the recorder's court  
2 of the city of Detroit who is a member of the Wayne county  
3 employees' retirement system on August 31, 1981, who becomes an  
4 employee of the state judicial council and a member of the state  
5 employees' retirement system on September 1, 1981, receive a  
6 benefit based on the annual average of the highest actual  
7 compensation received by the employee during a period of 5 years of  
8 county or state service.

9 (20) Beginning September 1, 1981, for determining the  
10 retirement benefit for a county employee who is a judge of a  
11 municipal court of record pursuant to subsection (2), "average  
12 final compensation" means the annual average of the highest actual  
13 compensation received by the judge as additional salary pursuant to  
14 former section 13(2) of 1919 PA 369, or section 9932(3) of the  
15 revised judicature act of 1961, 1961 PA 236, MCL 600.9932, during a  
16 period of 5 years of service as specified in the plan. This  
17 subsection shall not be construed to diminish or impair an accrued  
18 financial benefit.

19 (21) Beginning September 1, 1981, for each county employee who  
20 is a judge of a municipal court of record, or of the circuit or  
21 district court, the sum of the average final compensation  
22 determined for that county employee pursuant to this section and  
23 the final salary determined for that county employee as a member of  
24 the state of Michigan judges' retirement system created by former  
25 1951 PA 198, or as a member of the Michigan judges retirement  
26 system created by the judges retirement act of 1992, 1992 PA 234,  
27 MCL 38.2101 to 38.2670, shall not exceed the employee's total

1 annual judicial salary payable from all sources at the time of his  
2 or her retirement. This subsection shall not be construed to  
3 diminish or impair an accrued financial benefit.

4 (22) Beginning September 1, 1981, for each county employee who  
5 is a judge of the probate court, the sum of the average final  
6 compensation calculated for that employee pursuant to this section  
7 and the final salary calculated for that employee as a member of  
8 the state of Michigan probate judges retirement system created by  
9 former 1954 PA 165 or as a member of the Michigan judges retirement  
10 system created by the judges retirement act of 1992, 1992 PA 234,  
11 MCL 38.2101 to 38.2670, shall not exceed the employee's total  
12 annual judicial salary payable from all sources at the time of his  
13 or her retirement. This subsection shall not be construed to  
14 diminish or impair an accrued financial benefit.

15 (23) Beginning September 1, 1981, for determining a retirement  
16 benefit pursuant to subsection (2) for a county employee who is a  
17 judge who receives an annuity pursuant to section 14(5) of former  
18 1951 PA 198 or pursuant to section 503(2)(c) of the judges  
19 retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final  
20 compensation" means the difference between the judge's total annual  
21 salary payable from all sources on August 31, 1981, and the judge's  
22 state base salary payable on August 31, 1981. This subsection shall  
23 not be construed to diminish or impair an accrued financial  
24 benefit.

25 (24) Beginning January 1, 1983, the sum of the final salary  
26 determined for each county employee who is a judge of the probate  
27 court used as the basis for determining the judge's retirement

1 allowance as a member of a retirement system established pursuant  
2 to this section and the salary or compensation figure used as the  
3 basis for determining the judge's retirement allowance as a member  
4 of the state of Michigan judges' retirement system created by  
5 former 1951 PA 198 or as a member of the Michigan judges retirement  
6 system created by the judges retirement act of 1992, 1992 PA 234,  
7 MCL 38.2101 to 38.2670, shall not exceed the judge's total annual  
8 salary payable from all sources at the time of his or her  
9 retirement. This subsection shall not be construed to diminish or  
10 impair an accrued financial benefit.

11 (25) The county board of commissioners, upon the request of a  
12 county employee, by not less than a 3/5 vote may credit that county  
13 employee with the amount of membership service that the county  
14 employee was previously credited with by the retirement system  
15 established under this section under the following conditions:

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

18 (b) Service that is recognized for the purpose of a deferred  
19 retirement allowance under a retirement system or other employer-  
20 funded retirement benefit plan, except for a retirement benefit  
21 plan under the social security act, chapter 531, 49 Stat. 620, of  
22 the United States government, a state, or a political subdivision  
23 of a state shall not be credited if the county employee retired  
24 under a retirement system of the United States government, a state,  
25 or any of their political subdivisions or until the county employee  
26 irrevocably forfeits the right to the deferred retirement  
27 allowance.

1 (c) The county employee deposits in the plan established under  
2 this section an amount equal to the aggregate amount of  
3 contributions the county employee made at the time of the previous  
4 membership service plus interest from the date of withdrawal of the  
5 accumulated contributions to the date of deposit, at rates  
6 determined by the county board of commissioners. If records are  
7 insufficient or unavailable to compute the exact amount of required  
8 deposit, the county board of commissioners may estimate the amount.

9 (d) The county employee deposits in the county employees'  
10 retirement system an amount equal to the aggregate amount of  
11 contributions the employer made at the time of the previous  
12 membership service plus interest from the date of separation to the  
13 date of deposit, at rates determined by the county board of  
14 commissioners.

15 (26) A person participating in a program described in this  
16 subsection is not eligible for membership in a retirement system or  
17 pension plan established under this section. In addition, that  
18 person shall not receive service credit for the employment  
19 described in this subsection even though the person subsequently  
20 becomes or has been a member of the retirement system. This  
21 subsection applies to all of the following:

22 (a) A person, not regularly employed by the county, who is  
23 employed by the county through participation in a program  
24 established pursuant to the job training partnership act, Public  
25 Law 97-300, 96 Stat. 1322.

26 (b) A person, not regularly employed by the county, who is  
27 employed by the county through participation in a program

1 established pursuant to the Michigan opportunity and skills  
2 training program, first established under sections 12 to 23 of 1983  
3 PA 259.

4 (c) A person, not regularly employed by the county, who is  
5 employed by the county through participation in a program  
6 established pursuant to the Michigan community service corps  
7 program, first established under sections 25 to 35 of 1983 PA 259  
8 and sections 148 to 160 of 1984 PA 246.

9 (d) A person, not regularly employed by the county, who is  
10 hired by the county to administer a program described in  
11 subdivision (a), (b), or (c).

12 (27) If a county enters into a collective bargaining agreement  
13 pursuant to 1947 PA 336, MCL 423.201 to 423.217, that provides for  
14 retirement benefits that are in excess of the retirement benefits  
15 otherwise authorized to be provided under this section for  
16 employees of the county who are covered by a plan under this  
17 section, then the county board of commissioners may amend or adopt  
18 a plan under this section to provide those benefits to employees  
19 who are members of the bargaining unit covered by the agreement,  
20 and may, after December 31, 1987, amend or adopt a plan under this  
21 section to provide those benefits to other employees of the county.

22 (28) One of the following conditions applies to a retirant who  
23 is receiving a pension or retirement benefit from a plan under this  
24 section if the retirant becomes employed by a county that has  
25 established a plan under this section:

26 (a) Payment of the pension or retirement benefit to the  
27 retirant shall be suspended if the retirant is employed by the

1 county from which the retirant retired and the retirant does not  
2 meet the requirements of subdivision (b) or (d). Suspension of the  
3 payment of the pension or retirement benefit shall become effective  
4 the first day of the calendar month that follows the sixtieth day  
5 after the retirant is employed by the county. Payment of the  
6 pension or retirement benefit shall resume on the first day of the  
7 calendar month that follows termination of the employment. Payment  
8 of the pension or retirement benefit shall be resumed without  
9 change in amount or conditions by reason of the employment. The  
10 retirant shall not be a member of the plan during the period of  
11 employment.

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

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

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

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

23 (C) For a retirant who was an elected or appointed county  
24 official at retirement, is elected or appointed as a county  
25 official to a different office from which the retirant retired for  
26 a term of office that begins after the retirant's retirement  
27 allowance effective date.

1           (D) For a retirant who was an elected or appointed county  
2 official at retirement, is elected or appointed as a county  
3 official to the same office from which the retirant retired for a  
4 term of office that begins 2 years or more after the retirant's  
5 retirement allowance effective date.

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

9           (iii) The retirant is not a member of the plan during the period  
10 of reemployment, does not receive additional retirement credits  
11 during the period of reemployment, and does not receive any  
12 increase in pension or retirement benefits because of the  
13 employment under this subdivision.

14           (c) Payment of the pension or retirement benefit to the  
15 retirant shall continue without change in amount or conditions by  
16 reason of the employment if the retirant becomes employed by a  
17 county other than the county from which the retirant retired. For  
18 the purposes of membership and potential benefit entitlement under  
19 the plan of the other county, the retirant shall be considered in  
20 the same manner as an individual with no previous record of  
21 employment by that county.

22           (d) Payment of the pension or retirement benefit to the  
23 retirant shall continue without change in amount or conditions by  
24 reason of employment by the county from which the retirant retired  
25 if the retirant was an employee of the state judicial council on  
26 September 30, 1996, and becomes a county-paid employee of the  
27 recorder's court of the city of Detroit or the third judicial

1 circuit of the circuit court on October 1, 1996.

2 (29) A county may increase the percentage of the highest  
3 average monthly compensation or earnings that was used to calculate  
4 the pension or retirement benefit under subsection (1)(b) of a  
5 person receiving a pension or retirement benefit under this section  
6 on the date the county increases the percentage of compensation or  
7 earnings. The county shall recalculate the pension or retirement  
8 benefit using the increased percentage of compensation or earnings.  
9 The person receiving the pension or retirement benefit is eligible  
10 to receive an adjusted pension or retirement benefit based upon the  
11 recalculation effective the first day of the month following the  
12 date the county increases the percentage of compensation or  
13 earnings under this subsection.

14 (30) The payment of pension or retirement benefits under a  
15 plan established pursuant to this section is subject to an eligible  
16 domestic relations order under the eligible domestic relations  
17 order act, 1991 PA 46, MCL 38.1701 to 38.1711.

18 (31) If a county retirement plan established under this  
19 section provides an optional form of payment of a retirement  
20 allowance and if a retirant receiving a reduced retirement  
21 allowance under that plan is divorced from the spouse who had been  
22 named the retirant's survivor beneficiary, the election of a  
23 reduced retirement allowance form of payment shall be considered  
24 void by the retirement system if the judgment of divorce or award  
25 or order of the court, or an amended judgment of divorce or award  
26 or order of the court dated after July 18, 1991 provides that the  
27 election of a reduced retirement allowance form of payment is to be

1 considered void by the retirement system and the retirant provides  
2 a certified copy of the judgment of divorce or award or order of  
3 the court, or an amended judgment of divorce or award or order of  
4 the court, to the retirement system. If the election of a reduced  
5 retirement allowance form of payment is considered void by the  
6 retirement system under this subsection, the retirant's retirement  
7 allowance shall revert to a straight life retirement allowance,  
8 including postretirement adjustments, if any, subject to an award  
9 or order of the court. The retirement allowance shall revert to a  
10 straight life retirement allowance under this subsection effective  
11 the first of the month after the date the retirement system  
12 receives a certified copy of the judgment of divorce or award or  
13 order of the court. This subsection does not supersede a judgment  
14 of divorce or award or order of the court in effect on July 18,  
15 1991. This subsection does not require the retirement system to  
16 distribute or pay retirement assets on behalf of a retirant in an  
17 amount that exceeds the actuarially determined amount that would  
18 otherwise become payable if a judgment of divorce had not been  
19 rendered.

20 (32) If a county board of commissioners of a county that has a  
21 population of more than 400,000 but less than 800,000 has an  
22 employee credit union organized under the credit union act or  
23 former 1925 PA 285, the county board of commissioners may include  
24 as a member of a plan under this section a past or present employee  
25 of the credit union, if that past or present employee has 5 or more  
26 years of service credit with that credit union on or before June  
27 30, 1990.

1           (33) The county board of commissioners shall establish a  
2 written policy to implement the provisions of this section in order  
3 to provide uniform application of this section to all members of  
4 the plan.

5           (34) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY,  
6 NO PENSION PAID UNDER THIS SECTION SHALL BE PAID WITH A PENSION  
7 AMOUNT CALCULATED THAT IS BASED ON A SALARY THAT INCLUDES OVERTIME  
8 PAY AT THE TIME THE PENSION IS CALCULATED. THIS SUBSECTION DOES NOT  
9 MODIFY TERMS RELATING TO A PENSION GRANTED UNDER THE AUTHORITY OF  
10 THIS SECTION UNDER WHICH A RECIPIENT OF THE PENSION RETIRED BEFORE  
11 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
12 SUBSECTION. IF A COLLECTIVE BARGAINING AGREEMENT OR OTHER BINDING  
13 AGREEMENT IS IN EFFECT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT  
14 THAT ADDED THIS SUBSECTION AND THE COLLECTIVE BARGAINING AGREEMENT  
15 OR OTHER BINDING AGREEMENT AFFECTS A PENSION GRANTED UNDER THIS  
16 SECTION, THE PENSION SHALL BE ADMINISTERED IN ACCORDANCE WITH THE  
17 COLLECTIVE BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT UNTIL  
18 THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT OR OTHER  
19 BINDING AGREEMENT IF THERE IS A CONFLICT BETWEEN THIS SUBSECTION  
20 AND THE COLLECTIVE BARGAINING AGREEMENT OR OTHER BINDING AGREEMENT.