

# HOUSE BILL No. 5697

December 10, 2009, Introduced by Rep. Dillon and referred to the Committee on Public Employee Health Care Reform.

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

1 employee, and appropriate the necessary funds for the insurance.  
2 For a county with 100 employees or more, self-insure for health,  
3 accident and hospitalization, and group disability coverage for a  
4 county employee, retired employee, or an employee of an office,  
5 board, or department of the county, including the board of county  
6 road commissioners, and a dependent of an employee, either with or  
7 without cost participation by the employee, and appropriate the  
8 necessary funds. **ALL RETIREMENT HEALTH BENEFITS COVERAGE UNDER THIS**  
9 **ACT SHALL BE PROVIDED AND AUTHORIZED IN ACCORDANCE WITH THE**  
10 **MICHIGAN HEALTH BENEFITS PROGRAM ACT. COVERAGE PROVIDED AND PLANS**  
11 **AUTHORIZED IN ACCORDANCE WITH THE MICHIGAN HEALTH BENEFITS PROGRAM**  
12 **ACT SHALL BE PROVIDED AND AUTHORIZED SUBJECT TO SECTION 21 OF THE**  
13 **MICHIGAN HEALTH BENEFITS PROGRAM ACT.**

14 (b) Adopt and establish a plan by which the county purchases  
15 or participates in the cost of an endowment policy or retirement  
16 annuity for a county employee or an employee of an office, board,  
17 or department of the county, including the board of county road  
18 commissioners, to provide monthly pension or retirement benefits  
19 for each employee 60 years of age or older in an amount not to  
20 exceed \$150.00 per month or 2% of the average monthly earnings of  
21 the employee for 5 years immediately before retirement times the  
22 years of service of the employee, whichever is the lesser sum. As  
23 an option, a county board of commissioners may adopt and establish  
24 a plan by which the county pays pension or retirement benefits to a  
25 county employee or an employee of an office, board, or department  
26 of the county, including the board of county road commissioners,  
27 who has been employed for not less than 25 years, or who is 60

1 years of age or older and has been employed for not less than 5  
2 years, in monthly payments not to exceed 2.5% of the employee's  
3 highest average monthly compensation or earnings received from the  
4 county or county road fund for 5 years of service times the total  
5 number of years of service of the employee, including a fraction of  
6 a year, not to exceed 3/4 of the average final compensation of the  
7 employee. A plan may also pay early retirement benefits at 55 years  
8 of age or older to the extent of actuarially equivalent benefits  
9 not increasing the costs of the plan. Except as provided in  
10 subsection (27), endowment policies, retirement benefits, pensions,  
11 or annuity retirement benefits in excess of the amounts stipulated  
12 in this subdivision may be provided for by a plan of employee  
13 participation to cover the cost of the excess. If the employment or  
14 the pension or retirement benefits of an employee who participated  
15 in the cost of pension or retirement benefits are terminated before  
16 the employee receives pension or retirement benefits equal to the  
17 total amount of the employee's participation, the balance of the  
18 total participation shall be refunded to the employee at the time  
19 of termination, if living, or if deceased, to the employee's heir,  
20 estate, legal representative, or designated beneficiary as provided  
21 in the plan adopted and established by the county board of  
22 commissioners. If a terminated employee is subsequently rehired by  
23 the county, the employee may repay the amount of participation  
24 refunded to the employee upon the employee's termination, together  
25 with compound interest from the date of refund to the dates of  
26 repayment at the rates provided in the plan. As conditions for  
27 repayment, the plan may require return to employment for a period

1 not to exceed 3 years and may require that repayment be completed  
2 within a period of not less than 1 year following return to  
3 employment. A plan adopted for the payment of retirement benefits  
4 or a pension shall grant benefits to an employee eligible for  
5 pension or retirement benefits according to a uniform scale for all  
6 persons in the same general class or classification. An employee  
7 shall not be denied benefits by termination of his or her  
8 employment after the employee becomes eligible for benefits under  
9 the plan and this section. An endowment policy or annuity purchased  
10 pursuant to this section shall be purchased from an insurer  
11 authorized to write endowment policies or annuities in this state.

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

20 (a) "Average final compensation" means the annual average of  
21 the highest actual compensation received by a county employee,  
22 other than a county employee who is a judge of a municipal court of  
23 record subject to subsection (20) or a judge subject to subsection  
24 (23), during a period of 5 consecutive years of service contained  
25 within the employee's 10 years of service immediately before the  
26 employee's retirement or a period of 5 years of service as  
27 specified in the plan. In a county that adopts a plan for granting

1 longevity pay, the county board of commissioners may exclude this  
2 longevity pay from average final compensation for the purpose of  
3 computing the rate of employee contribution and the amount of  
4 benefits payable to an employee upon retirement.

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

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

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

1 for pension or retirement benefits in the manner prescribed in the  
2 plan established.

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

1 employee's period of service to the date that employee would have  
2 become eligible for retirement be used as service for the sole  
3 purpose of computing the amount of disability or death pension.

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

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

1 the state court administrator.

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

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

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

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

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

23 (c) Service that is recognized for the purpose of a deferred  
24 retirement allowance under a retirement system or other employer-  
25 funded retirement benefit plan, except for a retirement benefit  
26 plan under the social security act, ~~chapter 531, 49 Stat. 620-42~~  
27 **USC 501 TO 504**, of the United States government, a state, or a

1 political subdivision of a state shall not be credited if the  
2 county employee retired under a retirement system of the United  
3 States government, a state, or any of their political subdivisions  
4 or until the county employee irrevocably forfeits the right to the  
5 deferred retirement allowance.

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

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

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

1 of which the redetermination is being made. The redetermined amount  
2 shall not be less than the amount of pension otherwise payable. A  
3 provision of this section that limits the amount of a pension shall  
4 not apply to the operation of this subsection redetermining the  
5 amount of a pension. As used in this subsection, "the amount of  
6 pension otherwise payable" means the amount of pension that would  
7 be payable without regard to this subsection. The application of a  
8 provision redetermining pension amounts may be restricted to  
9 pensions that have an effective date of payment either before or  
10 after a specified date.

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

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

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

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

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

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

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

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

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

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

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

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

4 (g) Credited service shall not be granted for periods of armed  
5 service that are or could be used for obtaining or increasing a  
6 benefit from another retirement system, except for service that is  
7 or would be credited under the federal government for services in  
8 the reserve.

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

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

25 (16) Subsection (15) does not exclude the participant in a  
26 transitional public employment program from the accident,  
27 disability, or other benefits available to members of the

1 retirement system covered by this section.

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

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

1 MCL 600.594, as that section read on February 8, 1985, or former  
2 section 36(2) of 1919 PA 369, is not effective unless the employee  
3 has made the election in the manner prescribed by those sections  
4 and has made the payments required by those sections.

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

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

25 (21) Beginning September 1, 1981, for each county employee who  
26 is a judge of a municipal court of record, or of the circuit or  
27 district court, the sum of the average final compensation

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

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

21 (23) Beginning September 1, 1981, for determining a retirement  
22 benefit pursuant to subsection (2) for a county employee who is a  
23 judge who receives an annuity pursuant to section 14(5) of former  
24 1951 PA 198 or pursuant to section 503(2)(c) of the judges  
25 retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final  
26 compensation" means the difference between the judge's total annual  
27 salary payable from all sources on August 31, 1981, and the judge's

1 state base salary payable on August 31, 1981. This subsection shall  
2 not be construed to diminish or impair an accrued financial  
3 benefit.

4 (24) Beginning January 1, 1983, the sum of the final salary  
5 determined for each county employee who is a judge of the probate  
6 court used as the basis for determining the judge's retirement  
7 allowance as a member of a retirement system established pursuant  
8 to this section and the salary or compensation figure used as the  
9 basis for determining the judge's retirement allowance as a member  
10 of the state of Michigan judges' retirement system created by  
11 former 1951 PA 198 or as a member of the Michigan judges retirement  
12 system created by the judges retirement act of 1992, 1992 PA 234,  
13 MCL 38.2101 to 38.2670, shall not exceed the judge's total annual  
14 salary payable from all sources at the time of his or her  
15 retirement. This subsection shall not be construed to diminish or  
16 impair an accrued financial benefit.

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

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

24 (b) Service that is recognized for the purpose of a deferred  
25 retirement allowance under a retirement system or other employer-  
26 funded retirement benefit plan, except for a retirement benefit  
27 plan under the social security act, ~~chapter 531, 49 Stat. 620-42~~

1 **USC 501 TO 504**, of the United States government, a state, or a  
2 political subdivision of a state shall not be credited if the  
3 county employee retired under a retirement system of the United  
4 States government, a state, or any of their political subdivisions  
5 or until the county employee irrevocably forfeits the right to the  
6 deferred retirement allowance.

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

15 (d) The county employee deposits in the county employees'  
16 retirement system an amount equal to the aggregate amount of  
17 contributions the employer made at the time of the previous  
18 membership service plus interest from the date of separation to the  
19 date of deposit, at rates determined by the county board of  
20 commissioners.

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

1 (a) A person, not regularly employed by the county, who is  
2 employed by the county through participation in a program  
3 established pursuant to the job training partnership act, ~~Public~~  
4 ~~Law 97-300, 96 Stat. 1322~~ **49 USC 1501 TO 1505.**

5 (b) A person, not regularly employed by the county, who is  
6 employed by the county through participation in a program  
7 established pursuant to the Michigan opportunity and skills  
8 training program, first established under sections 12 to 23 of 1983  
9 PA 259.

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

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

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

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

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

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

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

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

25           (B) For a retirant who was not an elected or appointed county  
26 official at retirement, is elected or appointed as a county  
27 official for a term of office that begins after the retirant's

1 retirement allowance effective date.

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

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

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

15 (iii) The retirant is not a member of the plan during the period  
16 of reemployment, does not receive additional retirement credits  
17 during the period of reemployment, and does not receive any  
18 increase in pension or retirement benefits because of the  
19 employment under this subdivision.

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

1 (d) Payment of the pension or retirement benefit to the  
2 retirant shall continue without change in amount or conditions by  
3 reason of employment by the county from which the retirant retired  
4 if the retirant was an employee of the state judicial council on  
5 September 30, 1996, and becomes a county-paid employee of the  
6 recorder's court of the city of Detroit or the third judicial  
7 circuit of the circuit court on October 1, 1996.

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

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

24 (31) If a county retirement plan established under this  
25 section provides an optional form of payment of a retirement  
26 allowance and if a retirant receiving a reduced retirement  
27 allowance under that plan is divorced from the spouse who had been

1 named the retirant's survivor beneficiary, the election of a  
2 reduced retirement allowance form of payment shall be considered  
3 void by the retirement system if the judgment of divorce or award  
4 or order of the court, or an amended judgment of divorce or award  
5 or order of the court dated after July 18, 1991 provides that the  
6 election of a reduced retirement allowance form of payment is to be  
7 considered void by the retirement system and the retirant provides  
8 a certified copy of the judgment of divorce or award or order of  
9 the court, or an amended judgment of divorce or award or order of  
10 the court, to the retirement system. If the election of a reduced  
11 retirement allowance form of payment is considered void by the  
12 retirement system under this subsection, the retirant's retirement  
13 allowance shall revert to a straight life retirement allowance,  
14 including postretirement adjustments, if any, subject to an award  
15 or order of the court. The retirement allowance shall revert to a  
16 straight life retirement allowance under this subsection effective  
17 the first of the month after the date the retirement system  
18 receives a certified copy of the judgment of divorce or award or  
19 order of the court. This subsection does not supersede a judgment  
20 of divorce or award or order of the court in effect on July 18,  
21 1991. This subsection does not require the retirement system to  
22 distribute or pay retirement assets on behalf of a retirant in an  
23 amount that exceeds the actuarially determined amount that would  
24 otherwise become payable if a judgment of divorce had not been  
25 rendered.

26 (32) If a county board of commissioners of a county that has a  
27 population of more than 400,000 but less than 800,000 has an

1 employee credit union organized under the credit union act, **2003 PA**  
2 **215, MCL 490.101 TO 490.601**, or former 1925 PA 285, the county  
3 board of commissioners may include as a member of a plan under this  
4 section a past or present employee of the credit union, if that  
5 past or present employee has 5 or more years of service credit with  
6 that credit union on or before June 30, 1990.

7 (33) The county board of commissioners shall establish a  
8 written policy to implement the provisions of this section in order  
9 to provide uniform application of this section to all members of  
10 the plan.

11 Enacting section 1. This amendatory act does not take effect  
12 unless House Bill No. 5345 of the 95th Legislature is enacted into  
13 law.