

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5261

A bill to amend 1980 PA 300, entitled
"The public school employees retirement act of 1979,"
by amending section 61 (MCL 38.1361), as amended by 2010 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61. (1) Except as otherwise provided in this section, if
2 a retirant is receiving a retirement allowance other than a
3 disability allowance payable under this act or under former 1945 PA
4 136, on account of either age or years of personal service
5 performed, or both, and becomes employed by a reporting unit, the
6 following shall ~~take place~~ **OCCUR**:

7 (a) The retirant ~~shall~~ **IS** not ~~be~~ entitled to a new final
8 average compensation or additional service credit under this
9 retirement system unless additional service is performed equivalent
10 to 5 or more years of service credit or, if the retirant has

1 contributed to the member investment plan, the equivalent of 3 or
2 more years of service credit. The retirant may elect to have the
3 retirement allowance recomputed based on the added credit or the
4 final average compensation resulting from the added service, or
5 both. A retirement allowance shall not be recomputed until the
6 retirant pays into the retirement system an amount equal to the
7 retirant's new final average compensation multiplied by the
8 percentage determined under section 41(2) for normal cost and
9 unfunded actuarial accrued liabilities, not including the
10 percentage required for the funding of health benefits, multiplied
11 by the total service credit in the period in which the retirant's
12 additional service was performed.

13 (b) The retirant's retirement allowance shall be reduced by
14 the lesser of the amount that the earnings in a calendar year
15 exceed the amount permitted without a reduction of benefits under
16 the social security act, chapter 531, 49 Stat. 620, or 1/3 of the
17 retirant's final average compensation. For purposes of computing
18 allowable earnings under this subdivision, the final average
19 compensation shall be increased by 5% for each full year of
20 retirement.

21 (2) The retirement system may offset retirement benefits
22 payable under this act against amounts owed to the retirement
23 system by a retirant or retirement allowance beneficiary.

24 (3) Subsection (1) does not apply to a retirant if all of the
25 following circumstances exist:

26 (a) The retirant is a former teacher or administrator employed
27 in a teaching or research capacity by a university that is

1 considered a reporting unit for the limited purpose described in
2 section 7(3). A UNIVERSITY THAT EMPLOYS A RETIRANT UNDER THIS
3 SUBSECTION SHALL REPORT THAT EMPLOYMENT TO THE RETIREMENT SYSTEM BY
4 JULY 1 OF EACH YEAR. THE UNIVERSITY SHALL INCLUDE IN THE REPORT THE
5 NAME OF THE RETIRANT, THE CAPACITY IN WHICH THE RETIRANT IS
6 EMPLOYED, AND THE TOTAL ANNUAL COMPENSATION PAID TO THE RETIRANT.

7 (b) The retirant is not eligible to use any service or
8 compensation attributable to the employment described in
9 subdivision (a) for a recomputation of his or her retirement
10 allowance.

11 ~~—— (c) A university which employs a retirant pursuant to this~~
12 ~~subsection shall report such employment to the retirement system by~~
13 ~~July 1 of each year. The report to be filed shall include the name~~
14 ~~of the retirant, the capacity in which the retirant is employed,~~
15 ~~and the total annual compensation paid to the retirant.~~

16 ~~—— (4) Until July 1, 2011, subsection (1) does not apply to a~~
17 ~~retirant if all of the following circumstances exist:~~

18 ~~—— (a) The retirant is employed by a reporting unit that has an~~
19 ~~approved emergency situation, not including a situation caused by a~~
20 ~~labor dispute, that necessitates the hiring of a retirant in the~~
21 ~~capacity of a teacher, principal, stationary engineer,~~
22 ~~administrator, or other category as determined by the~~
23 ~~superintendent of public instruction to prevent depriving students~~
24 ~~of an education. The chief executive officer or superintendent of~~
25 ~~the school district shall include with the written notification~~
26 ~~documentation showing that more than 8% of all classes in the~~
27 ~~district during the 1998-99 school year are taught by full time~~

~~substitute teachers who are not certificated in the subjects or grade levels which they teach. Within 30 days after receipt of the notification and documentation under this subdivision, the department of education shall notify the chief executive officer or superintendent and the retirement system of its approval or disapproval of the emergency situation. If disapproved by the department of education, this subsection does not apply.~~

~~— (b) The retirant is employed under an emergency situation described in subdivision (a) for a period not to exceed 6 years.~~

~~— (c) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.~~

~~(4) (5)~~—The state superintendent of public instruction shall compile a listing of critical shortage disciplines. This listing shall be updated annually.

~~(5) (6)~~—Until July 1, ~~2011, 2014~~, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has a situation, not including a situation caused by a labor dispute, that necessitates the hiring of a retirant in an area that has been identified by the state superintendent of public instruction as a critical shortage discipline pursuant to subsection ~~(5)~~. **(4)**.

(b) The retirant is employed under a ~~ANY~~ situation described in subdivision (a) for a period not to exceed ~~6~~ **3** years **FOR THAT RETIRANT**.

(c) The retirant is not eligible to use any service or

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1 compensation attributable to the employment described in
2 subdivision (a) for a recomputation of his or her retirement
3 allowance.

4 (D) THE REPORTING UNIT SHALL PAY 100% OF THE CONTRIBUTION
5 RATES FOR THE UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR RETIREE
6 HEALTH CARE AND THE UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR
7 PENSION TO THE RETIREMENT SYSTEM FOR EACH RETIRANT WHO BECOMES
8 EMPLOYED BY A REPORTING UNIT UNDER THIS SUBSECTION.

9 (6) ~~(7)~~ Subsection ~~(6)~~ (5) shall only apply for retirants who
10 have been retired for at least 12 months before becoming employed
11 under this section.

12 (7) ~~(8)~~ Notwithstanding any other provision of this act **TO THE**
13 **CONTRARY**, for ~~any~~ **A** retirant who retires on ~~and~~ **OR** after July 1,
14 2010, and following a bona fide termination, including not working
15 in the month of the retirant's retirement effective date, and who
16 becomes employed by a reporting unit and the retirant's amount of
17 earnings in a calendar year exceeds 1/3 of the retirant's final
18 average compensation, the retirant shall forfeit his or her
19 retirement allowance and the retirement system subsidy for health
20 care benefits from the retirement system for as long as the
21 retirant is employed at the reporting unit **UNLESS THE RETIRANT IS**
22 **EMPLOYED UNDER SUBSECTION (5) <<, (9), OR (10)>>.** ~~Any~~ **A** retirant who has
23 forfeited the retirement system subsidy for health care benefits
24 **UNDER THIS SUBSECTION** and **WHO** wants to retain health care benefits
25 shall pay the retirant's and retirement system's costs for ~~such~~ **THE**
26 health care benefits. Upon termination of employment at the
27 reporting unit, the retirement allowance and health care benefits

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1 shall resume without recalculation.

2 (8) ~~(9)~~ Notwithstanding any other provision of this act **TO THE**
3 **CONTRARY**, for ~~any~~ **A** retirant who retires on ~~and~~ **OR** after July 1,
4 2010, who performs core services at a reporting unit as determined
5 by the retirement system, but who is employed by an entity other
6 than the reporting unit or is an independent contractor, the
7 retirant shall forfeit his or her retirement allowance and the
8 retirement system subsidy for health care benefits from the
9 retirement system for as long as the retirant is performing core
10 services at the reporting unit, **UNLESS THE RETIRANT IS EMPLOYED**
11 **UNDER SUBSECTION (9) <<OR (10)>>**. ~~Any~~ **A** retirant who has forfeited the
12 retirement system subsidy for health care benefits **UNDER THIS**
13 **SUBSECTION** and **WHO** wants to retain health care benefits shall pay
14 the retirant's and retirement system's costs for ~~such~~ **THE** health
15 care benefits. Upon termination of services at the reporting unit,
16 the retirement allowance and health care benefits shall resume
17 without recalculation.

18 (9) UNTIL JULY 1, 2014, SUBSECTION (1) DOES NOT APPLY TO A
19 RETIRANT WHO RETIRES ON OR AFTER JULY 1, 2010; WHO FOLLOWING A BONA
20 FIDE TERMINATION, INCLUDING NOT WORKING IN THE MONTH OF HIS OR HER
21 RETIREMENT EFFECTIVE DATE, BECOMES EMPLOYED AS A SUBSTITUTE TEACHER
22 BY A REPORTING UNIT, BY AN ENTITY OTHER THAN THE REPORTING UNIT, OR
23 AS AN INDEPENDENT CONTRACTOR; AND WHOSE AMOUNT OF EARNINGS
24 ATTRIBUTABLE TO EMPLOYMENT BY OR AT A REPORTING UNIT IN A CALENDAR
25 YEAR DOES NOT EXCEED 1/3 OF HIS OR HER FINAL AVERAGE COMPENSATION.
26 A RETIRANT DESCRIBED IN THIS SUBSECTION IS NOT ELIGIBLE TO USE ANY
27 SERVICE OR COMPENSATION ATTRIBUTABLE TO THE EMPLOYMENT DESCRIBED IN

1 THIS SUBSECTION FOR A RECOMPUTATION OF HIS OR HER RETIREMENT
2 ALLOWANCE. THE REPORTING UNIT AT WHICH THE RETIRANT PROVIDES
3 SUBSTITUTE TEACHER SERVICES DESCRIBED IN THIS SUBSECTION SHALL PAY
4 100% OF THE CONTRIBUTION RATES FOR THE UNFUNDED ACTUARIAL ACCRUED
5 LIABILITY FOR RETIREE HEALTH CARE AND THE UNFUNDED ACTUARIAL
6 ACCRUED LIABILITY FOR PENSION TO THE RETIREMENT SYSTEM FOR THE
7 EMPLOYMENT DESCRIBED IN THIS SUBSECTION. THE REPORTING UNIT SHALL
8 REPORT THE ENGAGEMENT OF SUBSTITUTE TEACHERS TO THE RETIREMENT
9 SYSTEM AT THE SAME INTERVAL THE REPORTING UNIT REPORTS INFORMATION
10 TO THE RETIREMENT SYSTEM WITH REGARD TO ITS OTHER EMPLOYEES. THE
11 REPORTING UNIT SHALL INCLUDE IN THE REPORT THE NAME OF THE
12 SUBSTITUTE TEACHER AND THE TOTAL EARNINGS PAID TO THE SUBSTITUTE
13 TEACHER FOR THAT REPORTING PERIOD. IN ORDER TO COMPLY WITH THE
14 REPORTING REQUIREMENTS OF THIS SUBSECTION, A REPORTING UNIT THAT
15 ENGAGES SUBSTITUTE TEACHERS THROUGH AN ENTITY OTHER THAN A
16 REPORTING UNIT OR AS INDEPENDENT CONTRACTORS SHALL OBTAIN FROM THE
17 SUBSTITUTE TEACHER'S EMPLOYER A LIST OF ALL SUBSTITUTE TEACHERS THE
18 EMPLOYER SUPPLIES TO THAT REPORTING UNIT AND THE TOTAL EARNINGS
19 PAID TO EACH SUBSTITUTE TEACHER FOR THE REPORTING PERIOD. AN
20 EMPLOYER OTHER THAN A REPORTING UNIT THAT EMPLOYS SUBSTITUTE
21 TEACHERS AS DESCRIBED IN THIS SUBSECTION SHALL PROVIDE TO THE
22 REPORTING UNIT ALL INFORMATION THAT THE REPORTING UNIT IS REQUIRED
23 TO REPORT TO THE RETIREMENT SYSTEM UNDER THIS SUBSECTION. FOR THE
24 PURPOSES OF THIS SUBSECTION, AN EMPLOYER INCLUDES AN INDEPENDENT
25 CONTRACTOR.

<<(10) UNTIL JULY 1, 2014, SUBSECTION (1) DOES NOT APPLY TO A
RETIRANT WHO RETIRES ON OR AFTER JULY 1, 2010; WHO FOLLOWING A BONA
FIDE TERMINATION, INCLUDING NOT WORKING IN THE MONTH OF HIS OR
HER RETIREMENT EFFECTIVE DATE, BECOMES EMPLOYED AS AN INSTRUCTIONAL COACH
OR A SCHOOL IMPROVEMENT FACILITATOR BY AN ENTITY OTHER THAN THE REPORTING
UNIT OR AS AN INDEPENDENT CONTRACTOR; AND WHOSE AMOUNT OF EARNINGS
ATTRIBUTABLE TO EMPLOYMENT AT A REPORTING UNIT IN A CALENDAR YEAR DOES
NOT EXCEED 1/3 OF HIS OR HER FINAL AVERAGE COMPENSATION. A RETIRANT
DESCRIBED IN THIS SUBSECTION IS NOT ELIGIBLE TO USE ANY SERVICE OR

COMPENSATION ATTRIBUTABLE TO THE EMPLOYMENT DESCRIBED IN THIS SUBSECTION FOR A RECOMPUTATION OF HIS OR HER RETIREMENT ALLOWANCE. THE REPORTING UNIT AT WHICH THE RETIRANT PROVIDES THE SERVICES DESCRIBED IN THIS SUBSECTION SHALL PAY 100% OF THE CONTRIBUTION RATES FOR THE UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR RETIREE HEALTH CARE AND THE UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR PENSION TO THE RETIREMENT SYSTEM FOR THE EMPLOYMENT DESCRIBED IN THIS SUBSECTION. THE REPORTING UNIT SHALL REPORT THE ENGAGEMENT OF INSTRUCTIONAL COACHES OR SCHOOL IMPROVEMENT FACILITATORS TO THE RETIREMENT SYSTEM AT THE SAME INTERVAL THE REPORTING UNIT REPORTS INFORMATION TO THE RETIREMENT SYSTEM WITH REGARD TO ITS OTHER EMPLOYEES. THE REPORTING UNIT SHALL INCLUDE IN THE REPORT THE NAME OF THE INSTRUCTIONAL COACH OR SCHOOL IMPROVEMENT FACILITATOR AND THE TOTAL EARNINGS PAID TO THE COACH OR FACILITATOR FOR THAT REPORTING PERIOD. IN ORDER TO COMPLY WITH THE REPORTING REQUIREMENTS OF THIS SUBSECTION, A REPORTING UNIT SHALL OBTAIN FROM THE COACH'S OR FACILITATOR'S EMPLOYER A LIST OF ALL INSTRUCTIONAL COACHES AND SCHOOL IMPROVEMENT FACILITATORS THE EMPLOYER SUPPLIES TO THAT REPORTING UNIT AND THE TOTAL EARNINGS PAID TO EACH COACH OR FACILITATOR FOR THE REPORTING PERIOD. AN EMPLOYER OTHER THAN A REPORTING UNIT THAT EMPLOYS INSTRUCTIONAL COACHES OR SCHOOL IMPROVEMENT FACILITATORS AS DESCRIBED IN THIS SUBSECTION SHALL PROVIDE TO THE REPORTING UNIT ALL INFORMATION THAT THE REPORTING UNIT IS REQUIRED TO REPORT TO THE RETIREMENT SYSTEM UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, AN EMPLOYER INCLUDES AN INDEPENDENT CONTRACTOR. AS USED IN THIS SUBSECTION, "INSTRUCTIONAL COACH" AND "SCHOOL IMPROVEMENT FACILITATOR" MEAN THOSE TERMS AS USED IN THE LISTING OF CRITICAL SHORTAGE DISCIPLINES DEVELOPED BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER SUBSECTION (4).>>