

HOUSE BILL No. 4828

June 12, 2013, Introduced by Rep. Somerville and referred to the Committee on Financial Liability Reform.

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 2012 PA 464.

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 occur:

7 (a) The retirant is not entitled to a new final average
8 compensation or additional service credit under this retirement
9 system unless additional service is performed equivalent to 5 or

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

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

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

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

27 (a) The retirant is a former teacher or administrator employed

1 in a teaching or research capacity by a university that is
2 considered a reporting unit for the limited purpose described in
3 section 7(3). A university that employs a retirant under this
4 subsection shall report that employment to the retirement system by
5 July 1 of each year. The university shall include in the report the
6 name of the retirant, the capacity in which the retirant is
7 employed, and the total annual compensation paid to the retirant.

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

12 (4) The state superintendent of public instruction shall
13 compile a listing of critical shortage disciplines. This listing
14 shall be updated annually.

15 (5) Until July 1, 2014, subsection (1) does not apply to a
16 retirant if all of the following circumstances exist:

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

22 (b) The retirant is employed under any situation described in
23 subdivision (a) for a period not to exceed 3 years for that
24 retirant.

25 (c) The retirant is not eligible to use any service or
26 compensation attributable to the employment described in
27 subdivision (a) for a recomputation of his or her retirement

1 allowance.

2 (d) The reporting unit shall pay 100% of the contribution
3 rates for the unfunded actuarial accrued liability for retiree
4 health care and the unfunded actuarial accrued liability for
5 pension to the retirement system for each retirant who becomes
6 employed by a reporting unit under this subsection.

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

10 (7) Notwithstanding any other provision of this act to the
11 contrary, for a retirant who retires on or after July 1, 2010, and
12 following a bona fide termination, including not working in the
13 month of the retirant's retirement effective date, and who becomes
14 employed by a reporting unit and the retirant's amount of earnings
15 in a calendar year exceeds 1/3 of the retirant's final average
16 compensation, the retirant shall forfeit his or her retirement
17 allowance and the retirement system subsidy for health care
18 benefits from the retirement system for as long as the retirant is
19 employed at the reporting unit unless the retirant is employed
20 under subsection (5), (9), ~~or~~ (10), **OR (11)**. A retirant who has
21 forfeited the retirement system subsidy for health care benefits
22 under this subsection and who wants to retain health care benefits
23 shall pay the retirant's and retirement system's costs for the
24 health care benefits. Upon termination of employment at the
25 reporting unit, the retirement allowance and health care benefits
26 shall resume without recalculation.

27 (8) Notwithstanding any other provision of this act to the

1 contrary, for a retirant who retires on or after July 1, 2010, who
2 performs core services at a reporting unit as determined by the
3 retirement system, but who is employed by an entity other than the
4 reporting unit or is an independent contractor, the retirant shall
5 forfeit his or her retirement allowance and the retirement system
6 subsidy for health care benefits from the retirement system for as
7 long as the retirant is performing core services at the reporting
8 unit, unless the retirant is employed under subsection (9), ~~or~~
9 (10), **OR (11)**. A retirant who has forfeited the retirement system
10 subsidy for health care benefits under this subsection and who
11 wants to retain health care benefits shall pay the retirant's and
12 retirement system's costs for the health care benefits. Upon
13 termination of services at the reporting unit, the retirement
14 allowance and health care benefits shall resume without
15 recalculation.

16 (9) Until July 1, 2014, subsection (1) does not apply to a
17 retirant who retires on or after July 1, 2010; who following a bona
18 fide termination, including not working in the month of his or her
19 retirement effective date, becomes employed as a substitute teacher
20 by a reporting unit, by an entity other than the reporting unit, or
21 as an independent contractor; and whose amount of earnings
22 attributable to employment by or at a reporting unit in a calendar
23 year does not exceed 1/3 of his or her final average compensation.
24 A retirant described in this subsection is not eligible to use any
25 service or compensation attributable to the employment described in
26 this subsection for a recomputation of his or her retirement
27 allowance. The reporting unit at which the retirant provides

1 substitute teacher services described in this subsection shall pay
2 100% of the contribution rates for the unfunded actuarial accrued
3 liability for retiree health care and the unfunded actuarial
4 accrued liability for pension to the retirement system for the
5 employment described in this subsection. The reporting unit shall
6 report the engagement of substitute teachers to the retirement
7 system at the same interval the reporting unit reports information
8 to the retirement system with regard to its other employees. The
9 reporting unit shall include in the report the name of the
10 substitute teacher and the total earnings paid to the substitute
11 teacher for that reporting period. In order to comply with the
12 reporting requirements of this subsection, a reporting unit that
13 engages substitute teachers through an entity other than a
14 reporting unit or as independent contractors shall obtain from the
15 substitute teacher's employer a list of all substitute teachers the
16 employer supplies to that reporting unit and the total earnings
17 paid to each substitute teacher for the reporting period. An
18 employer other than a reporting unit that employs substitute
19 teachers as described in this subsection shall provide to the
20 reporting unit all information that the reporting unit is required
21 to report to the retirement system under this subsection. For the
22 purposes of this subsection, an employer includes an independent
23 contractor.

24 (10) Until July 1, 2014, subsection (1) does not apply to a
25 retirant who retires on or after July 1, 2010; who following a bona
26 fide termination, including not working in the month of his or her
27 retirement effective date, becomes employed as an instructional

1 coach or a school improvement facilitator by an entity other than
2 the reporting unit or as an independent contractor; and whose
3 amount of earnings attributable to employment at a reporting unit
4 in a calendar year does not exceed 1/3 of his or her final average
5 compensation. A retirant described in this subsection is not
6 eligible to use any service or compensation attributable to the
7 employment described in this subsection for a recomputation of his
8 or her retirement allowance. The reporting unit at which the
9 retirant provides the services described in this subsection shall
10 pay 100% of the contribution rates for the unfunded actuarial
11 accrued liability for retiree health care and the unfunded
12 actuarial accrued liability for pension to the retirement system
13 for the employment described in this subsection. The reporting unit
14 shall report the engagement of instructional coaches or school
15 improvement facilitators to the retirement system at the same
16 interval the reporting unit reports information to the retirement
17 system with regard to its other employees. The reporting unit shall
18 include in the report the name of the instructional coach or school
19 improvement facilitator and the total earnings paid to the coach or
20 facilitator for that reporting period. In order to comply with the
21 reporting requirements of this subsection, a reporting unit shall
22 obtain from the coach's or facilitator's employer a list of all
23 instructional coaches and school improvement facilitators the
24 employer supplies to that reporting unit and the total earnings
25 paid to each coach or facilitator for the reporting period. An
26 employer other than a reporting unit that employs instructional
27 coaches or school improvement facilitators as described in this

1 subsection shall provide to the reporting unit all information that
2 the reporting unit is required to report to the retirement system
3 under this subsection. For the purposes of this subsection, an
4 employer includes an independent contractor. As used in this
5 subsection, "instructional coach" and "school improvement
6 facilitator" mean those terms as used in the listing of critical
7 shortage disciplines developed by the state superintendent of
8 public instruction under subsection (4).

9 (11) UNTIL JULY 1, 2014, SUBSECTION (1) DOES NOT APPLY TO A
10 RETIRANT WHO RETIRES ON OR AFTER JULY 1, 2010; WHO FOLLOWING A BONA
11 FIDE TERMINATION, INCLUDING NOT WORKING IN THE MONTH OF HIS OR HER
12 RETIREMENT EFFECTIVE DATE, BECOMES EMPLOYED AS A PARAPROFESSIONAL
13 BY A REPORTING UNIT, BY AN ENTITY OTHER THAN THE REPORTING UNIT, OR
14 AS AN INDEPENDENT CONTRACTOR; AND WHOSE AMOUNT OF EARNINGS
15 ATTRIBUTABLE TO EMPLOYMENT BY OR AT A REPORTING UNIT IN A CALENDAR
16 YEAR DOES NOT EXCEED 1/3 OF HIS OR HER FINAL AVERAGE COMPENSATION.
17 A RETIRANT DESCRIBED IN THIS SUBSECTION IS NOT ELIGIBLE TO USE ANY
18 SERVICE OR COMPENSATION ATTRIBUTABLE TO THE EMPLOYMENT DESCRIBED IN
19 THIS SUBSECTION FOR A RECOMPUTATION OF HIS OR HER RETIREMENT
20 ALLOWANCE. THE REPORTING UNIT AT WHICH THE RETIRANT PROVIDES
21 PARAPROFESSIONAL SERVICES DESCRIBED IN THIS SUBSECTION SHALL PAY
22 100% OF THE CONTRIBUTION RATES FOR THE UNFUNDED ACTUARIAL ACCRUED
23 LIABILITY FOR RETIREE HEALTH CARE AND THE UNFUNDED ACTUARIAL
24 ACCRUED LIABILITY FOR PENSION TO THE RETIREMENT SYSTEM FOR THE
25 EMPLOYMENT DESCRIBED IN THIS SUBSECTION. THE REPORTING UNIT SHALL
26 REPORT THE ENGAGEMENT OF PARAPROFESSIONALS TO THE RETIREMENT SYSTEM
27 AT THE SAME INTERVAL THE REPORTING UNIT REPORTS INFORMATION TO THE

1 RETIREMENT SYSTEM WITH REGARD TO ITS OTHER EMPLOYEES. THE REPORTING
2 UNIT SHALL INCLUDE IN THE REPORT THE NAME OF THE PARAPROFESSIONAL
3 AND THE TOTAL EARNINGS PAID TO THE PARAPROFESSIONAL FOR THAT
4 REPORTING PERIOD. IN ORDER TO COMPLY WITH THE REPORTING
5 REQUIREMENTS OF THIS SUBSECTION, A REPORTING UNIT THAT ENGAGES
6 PARAPROFESSIONALS THROUGH AN ENTITY OTHER THAN A REPORTING UNIT OR
7 AS INDEPENDENT CONTRACTORS SHALL OBTAIN FROM THE PARAPROFESSIONAL'S
8 EMPLOYER A LIST OF ALL PARAPROFESSIONALS THE EMPLOYER SUPPLIES TO
9 THAT REPORTING UNIT AND THE TOTAL EARNINGS PAID TO EACH
10 PARAPROFESSIONAL FOR THE REPORTING PERIOD. AN EMPLOYER OTHER THAN A
11 REPORTING UNIT THAT EMPLOYS PARAPROFESSIONALS AS DESCRIBED IN THIS
12 SUBSECTION SHALL PROVIDE TO THE REPORTING UNIT ALL INFORMATION THAT
13 THE REPORTING UNIT IS REQUIRED TO REPORT TO THE RETIREMENT SYSTEM
14 UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, AN
15 EMPLOYER INCLUDES AN INDEPENDENT CONTRACTOR.