

# HOUSE BILL No. 5387

March 4, 2014, Introduced by Reps. Abed, Darany, Hovey-Wright, Lipton, Barnett, Geiss, Brown, Yanez, Kivela, Faris, Brunner, Cochran, Slavens, Callton, Crawford, Franz, Yonker, Roberts, Hooker, McMillin, McBroom, Pagel, Outman, Graves and Potvin 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  
10      more years of service credit or, if the retirant has contributed to  
11      the member investment plan, the equivalent of 3 or more years of

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

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

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

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

25 (a) The retirant is a former teacher or administrator employed  
26 in a teaching or research capacity by a university that is  
27 considered a reporting unit for the limited purpose described in

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

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

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

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

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

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

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

27 (d) The reporting unit shall pay 100% of the contribution

1 rates for the unfunded actuarial accrued liability for retiree  
2 health care and the unfunded actuarial accrued liability for  
3 pension to the retirement system for each retirant who becomes  
4 employed by a reporting unit under this subsection.

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

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

25 (8) Notwithstanding any other provision of this act to the  
26 contrary, for a retirant who retires on or after July 1, 2010, who  
27 performs core services at a reporting unit as determined by the

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

13 (9) ~~Until July 1, 2014, subsection~~ **SUBSECTION** (1) does not  
14 apply to a retirant who retires on or after July 1, 2010; who  
15 following a bona fide termination, including not working in the  
16 month of his or her retirement effective date, becomes employed as  
17 a substitute teacher by a reporting unit, by an entity other than  
18 the reporting unit, or as an independent contractor; and whose  
19 amount of earnings attributable to employment by or at a reporting  
20 unit in a calendar year does not exceed 1/3 of his or her final  
21 average compensation. A retirant described in this subsection is  
22 not eligible to use any service or compensation attributable to the  
23 employment described in this subsection for a recomputation of his  
24 or her retirement allowance. ~~The reporting unit at which the~~  
25 ~~retirant provides substitute teacher services described in this~~  
26 ~~subsection shall pay 100% of the contribution rates for the~~  
27 ~~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 substitute teachers 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 substitute teacher and the total earnings paid to the substitute teacher for that reporting period.

In order to comply with the reporting requirements of this subsection, a reporting unit that engages substitute teachers through an entity other than a reporting unit or as independent contractors shall obtain from the substitute teacher's employer a list of all substitute teachers the employer supplies to that reporting unit and the total earnings paid to each substitute teacher for the reporting period. An employer other than a reporting unit that employs substitute teachers 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.

(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

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

1 employer includes an independent contractor. As used in this  
2 subsection, "instructional coach" and "school improvement  
3 facilitator" mean those terms as used in the listing of critical  
4 shortage disciplines developed by the state superintendent of  
5 public instruction under subsection (4).