

THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)
Act 300 of 1980

ARTICLE 6

38.1401 Supplemental pension.

Sec. 101. The supplemental pension paid under section 15a of chapter 1 or section 57 of chapter 2 of former Act No. 136 of the Public Acts of 1945 shall continue to be paid to a retirant or retirement allowance beneficiary. The supplemental benefit, when added to the retirement allowance of the retirant or retirement allowance beneficiary, shall provide before the election of an option or early retirement a minimum retirement allowance of \$160.00 for each year of credited service on the date of retirement or death adjusted to the nearest number of even years.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1980, Act 466, Imd. Eff. Jan. 17, 1981;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1402 Percentage increase to monthly retirement allowance payable after June 30, 1972; continuation.

Sec. 102. The percentage increase to the monthly retirement allowance payable after June 30, 1972, to a retirant or retirement allowance beneficiary, who was on the rolls for June, 1971, under section 174(1) of former Act No. 258 of the Public Acts of 1972, is continued as follows:

<u>Effective Date of Retirement</u>	<u>Increase</u>
August 1, 1970, to July 1, 1971	1%
August 1, 1969, to July 1, 1970	2%
August 1, 1968, to July 1, 1969	3%
August 1, 1967, to July 1, 1968	4%
August 1, 1966, to July 1, 1967	5%
August 1, 1965, to July 1, 1966	6%
August 1, 1964, to July 1, 1965	7%
August 1, 1963, to July 1, 1964	8%
August 1, 1962, to July 1, 1963	9%
August 1, 1961, to July 1, 1962	10%
August 1, 1960, to July 1, 1961	11%
August 1, 1959, to July 1, 1960	12%
August 1, 1958, to July 1, 1959	13%
August 1, 1957, to July 1, 1958	14%
July 1, 1956, to July 1, 1957	15%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Compiler's note: Act 258 of 1972, referred to in this section, was repealed by Act 101 of 1973, Act 242 of 1974, Act 261 of 1975, Act 258 of 1976, and Act 90 of 1977.

Popular name: Act 300

38.1403 Percentage increase to monthly retirement allowance payable under former provisions; continuation.

Sec. 103. (1) The percentage increase to the monthly retirement allowance payable to a retirant or retirement allowance beneficiary under section 27d of chapter I or section 25a of chapter II of former Act No. 136 of the Public Acts of 1945, is continued as provided in this section.

(2) After June 30, 1974, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary who was on the rolls for June, 1973, is supplemented as follows:

<u>Effective Date of Retirement</u>	<u>Increase</u>
July 1, 1972, to June 30, 1973	1%
July 1, 1971, to June 30, 1972	2%
July 1, 1970, to June 30, 1971	3%
July 1, 1969, to June 30, 1970	4%
July 1, 1968, to June 30, 1969	5%
July 1, 1967, to June 30, 1968	6%
July 1, 1966, to June 30, 1967	7%
July 1, 1965, to June 30, 1966	8%

July 1, 1964, to June 30, 1965	9%
July 1, 1963, to June 30, 1964	10%
July 1, 1962, to June 30, 1963	11%
July 1, 1961, to June 30, 1962	12%
July 1, 1960, to June 30, 1961	13%
July 1, 1959, to June 30, 1960	14%
July 1, 1958, to June 30, 1959	15%
July 1, 1957, to June 30, 1958	16%
July 1, 1956, to June 30, 1957	17%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1404 Percentage increase to monthly retirement allowance payable under additional former provisions; continuation.

Sec. 104. (1) The percentage increase to the monthly retirement allowance payable to a retirant or retirement allowance beneficiary under either section 27f of chapter I or section 25c of chapter II of former Act No. 136 of the Public Acts of 1945, is continued as provided in this section.

(2) The monthly retirement allowance payable to a retirant or retirement allowance beneficiary after September 30, 1976, who was on the rolls for September 30, 1976, is supplemented as follows:

<u>Effective Date of Retirement</u>	<u>Supplement for October 1, 1976 and 1977</u>
July 1, 1975, to June 30, 1976	1%
July 1, 1974, to June 30, 1975	2%
July 1, 1973, to June 30, 1974	3%
July 1, 1972, to June 30, 1973	4%
July 1, 1971, to June 30, 1972	5%
July 1, 1970, to June 30, 1971	6%
July 1, 1969, to June 30, 1970	7%
July 1, 1968, to June 30, 1969	8%
Before July 1, 1968	8%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1404a Determining rate of investment return on retirement system assets and present value of retirement allowances; calculation and reduction of distribution income; crediting distribution units to retirant or retirement allowance beneficiary; calculation and payment of distribution amount; increase in retirement allowance; computation of cumulative increase amount; supplemental payment; increase in retirement allowance effective before October 1, 1981; increase in retirement allowance effective on or before January 1, 1987.

Sec. 104a. (1) After the end of each state fiscal year, the department shall determine the rate of investment return earned on retirement system assets during the fiscal year, based upon methods established by the retirement board.

(2) At the end of each state fiscal year, the retirement system's actuary shall determine the present value of retirement allowances to be paid after the end of the fiscal year to retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal period. The assumed interest rate used in the determination shall be 8% per year, compounded annually.

(3) The distribution income at the end of each state fiscal year shall be equal to the product of the present value of retirement allowances determined in subsection (2) at the end of the previous fiscal year times the positive excess, if any, of the rate of investment return determined in subsection (1) exceeding 8%. The distribution income calculated pursuant to this subsection at the end of the fiscal years 1984-85 and 1985-86 shall be reduced by the cost of prior postretirement adjustments paid from the appropriated credit for excess interest earnings on retired life assets during the fiscal year pursuant to sections 101, 102, 103, and 104.

(4) After the end of each state fiscal year, each retirant and retirement allowance beneficiary in receipt of a retirement allowance at the end of the fiscal year, and whose effective date of retirement allowance preceded the beginning of that fiscal year, shall be credited with 1 distribution unit for each full year between the

effective date of retirement and the end of the fiscal year and 1 distribution unit for each full year of service credit in force on the effective date of retirement. Distribution units shall not accumulate from 1 year to the next year.

(5) The distribution amount for an individual retirant or retirement allowance beneficiary shall be equal to the product of the distribution income determined in subsection (3) times the individual's number of distribution units determined in subsection (4) divided by the total number of distribution units for all eligible retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal year. The distribution amount for an individual retirant or retirement allowance beneficiary of a retirant or member who contributed to the member investment plan is zero.

(6) Each retirement allowance that was effective on or before January 1, 1987 shall be increased effective on the later of January 1, 1986 or the retirement allowance effective date. The amount of the increase shall be 8% of the retirement allowance that would be payable as of the date of the increase without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected by the member under section 85(1).

(7) Until and including October 1, 1989, each retirement allowance that was effective on or before January 1, 1987 shall be increased each October 1 beginning with the later of October 1, 1986 or the first October 1 following the retirement allowance effective date. The amount of the annual increase shall be equal to 40.5% of the increase computed in subsection (6).

(8) After the end of each state fiscal year, the cumulative increase amount shall be computed for each retirant or retirement allowance beneficiary affected by subsections (6), (7), and (11). The cumulative increase amount shall be equal to the difference between the total retirement allowance paid during the state fiscal year and the retirement allowance that would have been payable without application of subsections (6), (7), and (11). The cumulative increase amount for any retirant or retirement allowance beneficiary whose effective date of retirement is after January 1, 1987 is zero.

(9) In March of each year, beginning in March, 1986, each retirant or retirement allowance beneficiary shall be paid, in a single supplemental payment, the excess, if any, of the distribution amount over the cumulative increase amount for the previous state fiscal year. If a retirant dies before receipt of a supplemental payment, the supplemental payment shall be made to the retirant's retirement allowance beneficiary, if any. If both the retirant and the retirement allowance beneficiary die before receipt of a supplemental payment, no payment shall be made.

(10) Each retirement allowance that was effective before October 1, 1981 shall be increased effective January 1, 1990. The amount of the increase shall be a percentage of the retirement allowance that is payable as of January 1, 1990 without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected under section 85(1). The percentage is as follows:

<u>Effective date of retirement</u>	<u>Percentage</u>
October 1, 1980 to September 30, 1981	1%
October 1, 1979 to September 30, 1980	2%
October 1, 1978 to September 30, 1979	3%
October 1, 1977 to September 30, 1978	4%
October 1, 1976 to September 30, 1977	5%
October 1, 1975 to September 30, 1976	6%
October 1, 1974 to September 30, 1975	7%
October 1, 1973 to September 30, 1974	8%
October 1, 1972 to September 30, 1973	9%
October 1, 1971 to September 30, 1972	10%
October 1, 1970 to September 30, 1971	11%
October 1, 1969 to September 30, 1970	12%
October 1, 1968 to September 30, 1969	13%
October 1, 1967 to September 30, 1968	14%
October 1, 1966 to September 30, 1967	15%
October 1, 1965 to September 30, 1966	16%
October 1, 1964 to September 30, 1965	17%
October 1, 1963 to September 30, 1964	18%
October 1, 1962 to September 30, 1963	19%
October 1, 1961 to September 30, 1962	20%
October 1, 1960 to September 30, 1961	21%

Before October 1, 1960

22%

(11) Each retirement allowance that was effective on or before January 1, 1987 shall be increased each October 1 beginning October 1, 1990. The amount of the annual increase shall be equal to 3% of the retirement allowance that would be payable without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected under section 85(1).

History: Add. 1982, Act 253, Imd. Eff. Sept. 30, 1982;—Am. 1983, Act 6, Imd. Eff. Mar. 14, 1983;—Am. 1984, Act 129, Imd. Eff. June 1, 1984;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1985, Act 218, Imd. Eff. Jan. 10, 1986;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1998, Act 213, Eff. Mar. 23, 1999.

Popular name: Act 300

38.1405 Violation; penalty.

Sec. 105. A person who, with intent to deceive, makes a false statement in a report or record required under this retirement system, or who, with intent to deceive, violates this act or a rule promulgated under this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

Administrative rules: R 38.1101 et seq. of the Michigan Administrative Code.

38.1406 Saving clause.

Sec. 106. All proceedings pending and all rights and liabilities existing, acquired, or incurred under former Act No. 136 of the Public Acts of 1945 at the time this act takes effect are saved. Those proceedings shall be consummated pursuant to the law in effect when the proceedings were commenced. Those rights and liabilities shall be preserved pursuant to the law in effect on the day immediately preceding the effective date of this act. To the extent that either the kinds of benefits available under the applicable chapter of former Act No. 136 of the Public Acts of 1945 as in effect on the day immediately preceding the effective date of this act or the manner of calculating those benefits under former Act No. 136 of the Public Acts of 1945 results in a greater benefit of any kind than would otherwise be available under this act or include a benefit not otherwise available under this act, the determinations of those kinds of benefits available and the manner of calculating those benefits shall be made pursuant to former Act No. 136 of the Public Acts of 1945 for those members who participated in the retirement system as set forth in former Act No. 136 of the Public Acts of 1945 before the effective date of this act.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1407 Repeal of MCL 38.201 to 38.366.

Sec. 107. Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.366 of the Compiled Laws of 1970, is repealed.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1408 Administration of retirement system as qualified pension plan created in trust under internal revenue code; requirements and benefit limitations; qualified military service.

Sec. 108. (1) This section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

(2) The retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and beginning January 1, 2010, applicable provisions of the final regulations issued by the internal revenue service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost-of-living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar

year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and retirement allowance beneficiaries.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member on retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, shall apply to this act and be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the required minimum distribution requirements apply to the act.

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and the related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993. Beginning October 1, 2010, a nonspouse beneficiary may elect to have any portion of an amount payable under this act that is an eligible rollover distribution treated as a direct rollover that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or individual retirement annuity described in section 408(a) or (b) of the internal revenue code, 26 USC 408, that is established for the purpose of receiving a distribution on behalf of the beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity pursuant to section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 45 and 85(1)(b), (1)(c), (1)(d), and (2), the actuarially assumed interest rate shall be determined by the director of the department and the retirement board in consultation with the actuary with utilization of the mortality tables adopted by the department and the retirement board.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service on or after December 12, 1994. Effective January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member shall be treated as having resumed and then terminated employment on account of death.

History: Add. 1991, Act 107, Imd. Eff. Oct. 8, 1991;—Am. 1995, Act 177, Imd. Eff. Oct. 17, 1995;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2008, Act 354, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2017, Act 92, Imd. Eff. July 13, 2017.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

Popular name: Act 300

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38.1409-38.1412 Repealed. 1997, Act 143, Imd. Eff. Nov. 19, 1997.

Compiler's note: The repealed sections pertained to election to terminate membership in Tier 1 and election to participate in Tier 2.

Popular name: Act 300