

HOUSE BILL No. 4866

May 23, 1991, Introduced by Rep. Barns and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 24, 25, and 29 of Act No. 427 of the Public Acts of 1984, entitled as amended "Municipal employees retirement act of 1984," as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1524, 38.1525, and 38.1529 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 24, 25, and 29 of Act No. 427 of the
2 Public Acts of 1984, as amended by Act No. 500 of the Public Acts
3 of 1988, being sections 38.1524, 38.1525, and 38.1529 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 24. (1) The retirement board may retire a member who
6 becomes incapacitated for continued employment by the member's
7 participating municipality or participating court if each of the
8 following conditions is met:

1 (a) ~~Application for disability retirement is filed with the~~
2 ~~retirement system by either the~~ THE member or the member's par-
3 ticipating municipality or participating court FILES AN APPLICA-
4 TION FOR DISABILITY RETIREMENT WITH THE RETIREMENT BOARD within 1
5 year after the date the member ceases to be paid by the partici-
6 pating municipality or participating court.

7 (b) The member has ~~10 or more~~ THE NUMBER OF years of cred-
8 ited service NEEDED TO VEST IN THE RETIREMENT PLAN OF THE
9 MEMBER'S PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT.

10 (c) The member undergoes the medical examinations and tests
11 ordered by the retirement system.

12 (d) The medical adviser certifies TO THE RETIREMENT BOARD
13 AND THE RETIREMENT BOARD CONCURS IN all of the following: ~~to~~
14 ~~the retirement board.~~

15 (i) The member is mentally or physically incapacitated for
16 ~~any~~ continued employment by the participating municipality or
17 participating court IN THE POSITION HELD BY THE MEMBER AT THE
18 TIME OF THE INCAPACITY.

19 (ii) The incapacity is likely to ~~be permanent~~ CONTINUE FOR
20 2 YEARS OR MORE.

21 ~~(iii) The member should be retired.~~

22 (E) THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT
23 CERTIFIES TO THE RETIREMENT BOARD THAT THE MUNICIPALITY OR COURT
24 IS NOT ABLE TO EMPLOY THE MEMBER IN ANY POSITION THAT IS COMPEN-
25 SATED AT A LEVEL THAT IS 100% OR MORE OF THE COMPENSATION LEVEL
26 OF THE POSITION HELD BY THE MEMBER AT THE TIME OF THE
27 INCAPACITY. THE COMPENSATION LEVEL USED UNDER THIS SUBDIVISION

1 SHALL BE DETERMINED PURSUANT TO THE PAY SCALE IN EFFECT FOR THAT
2 POSITION ON THE DATE OF THE CERTIFICATION BY THE PARTICIPATING
3 MUNICIPALITY OR PARTICIPATING COURT.

4 (F) THE MEMBER AND THE PARTICIPATING MUNICIPALITY OR PARTICIPATING
5 COURT CERTIFY TO THE RETIREMENT BOARD THAT THE MEMBER HAS
6 NOT VOLUNTARILY ACCEPTED ANY EMPLOYMENT OFFERED BY THE PARTICIPATING
7 MUNICIPALITY OR PARTICIPATING COURT.

8 (2) Medical examinations shall be made by or under the
9 direction of a medical adviser selected by the retirement board.
10 The effective date of a disability retirement shall not predate
11 either of the following:

12 (a) The date of the disability.

13 (b) The date the member ceases to be paid by the participating
14 municipality or participating court.

15 (3) The amount of a disability retirement allowance shall be
16 computed ~~in accordance with~~ BY THE RETIREMENT BOARD PURSUANT TO
17 the benefit programs that are applicable to the disability
18 retirant's credited service. The early retirement reduction provisions
19 of section 10(3) ~~shall not be applied~~ DO NOT APPLY TO
20 THE COMPUTATION OF THE DISABILITY RETIREMENT ALLOWANCE.

21 (4) The following exceptions to ~~the provisions of~~ subsections
22 (1) to (3) ~~shall~~ apply if the retirement board finds that
23 the member's disability was the natural and proximate result of a
24 personal injury or disease arising out of and in the course of
25 the member's actual performance of duty in the employ of the participating
26 municipality or participating court:

1 (a) The CREDITED SERVICE requirement ~~of 10 or more years of~~
2 ~~credited service~~ UNDER SUBSECTION (1)(B) shall be waived.

3 (b) The amount of retirement allowance shall be computed as
4 if the member had acquired ~~exactly 10 years~~ THE AMOUNT of cred-
5 ited service NEEDED TO VEST IN THE RETIREMENT PLAN OF THE PARTIC-
6 IPATING COURT OR PARTICIPATING MUNICIPALITY if the member had
7 actually acquired less than ~~10 years~~ THAT AMOUNT of credited
8 service.

9 Sec. 25. (1) The retirement board may require a disability
10 retirant who has not attained age 60 years to undergo periodic
11 medical examination by or under the direction of a medical
12 adviser selected by the retirement board. If a disability retir-
13 ant refuses to submit to a medical examination, payment of the
14 retirement allowance may be suspended by the retirement board
15 until withdrawal of the refusal. If the refusal continues for 1
16 year, all of the disability retirant's rights in and to a dis-
17 ability ~~pension~~ RETIREMENT ALLOWANCE may be revoked by the
18 retirement board. ~~A~~

19 (2) PAYMENT OF A disability retirement allowance shall be
20 ~~discontinued if following the medical examination~~ SUSPENDED IF
21 the medical adviser certifies that the disability retirant is
22 mentally and physically ~~able and~~ capable of ~~resuming gainful~~
23 employment with the participating municipality or participating
24 court ~~from which retired, and the retirement board concurs in~~
25 ~~the certification of the medical adviser~~ IN THE POSITION HELD BY
26 THE DISABILITY RETIRANT AT THE TIME OF THE INCAPACITY AND THE

1 MUNICIPALITY OR COURT OFFERS EMPLOYMENT TO THE DISABILITY
2 RETIRANT IN THAT SAME POSITION.

3 (3) PAYMENT OF A DISABILITY RETIREMENT ALLOWANCE SHALL BE
4 SUSPENDED FOR THE PERIOD DURING WHICH EITHER OF THE FOLLOWING
5 CIRCUMSTANCES EXIST:

6 (A) THE DISABILITY RETIRANT REFUSES TO ACCEPT A TRIAL PERIOD
7 OF EMPLOYMENT AS DESCRIBED IN SUBSECTION (6) THAT IS OFFERED BY
8 THE PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT WITHIN 3
9 YEARS AFTER THE DATE THE MEMBER IS RETIRED FOR DISABILITY UNDER
10 THIS ACT, IF THE COMPENSATION FOR THE OFFERED TRIAL PERIOD OF
11 EMPLOYMENT IS AT A LEVEL THAT IS 100% OR MORE OF THE COMPENSATION
12 LEVEL OF THE POSITION HELD BY THE DISABILITY RETIRANT AT THE TIME
13 OF THE INCAPACITY. THE COMPENSATION LEVEL USED UNDER THIS SUBDI-
14 VISION SHALL BE DETERMINED PURSUANT TO THE PAY SCALE IN EFFECT
15 FOR THAT POSITION ON THE DATE THE MUNICIPALITY OR COURT OFFERS
16 THE EMPLOYMENT TO THE DISABILITY RETIRANT.

17 (B) THE DISABILITY RETIRANT VOLUNTARILY ACCEPTS ANY EMPLOY-
18 MENT OFFERED BY THE PARTICIPATING MUNICIPALITY OR PARTICIPATING
19 COURT.

20 (4) ~~-(2)-The~~ EXCEPT AS PROVIDED IN SUBSECTION (6), THE mem-
21 bership status of a ~~terminated~~ disability retirant who is sub-
22 sequently employed by a participating municipality or participat-
23 ing court shall be governed by the provisions of section 3. The
24 ~~terminated~~ disability retirant's actual credited service at the
25 time of disability retirement shall be restored upon again
26 acquiring membership if both of the following conditions are
27 satisfied:

1 (a) Membership is on account of employment with the same
2 participating municipality or participating court from which the
3 member previously retired.

4 (b) Membership is reacquired within 5 years from the date of
5 termination of the disability retirement allowance.

6 (5) ~~(3)~~ Service shall not be credited for ~~the period~~ ANY
7 MONTH FOR WHICH a disability retirant is ~~being~~ paid a disabil-
8 ity retirement allowance.

9 (6) ~~(4)~~ A ~~terminated~~ disability retirant ~~who does not~~
10 ~~again become a member with restoration of credited service pursu-~~
11 ~~ant to subsection (2) shall become a vested former member~~ MAY BE
12 SUBSEQUENTLY EMPLOYED BY A PARTICIPATING MUNICIPALITY, PARTICI-
13 PATING COURT, OR OTHER EMPLOYER FOR A TRIAL PERIOD OF NOT MORE
14 THAN 120 DAYS UPON PRIOR APPROVAL OF AN EMPLOYEE OF THE RETIRE-
15 MENT SYSTEM WHO IS AUTHORIZED BY THE RETIREMENT BOARD TO APPROVE
16 THE EMPLOYMENT. THE RETIREMENT SYSTEM EMPLOYEE SHALL REPORT EACH
17 APPROVAL OF EMPLOYMENT MADE UNDER THIS SUBSECTION TO THE RETIRE-
18 MENT BOARD. THE DISABILITY RETIRANT DOES NOT BECOME A MEMBER OF
19 THE RETIREMENT SYSTEM DURING A TRIAL PERIOD OF EMPLOYMENT AND THE
20 DISABILITY RETIRANT'S DISABILITY STATUS IS NOT AFFECTED BY A
21 TRIAL PERIOD OF EMPLOYMENT. A DISABILITY RETIRANT MAY RECEIVE
22 APPROVAL FOR UP TO 2 TRIAL PERIODS OF EMPLOYMENT IN ANY 5-YEAR
23 PERIOD. THE AMOUNT OF COMPENSATION PAID TO A DISABILITY RETIRANT
24 DURING A TRIAL PERIOD OF EMPLOYMENT IS NOT CONSIDERED INCOME AS
25 DEFINED IN SECTION 29.

1 (7) EACH OFFER OF EMPLOYMENT MADE TO A DISABILITY RETIRANT
2 BY A PARTICIPATING MUNICIPALITY OR PARTICIPATING COURT SHALL BE
3 MADE IN WRITING AND SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

4 (A) A COMPLETE DESCRIPTION OF THE JOB DUTIES AND
5 RESPONSIBILITIES.

6 (B) THE COMPENSATION THAT WILL BE PAID FOR THAT EMPLOYMENT.

7 (C) A STATEMENT INDICATING WHETHER THE DISABILITY RETIRANT'S
8 DISABILITY RETIREMENT ALLOWANCE WILL BE SUSPENDED AS A RESULT OF
9 REFUSING TO ACCEPT THE OFFER OF EMPLOYMENT.

10 (D) A STATEMENT INDICATING THAT THE DISABILITY RETIRANT MAY
11 CONTACT THE RETIREMENT SYSTEM TO VERIFY ANY INFORMATION CONTAINED
12 IN THE OFFER OF EMPLOYMENT.

13 (E) THE NAME AND THE CURRENT ADDRESS OF THE RETIREMENT
14 SYSTEM.

15 Sec. 29. (1) This section shall apply during the period
16 between the effective date of a retirement allowance arising from
17 disability retirement under section 24 and the date the disabil-
18 ity retirant attains ~~age~~ 60 years OF AGE. ~~Application of the~~
19 THE limitation shall be APPLIED to the amount of retirement
20 allowance under form of payment SL. The effect of an election of
21 any other form of payment shall be taken into account after
22 application of this section.

23 (2) The amount of a retirement allowance shall not exceed
24 the difference between:

25 (a) One hundred percent of the retired member's final aver-
26 age compensation.

1 (b) The amount of the retired member's considered income.

2 (3) ~~A retired member's~~ FOR PURPOSES OF THIS SECTION,

3 "considered income" ~~is~~ MEANS the annual sum of income from the
4 following sources:

5 (a) Remuneration for personal services rendered in any gain-
6 ful employment. ~~Gainful~~ CONSIDERED INCOME DOES NOT INCLUDE
7 REMUNERATION FOR GAINFUL employment existing at the time of dis-
8 ability retirement, other than with the participating municipal-
9 ity or participating court from which retired, ~~shall not be~~
10 ~~considered~~ to the extent of the amount of THAT remuneration
11 EARNED in the last calendar year preceding retirement.

12 CONSIDERED INCOME DOES NOT INCLUDE REMUNERATION PAID TO A DIS-
13 ABILITY RETIRANT DURING A TRIAL PERIOD OF EMPLOYMENT UNDER
14 SECTION 25.

15 (b) Worker's compensation weekly benefits, redemptions, and
16 settlements, on account of the same disability for which
17 retired. ~~Worker's~~ CONSIDERED INCOME DOES NOT INCLUDE WORKER'S
18 compensation benefits for bona fide medical expenses ~~shall not~~
19 ~~be considered~~ OR COST OF LIVING INCREASES IN THE WORKER'S COM-
20 PENSATION WEEKLY BENEFITS.

21 (c) Payments from any program of salary continuance, sick-
22 ness and accident insurance, disability insurance, or program of
23 similar purpose, financed in whole or in part by a participating
24 municipality or participating court.

25 (d) Payments from the federal social security old-age, sur-
26 vivors, disability and health insurance program. CONSIDERED

1 INCOME DOES NOT INCLUDE COST OF LIVING INCREASES IN THE FEDERAL
2 SOCIAL SECURITY BENEFITS.

3 ~~(4) Cost of living increases in the amount of considered~~
4 ~~income from worker's compensation and federal social security~~
5 ~~shall be disregarded for the purposes of this section.~~

6 (4) ~~(5)~~ The retirement system shall compute the initial
7 amount of retirement allowance on the presumption that the retir-
8 ant is receiving social security disability benefits and worker's
9 compensation weekly benefits. The presumed amounts shall be
10 determined on the basis of the retirant's final average compensa-
11 tion and the single person statutory benefits. The retirant may,
12 at any time, submit evidence of receipt of a lesser amount of
13 social security and worker's compensation. The retirement system
14 shall adjust the amount of retirement allowance to reflect the
15 actual amount of social security and worker's compensation being
16 received if it finds the submitted evidence substantiates the
17 retirant's claim.

18 (5) ~~(6)~~ A disability retirant may submit an affidavit
19 declaring that applications for social security and worker's com-
20 pensation benefits have not and will not be made to avoid appli-
21 cation of the presumption of receipt UNDER SUBSECTION (4). The
22 affidavit shall also contain the promise that the disability
23 retirant will immediately notify the retirement system if an
24 application for social security or worker's compensation benefits
25 is filed at a later date.

26 (6) ~~(7)~~ The retirement system shall periodically request
27 substantiated income information from retirants subject to this

1 section. Failure to provide requested information within 90 days
2 of the request shall cause suspension of payment of the retire-
3 ment allowance until the information is received.