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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Reps. Tobocman, McConico, Amos, DeRoche, Bisbee, Palsrok, Elkins, Sak, Gielegem, Vagnozzi, Palmer, Minore, Gillard, Brandenburg, Law, Spade, Rivet, Koetje, Pappageorge, Stahl, Byrum, Gleason and Stewart

ENROLLED HOUSE BILL No. 4695

AN ACT to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 2002 PA 730.

The People of the State of Michigan enact:

Sec. 12a. (1) A county board of commissioners at a lawfully held meeting may do 1 or more of the following:

(a) Provide group life, health, accident and hospitalization, and disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds for the insurance. For a county with 100 employees or more, self-insure for health, accident and hospitalization, and group disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds.

(b) Adopt and establish a plan by which the county purchases or participates in the cost of an endowment policy or retirement annuity for a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, to provide monthly pension or retirement benefits for each employee 60 years of age or older in an amount not to exceed \$150.00 per month or 2% of the average monthly earnings of the employee for 5 years immediately before retirement times the years of service of the employee, whichever is the lesser sum. As an option, a county board of commissioners may adopt and establish a plan by which the county pays pension or retirement benefits to a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, who has been employed for not less than 25 years, or who is 60 years of age or older and has been employed for not less than 5 years, in monthly payments not to exceed 2.5% of the employee's highest average monthly compensation or earnings received from the county or county road fund for 5 years of service times the total number of years of service of the employee, including a fraction of a year, not to exceed 3/4 of the average final compensation of the employee. A plan may also pay early retirement benefits at 55 years of age or older to the extent of actuarially equivalent benefits not increasing the costs of the plan. Except as provided in subsection (27), endowment policies, retirement benefits, pensions, or annuity retirement benefits in excess of the amounts stipulated in this subdivision may be provided for by a plan of employee participation to cover the cost of the excess. If the employment or the pension or retirement benefits of an employee who participated in the cost of pension or retirement benefits are terminated before the employee receives pension or retirement benefits equal to the total amount of the employee's

participation, the balance of the total participation shall be refunded to the employee at the time of termination, if living, or if deceased, to the employee's heir, estate, legal representative, or designated beneficiary as provided in the plan adopted and established by the county board of commissioners. If a terminated employee is subsequently rehired by the county, the employee may repay the amount of participation refunded to the employee upon the employee's termination, together with compound interest from the date of refund to the dates of repayment at the rates provided in the plan. As conditions for repayment, the plan may require return to employment for a period not to exceed 3 years and may require that repayment be completed within a period of not less than 1 year following return to employment. A plan adopted for the payment of retirement benefits or a pension shall grant benefits to an employee eligible for pension or retirement benefits according to a uniform scale for all persons in the same general class or classification. An employee shall not be denied benefits by termination of his or her employment after the employee becomes eligible for benefits under the plan and this section. An endowment policy or annuity purchased pursuant to this section shall be purchased from an insurer authorized to write endowment policies or annuities in this state.

(2) In a plan adopted under this section, at least 60% of the total pension or retirement benefit granted to an employee from county funds shall consist of a percentage not to exceed 2.5% of the employee's average final compensation times the employee's years of service and shall be granted to each employee eligible for retirement under the plan uniformly and without restriction or limitation other than those prescribed in this section. As used in this section:

(a) "Average final compensation" means the annual average of the highest actual compensation received by a county employee, other than a county employee who is a judge of a municipal court of record subject to subsection (20) or a judge subject to subsection (23), during a period of 5 consecutive years of service contained within the employee's 10 years of service immediately before the employee's retirement or a period of 5 years of service as specified in the plan. In a county that adopts a plan for granting longevity pay, the county board of commissioners may exclude this longevity pay from average final compensation for the purpose of computing the rate of employee contribution and the amount of benefits payable to an employee upon retirement.

(b) "Longevity pay" means increments of compensation payable at annual or semiannual intervals and based upon years of service to the county, exclusive of compensation provided for a given class of positions.

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the county or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

(4) If the employment of a county employee eligible to receive a pension or retirement benefit under a plan established pursuant to this section is terminated after the employee has completed 8 or more years of service in county employment, the employee shall receive the amount of pension or retirement benefit to which the employee's service would have entitled the employee under the plan established, if the employee waives the employee's right to a refund of the employee's total participation upon the termination of employment. The payment of pension or retirement benefits shall begin, as provided in the plan, after the employee would have become eligible for retirement under the plan had the employee's employment not been terminated, but not later than 90 days after the employee becomes 65 years of age. The payment of pension or retirement benefits shall not begin until the employee has applied for pension or retirement benefits in the manner prescribed in the plan established.

(5) A plan established under this section may provide for pension or retirement benefits for a county employee who becomes totally disabled for work in the county service from any cause, after not less than 10 years of county employment, to the extent of the limitations provided in this section. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or \$400.00 per month, whichever is the greater sum, for an employee who becomes totally disabled for work in the county service from causes that are the direct and proximate result of county employment, to continue for the duration of the disability or until the employee becomes eligible for retirement pursuant to other provisions of the plan authorized by this section. A plan may also provide for pension or retirement benefits, to the extent of the limitations provided in this section, for the actual dependents of a county employee who dies while still employed by the county after not less than 10 years of county employment, or who dies after leaving county employment with not less than the number of years of service required to vest in the plan but before becoming eligible to receive a pension or retirement benefit. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or \$400.00 per month, whichever is greater, for the actual dependents of a deceased county employee whose death is the direct and proximate result of county employment. The plan may provide that the period from the end of the deceased or disabled employee's period of service to the date that employee would have become eligible for retirement be used as service for the sole purpose of computing the amount of disability or death pension.

(6) As used in this section, "county employee" includes a bailiff of the district court in the thirty-sixth district who serves pursuant to section 8322 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.8322, and a person who receives more than 50% of all compensation for personal services, rendered to governmental units, from a county fund or county road fund, except a person, other than a bailiff of the district court in the thirty-sixth district, engaged for special services on a contract or fee basis. Until December 31, 1979, a plan adopted under this section may include as a

county employee a person on leave of absence from county employment who is not a member of another retirement system except as a retirant and who pays or arranges payment of contributions equal to the contributions that would have been required to be paid under the plan by both the county and the employee, based upon the compensation the employee would have received from the county, if the employee had not taken a leave of absence or a person who complies with the requirements of such a provision approved for inclusion in a plan by the county board of commissioners before January 1, 1976, who shall be considered to be a county employee during the period of compliance. A plan adopted under this section may exclude a person who is employed on a temporary basis and a person employed in a position normally requiring less than 1,000 hours, or some lesser specified number of hours, work per year. A bailiff serving in the district court in the thirty-sixth district is eligible to receive benefits under this section if a plan has been established by law by which the cost of benefits is payable from sources including charges on all legal instruments in which the service of process by a bailiff is required and earmarked by law for benefits, and contributions made by the city of Detroit and each bailiff pursuant to section 8322(6) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which a bailiff or former bailiff who served as bailiff as of January 1, 1967, may retire after 25 years of service regardless of age, with maximum benefits to be computed as follows: starting as of January 1, 1969, the average of any 5 years of earnings of the previous 10 years served in succession before retirement multiplied by 1.9% times the years of service; starting as of June 1, 1975, the average of any 5 years of earnings multiplied by 2% times the years of service. As used in this subsection, "earnings" means the salary and fees, other than mileage, received by a bailiff pursuant to section 8322(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which health, accident, and hospitalization insurance premiums may be paid out of the earnings of this fund. These payments shall be made at the discretion of the pension board of trustees. A county that has a retirement fund for bailiffs under this section shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8274, and to the state court administrator.

(7) An employee while receiving a pension or retirement benefit because of disability, pursuant to this section, may be considered as employed in the county service for the purpose of retirement under this section.

(8) A county employee who is included by law in another pension or retirement system by reason of the compensation the employee receives from the county may be excluded from a plan established under this section or included only to the extent of the difference between benefits granted under this section and the other pension or retirement system.

(9) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of government service resulting from employment with the United States government, except military service, employment with a state, or employment with any of their political subdivisions under the following conditions:

(a) Employment by the county occurred within 15 years following the county employee's separation from service of the last unit of government by which the county employee was employed.

(b) Service rendered before the last break in service of more than 15 years shall not be credited.

(c) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(d) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee would have made had the service been acquired in the employ of the county, plus interest from the dates the contributions would have been made to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(e) The county employee has 8 or more years of credited service in county employment, has legal vesting in the county plan, and deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer would have made had the government service being credited under this section been acquired in the employ of the county.

(10) A plan adopted under this section may provide for annual or less frequent postretirement redetermination of a pension. The redetermined amount of pension shall be not greater than the amount of pension otherwise payable multiplied by the sum of 100% and the percentage the county board of commissioners determines appropriate for each full year, excluding a fraction of a year, in the period from the effective date of payments of the pension and the date as of which the redetermination is being made. The redetermined amount shall not be less than the amount of pension otherwise payable. A provision of this section that limits the amount of a pension shall not apply to the operation of this subsection redetermining the amount of a pension. As used in this subsection, "the amount of pension otherwise payable" means the amount of pension that would be payable without regard to this subsection. The application of a

provision redetermining pension amounts may be restricted to pensions that have an effective date of payment either before or after a specified date.

(11) The cost of pension or retirement benefits for a county employee under this section may be paid from the same fund from which the employee receives compensation, and the county board of commissioners may appropriate the necessary funds to carry out the purposes of this section. If a county establishes a plan by which the county pays pension or retirement benefits to an employee pursuant to this section, the county, pursuant to provisions for pension or retirement benefits that are incorporated in the plan, shall establish and maintain reserves on an actuarial basis in the manner provided in this subsection sufficient to finance the pension and retirement and death benefit liabilities under the plan and sufficient to pay the pension and retirement and death benefits as they become due. A county that adopts a retirement plan under this section and establishes reserves on an actuarial basis shall maintain the reserves as provided in this subsection. The reserves shall be determined by an actuarial valuation and established and maintained by yearly appropriations by the county and contributions by employees. The reserves shall be established, maintained, and funded to cover the pension and other benefits provided for in the plan in the same manner and within the same limits as to time as is provided for Benefit Program B in the municipal employees retirement system described in former section 14 of the municipal employees retirement act of 1984, 1984 PA 427. These reserves are trust funds and shall not be used for any other purpose than the payment of pension, retirement, and other benefits and refunds of employee contributions pursuant to the plan established in a county. An employee's contributions shall be kept and accumulated in a separate fund and used only for the payment of annuities and refunds to employees. This subsection does not apply to a county that adopted a retirement plan under this section and did not establish reserves on an actuarial basis before October 11, 1947.

(12) If a county establishes a plan for the payment of pension and retirement benefits to its employees pursuant to this section, the county board of commissioners may provide for a board of trustees to administer the plan and for the manner of election or appointment of the members of the board of trustees. The county board of commissioners may grant authority to the board of trustees to fully administer and operate the plan and to deposit, invest, and reinvest the funds and reserves of the plan within the limitations prescribed by the county board of commissioners in the plan. The county board of commissioners may authorize the investment of funds of a county retirement plan established under this section in anything in which the funds of the state employees' retirement system or the funds of the municipal employees retirement system may be invested, pursuant to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555. A county retirement plan established under this section may provide for financing, funding, and the payment of benefits in the same manner and to the same extent as is provided for in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, may provide for and require contributions by county employees, and may permit additional employee contributions on a voluntary basis.

(13) Upon the approval of the county board of commissioners, a member who entered the armed service of the United States before June 1, 1980 or who entered the armed service of the United States on or after June 1, 1980 during a time of war or emergency condition as described in section 1 of 1965 PA 190, MCL 35.61, may elect to receive credited service for not more than 5 years of active military service. Credit for military service shall be given upon request and payment to the retirement system of an amount equal to 5% of the member's full-time or equated full-time annual compensation for the year in which payment is made multiplied by the number of years, and fraction of a year, of credited service that the member elects to purchase up to the maximum. Service shall not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, except for service that is or would be credited under the federal government for services in the reserve. Service shall not be credited under this subsection until the member has the number of years of credited service needed to vest under the plan. Only completed years and months of armed service shall be credited under this subsection.

(14) A member who enters or entered any armed service of the United States may purchase credited service for periods of continuous active duty lasting 30 days or more, subject to the following conditions:

(a) The county board of commissioners authorizes the purchase of credited service under this subsection by an affirmative vote of a majority of the members of the county board of commissioners. The county board of commissioners shall establish a written policy to implement the provisions of this subsection in order to provide uniform application of this subsection to all members of the plan.

(b) The member has at least the number of years of credited service needed to vest under the plan, not including any credited service purchased under this subsection and subsection (13).

(c) The member pays the plan 5% of the member's annual compensation multiplied by the period of credited service being purchased. As used in this subdivision, "annual compensation" means the aggregate amount of compensation paid the member during the 4 most recent calendar quarters for each of which the member was credited 3/12 of a year of credited service.

(d) Fractional months of armed service shall not be recognized for the purposes of this subsection.

(e) Armed service credited a member under subsection (13) shall not be the basis of credited service under this section.

(f) Armed service credited a member under this subsection shall not exceed either 5 years or the difference between 5 years and the armed service credited the member under subsection (13).

(g) Credited service shall not be granted for periods of armed service that are or could be used for obtaining or increasing a benefit from another retirement system, except for service that is or would be credited under the federal government for services in the reserve.

(15) As used in this subsection, “transitional public employment program” means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans’ outreach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the former comprehensive employment and training act of 1973, Public Law 93-203. A person participating in a transitional public employment program shall not be eligible for membership in a retirement system or pension plan established under this section. If the person later becomes a member of a retirement system or pension plan established under this section within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment in the transitional public employment program for purposes of determining a retirement allowance upon the payment by the person and the person’s employer under the transitional public employment program from funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, as funds permit, to the retirement system of the contributions, plus regular interest, the person and the employer would have paid had the employment been rendered in a position covered by this section. During the person’s employment in the transitional public employment program, the person’s employer shall provide an opportunity by payroll deduction for the person to make his or her employee contribution to the applicable pension system. To provide for the eventual payment of the employer’s contribution, the person’s employer shall during this same period place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this section, but only for that number of employees that the employer determined would transfer from the transitional public employment program into positions covered by this section. If the funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, are insufficient, the remainder of the employer contributions shall be paid by the person’s current employer.

(16) Subsection (15) does not exclude the participant in a transitional public employment program from the accident, disability, or other benefits available to members of the retirement system covered by this section.

(17) If a probate judge who is a member of a plan established under this section contributes for 20 years or more, the county board of commissioners may allow the probate judge to cease further contributions.

(18) An employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder’s court of the city of Detroit who became an employee of the state judicial council on September 1, 1981, and who was 44 years of age or older as of that date, and who will have accumulated 25 or more years of service credit by September 1, 1987, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. A person who was an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder’s court of the city of Detroit on August 31, 1981, who last entered county employment before November 2, 1956, who became an employee of the state judicial council on September 1, 1981, and who accumulated not less than 24 years of service credit by August 31, 1981, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. An election to continue to be a member of a pension or retirement benefit plan established pursuant to this section as authorized by section 594(2) of the revised judicature act of 1961, 1961 PA 236, MCL 600.594, as that section read on February 8, 1985, or former section 36(2) of 1919 PA 369, is not effective unless the employee has made the election in the manner prescribed by those sections and has made the payments required by those sections.

(19) A plan adopted under this section may provide that an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder’s court of the city of Detroit who is a member of the Wayne county employees’ retirement system on August 31, 1981, who becomes an employee of the state judicial council and a member of the state employees’ retirement system on September 1, 1981, receive a benefit based on the annual average of the highest actual compensation received by the employee during a period of 5 years of county or state service.

(20) Beginning September 1, 1981, for determining the retirement benefit for a county employee who is a judge of a municipal court of record pursuant to subsection (2), “average final compensation” means the annual average of the highest actual compensation received by the judge as additional salary pursuant to former section 13(2) of 1919 PA 369, or section 9932(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9932, during a period of 5 years of service as specified in the plan. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(21) Beginning September 1, 1981, for each county employee who is a judge of a municipal court of record, or of the circuit or district court, the sum of the average final compensation determined for that county employee pursuant to this section and the final salary determined for that county employee as a member of the state of Michigan judges' retirement system created by former 1951 PA 198, or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(22) Beginning September 1, 1981, for each county employee who is a judge of the probate court, the sum of the average final compensation calculated for that employee pursuant to this section and the final salary calculated for that employee as a member of the state of Michigan probate judges retirement system created by former 1954 PA 165 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(23) Beginning September 1, 1981, for determining a retirement benefit pursuant to subsection (2) for a county employee who is a judge who receives an annuity pursuant to section 14(5) of former 1951 PA 198 or pursuant to section 503(2)(c) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final compensation" means the difference between the judge's total annual salary payable from all sources on August 31, 1981, and the judge's state base salary payable on August 31, 1981. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(24) Beginning January 1, 1983, the sum of the final salary determined for each county employee who is a judge of the probate court used as the basis for determining the judge's retirement allowance as a member of a retirement system established pursuant to this section and the salary or compensation figure used as the basis for determining the judge's retirement allowance as a member of the state of Michigan judges' retirement system created by former 1951 PA 198 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the judge's total annual salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(25) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of membership service that the county employee was previously credited with by the retirement system established under this section under the following conditions:

(a) The membership service previously credited to the county employee was service rendered for the same county.

(b) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(c) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee made at the time of the previous membership service plus interest from the date of withdrawal of the accumulated contributions to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(d) The county employee deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer made at the time of the previous membership service plus interest from the date of separation to the date of deposit, at rates determined by the county board of commissioners.

(26) A person participating in a program described in this subsection is not eligible for membership in a retirement system or pension plan established under this section. In addition, that person shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of the retirement system. This subsection applies to all of the following:

(a) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(b) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(c) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259 and sections 148 to 160 of 1984 PA 246.

(d) A person, not regularly employed by the county, who is hired by the county to administer a program described in subdivision (a), (b), or (c).

(27) If a county enters into a collective bargaining agreement pursuant to 1947 PA 336, MCL 423.201 to 423.217, that provides for retirement benefits that are in excess of the retirement benefits otherwise authorized to be provided under this section for employees of the county who are covered by a plan under this section, then the county board of commissioners may amend or adopt a plan under this section to provide those benefits to employees who are members of the bargaining unit covered by the agreement, and may, after December 31, 1987, amend or adopt a plan under this section to provide those benefits to other employees of the county.

(28) One of the following conditions applies to a retirant who is receiving a pension or retirement benefit from a plan under this section if the retirant becomes employed by a county that has established a plan under this section:

(a) Payment of the pension or retirement benefit to the retirant shall be suspended if the retirant is employed by the county from which the retirant retired and the retirant does not meet the requirements of subdivision (b) or (d). Suspension of the payment of the pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retirant is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retirant shall not be a member of the plan during the period of employment.

(b) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if all of the following requirements are met:

(i) The retirant meets 1 of the following requirements:

(A) For any retirant, is employed by the county for not more than 1,000 hours in any 12-month period.

(B) For a retirant who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retirant's retirement allowance effective date.

(C) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date.

(D) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retirant retired for a term of office that begins 2 years or more after the retirant's retirement allowance effective date.

(ii) The retirant is not eligible for any benefits from the county other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.

(iii) The retirant is not a member of the plan during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

(c) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of the employment if the retirant becomes employed by a county other than the county from which the retirant retired. For the purposes of membership and potential benefit entitlement under the plan of the other county, the retirant shall be considered in the same manner as an individual with no previous record of employment by that county.

(d) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if the retirant was an employee of the state judicial council on September 30, 1996, and becomes a county-paid employee of the recorder's court of the city of Detroit or the third judicial circuit of the circuit court on October 1, 1996.

(29) A county may increase the percentage of the highest average monthly compensation or earnings that was used to calculate the pension or retirement benefit under subsection (1)(b) of a person receiving a pension or retirement benefit under this section on the date the county increases the percentage of compensation or earnings. The county shall recalculate the pension or retirement benefit using the increased percentage of compensation or earnings. The person receiving the pension or retirement benefit is eligible to receive an adjusted pension or retirement benefit based upon the recalculation effective the first day of the month following the date the county increases the percentage of compensation or earnings under this subsection.

(30) The payment of pension or retirement benefits under a plan established pursuant to this section is subject to an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(31) If a county retirement plan established under this section provides an optional form of payment of a retirement allowance and if a retirant receiving a reduced retirement allowance under that plan is divorced from the spouse who had been named the retirant's survivor beneficiary, the election of a reduced retirement allowance form of payment shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court dated after July 18, 1991 provides that the election of a reduced retirement allowance form of payment is to be considered void by the retirement system and the retirant

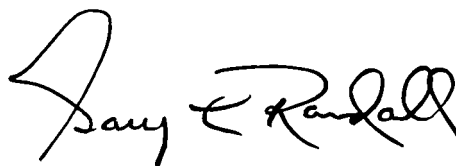
provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance form of payment is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on July 18, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(32) If a county board of commissioners of a county that has a population of more than 400,000 but less than 800,000 has an employee credit union organized under the credit union act or former 1925 PA 285, the county board of commissioners may include as a member of a plan under this section a past or present employee of the credit union, if that past or present employee has 5 or more years of service credit with that credit union on or before June 30, 1990.

(33) The county board of commissioners shall establish a written policy to implement the provisions of this section in order to provide uniform application of this section to all members of the plan.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 496 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor