



# HOUSE BILL No. 6026

September 10, 1996, Introduced by Rep. Nye and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 12a of Act No. 156 of the Public Acts of 1851, entitled as amended

"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,"

as amended by Act No. 221 of the Public Acts of 1996, being section 46.12a of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Section 12a of Act No. 156 of the Public Acts of  
2 1851, as amended by Act No. 221 of the Public Acts of 1996, being  
3 section 46.12a of the Michigan Compiled Laws, is amended to read  
4 as follows:

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

1 (a) Provide group life, health, accident and  
2 hospitalization, and disability coverage for a county employee,  
3 retired employee, or an employee of an office, board, or depart-  
4 ment of the county, including the board of county road commis-  
5 sioners, and a dependent of an employee, either with or without  
6 cost participation by the employee, and appropriate the necessary  
7 funds for the insurance. For a county with 100 employees or  
8 more, self-insure for health, accident and hospitalization, and  
9 group disability coverage for a county employee, retired employ-  
10 ee, or an employee of an office, board, or department of the  
11 county, including the board of county road commissioners, and a  
12 dependent of an employee, either with or without cost participa-  
13 tion by the employee, and appropriate the necessary funds.

14 (b) Adopt and establish a plan by which the county purchases  
15 or participates in the cost of an endowment policy or retirement  
16 annuity for a county employee or an employee of an office, board,  
17 or department of the county, including the board of county road  
18 commissioners, to provide monthly pension or retirement benefits  
19 for each employee 60 years of age or older in an amount not to  
20 exceed \$150.00 per month or 2% of the average monthly earnings of  
21 the employee for 5 years immediately before retirement times the  
22 years of service of the employee, whichever is the lesser sum.  
23 As an option, a county board of commissioners may adopt and  
24 establish a plan by which the county pays pension or retirement  
25 benefits to a county employee or an employee of an office, board,  
26 or department of the county, including the board of county road  
27 commissioners, who has been employed for not less than 25 years,

1 or who is 60 years of age or older and has been employed for not  
2 less than 5 years, in monthly payments not to exceed 2.5% of the  
3 employee's highest average monthly compensation or earnings  
4 received from the county or county road fund for 5 years of serv-  
5 ice times the total number of years of service of the employee,  
6 including a fraction of a year, not to exceed 3/4 of the average  
7 final compensation of the employee. A plan may also pay early  
8 retirement benefits at 55 years of age or older to the extent of  
9 actuarially equivalent benefits not increasing the costs of the  
10 plan. Except as provided in subsection (28), endowment policies,  
11 retirement benefits, pensions, or annuity retirement benefits in  
12 excess of the amounts stipulated in this subdivision may be pro-  
13 vided for by a plan of employee participation to cover the cost  
14 of the excess. If the employment or the pension or retirement  
15 benefits of an employee who participated in the cost of pension  
16 or retirement benefits are terminated before the employee  
17 receives pension or retirement benefits equal to the total amount  
18 of the employee's participation, the balance of the total partic-  
19 ipation shall be refunded to the employee at the time of termina-  
20 tion, if living, or if deceased, to the employee's heir, estate,  
21 legal representative, or designated beneficiary as provided in  
22 the plan adopted and established by the county board of  
23 commissioners. If a terminated employee is subsequently rehired  
24 by the county, the employee may repay the amount of participation  
25 refunded to the employee upon the employee's termination,  
26 together with compound interest from the date of refund to the  
27 dates of repayment at the rates provided in the plan. As

1 conditions for repayment, the plan may require return to  
2 employment for a period not to exceed 3 years and may require  
3 that repayment be completed within a period of not less than 1  
4 year following return to employment. A plan adopted for the pay-  
5 ment of retirement benefits or a pension shall grant benefits to  
6 an employee eligible for pension or retirement benefits according  
7 to a uniform scale for all persons in the same general class or  
8 classification. An employee shall not be denied benefits by ter-  
9 mination of his or her employment after the employee becomes eli-  
10 gible for benefits under the plan and this section. An endowment  
11 policy or annuity purchased pursuant to this section shall be  
12 purchased from an insurer authorized to write endowment policies  
13 or annuities in this state.

14 (2) In a plan adopted under this section, at least 60% of  
15 the total pension or retirement benefit granted to an employee  
16 from county funds shall consist of a percentage not to exceed  
17 2.5% of the employee's average final compensation times the  
18 employee's years of service and shall be granted to each employee  
19 eligible for retirement under the plan uniformly and without  
20 restriction or limitation other than those prescribed in this  
21 section. As used in this section:

22 (a) "Average final compensation" means the annual average of  
23 the highest actual compensation received by a county employee,  
24 other than a county employee who is a judge of a municipal court  
25 of record subject to subsection (21) or a judge subject to sub-  
26 section (24), during a period of 5 consecutive years of service  
27 contained within the employee's 10 years of service immediately

1 before the employee's retirement or a period of 5 years of  
2 service as specified in the plan. In a county that adopts a plan  
3 for granting longevity pay, the county board of commissioners may  
4 exclude this longevity pay from average final compensation for  
5 the purpose of computing the rate of employee contribution and  
6 the amount of benefits payable to an employee upon retirement.

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

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

16 (4) If the employment of a county employee eligible to  
17 receive a pension or retirement benefit under a plan established  
18 pursuant to this section is terminated after the employee has  
19 completed 8 or more years of service in county employment, the  
20 employee shall receive the amount of pension or retirement bene-  
21 fit to which the employee's service would have entitled the  
22 employee under the plan established, if the employee waives the  
23 employee's right to a refund of the employee's total participa-  
24 tion upon the termination of employment. The payment of pension  
25 or retirement benefits shall begin, as provided in the plan,  
26 after the employee would have become eligible for retirement  
27 under the plan had the employee's employment not been terminated,

1 but not later than 90 days after the employee becomes 65 years of  
2 age. The payment of pension or retirement benefits shall not  
3 begin until the employee has applied for pension or retirement  
4 benefits in the manner prescribed in the plan established.

5 (5) A plan established under this section may provide for  
6 pension or retirement benefits for a county employee who becomes  
7 totally disabled for work in the county service from any cause,  
8 after not less than 10 years of county employment, to the extent  
9 of the limitations provided in this section. A plan may also  
10 provide for pension or retirement benefits to the extent of the  
11 limitations provided in this section or \$400.00 per month, which-  
12 ever is the greater sum, for an employee who becomes totally dis-  
13 abled for work in the county service from causes that are the  
14 direct and proximate result of county employment, to continue for  
15 the duration of the disability or until the employee becomes eli-  
16 gible for retirement pursuant to other provisions of the plan  
17 authorized by this section. A plan may also provide for pension  
18 or retirement benefits, to the extent of the limitations provided  
19 in this section, for the actual dependents of a county employee  
20 who dies while still employed by the county after not less than  
21 10 years of county employment, or who dies after leaving county  
22 employment with not less than the number of years of service  
23 required to vest in the plan but before becoming eligible to  
24 receive a pension or retirement benefit. A plan may also provide  
25 for pension or retirement benefits to the extent of the limita-  
26 tions provided in this section or \$400.00 per month, whichever is  
27 greater, for the actual dependents of a deceased county employee

1 whose death is the direct and proximate result of county  
2 employment. The plan may provide that the period from the end of  
3 the deceased or disabled employee's period of service to the date  
4 that employee would have become eligible for retirement be used  
5 as service for the sole purpose of computing the amount of dis-  
6 ability or death pension.

7 (6) As used in this section, "county employee" includes a  
8 bailiff of the district court in the thirty-sixth district who  
9 serves pursuant to section 8322 of the revised judicature act of  
10 1961, Act No. 236 of the Public Acts of 1961, being section  
11 600.8322 of the Michigan Compiled Laws, and a person who receives  
12 more than 50% of all compensation for personal services, rendered  
13 to governmental units, from a county fund or county road fund,  
14 except a person, other than a bailiff of the district court in  
15 the thirty-sixth district, engaged for special services on a con-  
16 tract or fee basis. Until December 31, 1979, a plan adopted  
17 under this section may include as a county employee a person on  
18 leave of absence from county employment who is not a member of  
19 another retirement system except as a retirant and who pays or  
20 arranges payment of contributions equal to the contributions that  
21 would have been required to be paid under the plan by both the  
22 county and the employee, based upon the compensation the employee  
23 would have received from the county, if the employee had not  
24 taken a leave of absence or a person who complies with the  
25 requirements of such a provision approved for inclusion in a plan  
26 by the county board of commissioners before January 1, 1976, who  
27 shall be considered to be a county employee during the period of

1 compliance. A plan adopted under this section may exclude a  
2 person who is employed on a temporary basis and a person employed  
3 in a position normally requiring less than 1,000 hours, or some  
4 lesser specified number of hours, work per year. A bailiff serv-  
5 ing in the district court in the thirty-sixth district is eligi-  
6 ble to receive benefits under this section if a plan has been  
7 established by law by which the cost of benefits is payable from  
8 sources including charges on all legal instruments in which the  
9 service of process by a bailiff is required and earmarked by law  
10 for benefits, and contributions made by the state and each bai-  
11 liff pursuant to section 8322(7) of Act No. 236 of the Public  
12 Acts of 1961. The plan shall include provisions by which a bai-  
13 liff or former bailiff who served as bailiff as of January 1,  
14 1967, may retire after 25 years of service regardless of age,  
15 with maximum benefits to be computed as follows: starting as of  
16 January 1, 1969, the average of any 5 years of earnings of the  
17 previous 10 years served in succession before retirement multi-  
18 plied by 1.9% times the years of service; starting as of June 1,  
19 1975, the average of any 5 years of earnings multiplied by 2%  
20 times the years of service. As used in this subsection,  
21 "earnings" means the salary and fees, other than mileage,  
22 received by a bailiff pursuant to section 8322(6) of Act No. 236  
23 of the Public Acts of 1961. The plan shall include provisions by  
24 which health, accident, and hospitalization insurance premiums  
25 may be paid out of the earnings of this fund. These payments  
26 shall be made at the discretion of the pension board of  
27 trustees. A county that has a retirement fund for bailiffs under



1 this section shall annually review the retirement fund and shall  
2 ensure that the fund is maintained in an actuarially sound  
3 condition. Copies of the actuarial reports shall be provided to  
4 the ~~state judicial council created by chapter 91 of Act No. 236~~  
5 ~~of the Public Acts of 1961, being sections 600.9101 to 600.9107~~  
6 ~~of the Michigan Compiled Laws~~ EMPLOYER DESIGNATED UNDER SECTION  
7 8274(2) OR (3) OF ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING  
8 SECTION 600.8274 OF THE MICHIGAN COMPILED LAWS, AND TO THE STATE  
9 COURT ADMINISTRATOR.

10 (7) An employee while receiving a pension or retirement ben-  
11 efit because of disability, pursuant to this section, may be con-  
12 sidered as employed in the county service for the purpose of  
13 retirement under this section.

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

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

26 (a) Employment by the county occurred within 15 years  
27 following the county employee's separation from service of the

1 last unit of government by which the county employee was  
2 employed.

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

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

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

24 (e) The county employee has 8 or more years of credited  
25 service in county employment, has legal vesting in the county  
26 plan, and deposits in the county employees' retirement system an  
27 amount equal to the aggregate amount of contributions the

1 employer would have made had the government service being  
2 credited under this section been acquired in the employ of the  
3 county.

4 (10) A plan adopted under this section may provide for  
5 annual or less frequent postretirement redetermination of a  
6 pension. The redetermined amount of pension shall be not greater  
7 than the amount of pension otherwise payable multiplied by the  
8 sum of 100% and the percentage the county board of commissioners  
9 determines appropriate for each full year, excluding a fraction  
10 of a year, in the period from the effective date of payments of  
11 the pension and the date as of which the redetermination is being  
12 made. The redetermined amount shall not be less than the amount  
13 of pension otherwise payable. A provision of this section that  
14 limits the amount of a pension shall not apply to the operation  
15 of this subsection redetermining the amount of a pension. As  
16 used in this subsection, "the amount of pension otherwise  
17 payable" means the amount of pension that would be payable with-  
18 out regard to this subsection. The application of a provision  
19 redetermining pension amounts may be restricted to pensions that  
20 have an effective date of payment either before or after a speci-  
21 fied date.

22 (11) The cost of pension or retirement benefits for a county  
23 employee under this section may be paid from the same fund from  
24 which the employee receives compensation, and the county board of  
25 commissioners may appropriate the necessary funds to carry out  
26 the purposes of this section. If a county establishes a plan by  
27 which the county pays pension or retirement benefits to an

1 employee pursuant to this section, the county, pursuant to  
2 provisions for pension or retirement benefits that are incorpo-  
3 rated in the plan, shall establish and maintain reserves on an  
4 actuarial basis in the manner provided in this subsection suffi-  
5 cient to finance the pension and retirement and death benefit  
6 liabilities under the plan and sufficient to pay the pension and  
7 retirement and death benefits as they become due. A county that  
8 adopts a retirement plan under this section and establishes  
9 reserves on an actuarial basis shall maintain the reserves as  
10 provided in this subsection. The reserves shall be determined by  
11 an actuarial valuation and established and maintained by yearly  
12 appropriations by the county and contributions by employees. The  
13 reserves shall be established, maintained, and funded to cover  
14 the pension and other benefits provided for in the plan in the  
15 same manner and within the same limits as to time as is provided  
16 for Benefit Program B in the municipal employees retirement  
17 system described in former section 14 of the municipal employees  
18 retirement act of 1984, Act No. 427 of the Public Acts of 1984.  
19 These reserves are trust funds and shall not be used for any  
20 other purpose than the payment of pension, retirement, and other  
21 benefits and refunds of employee contributions pursuant to the  
22 plan established in a county. An employee's contributions shall  
23 be kept and accumulated in a separate fund and used only for the  
24 payment of annuities and refunds to employees. This subsection  
25 does not apply to a county that adopted a retirement plan under  
26 this section and did not establish reserves on an actuarial basis  
27 before October 11, 1947.

1           (12) A plan established by a county for the payment of  
2 pension and retirement benefits to an employee under this section  
3 shall be approved as complying with this section by a county pen-  
4 sion plan committee consisting of the attorney general, the state  
5 treasurer, and the executive secretary of the state employees'  
6 retirement system created by the state employees' retirement act,  
7 Act No. 240 of the Public Acts of 1943, being sections 38.1 to  
8 38.49 of the Michigan Compiled Laws, before the plan becomes  
9 effective or operative in the county. Each county retirement  
10 plan operating under this section shall be approved by the com-  
11 mittee as complying with this section biennially. A financial  
12 statement for each county retirement plan operating under this  
13 section shall be submitted annually to the county pension plan  
14 committee by the county board, official, or employee designated  
15 by the county board of commissioners. The financial statement  
16 shall be in the form, contain the information, and be submitted  
17 as the county pension plan committee prescribes. The state trea-  
18 surer shall audit the funds and accounts of county retirement  
19 plans established under this section in the same manner as the  
20 state treasurer audits other county accounts and may audit and  
21 investigate county retirement plan funds and accounts to the  
22 extent necessary to effectuate the purposes of this section.  
23 This subsection does not apply to a county that adopted a retire-  
24 ment plan under this section and did not establish reserves on an  
25 actuarial basis before October 11, 1947.

26           (13) If a county establish~~es~~ a plan for the payment of  
27 pension and retirement benefits to its employees pursuant to this

1 section, the county board of commissioners may provide for a  
2 board of trustees to administer the plan and for the manner of  
3 election or appointment of the members of the board of trustees.  
4 The county board of commissioners may grant authority to the  
5 board of trustees to fully administer and operate the plan and to  
6 deposit, invest, and reinvest the funds and reserves of the plan  
7 within the limitations prescribed by the county board of commis-  
8 sioners in the plan. The county board of commissioners may  
9 authorize the investment of funds of a county retirement plan  
10 established under this section in anything in which the funds of  
11 the state employees' retirement system or the funds of the munic-  
12 ipal employees retirement system may be invested, pursuant to Act  
13 No. 240 of the Public Acts of 1943, and Act No. 427 of the Public  
14 Acts of 1984, being sections 38.1501 to 38.1555 of the Michigan  
15 Compiled Laws. A county retirement plan established under this  
16 section may provide for financing, funding, and the payment of  
17 benefits in the same manner and to the same extent as is provided  
18 for in Act No. 240 of the Public Acts of 1943, and Act No. 427 of  
19 the Public Acts of 1984, may provide for and require contribu-  
20 tions by county employees, and may permit additional employee  
21 contributions on a voluntary basis.

22 (14) Upon the approval of the county board of commissioners,  
23 a member who entered the armed service of the United States  
24 before June 1, 1980 or who entered the armed service of the  
25 United States on or after June 1, 1980 during a time of war or  
26 emergency condition as described in section 1 of Act No. 190 of  
27 the Public Acts of 1965, being section 35.61 of the Michigan

1 Compiled Laws, may elect to receive credited service for not more  
2 than 5 years of active military service. Credit for military  
3 service shall be given upon request and payment to the retirement  
4 system of an amount equal to 5% of the member's full-time or  
5 equated full-time annual compensation for the year in which pay-  
6 ment is made multiplied by the number of years, and fraction of a  
7 year, of credited service that the member elects to purchase up  
8 to the maximum. Service shall not be credited if the service is  
9 or would be credited under any other federal, state, or local  
10 publicly supported retirement system. Service shall not be cred-  
11 ited under this subsection until the member has the number of  
12 years of credited service needed to vest under the plan. Only  
13 completed years and months of armed service shall be credited  
14 under this subsection.

15 (15) A member who enters or entered any armed service of the  
16 United States may purchase credited service for periods of con-  
17 tinuous active duty lasting 30 days or more, subject to the fol-  
18 lowing conditions:

19 (a) The county board of commissioners authorizes the pur-  
20 chase of credited service under this subsection by an affirmative  
21 vote of a majority of the members of the county board of  
22 commissioners. The county board of commissioners shall establish  
23 a written policy to implement the provisions of this subsection  
24 in order to provide uniform application of this subsection to all  
25 members of the plan.

1 (b) The member has at least the number of years of credited  
2 service needed to vest under the plan, not including any credited  
3 service purchased under this subsection and subsection (14).

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

10 (d) Fractional months of armed service shall not be recog-  
11 nized for the purposes of this subsection.

12 (e) Armed service credited a member under subsection (14)  
13 shall not be the basis of credited service under this section.

14 (f) Armed service credited a member under this subsection  
15 shall not exceed either 5 years or the difference between 5 years  
16 and the armed service credited the member under subsection (14).

17 (g) Credited service shall not be granted for periods of  
18 armed service that are or could be used for obtaining or increas-  
19 ing a benefit from another retirement system.

20 (16) As used in this subsection, "transitional public  
21 employment program" means a public service employment program in  
22 the area of environmental quality, health care, education, public  
23 safety, crime prevention and control, prison rehabilitation,  
24 transportation, recreation, maintenance of parks, streets, and  
25 other public facilities, solid waste removal, pollution control,  
26 housing and neighborhood improvements, rural development,  
27 conservation, beautification, veterans' outreach, or any other



1 area of human betterment and community improvement as part of a  
2 program of comprehensive manpower services authorized, under-  
3 taken, and financed pursuant to the former comprehensive employ-  
4 ment and training act of 1973, Public Law 93-203. A person par-  
5 ticipating in a transitional public employment program shall not  
6 be eligible for membership in a retirement system or pension plan  
7 established under this section. If the person later becomes a  
8 member of a retirement system or pension plan established under  
9 this section within 12 months after the date of termination as a  
10 participant in a transitional public employment program, service  
11 credit shall be given for employment in the transitional public  
12 employment program for purposes of determining a retirement  
13 allowance upon the payment by the person and the person's  
14 employer under the transitional public employment program from  
15 funds provided under the former comprehensive employment and  
16 training act of 1973, Public Law 93-203, as funds permit, to the  
17 retirement system of the contributions, plus regular interest,  
18 the person and the employer would have paid had the employment  
19 been rendered in a position covered by this section. During the  
20 person's employment in the transitional public employment pro-  
21 gram, the person's employer shall provide an opportunity by pay-  
22 roll deduction for the person to make his or her employee contri-  
23 bution to the applicable pension system. To provide for the  
24 eventual payment of the employer's contribution, the person's  
25 employer shall during this same period place in reserve a reason-  
26 able but not necessarily an actuarially determined amount equal  
27 to the contributions that the employer would have paid to the

1 retirement system for those employees in the transitional public  
2 employment program as if they were members under this section,  
3 but only for that number of employees that the employer deter-  
4 mined would transfer from the transitional public employment pro-  
5 gram into positions covered by this section. If the funds pro-  
6 vided under the former comprehensive employment and training act  
7 of 1973, Public Law 93-203, are insufficient, the remainder of  
8 the employer contributions shall be paid by the person's current  
9 employer.

10 (17) Subsection (16) does not exclude the participant in a  
11 transitional public employment program from the accident, dis-  
12 ability, or other benefits available to members of the retirement  
13 system covered by this section.

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

18 (19) An employee of the circuit court in the third judicial  
19 circuit, the common pleas court of the city of Detroit, or the  
20 recorder's court of the city of Detroit who became an employee of  
21 the state judicial council on September 1, 1981, and who was 44  
22 years of age or older as of that date, and who will have accumu-  
23 lated 25 or more years of service credit by September 1, 1987,  
24 shall continue to be eligible for membership in, and the benefits  
25 of, a pension or retirement benefit plan established pursuant to  
26 this section in the same manner as the employee was eligible  
27 before September 1, 1981. A person who was an employee of the

1 circuit court in the third judicial circuit, the common pleas  
2 court of the city of Detroit, or the recorder's court of the city  
3 of Detroit on August 31, 1981, who last entered county employment  
4 before November 2, 1956, who became an employee of the state  
5 judicial council on September 1, 1981, and who accumulated not  
6 less than 24 years of service credit by August 31, 1981, shall  
7 continue to be eligible for membership in, and the benefits of, a  
8 pension or retirement benefit plan established pursuant to this  
9 section in the same manner as the employee was eligible before  
10 September 1, 1981. An election to continue to be a member of a  
11 pension or retirement benefit plan established pursuant to this  
12 section as authorized by section 594(2) of the revised judicature  
13 act of 1961, Act No. 236 of the Public Acts of 1961, being sec-  
14 tion 600.594 of the Michigan Compiled Laws, AS THAT SECTION READ  
15 ON FEBRUARY 8, 1985, or FORMER section 36(2) of Act No. 369 of  
16 the Public Acts of 1919, ~~being section 725.36 of the Michigan~~  
17 ~~Compiled Laws,~~ is not effective unless the employee has made the  
18 election in the manner prescribed by those sections and has made  
19 the payments required by those sections.

20 (20) A plan adopted under this section may provide that an  
21 employee of the circuit court in the third judicial circuit, the  
22 common pleas court of the city of Detroit, or the recorder's  
23 court of the city of Detroit who is a member of the Wayne county  
24 employees' retirement system on August 31, 1981, who becomes an  
25 employee of the state judicial council and a member of the state  
26 employees' retirement system on September 1, 1981, receive a  
27 benefit based on the annual average of the highest actual

1 compensation received by the employee during a period of 5 years  
2 of county or state service.

3 (21) Beginning September 1, 1981, for determining the  
4 retirement benefit for a county employee who is a judge of a  
5 municipal court of record pursuant to subsection (2), "average  
6 final compensation" means the annual average of the highest  
7 actual compensation received by the judge as additional salary  
8 pursuant to FORMER section 13(2) of Act No. 369 of the Public  
9 Acts of 1919, ~~being section 725.13 of the Michigan Compiled~~  
10 ~~Laws,~~ OR SECTION 9932(3) OF ACT NO. 236 OF THE PUBLIC ACTS OF  
11 1961, BEING SECTION 600.9932 OF THE MICHIGAN COMPILED LAWS,  
12 during a period of 5 years of service as specified in the plan.  
13 This subsection shall not be construed to diminish or impair an  
14 accrued financial benefit.

15 (22) Beginning September 1, 1981, for each county employee  
16 who is a judge of a municipal court of record, or of the circuit  
17 or district court, the sum of the average final compensation  
18 determined for that county employee pursuant to this section and  
19 the final salary determined for that county employee as a member  
20 of the state of Michigan judges' retirement system created by  
21 former Act No. 198 of the Public Acts of 1951, or as a member of  
22 the Michigan judges retirement system created by the judges  
23 retirement act of 1992, Act No. 234 of the Public Acts of 1992,  
24 being sections 38.2101 to 38.2608 of the Michigan Compiled Laws,  
25 shall not exceed the employee's total annual judicial salary pay-  
26 able from all sources at the time of his or her retirement. This

1 subsection shall not be construed to diminish or impair an  
2 accrued financial benefit.

3 (23) Beginning September 1, 1981, for each county employee  
4 who is a judge of the probate court, the sum of the average final  
5 compensation calculated for that employee pursuant to this sec-  
6 tion and the final salary calculated for that employee as a  
7 member of the state of Michigan probate judges retirement system  
8 created by former Act No. 165 of the Public Acts of 1954 or as a  
9 member of the Michigan judges retirement system created by Act  
10 No. 234 of the Public Acts of 1992, shall not exceed the  
11 employee's total annual judicial salary payable from all sources  
12 at the time of his or her retirement. This subsection shall not  
13 be construed to diminish or impair an accrued financial benefit.

14 (24) Beginning September 1, 1981, for determining a retire-  
15 ment benefit pursuant to subsection (2) for a county employee who  
16 is a judge who receives an annuity pursuant to section 14(5) of  
17 former Act No. 198 of the Public Acts of 1951 or pursuant to sec-  
18 tion 503(2)(c) of Act No. 234 of the Public Acts of 1992, being  
19 section 38.2503 of the Michigan Compiled Laws, "average final  
20 compensation" means the difference between the judge's total  
21 annual salary payable from all sources on August 31, 1981, and  
22 the judge's state base salary payable on August 31, 1981. This  
23 subsection shall not be construed to diminish or impair an  
24 accrued financial benefit.

25 (25) Beginning January 1, 1983, the sum of the final salary  
26 **determined for each county employee who is a judge of the probate**  
27 court used as the basis for determining the judge's retirement

1 allowance as a member of a retirement system established pursuant  
2 to this section and the salary or compensation figure used as the  
3 basis for determining the judge's retirement allowance as a  
4 member of the state of Michigan judges' retirement system created  
5 by former Act No. 198 of the Public Acts of 1951 or as a member  
6 of the Michigan judges retirement system created by Act No. 234  
7 of the Public Acts of 1992, shall not exceed the judge's total  
8 annual salary payable from all sources at the time of his or her  
9 retirement. This subsection shall not be construed to diminish  
10 or impair an accrued financial benefit.

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

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

19 (b) Service that is recognized for the purpose of a deferred  
20 retirement allowance under a retirement system or other  
21 employer-funded retirement benefit plan, except for a retirement  
22 benefit plan under the social security act, chapter 531, 49  
23 Stat. 620, of the United States government, a state, or a politi-  
24 cal subdivision of a state shall not be credited if the county  
25 employee retired under a retirement system of the United States  
26 government, a state, or any of their political subdivisions or

1 until the county employee irrevocably forfeits the right to the  
2 deferred retirement allowance.

3 (c) The county employee deposits in the plan established  
4 under this section an amount equal to the aggregate amount of  
5 contributions the county employee made at the time of the previ-  
6 ous membership service plus interest from the date of withdrawal  
7 of the accumulated contributions to the date of deposit, at rates  
8 determined by the county board of commissioners. If records are  
9 insufficient or unavailable to compute the exact amount of  
10 required deposit, the county board of commissioners may estimate  
11 the amount.

12 (d) The county employee deposits in the county employees'  
13 retirement system an amount equal to the aggregate amount of con-  
14 tributions the employer made at the time of the previous member-  
15 ship service plus interest from the date of separation to the  
16 date of deposit, at rates determined by the county board of  
17 commissioners.

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

25 (a) A person, not regularly employed by the county, who is  
26 employed by the county through participation in a program

1 established pursuant to the job training partnership act, Public  
2 Law 97-300, 96 Stat. 1322.

3 (b) A person, not regularly employed by the county, who is  
4 employed by the county through participation in a program estab-  
5 lished pursuant to the Michigan opportunity and skills training  
6 program, first established under sections 12 to 23 of Act No. 259  
7 of the Public Acts of 1983.

8 (c) A person, not regularly employed by the county, who is  
9 employed by the county through participation in a program estab-  
10 lished pursuant to the Michigan community service corps program,  
11 first established under sections 25 to 35 of Act No. 259 of the  
12 Public Acts of 1983 and sections 148 to 160 of Act No. 246 of the  
13 Public Acts of 1984.

14 (d) A person, not regularly employed by the county, who is  
15 hired by the county to administer a program described in subdivi-  
16 sion (a), (b), or (c).

17 (28) If a county enters into a collective bargaining agree-  
18 ment pursuant to Act No. 336 of the Public Acts of 1947, being  
19 sections 423.201 to 423.217 of the Michigan Compiled Laws, that  
20 provides for retirement benefits that are in excess of the  
21 retirement benefits otherwise authorized to be provided under  
22 this section for employees of the county who are covered by a  
23 plan under this section, then the county board of commissioners  
24 may amend or adopt a plan under this section to provide those  
25 benefits to employees who are members of the bargaining unit cov-  
26 ered by the agreement, and may, after December 31, 1987, amend or



1 adopt a plan under this section to provide those benefits to  
2 other employees of the county.

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

7 (a) Payment of the pension or retirement benefit to the  
8 retirant shall be suspended if the retirant is employed by the  
9 county from which the retirant retired and the retirant does not  
10 meet the requirements of subdivision (b) OR (D). Suspension of  
11 the payment of the pension or retirement benefit shall become  
12 effective the first day of the calendar month that follows the  
13 sixtieth day after the retirant is employed by the county.

14 Payment of the pension or retirement benefit shall resume on the  
15 first day of the calendar month that follows termination of the  
16 employment. Payment of the pension or retirement benefit shall  
17 be resumed without change in amount or conditions by reason of  
18 the employment. The retirant shall not be a member of the plan  
19 during the period of employment.

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

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

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

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

5 (C) For a retirant who was an elected or appointed county  
6 official at retirement, is elected or appointed as a county offi-  
7 cial to a different office from which the retirant retired for a  
8 term of office that begins after the retirant's retirement allow-  
9 ance effective date.

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

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

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

23 (c) Payment of the pension or retirement benefit to the  
24 retirant shall continue without change in amount or conditions by  
25 reason of the employment if the retirant becomes employed by a  
26 county other than the county from which the retirant retired.  
27 For the purposes of membership and potential benefit entitlement

1 under the plan of the other county, the retirant shall be  
2 considered in the same manner as an individual with no previous  
3 record of employment by that county.

4 (D) PAYMENT OF THE PENSION OR RETIREMENT BENEFIT TO THE  
5 RETIRANT SHALL CONTINUE WITHOUT CHANGE IN AMOUNT OR CONDITIONS BY  
6 REASON OF EMPLOYMENT BY THE COUNTY FROM WHICH THE RETIRANT  
7 RETIRED IF THE RETIRANT WAS AN EMPLOYEE OF THE STATE JUDICIAL  
8 COUNCIL ON SEPTEMBER 30, 1996, AND BECOMES A COUNTY-PAID EMPLOYEE  
9 OF THE RECORDER'S COURT OF THE CITY OF DETROIT OR THE THIRD JUDI-  
10 CIAL CIRCUIT OF THE CIRCUIT COURT ON OCTOBER 1, 1996.

11 (30) A county may increase the percentage of the highest  
12 average monthly compensation or earnings that was used to calcu-  
13 late the pension or retirement benefit under subsection (1)(b) of  
14 a person receiving a pension or retirement benefit under this  
15 section on the date the county increases the percentage of com-  
16 pensation or earnings. The county shall recalculate the pension  
17 or retirement benefit using the increased percentage of compensa-  
18 tion or earnings. The person receiving the pension or retirement  
19 benefit is eligible to receive an adjusted pension or retirement  
20 benefit based upon the recalculation effective the first day of  
21 the month following the date the county increases the percentage  
22 of compensation or earnings under this subsection.

23 (31) The payment of pension or retirement benefits under a  
24 plan established pursuant to this section is subject to an eligi-  
25 ble domestic relations order under the eligible domestic rela-  
26 tions order act, Act No. 46 of the Public Acts of 1991, being  
27 sections 38.1701 to 38.1711 of the Michigan Compiled Laws.

1           (32) If a county retirement plan established under this  
2 section provides an optional form of payment of a retirement  
3 allowance and if a retirant receiving a reduced retirement allow-  
4 ance under that plan is divorced from the spouse who had been  
5 named the retirant's survivor beneficiary, the election of a  
6 reduced retirement allowance form of payment shall be considered  
7 void by the retirement system if the judgment of divorce or award  
8 or order of the court, or an amended judgment of divorce or award  
9 or order of the court dated after July 18, 1991 provides that the  
10 election of a reduced retirement allowance form of payment is to  
11 be considered void by the retirement system and the retirant pro-  
12 vides a certified copy of the judgment of divorce or award or  
13 order of the court, or an amended judgment of divorce or award or  
14 order of the court, to the retirement system. If the election of  
15 a reduced retirement allowance form of payment is considered void  
16 by the retirement system under this subsection, the retirant's  
17 retirement allowance shall revert to a straight life retirement  
18 allowance, including postretirement adjustments, if any, subject  
19 to an award or order of the court. The retirement allowance  
20 shall revert to a straight life retirement allowance under this  
21 subsection effective the first of the month after the date the  
22 retirement system receives a certified copy of the judgment of  
23 divorce or award or order of the court. This subsection does not  
24 supersede a judgment of divorce or award or order of the court in  
25 effect on July 18, 1991. This subsection does not require the  
26 **retirement system to distribute or pay retirement assets on**  
27 behalf of a retirant in an amount that exceeds the actuarially

1 determined amount that would otherwise become payable if a  
2 judgment of divorce had not been rendered.

3       (33) A county board of commissioners of a county having a  
4 population of more than 400,000 but less than 800,000, which  
5 county has an employee credit union organized under Act No. 285  
6 of the Public Acts of 1925, being sections 490.1 to 490.31 of the  
7 Michigan Compiled Laws, may include as a member of a plan under  
8 this section a past or present employee of the credit union, if  
9 that past or present employee has 5 or more years of service  
10 credit with that credit union on or before June 30, 1990.

11       (34) The county board of commissioners shall establish a  
12 written policy to implement the provisions of this section in  
13 order to provide uniform application of this section to all mem-  
14 bers of the plan.