

SUBSTITUTE FOR
HOUSE BILL NO. 4375

A bill to amend 1980 PA 300, entitled
"The public school employees retirement act of 1979,"
by amending section 61 (MCL 38.1361), as amended by 2020 PA 267.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61. (1) Except as otherwise provided in this section, if
2 a retirant is receiving a retirement allowance other than a
3 disability allowance payable under this act or under former 1945 PA
4 136, on account of either age or years of personal service
5 performed, or both, and becomes employed ~~by~~**at** a reporting unit,
6 ~~the following must occur:~~

7 ~~(a) The retirant is not entitled to a new final average~~
8 ~~compensation or additional service credit under this retirement~~
9 ~~system unless additional service is performed equivalent to 5 or~~

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

13 ~~(b) The retirant's retirement allowance must be reduced by the~~
14 ~~lesser of the amount that the earnings in a calendar year exceed~~
15 ~~the amount permitted without a reduction of benefits under the~~
16 ~~social security act, chapter 531, 49 Stat 620, or 1/3 of the~~
17 ~~retirant's final average compensation. For purposes of computing~~
18 ~~allowable earnings under this subdivision, the final average~~
19 ~~compensation must be increased by 5% for each full year of~~
20 ~~retirement.~~ **the retirant forfeits his or her retirement allowance**
21 **and the retirement system subsidy for health care benefits from the**
22 **retirement system for the entire month of each month in which the**
23 **retirant is employed at the reporting unit. A retirant who has**
24 **forfeited the retirement system subsidy for health care benefits**
25 **under this subsection and who wants to retain health care benefits**
26 **shall pay the retirant's and retirement system's costs for the**
27 **health care benefits. The retirement allowance and retirement**
28 **system subsidy for health care benefits must resume without**
29 **recalculation on the first of the month following the month in**

1 **which the retirant has terminated reporting unit employment.**

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

5 (3) Subsection (1) does not apply to a retirant ~~if all of the~~
6 ~~following circumstances exist:~~

7 ~~(a) The retirant is a former teacher or administrator employed~~
8 ~~in a teaching or research capacity who is employed~~ by a university
9 that is considered a reporting unit for the limited purpose
10 described in section 7(3). ~~A university that employs a retirant~~
11 ~~under this subsection shall report that employment to the~~
12 ~~retirement system by July 1 of each year. The university shall~~
13 ~~include in the report the name of the retirant, the capacity in~~
14 ~~which the retirant is employed, and the total annual compensation~~
15 ~~paid to the retirant.~~

16 ~~(b) The retirant is not eligible to use any service or~~
17 ~~compensation attributable to the employment described in~~
18 ~~subdivision (a) for a recomputation of his or her retirement~~
19 ~~allowance.~~

20 ~~(4) Not later than April 1 of each year, the superintendent of~~
21 ~~public instruction shall compile a listing of critical shortage~~
22 ~~disciplines based on evidence of a shortage for each discipline.~~
23 ~~The department of education shall post the listing and the~~
24 ~~accompanying evidence on its website. If a discipline is not~~
25 ~~included in the listing of critical shortage disciplines, 2 or more~~
26 ~~contiguous reporting units may submit a written request to the~~
27 ~~superintendent of public instruction to add a discipline to the~~
28 ~~listing. The request must include evidence of a shortage of the~~
29 ~~discipline in those contiguous reporting units. If the~~

1 ~~superintendent of public instruction determines that there is a~~
2 ~~shortage of the discipline in those contiguous reporting units, the~~
3 ~~superintendent of public instruction shall add the discipline to~~
4 ~~the listing. A discipline added under a request under this~~
5 ~~subsection applies only to those contiguous reporting units. For~~
6 ~~purposes of this subsection, a reporting unit that is a public~~
7 ~~school academy is considered contiguous to any other reporting unit~~
8 ~~in which the public school academy is located.~~

9 ~~(5) Until July 1, 2025, subsection (1) does not apply to a~~
10 ~~retirant if all of the following circumstances exist:~~

11 ~~(a) The retirant is employed by a reporting unit that has a~~
12 ~~situation, not including a situation caused by a labor dispute,~~
13 ~~that necessitates the hiring of the retirant in an area that has~~
14 ~~been identified by the superintendent of public instruction as a~~
15 ~~critical shortage discipline under subsection (4).~~

16 ~~(b) The retirant is not eligible to use any service or~~
17 ~~compensation attributable to the employment described in~~
18 ~~subdivision (a) for a recomputation of his or her retirement~~
19 ~~allowance.~~

20 ~~(c) The reporting unit pays 100% of the contribution rates for~~
21 ~~the unfunded actuarial accrued liability for retiree health care~~
22 ~~and the unfunded actuarial accrued liability for pension to the~~
23 ~~retirement system for each retirant who becomes employed by a~~
24 ~~reporting unit under this subsection.~~

25 ~~(6) Subsection (5) only applies for a retirant who has been~~
26 ~~retired for at least 12 months before becoming employed under this~~
27 ~~section unless, following a bona fide termination, including not~~
28 ~~working in the month of the retirant's retirement effective date,~~
29 ~~the retirant is employed at a reporting unit that provides~~

1 ~~instruction under an extended COVID-19 learning plan under section~~
2 ~~98a of the state school aid act of 1979, 1979 PA 94, MCL 388.1698a.~~

3 ~~(7) Notwithstanding any other provision of this act to the~~
4 ~~contrary, for a retirant who retires after June 30, 2010, and~~
5 ~~following a bona fide termination, including not working in the~~
6 ~~month of the retirant's retirement effective date, and who becomes~~
7 ~~employed by a reporting unit and the retirant's amount of earnings~~
8 ~~in a calendar year exceeds 1/3 of the retirant's final average~~
9 ~~compensation, the retirant forfeits his or her retirement allowance~~
10 ~~and the retirement system subsidy for health care benefits from the~~
11 ~~retirement system for the entire month of each month in which the~~
12 ~~retirant is employed at the reporting unit unless the retirant is~~
13 ~~employed as described in subsection (5), (9), (10), (11), or (13).~~
14 ~~A retirant who has forfeited the retirement system subsidy for~~
15 ~~health care benefits under this subsection and who wants to retain~~
16 ~~health care benefits shall pay the retirant's and retirement~~
17 ~~system's costs for the health care benefits. The retirement~~
18 ~~allowance and retirement system subsidy for health care benefits~~
19 ~~must resume without recalculation on the first of the month~~
20 ~~following the month in which the retirant has terminated reporting~~
21 ~~unit employment.~~

22 ~~(8) Notwithstanding any other provision of this act to the~~
23 ~~contrary, for a retirant who retires after June 30, 2010, who~~
24 ~~performs core services at a reporting unit as determined by the~~
25 ~~retirement system but who is employed by an entity other than the~~
26 ~~reporting unit or is an independent contractor, the retirant~~
27 ~~forfeits his or her retirement allowance and the retirement system~~
28 ~~subsidy for health care benefits from the retirement system for the~~
29 ~~entire month of each month in which the retirant is performing core~~

1 ~~services at the reporting unit, unless the retirant is employed as~~
2 ~~described in subsection (9), (10), or (12). A retirant who has~~
3 ~~forfeited the retirement system subsidy for health care benefits~~
4 ~~under this subsection and who wants to retain health care benefits~~
5 ~~shall pay the retirant's and retirement system's costs for the~~
6 ~~health care benefits. The retirement allowance and retirement~~
7 ~~system subsidy for health care benefits must resume without~~
8 ~~recalculation on the first of the month following the month in~~
9 ~~which the retirant has terminated performing core services, as~~
10 ~~described in this subsection. As used in this subsection, "core~~
11 ~~services" does not include custodial, food, or transportation~~
12 ~~services.~~

13 ~~(9) Until July 1, 2025, subsection (1) does not apply to a~~
14 ~~retirant who retires after June 30, 2010; who is employed as a~~
15 ~~substitute teacher by a reporting unit, by an entity other than the~~
16 ~~reporting unit, or as an independent contractor; who has been~~
17 ~~retired for at least 12 months before becoming employed under this~~
18 ~~subsection unless, following a bona fide termination, including not~~
19 ~~working in the month of the retirant's retirement effective date,~~
20 ~~the retirant is employed at a reporting unit that provides~~
21 ~~instruction under an extended COVID-19 learning plan under section~~
22 ~~98a of the state school aid act of 1979, 1979 PA 94, MCL 388.1698a,~~
23 ~~and whose amount of earnings attributable to employment by or at a~~
24 ~~reporting unit in a calendar year does not exceed 1/3 of his or her~~
25 ~~final average compensation. A retirant described in this subsection~~
26 ~~is not eligible to use any service or compensation attributable to~~
27 ~~the employment described in this subsection for a recomputation of~~
28 ~~his or her retirement allowance. The reporting unit at which the~~
29 ~~retirant provides substitute teacher services described in this~~

1 ~~subsection shall pay 100% of the contribution rates for the~~
2 ~~unfunded actuarial accrued liability for retiree health care and~~
3 ~~the unfunded actuarial accrued liability for pension to the~~
4 ~~retirement system for the employment described in this subsection.~~
5 ~~The reporting unit shall report the engagement of substitute~~
6 ~~teachers to the retirement system at the same interval the~~
7 ~~reporting unit reports information to the retirement system with~~
8 ~~regard to its other employees. The reporting unit shall include in~~
9 ~~the report the name of the substitute teacher and the total~~
10 ~~earnings paid to the substitute teacher for that reporting period.~~
11 ~~In order to comply with the reporting requirements of this~~
12 ~~subsection, a reporting unit that engages substitute teachers~~
13 ~~through an entity other than a reporting unit or as independent~~
14 ~~contractors shall obtain from the substitute teacher's employer a~~
15 ~~list of all substitute teachers the employer supplies to that~~
16 ~~reporting unit and the total earnings paid to each substitute~~
17 ~~teacher for the reporting period. An employer other than a~~
18 ~~reporting unit that employs substitute teachers as described in~~
19 ~~this subsection shall provide to the reporting unit all information~~
20 ~~that the reporting unit is required to report to the retirement~~
21 ~~system under this subsection. For the purposes of this subsection,~~
22 ~~an employer includes an independent contractor.~~

23 ~~(10) Until July 1, 2025, subsection (1) does not apply to a~~
24 ~~retirant who retires after June 30, 2010; who is employed as an~~
25 ~~instructional coach or a school improvement facilitator by an~~
26 ~~entity other than the reporting unit or as an independent~~
27 ~~contractor; who has been retired for at least 12 months before~~
28 ~~becoming employed under this subsection unless, following a bona~~
29 ~~fide termination, including not working in the month of the~~

~~1 retirant's retirement effective date, the retirant is employed at a
2 reporting unit that provides instruction under an extended COVID-19
3 learning plan under section 98a of the state school aid act of
4 1979, 1979 PA 94, MCL 388.1698a; and whose amount of earnings
5 attributable to employment at a reporting unit in a calendar year
6 does not exceed 1/3 of his or her final average compensation. A
7 retirant described in this subsection is not eligible to use any
8 service or compensation attributable to the employment described in
9 this subsection for a recomputation of his or her retirement
10 allowance. The reporting unit at which the retirant provides the
11 services described in this subsection shall pay 100% of the
12 contribution rates for the unfunded actuarial accrued liability for
13 retiree health care and the unfunded actuarial accrued liability
14 for pension to the retirement system for the employment described
15 in this subsection. The reporting unit shall report the engagement
16 of instructional coaches or school improvement facilitators to the
17 retirement system at the same interval the reporting unit reports
18 information to the retirement system with regard to its other
19 employees. The reporting unit shall include in the report the name
20 of the instructional coach or school improvement facilitator and
21 the total earnings paid to the coach or facilitator for that
22 reporting period. In order to comply with the reporting
23 requirements of this subsection, a reporting unit shall obtain from
24 the coach's or facilitator's employer a list of all instructional
25 coaches and school improvement facilitators the employer supplies
26 to that reporting unit and the total earnings paid to each coach or
27 facilitator for the reporting period. An employer other than a
28 reporting unit that employs instructional coaches or school
29 improvement facilitators as described in this subsection shall~~

1 ~~provide to the reporting unit all information that the reporting~~
2 ~~unit is required to report to the retirement system under this~~
3 ~~subsection. For the purposes of this subsection, an employer~~
4 ~~includes an independent contractor. As used in this subsection,~~
5 ~~"instructional coach" and "school improvement facilitator" mean~~
6 ~~those terms as used in the listing of critical shortage disciplines~~
7 ~~developed by the superintendent of public instruction under~~
8 ~~subsection (4).~~

9 ~~(11) Subsection (1) does not apply to a retirant who is a~~
10 ~~former teacher or administrator who retires after June 30, 2010 and~~
11 ~~before October 2, 2014, who following a bona fide termination,~~
12 ~~including not working in the month of his or her retirement~~
13 ~~effective date, becomes employed in a teaching or research capacity~~
14 ~~or in a program department direction capacity by a university that~~
15 ~~is considered a reporting unit for the limited purpose described in~~
16 ~~section 7(3). A retirant described in this subsection is not~~
17 ~~eligible to use any service or compensation attributable to the~~
18 ~~employment described in this subsection for recomputation of his or~~
19 ~~her retirement allowance. The reporting unit at which the retirant~~
20 ~~provides the services described in this subsection shall pay 100%~~
21 ~~of the contribution rates for the unfunded actuarial accrued~~
22 ~~liability for retiree health care and the unfunded actuarial~~
23 ~~accrued liability for pension to the retirement system for the~~
24 ~~employment described in this subsection. The reporting unit shall~~
25 ~~report the employment of a retirant as described in this subsection~~
26 ~~to the retirement system by July 1 of each year. The reporting unit~~
27 ~~shall include in the report the name of the retirant, the capacity~~
28 ~~in which the retirant is employed, and the total annual~~
29 ~~compensation paid to the retirant.~~

1 ~~(12) Until July 1, 2025, notwithstanding any provision of this~~
2 ~~act to the contrary, for a retirant who retires after June 30,~~
3 ~~2010, who is employed as an independent contractor at a reporting~~
4 ~~unit for a situation described in subsection (5) (a) or is employed~~
5 ~~at a reporting unit for a situation described in subsection (5) (a)~~
6 ~~by an entity other than the reporting unit, and who has been~~
7 ~~retired for at least 12 months before becoming employed under this~~
8 ~~subsection unless, following a bona fide termination, including not~~
9 ~~working in the month of the retirant's retirement effective date,~~
10 ~~the retirant is employed at a reporting unit that provides~~
11 ~~instruction under an extended COVID-19 learning plan under section~~
12 ~~98a of the state school aid act of 1979, 1979 PA 94, MCL 388.1698a,~~
13 ~~the reporting unit at which the retirant provides services under~~
14 ~~this subsection shall pay 100% of the contribution rates for the~~
15 ~~unfunded actuarial accrued liability for retiree health care and~~
16 ~~the unfunded actuarial accrued liability for pension to the~~
17 ~~retirement system for the employment described in this subsection.~~

18 ~~(13) Subsection (1) does not apply to a retirant who retires~~
19 ~~after June 30, 2010 and before the ending date of funding for a~~
20 ~~federal grant given from the United States Department of Education~~
21 ~~in 2017, including any extensions, to fund the high-impact~~
22 ~~leadership for school renewal project and that meets the~~
23 ~~requirements of subsection (14) and who, following a bona fide~~
24 ~~termination, becomes employed by a reporting unit as a school~~
25 ~~renewal coach or high impact leadership facilitator as part of a~~
26 ~~school leadership support program that is funded by the federal~~
27 ~~grant given from the United States Department of Education in 2017,~~
28 ~~including any extensions, to fund the high-impact leadership for~~
29 ~~school renewal project and that meets the requirements of~~

1 ~~subsection (14). Also, subsection (1) does not apply to a retirant~~
2 ~~who retires after June 30, 2010 and before the ending date of~~
3 ~~funding for a federal grant that meets the requirements of~~
4 ~~subsection (14) and who, following a bona fide termination, becomes~~
5 ~~a national service member with a federally funded national service~~
6 ~~program such as Americorps State and National or Americorps VISTA~~
7 ~~and is placed by the federally funded national service program at a~~
8 ~~service site that is a reporting unit. A retirant described in this~~
9 ~~subsection is not eligible to use any service or compensation~~
10 ~~attributable to the employment described in this subsection for a~~
11 ~~recomputation of his or her retirement allowance. The reporting~~
12 ~~unit shall pay 100% of the contribution rates for the unfunded~~
13 ~~actuarial accrued liability for retiree health care and the~~
14 ~~unfunded actuarial accrued liability for pension to the retirement~~
15 ~~system for the employment described in this subsection. The~~
16 ~~reporting unit shall report the engagement of school renewal~~
17 ~~coaches or high impact leadership facilitators to the retirement~~
18 ~~system at the same interval the reporting unit reports information~~
19 ~~to the retirement system with regard to its other employees. The~~
20 ~~reporting unit shall include in the report the name of the school~~
21 ~~renewal coach or high impact leadership facilitator and the total~~
22 ~~earnings paid to the school renewal coach or high impact leadership~~
23 ~~facilitator for that reporting period.~~

24 ~~(14) Subsection (13) applies to retirants employed as part of~~
25 ~~a program that supports teams of school principals and teacher~~
26 ~~leaders in elementary schools by doing all of the following:~~

27 ~~(a) Providing intense professional development and support,~~
28 ~~and money, for renewal projects for teams of school leaders in a~~
29 ~~number of project schools that are implementing a set of new~~

1 ~~literacy essentials.~~

2 ~~(b) Placing a trained team of school renewal coaches or high~~
3 ~~impact leadership facilitators in each project school.~~

4 ~~(c) Providing a lower level of professional development~~
5 ~~support and funding for leaders in additional schools.~~

6 ~~(d) Applying a set of proven school leadership practices for~~
7 ~~school renewal and sustainable implementation.~~

8 ~~(e) Providing training, support, and oversight for the school~~
9 ~~renewal coaches or high impact leadership facilitators as a~~
10 ~~coordinator or supervisor of that work.~~

11 **(4) Subsection (1) does not apply to a retirant who is**
12 **employed at a reporting unit if both of the following apply:**

13 **(a) The retirant retired after a bona fide termination of**
14 **employment.**

15 **(b) The retirant has been retired for at least 12 consecutive**
16 **months before becoming employed under this subsection. However,**
17 **this subdivision does not apply to a retirant who is employed at a**
18 **reporting unit on the effective date of the amendatory act that**
19 **added this subdivision.**

20 **(5) A retirant is not eligible to use any service or**
21 **compensation attributable to the employment described in subsection**
22 **(3) or (4) for a recomputation of his or her retirement allowance.**

23 **(6) For purposes of subsections (3) and (4), the retirement**
24 **system shall determine, in accordance with federal law that governs**
25 **qualified retirement plans, whether a retirant retired after a bona**
26 **fide termination of employment. If the retirement system determines**
27 **that a retirant did not retire after a bona fide termination of**
28 **employment, the retirement system may adjust the retirant**
29 **retirement allowance effective date following a bona fide**

1 termination.

2 (7) A reporting unit shall report the employment of a retirant
3 as described in subsection (4) to the retirement system in a manner
4 determined by the retirement system. The reporting unit shall
5 include in the report the name of the retirant, the capacity in
6 which the retirant is employed, and the compensation paid to the
7 retirant. An employer, other than a reporting unit, that employs
8 retirants as described in subsection (4) shall provide to the
9 reporting unit all information that the reporting unit is required
10 to report to the retirement system under this subsection.

11 (8) As used in this section:

12 (a) "Bona fide termination of employment" means, as determined
13 by the retirement system under subsection (6), a retirant has
14 completely severed the employer-employee relationship with his or
15 her reporting unit employer. Completely severing the employer-
16 employee relationship includes, but is not limited to, a retirant
17 not working for his or her reporting unit employer during the month
18 of the retirant's retirement allowance effective date and, before
19 the severing of the employer-employee relationship, the retirant
20 does not intend or expect or have an offer or contingency to become
21 employed at any reporting unit.

22 (b) "Employed at a reporting unit" means employed directly by
23 a reporting unit as an employee, indirectly by a reporting unit
24 through a contractual arrangement with other parties, or by
25 engagement of a retirant by a reporting unit as an independent
26 contractor.