

Comments for Senate Committee on Reform and Restructuring on HB 4361

May 11, 2011

By Douglas C. Drake, Chair State Employee's Retirement Board and Retiree

Senator Jansen and Members of the Committee:

Thank you for the opportunity to discuss this pending legislation.

I am presently a state retiree and serve as Chair of the SERS board. I've been a member of the Board for approximately 10 years, being first appointed by Governor Engler and re-appointed by Governor Granholm representing state employees. My fellow board members have elected me as chair three times.

I am also very well versed in tax, economic and fiscal policy. I worked for the Department of Treasury, the Department of Management and Budget (from which I retired in 1998 as a Deputy Director, with responsibility for about two-thirds of the state budget), and the House Taxation Committee and Speaker's Policy staff for over a decade. I helped write many major pieces of fiscal legislation including the Budget Stabilization Fund statute, the Headlee Amendment implementing legislation, the Single Business Tax, the implementing budget and legislation for Proposal A and many others.

I was also the project developer, co-editor and contributor on several chapters to *Michigan at the Millennium, A Benchmark and Analysis of Its Fiscal and Economic Structure*, published in 2003. I also co-authored, with Mike Addonizio, a study titled *Revolution and Evolution: Michigan's Proposal A School Finance Reform, A Retrospective Analysis* (2005), on behalf of the bi-partisan "Gang of Fourteen" legislators who were instrumental in its passage.

As a public retiree and a representative of over 68,000 active and retired members of the Michigan State Employees' Defined Benefit pension plan, I thank you for the opportunity to be here today to talk about the implications of some portions of HB 4361 for me, the members of the system, and for other public employees and retirees in Michigan.

First, I want to convey to you my strong belief, based upon my personal knowledge of the Michigan Constitution, Michigan statutes, and personal conversation with individuals who were involved with the Constitutional Convention that drafted our current constitution both as delegates and staff advisers, that the clear intent of the drafters of that constitution was that public pensions be exempt from taxation. These conversations date back as far as 1968, just a short time after I first began working for the Department of Treasury. There were many subsequent conversations including with former delegates who subsequently served in the House and Senate.

Dan McLellan, a fellow retiree and a former colleague as a member of the State Employee's Retirement Board will testify with greater specificity upon this constitutional question.

Second, I can also personally testify that subsequent legislators and Governors were so convinced of the constitutional basis for the exemption of public employee pensions from taxation that their response to subsequent policy discussions about the relative equity of treatment of different retirees and different sources of retirement income was not to try to abolish the public employee exemption, which they firmly believed was constitutionally protected, but to create tax policy equity by exempting other sources of retirement income such as private pensions, 401 K's and dividend and interest income from other sources. That is how Michigan leaders, of both parties, led us to the admittedly complex, but approximate equity of the current treatment of retirement income that Governor Snyder and a majority of your colleagues in the House now propose to end.

Third, as someone knowledgeable in tax policy and economics at the state level, I can also tell you that based upon that knowledge and experience, the business tax cut proposed by Governor Snyder and approved by the House that is to be financed by the combination of elimination of tax breaks for the poor (EITC), and the elderly (retirement income), likely will not create a single job in Michigan.

Our economic future rests for the foreseeable future, as it has for nearly a century, on the prospects of the domestic automobile industry. The current signs of job growth in Michigan are clearly attributable to improvement in that industry that is occurring WITHOUT these additional tax cuts.

Even if you go back only as far as Public Act 198 of 1974, known widely as the Plant Rehabilitation and Industrial Facilities Act, which was enacted into law shortly after I joined Speaker Bill Ryan's policy staff, Michigan's main strategy for business development has been to cut business taxes. If it worked at all over the subsequent 35 plus years, it has worked only to slow the decline of the domestic auto industry in the face of increasing global competition. It has not significantly diversified our economy.

I submit to you that a far better investment strategy will be to maximize Michigan's investment in educating our citizens and building and rebuilding our infrastructure. Frankly, tax levels in Michigan are at historic LOWS, despite rhetoric to the contrary. Investing more tax dollars in education and infrastructure is a very viable policy option.

Fourth, I think it is important that you are aware of the scope of the impact of the proposal before you relative to both public and private retirees in Michigan.

Let me share my personal example, and also illustrate for you the numbers of people who will be negatively impacted by HB 4361.

I retired as part of a state "early out" program in Fiscal 1998, leaving in January of that year, at the age of 57, and I won't turn 65 until this summer. If you served in the Legislature during the last session, you were involved in enacting legislation for yet another state "early out" that encouraged over 4,800 state employees to leave earlier than what might have been their normal retirement date. Some were at or near 65, many were in their mid to late 50's and thus expecting that they might need to wait as long as 5 to 10 years before they were also eligible to draw Social Security or access 401(k)s or other sources of retirement income.

All of us counted on, as part of our retirement planning, that our income would not be subject to the Michigan Income Tax. This proposed legislation would most certainly diminish and impair all of our future retirement income by an annual reduction of a not insubstantial 4.35 %.

I want you to clearly understand that I will use all of my knowledge and experience to fight this proposed change in every possible venue. I believe that nearly all of my retired colleagues will join in that fight as well.

In case you think that there are not “that” many of us, I have attached a table to this testimony that helps give you a better picture of how many people you are talking about impacting just on the public pension side of this proposed action. Additional hundreds of thousands will be negatively impacted by the changes proposed on other sources of retirement income.

The data presented reflect actual members of the retirement systems for State Employees and Public School Employees, both active and retired, **by their county of residence**. I have also estimated for you the additional numbers that would be involved from the State Police and Judge’s systems (the total numbers here are actual, and the county distribution is estimated), and all local government and federal employees and retirees in Michigan, and their adult dependents.

In total, I estimate the numbers that will be impacted by the Governor’s proposal, as passed by the House, will be in the range of 1.8 million seniors, with a range on that estimate of plus or minus 5 %.

Thank you for your time and courtesy, and I will be glad to try to answer any questions you may have.