

# HOUSE BILL No. 4619

April 12, 1989, Introduced by Reps. Brown, Berman, Barns and DeMars and referred to the Committee on Senior Citizens and Retirement.

A bill to amend section 31 of Act No. 240 of the Public Acts of 1943, entitled as amended

"State employees' retirement act,"

as amended by Act No. 1 of the Public Acts of 1986, being section 38.31 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 31 of Act No. 240 of the Public Acts of  
2 1943, as amended by Act No. 1 of the Public Acts of 1986, being  
3 section 38.31 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 31. (1) Prior to the effective date of retirement, but  
6 not thereafter, a member or deferred member who is eligible for  
7 retirement, as provided in sections 19 OR 19A and SECTION 20,  
8 shall elect to receive his or her benefit in a retirement  
9 allowance payable throughout life, which shall be called a

1 regular retirement allowance, or to receive the actuarial  
2 equivalent at that time of his or her regular retirement allow-  
3 ance in a reduced retirement allowance payable throughout the  
4 lives of the retirant and a retirement allowance beneficiary, in  
5 accordance with the provisions of option A or B, as follows:

6 (A) Option A. Upon the retirant's death his or her reduced  
7 retirement allowance shall be continued throughout the life of  
8 and paid to the retirement allowance beneficiary whom the member  
9 nominated by written designation duly executed and filed with the  
10 retirement board prior to the effective date of his or her  
11 retirement.

12 (B) Option B. Upon the retirant's death, 1/2 of his or her  
13 reduced retirement allowance shall be continued throughout the  
14 life of and paid to the retirement allowance beneficiary whom the  
15 member nominated by written designation duly executed and filed  
16 with the retirement board prior to the effective date of his or  
17 her retirement.

18 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3)  
19 AND (7), THE election of an option shall not be changed on or  
20 after the effective date of the retirement allowance. A retire-  
21 ment allowance beneficiary designated under this section shall  
22 not be changed on or after the effective date of the retirement  
23 allowance, and shall be either a spouse, brother, sister, parent,  
24 child, including an adopted child, or grandchild of the person  
25 making the designation. Payment to a retirement allowance bene-  
26 ficiary shall begin on the first day of the month following the  
27 death of the retirant or member.

1 (3) If the retirement allowance beneficiary named under  
2 option A or B predeceases the retirant, the retirant's benefit  
3 shall revert to the regular retirement allowance, effective with  
4 the first day of the month following the retirement allowance  
5 beneficiary's death. For a retirant whose effective date of  
6 retirement was on or before June 28, 1976, this subsection shall  
7 apply, but the regular retirement allowance shall not be payable  
8 for any month beginning before the later of the retirement allow-  
9 ance beneficiary's death or January 1, 1986. A retirant who on  
10 January 1, 1986 is receiving a reduced retirement allowance  
11 because the retirant designated a retirement allowance benefi-  
12 ciary and the retirement allowance beneficiary predeceased the  
13 retirant shall be eligible to receive the regular retirement  
14 allowance beginning January 1, 1986, but the regular retirement  
15 allowance shall not be payable for any month beginning before  
16 January 1, 1986.

17 (4) A member who continues in the employ of the state on and  
18 after the date he or she either acquires 10 years of service  
19 credit, or becomes eligible for deferred retirement as provided  
20 by section 20(4) or (5), whichever occurs first, may by written  
21 declaration duly executed and filed with the retirement board  
22 elect option A, provided for in subsection (1), and nominate a  
23 retirement allowance beneficiary in the same manner as if the  
24 member were then retiring from service, notwithstanding that the  
25 member may not have attained 60 years of age. In the case of the  
26 beneficiary's death or divorce from the member prior to the  
27 effective date of the member's retirement, the member's election

1 of option A and nomination of retirement allowance beneficiary  
2 shall be automatically revoked and the member may again elect  
3 option A and nominate a retirement allowance beneficiary at any  
4 time prior to the effective date of retirement. If a member who  
5 has made an election and nominated a retirement allowance benefi-  
6 ciary as provided in this subsection dies prior to the effective  
7 date of his or her retirement, then the retirement allowance ben-  
8 eficiary shall immediately receive the same retirement allowance  
9 as he or she would have been entitled to receive under option A  
10 if the member had been regularly retired at that time. Except as  
11 otherwise provided by subsection (5), if a member who has made an  
12 election under this subsection subsequently retires pursuant to  
13 section 19 OR 19A, his or her election of option A shall take  
14 effect at the time of retirement. Subject to the requirements of  
15 subsection (5), the member may, before the effective date of  
16 retirement, but not thereafter, revoke his or her previous elec-  
17 tion of option A and elect to receive his or her retirement  
18 allowance as a regular retirement allowance or under option B as  
19 provided for in subsection (1). A retirement allowance shall not  
20 be paid under this subsection on account of the death of a member  
21 if any benefits are paid under section 27 on account of his or  
22 her death. If a deferred member who has an option A election in  
23 effect dies prior to the effective date of his or her retirement,  
24 the retirement allowance payable under option A shall be paid to  
25 the retirement allowance beneficiary at the time the deceased  
26 deferred member otherwise would have been eligible to begin  
27 receiving benefits.

1 (5) If a member, deferred member, retiring member, or  
2 retiring deferred member is married at the effective date of the  
3 retirement allowance, an election under this section, other than  
4 an election of option A or option B naming the spouse as retire-  
5 ment allowance beneficiary, shall not be effective unless the  
6 election is signed by the spouse, except that this requirement  
7 may be waived by the retirement board if the signature of a  
8 spouse cannot be obtained because of extenuating circumstances.  
9 As used in this subsection, "spouse" means the person to whom the  
10 member, deferred member, retiring member, or retiring deferred  
11 member is married at the effective date of the retirement  
12 allowance.

13 (6) If a member who continues in the employ of the state on  
14 and after the date he or she acquires 10 years of service credit,  
15 and who does not have an election of option A in force as pro-  
16 vided in subsection (4), dies prior to the effective date of  
17 retirement and leaves a surviving spouse, the spouse shall  
18 receive a retirement allowance computed in the same manner as if  
19 the member had retired effective the day preceding the date of  
20 his or her death, elected option A, and nominated the spouse as  
21 retirement allowance beneficiary. If the retirement allowance  
22 beneficiary dies, his or her retirement allowance shall  
23 terminate. If the aggregate amount of retirement allowance pay-  
24 ments received by the beneficiary is less than the accumulated  
25 contributions credited to the member's account in the employees'  
26 savings fund at the time of the member's death, the difference  
27 between the accumulated contributions and the aggregate amount of

1 retirement allowance payments received by the beneficiary shall  
2 be transferred from the employer's accumulation fund or pension  
3 reserve fund to the employees' savings fund and paid in accord-  
4 ance with section 29. A retirement allowance shall not be paid  
5 under this subsection on account of the death of a member if ben-  
6 efits are paid under section 27 on account of his or her death.

7 (7) IF A RETIRANT RECEIVING A REDUCED RETIREMENT ALLOWANCE  
8 UNDER OPTION A OR B UNDER SUBSECTION (1) IS DIVORCED FROM THE  
9 SPOUSE WHO HAD BEEN DESIGNATED AS THE RETIRANT'S RETIREMENT  
10 ALLOWANCE BENEFICIARY UNDER OPTION A OR B, THE ELECTION OF OPTION  
11 A OR B SHALL BE CONSIDERED VOID BY THE RETIREMENT SYSTEM IF ALL  
12 OF THE REQUIREMENTS OF THIS SUBSECTION ARE MET. IF THE ELECTION  
13 OF OPTION A OR B UNDER SUBSECTION (1) IS CONSIDERED VOID BY THE  
14 RETIREMENT SYSTEM UNDER THIS SUBSECTION, THE RETIRANT'S RETIRE-  
15 MENT ALLOWANCE SHALL REVERT TO A REGULAR RETIREMENT ALLOWANCE,  
16 INCLUDING POSTRETIREMENT ADJUSTMENT, IF ANY, SUBJECT TO AN AWARD  
17 OR ORDER OF THE COURT AS DESCRIBED IN SECTION 40. THE RETIREMENT  
18 ALLOWANCE SHALL REVERT TO A REGULAR RETIREMENT ALLOWANCE UNDER  
19 THIS SUBSECTION EFFECTIVE THE FIRST OF THE MONTH AFTER THE DATE  
20 THE RETIREMENT SYSTEM RECEIVES A CERTIFIED COPY OF THE JUDGMENT  
21 OF DIVORCE OR AWARD OR ORDER OF THE COURT AS REQUIRED IN SUBDIVI-  
22 SION (C). THIS SUBSECTION DOES NOT SUPERSEDE A JUDGMENT OF  
23 DIVORCE OR AWARD OR ORDER OF THE COURT IN EFFECT ON THE EFFECTIVE  
24 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THIS SUB-  
25 SECTION DOES NOT REQUIRE THE RETIREMENT SYSTEM TO DISTRIBUTE OR  
26 PAY RETIREMENT ASSETS ON BEHALF OF A RETIRANT IN AN AMOUNT THAT  
27 EXCEEDS THE ACTUARIALLY DETERMINED AMOUNT THAT WOULD OTHERWISE

1 BECOME PAYABLE IF A JUDGMENT OF DIVORCE HAD NOT BEEN RENDERED.  
2 THE RETIREMENT SYSTEM SHALL CONSIDER THE ELECTION OF OPTION A OR  
3 B UNDER SUBSECTION (1) VOID IF ALL OF THE FOLLOWING REQUIREMENTS  
4 ARE MET:

5 (A) THE JUDGMENT OF DIVORCE OR AWARD OR ORDER OF THE COURT  
6 DESCRIBED IN SECTION 40 AND DATED AFTER THE EFFECTIVE DATE OF THE  
7 AMENDATORY ACT THAT ADDED THIS SUBSECTION PROVIDES THAT THE ELEC-  
8 TION OF OPTION A OR B UNDER SUBSECTION (1) IS TO BE CONSIDERED  
9 VOID BY THE RETIREMENT SYSTEM.

10 (B) AN AMENDED JUDGMENT OF DIVORCE OR AWARD OR ORDER OF THE  
11 COURT DESCRIBED IN SECTION 40 AND DATED AFTER THE EFFECTIVE DATE  
12 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION PROVIDES THAT  
13 THE ELECTION OF OPTION A OR B UNDER SUBSECTION (1) IS TO BE CON-  
14 SIDERED VOID BY THE RETIREMENT SYSTEM.

15 (C) THE RETIRANT PROVIDES A CERTIFIED COPY OF THE JUDGMENT  
16 OF DIVORCE OR AWARD OR ORDER OF THE COURT DESCRIBED IN SUBDIVI-  
17 SION (A) OR (B) TO THE RETIREMENT SYSTEM.