

HOUSE BILL No. 4620

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 85 of Act No. 300 of the Public Acts of 1980, entitled

"The public school employees retirement act of 1979,"

as amended by Act No. 123 of the Public Acts of 1986, being section 38.1385 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 85 of Act No. 300 of the Public Acts of
2 1980, as amended by Act No. 123 of the Public Acts of 1986, being
3 section 38.1385 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 85. (1) A retiring member or retiring deferred member
6 who meets the requirements of section 81 or 81a OR A MEMBER WHOM
7 THE RETIREMENT BOARD FINDS TO BE TOTALLY AND PERMANENTLY DISABLED
8 AND ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE UNDER SECTION 86
9 OR 87 shall elect to receive his or her retirement allowance

1 under (1) of the payment options provided in this section. The
2 election shall be in writing and filed with the retirement board
3 at least 15 days before the effective date of the retirement
4 allowance EXCEPT AS PROVIDED FOR A DISABILITY RETIRANT UNDER SEC-
5 TION 86 OR 87. The amount of retirement allowance under either
6 subdivision (b) or (c) shall be the actuarial equivalent of the
7 amount of retirement allowance under subdivision (a). The
8 options are as follows:

9 (a) A retirant shall be paid a straight retirement allowance
10 for life computed pursuant to section 84. An additional retire-
11 ment allowance payment shall not be made upon the retirant's
12 death.

13 (b) A retirant shall be paid a reduced retirement allowance
14 for life with the provision that upon the retirant's death, pay-
15 ment of the reduced retirement allowance is continued throughout
16 the lifetime of the retirement allowance beneficiary whom the
17 member or deferred member designates in a writing filed with the
18 retirement board at the time of election of this option. A
19 member or deferred member may elect this option and designate a
20 retirement allowance beneficiary under the conditions set forth
21 in section 82(2) or 89(3).

22 (c) A retirant shall be paid a reduced retirement allowance
23 for life with the provision that upon the retirant's death, pay-
24 ment of 1/2 of the reduced retirement allowance is continued
25 throughout the lifetime of the retirement allowance beneficiary
26 whom the member designated in a writing filed with the retirement
27 board at the time of election of the option.

1 (d) A retirant other than disability retirant who is 60
2 years of age or less may elect to coordinate his or her retire-
3 ment allowance with an estimated primary social security
4 benefit. The retirant shall be paid an increased retirement
5 allowance until 62 years of age and a reduced retirement allow-
6 ance after 62 years of age. The increased retirement allowance
7 paid until 62 years of age shall approximate the sum of the
8 reduced retirement allowance payable after 62 years of age and
9 the retirant's estimated social security primary insurance
10 amount. The estimated social security primary insurance amount
11 shall be determined by the retirement system.

12 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3)
13 AND (5), THE election of the payment option shall not be changed
14 on or after the effective date of the retirement allowance.
15 Except as provided in subsection (4), the retirement allowance
16 beneficiary selected under subsection (1)(b) or (c) shall not be
17 changed on or after the effective date of the retirement allow-
18 ance, and shall be either a spouse, brother, sister, parent, or
19 child, including an adopted child, of the member, deferred
20 member, retiring member, or retiring deferred member entitled to
21 make the election under this act. Another retirement allowance
22 beneficiary shall not be selected. If a member, deferred member,
23 retiring member, or retiring deferred member is married at the
24 retirement allowance effective date, an election under subsection
25 (1), other than an election under subsection (1)(b) or (c) naming
26 the spouse as retirement allowance beneficiary, shall not be
27 effective unless the election is signed by the spouse, except

1 that this requirement may be waived by the board if the signature
2 of a spouse cannot be obtained because of extenuating
3 circumstances. For purposes of this subsection, "spouse" means
4 the person to whom the member, deferred member, retiring member,
5 or retiring deferred member is married at the retirement allow-
6 ance effective date. Payment to a retirement allowance benefi-
7 ciary shall start the first day of the month following the
8 retirant's death.

9 (3) If the retirement allowance beneficiary selected under
10 subsection (1)(b) or (c) predeceases the retirant, the retirant's
11 benefit shall revert to a straight retirement allowance including
12 postretirement adjustments, if any, shall be effective the first
13 of the month following the death, and shall be paid during the
14 remainder of the retirant's life. This subsection shall apply to
15 any retirant whose effective date of retirement is after June 28,
16 1976, but the straight retirement allowance shall not be payable
17 for any month beginning before the later of the retirement allow-
18 ance beneficiary's death or October 31, 1980. This subsection
19 shall also apply to any retirant whose effective date of retire-
20 ment was on or before June 28, 1976, but the straight retirement
21 allowance shall not be payable for any month beginning before the
22 later of the retirement allowance beneficiary's death or
23 January 1, 1986. A retirant who on January 1, 1986 is receiving
24 a reduced retirement allowance because the retirant designated a
25 retirement allowance beneficiary and the retirement allowance
26 beneficiary predeceased the retirant shall be eligible to receive
27 the straight retirement allowance beginning January 1, 1986, but

1 the straight retirement allowance shall not be payable for any
2 month beginning before January 1, 1986.

3 (4) A retirant who returns to service pursuant to section 61
4 and whose retirement allowance beneficiary selected under subsec-
5 tion (1)(b) or (c) predeceases the member before he or she again
6 becomes a retirant may again choose a retirement allowance bene-
7 ficiary pursuant to subsection (1)(b) or (c).

8 (5) IF A RETIRANT RECEIVING A REDUCED RETIREMENT ALLOWANCE
9 UNDER SUBSECTION (1)(B) OR (C) IS DIVORCED FROM THE SPOUSE WHO
10 HAD BEEN DESIGNATED AS THE RETIRANT'S RETIREMENT ALLOWANCE BENE-
11 FICIARY UNDER SUBSECTION (1)(B) OR (C), THE ELECTION OF A REDUCED
12 RETIREMENT ALLOWANCE PAYMENT OPTION SHALL BE CONSIDERED VOID BY
13 THE RETIREMENT SYSTEM IF ALL OF THE REQUIREMENTS OF THIS SUBSEC-
14 TION ARE MET. IF THE ELECTION OF A REDUCED RETIREMENT ALLOWANCE
15 PAYMENT OPTION UNDER SUBSECTION (1)(B) OR (C) IS CONSIDERED VOID
16 BY THE RETIREMENT SYSTEM UNDER THIS SUBSECTION, THE RETIRANT'S
17 RETIREMENT ALLOWANCE SHALL REVERT TO A STRAIGHT RETIREMENT ALLOW-
18 ANCE, INCLUDING POSTRETIREMENT ADJUSTMENT, IF ANY, SUBJECT TO AN
19 AWARD OR ORDER OF THE COURT AS DESCRIBED IN SECTION 46. THE
20 RETIREMENT ALLOWANCE SHALL REVERT TO A STRAIGHT RETIREMENT ALLOW-
21 ANCE UNDER THIS SUBSECTION EFFECTIVE THE FIRST OF THE MONTH AFTER
22 THE DATE THE RETIREMENT SYSTEM RECEIVES A CERTIFIED COPY OF THE
23 JUDGMENT OF DIVORCE OR AWARD OR ORDER OF THE COURT AS REQUIRED IN
24 SUBDIVISION (C). THIS SUBSECTION DOES NOT SUPERSEDE A JUDGMENT
25 OF DIVORCE OR AWARD OR ORDER OF THE COURT IN EFFECT ON THE EFFEC-
26 TIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THIS
27 SUBSECTION DOES NOT REQUIRE THE RETIREMENT SYSTEM TO DISTRIBUTE

1 OR PAY RETIREMENT ASSETS ON BEHALF OF A RETIRANT IN AN AMOUNT
2 THAT EXCEEDS THE ACTUARIALLY DETERMINED AMOUNT THAT WOULD OTHER-
3 WISE BECOME PAYABLE IF A JUDGMENT OF DIVORCE HAD NOT BEEN
4 RENDERED. THE RETIREMENT SYSTEM SHALL CONSIDER THE ELECTION OF A
5 REDUCED RETIREMENT ALLOWANCE PAYMENT OPTION UNDER SUBSECTION
6 (1)(B) OR (C) VOID IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

7 (A) THE JUDGMENT OF DIVORCE OR AWARD OR ORDER OF THE COURT
8 DESCRIBED IN SECTION 46 AND DATED AFTER THE EFFECTIVE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS SUBSECTION PROVIDES THAT THE ELEC-
10 TION OF A REDUCED RETIREMENT ALLOWANCE PAYMENT OPTION UNDER SUB-
11 SECTION (1)(B) OR (C) IS TO BE CONSIDERED VOID BY THE RETIREMENT
12 SYSTEM.

13 (B) AN AMENDED JUDGMENT OF DIVORCE OR AWARD OR ORDER OF THE
14 COURT DESCRIBED IN SECTION 46 AND DATED AFTER THE EFFECTIVE DATE
15 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION PROVIDES THAT
16 THE ELECTION OF A REDUCED RETIREMENT ALLOWANCE PAYMENT OPTION
17 UNDER SUBSECTION (1)(B) OR (C) IS TO BE CONSIDERED VOID BY THE
18 RETIREMENT SYSTEM.

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

22 (6) ~~(5)~~ If the retirement allowance payments terminate
23 before an aggregate amount equal to the retirant's accumulated
24 contributions on the effective date of retirement has been paid,
25 the difference between the retirant's accumulated contributions
26 and the aggregate amount of retirement allowance payments made
27 shall be paid to the person the retirant designates in a writing

1 filed with the retirement board. If the designated person does
2 not survive the retirant, the difference shall be paid to the
3 refund beneficiary.