

HOUSE BILL No. 4855

May 22, 1989, Introduced by Reps. Ciaramitaro, Brown, Richard A. Young and DeMars and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 46, 85, 89, and 90 of Act No. 300 of the Public Acts of 1980, entitled "The public school employees retirement act of 1979," section 46 as amended by Act No. 40 of the Public Acts of 1985, section 85 as amended by Act No. 123 of the Public Acts of 1986, and sections 89 and 90 as amended by Act No. 162 of the Public Acts of 1984, being sections 38.1346, 38.1385, 38.1389, and 38.1390 of the Michigan Compiled Laws; and to add section 83a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 46, 85, 89, and 90 of Act No. 300 of
2 the Public Acts of 1980, section 46 as amended by Act No. 40 of
3 the Public Acts of 1985, section 85 as amended by Act No. 123 of
4 the Public Acts of 1986, and sections 89 and 90 as amended by Act
5 No. 162 of the Public Acts of 1984, being sections 38.1346,

1 38.1385, 38.1389, and 38.1390 of the Michigan Compiled Laws, are
2 amended and section 83a is added to read as follows:

3 Sec. 46. (1) A pension, an annuity, a retirement allowance,
4 an optional benefit, or any other benefit accrued or accruing to
5 a person under this act, the funds created by this act, and the
6 money, investments, or income of those funds, are exempt from
7 state, county, municipal, or other local tax, and ~~shall~~ ARE not
8 ~~be~~ subject to execution, garnishment, attachment, the operation
9 of bankruptcy or insolvency laws, or other process of law except
10 as provided in this section. The right to a pension, an annuity,
11 a retirement allowance, an optional benefit, or any other benefit
12 accrued or accruing to a person under this act ~~shall be~~ IS
13 unassignable, except as specifically provided in this act.

14 (2) The retirement system may offset retirement benefits or
15 refunds payable under this act against amounts owed to the
16 retirement system by a member, retirant, retirement allowance
17 beneficiary, or refund beneficiary.

18 (3) If the retirement system is required by the federal gov-
19 ernment pursuant to a court order to transmit a part of a
20 member's contributions standing to the member's credit in the
21 annuity accumulation fund to a federal agency, the service credit
22 ~~which~~ THAT is covered by the payment shall be forfeited in the
23 same manner as if the employee had requested and been paid a
24 refund of the member's most recent contributions.

25 (4) A pension, an annuity, a retirement allowance, an
26 optional benefit, accumulated contributions, or any other benefit
27 to a member, deferred member, or a retirant under this act ~~shall~~

1 ~~be~~ ARE subject to award by a court pursuant to section 18 of
2 chapter 84 of the Revised Statutes of 1846, being section 552.18
3 of the Michigan Compiled Laws, and to any other order of a court
4 pertaining to child support. A PENSION, AN ANNUITY, A RETIREMENT
5 ALLOWANCE, OR AN OPTIONAL BENEFIT TO A MEMBER, DEFERRED MEMBER,
6 OR A RETIRANT UNDER THIS ACT IS SUBJECT TO A QUALIFIED DOMESTIC
7 RELATIONS ORDER PURSUANT TO SECTION 83A.

8 (5) If an award or order described in subsection (4)
9 requires the retirement system to withhold payment of a pension,
10 deferred pension, accumulated contributions, or other benefit
11 from the person to whom it is due or requires the retirement
12 system to make payment or requires the person to request that the
13 retirement system make payment of a pension, deferred pension,
14 accumulated contributions, or other benefit, for the purpose of
15 meeting the person's obligations to a spouse, former spouse or
16 child, as provided in subsection (4), the withholding or payment
17 provisions of the award or order shall be effective only against
18 such amounts as they become payable to the person receiving a
19 retirement allowance UNLESS OTHERWISE PROVIDED IN A QUALIFIED
20 DOMESTIC RELATIONS ORDER UNDER SECTION 83A. The limitation con-
21 tained in this subsection shall not apply to the accumulated con-
22 tributions of a person who has terminated employment prior to
23 acquiring a vested member status.

24 SEC. 83A. (1) AS USED IN THIS SECTION:

25 (A) "ALTERNATE PAYEE" MEANS A SPOUSE, FORMER SPOUSE, CHILD,
26 OR OTHER DEPENDENT OF A PARTICIPANT NAMED IN A QUALIFIED DOMESTIC
27 RELATIONS ORDER.

1 (B) "BENEFIT" MEANS A PENSION, AN ANNUITY, A RETIREMENT
2 ALLOWANCE, OR AN OPTIONAL BENEFIT ACCRUED OR ACCRUING TO A PAR-
3 TICIPANT UNDER THIS ACT.

4 (C) "DOMESTIC RELATIONS ORDER" MEANS A JUDGMENT, DECREE, OR
5 ORDER OF A COURT MADE PURSUANT TO THE DOMESTIC RELATIONS LAW OF
6 THIS STATE AND RELATING TO THE PROVISION OF CHILD SUPPORT, ALIMO-
7 NY, OR MARITAL PROPERTY RIGHTS OF A SPOUSE, FORMER SPOUSE, CHILD,
8 OR OTHER DEPENDENT OF A PARTICIPANT.

9 (D) "EARLIEST RETIREMENT AGE" MEANS THE EARLIER OF THE
10 FOLLOWING:

11 (i) THE DATE THE PARTICIPANT IS ENTITLED TO OBTAIN A DISTRI-
12 BUTION OF A BENEFIT UNDER THIS ACT UPON NOTIFICATION TO THE
13 RETIREMENT SYSTEM.

14 (ii) THE LATER OF THE FOLLOWING:

15 (A) THE DATE THE PARTICIPANT REACHES AGE 50.

16 (B) THE EARLIEST DATE ON WHICH THE PARTICIPANT COULD BEGIN
17 RECEIVING BENEFITS IF THE PARTICIPANT SEPARATED FROM SERVICE.

18 (E) "PARTICIPANT" MEANS A MEMBER, DEFERRED MEMBER, OR RETIR-
19 ANT UNDER THIS ACT.

20 (F) "QUALIFIED DOMESTIC RELATIONS ORDER" MEANS A DOMESTIC
21 RELATIONS ORDER THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

22 (i) THE DOMESTIC RELATIONS ORDER STATES THE NAME AND LAST
23 KNOWN ADDRESS OF THE PARTICIPANT.

24 (ii) THE DOMESTIC RELATIONS ORDER STATES THE NAME AND LAST
25 KNOWN ADDRESS OF AN ALTERNATE PAYEE.

26 (iii) THE DOMESTIC RELATIONS ORDER STATES THE AMOUNT OR
27 PERCENTAGE OF THE BENEFIT TO BE PAID TO AN ALTERNATE PAYEE OR THE

1 MANNER UNDER WHICH THE AMOUNT OR PERCENTAGE OF THE BENEFIT TO BE
2 PAID TO AN ALTERNATE PAYEE IS TO BE DETERMINED.

3 (iv) THE DOMESTIC RELATIONS ORDER STATES THE NUMBER OF PAY-
4 MENTS OR THE PERIOD OF TIME TO WHICH THE DOMESTIC RELATIONS ORDER
5 APPLIES.

6 (v) THE DOMESTIC RELATIONS ORDER STATES THAT IT APPLIES TO
7 THE MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM.

8 (vi) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE
9 RETIREMENT SYSTEM TO PROVIDE A TYPE OR FORM OF BENEFIT OR A PAY-
10 MENT OPTION NOT OTHERWISE PROVIDED BY THIS ACT.

11 (vii) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE
12 RETIREMENT SYSTEM TO PROVIDE AN INCREASED BENEFIT.

13 (viii) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE
14 PAYMENT OF A BENEFIT TO AN ALTERNATE PAYEE THAT IS REQUIRED TO BE
15 PAID TO ANOTHER ALTERNATE PAYEE UNDER A PREVIOUSLY FILED QUALI-
16 FIED DOMESTIC RELATIONS ORDER.

17 (2) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN ALTER-
18 NATE PAYEE SHALL BE ENTITLED TO AN ACTUAL INTEREST IN A SHARE OF
19 A BENEFIT THAT IS OR WILL BECOME PAYABLE TO A PARTICIPANT UNDER
20 THIS ACT, IF PROVIDED IN A QUALIFIED DOMESTIC RELATIONS ORDER
21 FILED WITH THE RETIREMENT SYSTEM. THE RETIREMENT SYSTEM SHALL
22 ADMINISTER THE PAYMENT OF A BENEFIT UNDER THIS ACT PURSUANT TO
23 THE QUALIFIED DOMESTIC RELATIONS ORDER AND THIS SECTION.

24 (3) NOTWITHSTANDING SECTION 46, A QUALIFIED DOMESTIC RELA-
25 TIONS ORDER MAY PROVIDE FOR THE PAYMENT OF A BENEFIT TO AN ALTER-
26 NATE PAYEE AFTER THE PARTICIPANT REACHES THE EARLIEST RETIREMENT
27 AGE BUT BEFORE THE PARTICIPANT SEPARATES FROM SERVICE AS PROVIDED

1 IN THIS SUBSECTION. AN ALTERNATE PAYEE SHALL NOT RECEIVE A
2 PAYMENT OF A BENEFIT UNDER THIS SUBSECTION UNTIL THE PARTICIPANT
3 MEETS ALL OF THE REQUIREMENTS FOR RETIREMENT UNDER THIS ACT
4 EXCEPT FOR SEPARATION FROM SERVICE. IF AN ALTERNATE PAYEE ELECTS
5 TO RECEIVE HIS OR HER INTEREST IN THE BENEFIT OF A PARTICIPANT
6 WHEN THE PARTICIPANT REACHES HIS OR HER EARLIEST RETIREMENT AGE
7 BUT HAS NOT SEPARATED FROM SERVICE, THE ALTERNATE PAYEE IS ONLY
8 ENTITLED TO THE ACTUARIAL EQUIVALENT OF WHAT THE ALTERNATE PAYEE
9 WOULD BE ENTITLED TO RECEIVE IF HE OR SHE ELECTED TO RECEIVE HIS
10 OR HER INTEREST IN THE BENEFIT OF A PARTICIPANT WHEN THE PARTICI-
11 PANT IS ENTITLED TO RETIRE UNDER SECTION 81. HOWEVER, THE
12 RETIREMENT SYSTEM SHALL RECALCULATE THE ACTUARIALLY REDUCED
13 AMOUNT BEING PAID TO AN ALTERNATE PAYEE UNDER THIS SUBSECTION
14 WHEN THE PARTICIPANT RETIRES UNDER THIS ACT. IF THE RECALCULATED
15 AMOUNT IS MORE THAN THE AMOUNT CURRENTLY BEING PAID TO AN ALTER-
16 NATE PAYEE UNDER THIS SUBSECTION, THE RECALCULATED AMOUNT SHALL
17 BE PAID TO THE ALTERNATE PAYEE EFFECTIVE THE FIRST DAY OF THE
18 MONTH IMMEDIATELY FOLLOWING THE MONTH DURING WHICH THE PARTICI-
19 PANT RETIRES.

20 (4) NOTWITHSTANDING SECTION 89 OR 90, A QUALIFIED DOMESTIC
21 RELATIONS ORDER MAY PROVIDE THAT A FORMER SPOUSE IS CONSIDERED
22 THE SPOUSE OF A RETIRANT FOR THE PURPOSE OF RECEIVING A RETIRE-
23 MENT ALLOWANCE AS A SURVIVING SPOUSE UNDER SECTION 89 OR 90. THE
24 RETIREMENT ALLOWANCE PAYABLE TO A FORMER SPOUSE AS A SURVIVING
25 SPOUSE UNDER THIS SUBSECTION SHALL BE COMPUTED AS PROVIDED IN THE
26 QUALIFIED DOMESTIC RELATIONS ORDER AND SECTION 89 OR 90. IF THE
27 AMOUNT OR PERCENTAGE OF THE BENEFIT TO BE PAID TO A FORMER SPOUSE

1 AS THE SURVIVING SPOUSE OF THE PARTICIPANT UNDER THIS SUBSECTION
2 IS LESS THAN THE ENTIRE AMOUNT PAYABLE UNDER SECTION 89 OR 90,
3 THE SURVIVING SPOUSE OF THE PARTICIPANT, AS DETERMINED UNDER SEC-
4 TION 89 OR 90, SHALL BE ENTITLED TO RECEIVE THE PORTION OF THE
5 RETIREMENT ALLOWANCE NOT PAYABLE TO A FORMER SPOUSE UNDER THIS
6 SUBSECTION.

7 (5) NOTWITHSTANDING SECTION 85, A QUALIFIED DOMESTIC RELA-
8 TIONS ORDER MAY PROVIDE FOR THE ELECTION OF A PAYMENT OPTION
9 UNDER SECTION 85 AND PROVIDE THAT THE FORMER SPOUSE OF THE PAR-
10 TICIPANT IS DESIGNATED AS THE RETIREMENT ALLOWANCE BENEFICIARY
11 FOR THE PURPOSE OF RECEIVING A RETIREMENT ALLOWANCE UNDER SECTION
12 85. THE RETIREMENT ALLOWANCE PAYABLE TO A FORMER SPOUSE UNDER
13 THIS SUBSECTION SHALL BE COMPUTED AS PROVIDED IN THE QUALIFIED
14 DOMESTIC RELATIONS ORDER AND SECTION 85. IF THE AMOUNT OR PER-
15 CENTAGE OF THE BENEFIT TO BE PAID TO A FORMER SPOUSE AS THE
16 RETIREMENT ALLOWANCE BENEFICIARY OF THE PARTICIPANT UNDER THIS
17 SUBSECTION IS LESS THAN THE ENTIRE AMOUNT PAYABLE TO A RETIREMENT
18 ALLOWANCE BENEFICIARY UNDER SECTION 85, A RETIREMENT ALLOWANCE
19 BENEFICIARY DESIGNATED BY THE PARTICIPANT UNDER SECTION 85 SHALL
20 BE ENTITLED TO RECEIVE THE PORTION OF THE RETIREMENT ALLOWANCE
21 NOT PAYABLE TO A FORMER SPOUSE UNDER THIS SUBSECTION.

22 (6) THE CREATION, ASSIGNMENT, OR RECOGNITION OF A RIGHT OF
23 AN ALTERNATE PAYEE TO AN ACTUAL INTEREST IN A SHARE OF A BENEFIT
24 THAT IS OR WILL BECOME PAYABLE TO A PARTICIPANT PURSUANT TO A
25 QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION IS NOT A
26 PROHIBITED ASSIGNMENT UNDER SECTION 46.

1 (7) THE RETIREMENT SYSTEM SHALL ESTABLISH A REASONABLE
2 PROCEDURE TO DETERMINE IF A DOMESTIC RELATIONS ORDER IS A
3 QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION. THE
4 RETIREMENT SYSTEM SHALL PROMPTLY NOTIFY THE PARTICIPANT AND
5 ALTERNATE PAYEE NAMED IN A DOMESTIC RELATIONS ORDER THAT THE
6 RETIREMENT SYSTEM HAS RECEIVED THE DOMESTIC RELATIONS ORDER. THE
7 NOTICE SHALL INCLUDE A DESCRIPTION OF THE PROCEDURE BY WHICH THE
8 RETIREMENT SYSTEM DETERMINES IF THE DOMESTIC RELATIONS ORDER IS A
9 QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION.

10 (8) THE RETIREMENT SYSTEM SHALL, WITHIN A REASONABLE PERIOD
11 OF TIME AFTER RECEIVING A DOMESTIC RELATIONS ORDER, DETERMINE IF
12 THE DOMESTIC RELATIONS ORDER IS A QUALIFIED DOMESTIC RELATIONS
13 ORDER UNDER THIS SECTION. IF THE RETIREMENT SYSTEM DETERMINES
14 THAT THE DOMESTIC RELATIONS ORDER IS A QUALIFIED DOMESTIC RELA-
15 TIONS ORDER UNDER THIS SECTION, THE RETIREMENT SYSTEM SHALL
16 PROMPTLY NOTIFY THE PARTICIPANT AND ALTERNATE PAYEE NAMED IN THE
17 QUALIFIED DOMESTIC RELATIONS ORDER THAT THE DOMESTIC RELATIONS
18 ORDER IS A QUALIFIED DOMESTIC RELATIONS ORDER. THE RETIREMENT
19 SYSTEM SHALL BEGIN THE PAYMENT OF A BENEFIT UNDER THIS SECTION
20 PURSUANT TO THE QUALIFIED DOMESTIC RELATIONS ORDER AND THIS SEC-
21 TION ON THE FIRST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH
22 THE DOMESTIC RELATIONS ORDER WAS DETERMINED TO BE A QUALIFIED
23 DOMESTIC RELATIONS ORDER OR THE FIRST DAY OF THE MONTH FOLLOWING
24 THE MONTH IN WHICH A BENEFIT IS PAYABLE UNDER THE QUALIFIED
25 DOMESTIC RELATIONS ORDER, WHICHEVER IS LATER. IF THE RETIREMENT
26 SYSTEM DETERMINES THAT THE DOMESTIC RELATIONS ORDER IS NOT A
27 QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION, THE

1 RETIREMENT SYSTEM SHALL PROMPTLY NOTIFY THE PARTICIPANT AND
2 ALTERNATE PAYEE NAMED IN THE DOMESTIC RELATIONS ORDER THAT THE
3 DOMESTIC RELATIONS ORDER IS NOT A QUALIFIED DOMESTIC RELATIONS
4 ORDER. THE RETIREMENT SYSTEM SHALL SPECIFY IN THE NOTICE WHY THE
5 RETIREMENT SYSTEM DETERMINED THAT THE DOMESTIC RELATIONS ORDER IS
6 NOT A QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION. A
7 DETERMINATION BY THE RETIREMENT SYSTEM THAT A DOMESTIC RELATIONS
8 ORDER IS NOT A QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SEC-
9 TION DOES NOT PROHIBIT A PARTICIPANT, ALTERNATE PAYEE, OR COURT
10 FROM FILING AN AMENDED DOMESTIC RELATIONS ORDER WITH THE RETIRE-
11 MENT SYSTEM UNDER THIS SECTION.

12 (9) A DOMESTIC RELATIONS ORDER FILED WITH THE RETIREMENT
13 SYSTEM BEFORE THE EFFECTIVE DATE OF THIS SECTION SHALL BE CONSID-
14 ERED A QUALIFIED DOMESTIC RELATIONS ORDER UNDER THIS SECTION IF
15 THE DOMESTIC RELATIONS ORDER MEETS ALL OF THE REQUIREMENTS OF
16 THIS SECTION. THIS SUBSECTION DOES NOT PROHIBIT A PARTICIPANT,
17 ALTERNATE PAYEE, OR COURT FROM FILING AN AMENDED DOMESTIC RELA-
18 TIONS ORDER UNDER THIS SECTION.

19 Sec. 85. (1) A retiring member or retiring deferred member
20 who meets the requirements of section 81 or 81a shall elect to
21 receive his or her retirement allowance under 1 of the payment
22 options provided in this section. The election shall be in writ-
23 ing and filed with the retirement board at least 15 days before
24 the effective date of the retirement allowance. The amount of
25 retirement allowance under either subdivision (b) or (c) shall be
26 the actuarial equivalent of the amount of retirement allowance
27 under subdivision (a). The options are as follows:

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

5 (b) A retirant shall be paid a reduced retirement allowance
6 for life with the provision that upon the retirant's death, pay-
7 ment of the reduced retirement allowance is continued throughout
8 the lifetime of the retirement allowance beneficiary whom the
9 member or deferred member designates in a writing filed with the
10 retirement board at the time of election of this option. A
11 member or deferred member may elect this option and designate a
12 retirement allowance beneficiary under the conditions set forth
13 in section 82(2) or 89(3).

14 (c) A retirant shall be paid a reduced retirement allowance
15 for life with the provision that upon the retirant's death, pay-
16 ment of 1/2 of the reduced retirement allowance is continued
17 throughout the lifetime of the retirement allowance beneficiary
18 whom the member designated in a writing filed with the retirement
19 board at the time of election of the option.

20 (d) A retirant other than disability retirant who is 60
21 years of age or less may elect to coordinate his or her retire-
22 ment allowance with an estimated primary social security
23 benefit. The retirant shall be paid an increased retirement
24 allowance until 62 years of age and a reduced retirement allow-
25 ance after 62 years of age. The increased retirement allowance
26 paid until 62 years of age shall approximate the sum of the
27 reduced retirement allowance payable after 62 years of age and

1 the retirant's estimated social security primary insurance
2 amount. The estimated social security primary insurance amount
3 shall be determined by the retirement system.

4 (2) The election of the payment option shall not be changed
5 on or after the effective date of the retirement allowance.
6 Except as provided in subsection (4) OR (6), the retirement
7 allowance beneficiary selected under subsection (1)(b) or (c)
8 shall not be changed on or after the effective date of the
9 retirement allowance, and shall be either a spouse, brother,
10 sister, parent, or child, including an adopted child, of the
11 member, deferred member, retiring member, or retiring deferred
12 member entitled to make the election under this act. ~~Another~~
13 EXCEPT AS PROVIDED IN SECTION 83A, ANOTHER retirement allowance
14 beneficiary shall not be selected. If a member, deferred member,
15 retiring member, or retiring deferred member is married at the
16 retirement allowance effective date, an election under subsection
17 (1), other than an election under subsection (1)(b) or (c) naming
18 the spouse as retirement allowance beneficiary, shall not be
19 effective unless the election is signed by the spouse, except
20 that this requirement may be waived by the board if the signature
21 of a spouse cannot be obtained because of extenuating
22 circumstances. For purposes of this subsection, "spouse" means
23 the person to whom the member, deferred member, retiring member,
24 or retiring deferred member is married at the retirement allow-
25 ance effective date UNLESS OTHERWISE PROVIDED IN A QUALIFIED
26 DOMESTIC RELATIONS ORDER UNDER SECTION 83A. Payment to a

1 retirement allowance beneficiary shall start the first day of the
2 month following the retirant's death.

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

24 (4) A retirant who returns to service pursuant to section 61
25 and whose retirement allowance beneficiary selected under subsec-
26 tion (1)(b) or (c) predeceases the member before he or she again

1 becomes a retirant may again choose a retirement allowance
2 beneficiary pursuant to subsection (1)(b) or (c).

3 (5) If the retirement allowance payments terminate before an
4 aggregate amount equal to the retirant's accumulated contribu-
5 tions on the effective date of retirement has been paid, the dif-
6 ference between the retirant's accumulated contributions and the
7 aggregate amount of retirement allowance payments made shall be
8 paid to the person the retirant designates in a writing filed
9 with the retirement board. If the designated person does not
10 survive the retirant, the difference shall be paid to the refund
11 beneficiary.

12 (6) A RETIREMENT ALLOWANCE PAYABLE UNDER A PAYMENT OPTION
13 PROVIDED IN THIS SECTION IS SUBJECT TO A QUALIFIED DOMESTIC RELA-
14 TIONS ORDER UNDER SECTION 83A.

15 Sec. 89. (1) If a member who continues as a public school
16 employee on or after either the date the member has 15 years of
17 credited service in effect, or the date of the member's sixtieth
18 birthday if the member has 10 years of credited service in
19 effect, dies before the effective date of his or her retirement
20 and leaves a surviving spouse to whom the deceased member was
21 married at time of death, the surviving spouse shall receive a
22 retirement allowance computed in the same manner as if the
23 deceased member had retired effective the day preceding the date
24 of the deceased member's death, elected the option set forth in
25 subsection (3), and nominated the surviving spouse as joint
26 retirement allowance beneficiary. The surviving spouse's
27 retirement allowance shall terminate upon the surviving spouse's

1 death. A surviving spouse who on ~~the effective date of this~~
2 ~~amendatory act~~ JUNE 27, 1984 is receiving a retirement allowance
3 under this section or the predecessor to this section under
4 former Act No. 136 of the Public Acts of 1945 shall be eligible
5 to continue receiving that retirement allowance regardless of the
6 surviving spouse's remarriage. A surviving spouse whose retire-
7 ment allowance under this section or the predecessor to this sec-
8 tion under former Act No. 136 of the Public Acts of 1945 was ter-
9 minated due to the surviving spouse's remarriage shall be eligi-
10 ble to receive that allowance beginning on the first day of the
11 month following the month in which written application for rein-
12 statement is filed with the board, but shall not be eligible to
13 receive the allowance attributable to any month beginning before
14 the month of reinstatement under this section. A surviving
15 spouse of a person who was a deferred member on October 31, 1980,
16 who becomes eligible to receive a retirement allowance under this
17 section or the predecessor to this section under former Act
18 No. 136 of the Public Acts of 1945, shall be eligible to receive
19 that retirement allowance and that allowance shall not be subject
20 to termination because of the surviving spouse's remarriage.

21 (2) If the other requirements of subsection (1) are met but
22 a surviving spouse does not exist, each of the deceased member's
23 surviving children less than 18 years of age shall receive an
24 allowance of an equal share of the retirement allowance ~~which~~
25 THAT would have been paid to the spouse if living at the time of
26 the deceased member's death. Payments under this subsection

1 shall cease upon the surviving child's marriage, adoption, or
2 becoming 18 years of age, whichever occurs first.

3 (3) A member who continues as a public school employee on or
4 after either the date the member has 15 years of credited service
5 in effect, or the date of the member's sixtieth birthday if the
6 member has 10 years of credited service in effect, may elect the
7 option provided in section 85(1)(b) and nominate a joint retire-
8 ment allowance beneficiary as specified in section 85(2). The
9 election shall be in writing and filed with the retirement board
10 in a manner and form prescribed by the retirement board. The
11 election shall be void upon the member's retirement, termination
12 of employment except as provided in section 82(2), divorce, the
13 retirement allowance beneficiary's death, or upon the retirement
14 allowance beneficiary no longer being dependent upon the member
15 before the member's death. If a member, who has an option elec-
16 tion under section 85(1)(b) in effect, dies before the effective
17 date of his or her retirement, the member's joint retirement
18 allowance beneficiary, so long as the beneficiary continues to be
19 so dependent, shall receive the same retirement allowance as the
20 joint retirement allowance beneficiary would have been entitled
21 to receive under the option provided in section 85(1)(b) if the
22 member had been regularly retired pursuant to section 81 or 82
23 the day preceding the date of the member's death, even though the
24 member may not have acquired entitlement to service retirement.
25 The surviving spouse of the deceased member shall be presumed to
26 be 50% dependent on the deceased member for his or her own

1 financial support. The surviving spouse's retirement allowance
2 shall terminate upon the surviving spouse's death.

3 (4) If at the time a joint retirement allowance
4 beneficiary's retirement allowance granted by this section is
5 terminated, the aggregate amount of retirement allowance payments
6 received by the joint retirement allowance beneficiary are less
7 than the accumulated contributions credited to the deceased
8 member's account in the annuity accumulation fund at the time of
9 the deceased member's death, the difference between the deceased
10 member's accumulated contributions and the aggregate amount of
11 retirement allowance payments received by the joint retirement
12 allowance beneficiary shall be paid to the deceased member's
13 refund beneficiary.

14 (5) THE PAYMENT OF A RETIREMENT ALLOWANCE TO A SURVIVING
15 SPOUSE UNDER THIS SECTION IS SUBJECT TO A QUALIFIED DOMESTIC
16 RELATIONS ORDER UNDER SECTION 83A.

17 Sec. 90. (1) If a member dies as a result of injury or ill-
18 ness arising out of and in the course of the member's reporting
19 unit service for which worker's disability compensation is paid,
20 or a duty disability retirant who is in receipt of weekly
21 worker's disability compensation on account of the retirant's
22 reporting unit service dies from the same causes for which the
23 person retired within 36 months after the retirant's retirement,
24 and in either case the death or the illness or injury resulting
25 in death is found by the retirement board to have resulted, with-
26 out the member's or retirant's ~~willful~~ WILLFUL negligence, from
27 the performance of the member's or retirant's reporting unit

1 service, the surviving spouse of the deceased member or retirant
2 shall receive a retirement allowance computed in the same manner
3 as if the member or retirant had retired for reasons of age and
4 service effective the day preceding the date of the member's or
5 retirant's death, elected the option provided in section
6 85(1)(b), and nominated the surviving spouse as joint retirement
7 allowance beneficiary. The surviving spouse's retirement allow-
8 ance shall terminate upon death. A surviving spouse who on ~~the~~
9 ~~effective date of this amendatory act~~ JUNE 27, 1984 is receiving
10 a retirement allowance under this section or the predecessor to
11 this section under former Act No. 136 of the Public Acts of 1945
12 shall be eligible to continue receiving that retirement allowance
13 regardless of the surviving spouse's remarriage. A surviving
14 spouse whose retirement allowance under this section or the
15 predecessor to this section under former Act No. 136 of the
16 Public Acts of 1945 was terminated due to the surviving spouse's
17 remarriage shall be eligible to receive that allowance beginning
18 on the first day of the month following the month in which writ-
19 ten application for reinstatement is filed with the board, but
20 shall not be eligible to receive the allowance attributable to
21 any month beginning before the month of reinstatement under this
22 section.

23 (2) If the other requirements of subsection (1) are met but
24 a surviving spouse does not exist, each child of the deceased
25 member or duty disability retirant who is less than 18 years of
26 age shall receive an allowance of an equal share of the
27 retirement allowance ~~which~~ THAT would have been paid to the

1 spouse if living at the time of the member's or retirant's
2 death. Payments under this subsection shall cease upon marriage,
3 adoption, or becoming 18 years of age, whichever occurs first.

4 (3) If the other requirements of subsection (1) are met and
5 neither a surviving spouse nor an eligible child surviving the
6 deceased member or duty disability retirant exists, a monthly
7 allowance shall be paid to 1 surviving dependent parent whom the
8 retirement board finds to be totally and permanently disabled and
9 to have been dependent upon the deceased member or retirant for
10 at least 50% of the parent's financial support. The allowance
11 shall be computed in the same manner as if the deceased member or
12 retirant had retired for reasons of age and service effective the
13 day preceding the member's or retirant's death, elected the
14 option provided in section 85(1)(b), and nominated the surviving
15 parent as joint retirement allowance beneficiary. The surviving
16 parent's joint beneficiary retirement allowance shall terminate
17 upon marriage or death.

18 (4) The retirement allowance beneficiary's duty death
19 retirement allowance shall be computed pursuant to section 84,
20 except that the reduction for early retirement shall not apply.
21 The effective date of the retirement allowance beneficiary's duty
22 death retirement allowance shall be the first of the month fol-
23 lowing the month in which the member or retirant died. The years
24 of service credit used in computing the retirement allowance
25 beneficiary's duty death retirement allowance shall not be less
26 than 10 years. If the deceased member or duty disability

1 retirant has less than 5 consecutive years of credited service,
2 the average of the decedent's annual compensation shall be used.

3 (5) Instead of the duty death benefits provided in this sec-
4 tion to an eligible retirement allowance beneficiary, the retire-
5 ment allowance beneficiary, before receipt of his or her first
6 payment, may elect to accept a refund of the deceased member or
7 duty disability retirant's accumulated contributions.

8 (6) If, at the time a joint retirement allowance
9 beneficiary's duty death retirement allowance granted by this
10 section is terminated, the aggregate amount of retirement allow-
11 ance payments received by the joint retirement allowance benefi-
12 ciary is less than the accumulated contributions credited to the
13 deceased member's or duty disability retirant's account in the
14 annuity accumulation fund at the time of the member's or
15 retirant's death, the difference between the accumulated contri-
16 butions and the aggregate amount of retirement allowance payments
17 received by the joint retirement allowance beneficiary shall be
18 paid to the deceased member's or retirant's estate.

19 (7) THE PAYMENT OF A RETIREMENT ALLOWANCE TO A SURVIVING
20 SPOUSE UNDER THIS SECTION IS SUBJECT TO A QUALIFIED DOMESTIC
21 RELATIONS ORDER UNDER SECTION 83A.