

SENATE BILL No. 565

October 4, 1989, Introduced by Senators DI NELLO, CROPSEY, WELBORN and EHLERS and referred to the Committee on Judiciary.

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," as amended by Act No. 194 of the Public Acts of 1989, 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, as amended by Act No. 194 of the Public
3 Acts of 1989, being sections 38.1346, 38.1385, 38.1389, and
4 38.1390 of the Michigan Compiled Laws, are amended and section
5 83a is added to read as follows:

6 Sec. 46. (1) A retirement allowance, an optional benefit,
7 or any other benefit accrued or accruing to a person under this
8 act, the reserves created by this act, and the money,

1 investments, or income of those reserves, are exempt from state,
2 county, municipal, or other local tax, and ~~shall~~ ARE not ~~be~~
3 subject to execution, garnishment, attachment, the operation of
4 bankruptcy or insolvency laws, or other process of law except as
5 provided in this section. The right to a retirement allowance,
6 an optional benefit, or any other benefit accrued or accruing to
7 a person under this act ~~shall be~~ IS unassignable, except as
8 specifically provided in this act.

9 (2) The retirement system may offset retirement benefits or
10 refunds payable under this act against amounts owed to the
11 retirement system by a member, retirant, retirement allowance
12 beneficiary, or refund beneficiary.

13 (3) If the retirement system is required by the federal gov-
14 ernment pursuant to a court order to transmit a part of a
15 member's contributions standing to the member's credit in the
16 reserve for employee contributions to a federal agency, the serv-
17 ice credit that is covered by the payment shall be forfeited in
18 the same manner as if the employee had requested and been paid a
19 refund of the member's most recent contributions.

20 (4) A retirement allowance, an optional benefit, accumulated
21 contributions, or any other benefit to a member, a deferred
22 member, a retirement allowance beneficiary, or a retirant under
23 this act ~~shall be~~ ARE subject to award by a court pursuant to
24 section 18 of chapter 84 of the Revised Statutes of 1846, being
25 section 552.18 of the Michigan Compiled Laws, and to any other
26 order of a court pertaining to child support. A RETIREMENT
27 ALLOWANCE, AN OPTIONAL BENEFIT, OR ANY OTHER BENEFIT TO A MEMBER,

1 A DEFERRED MEMBER, OR A RETIRANT UNDER THIS ACT IS SUBJECT TO A
2 QUALIFIED DOMESTIC RELATIONS ORDER PURSUANT TO SECTION 83A.
3 However, this subsection does not permit or require a benefit to
4 be paid or to be provided that is not otherwise available under
5 this act, EXCEPT AS PROVIDED IN A QUALIFIED DOMESTIC RELATIONS
6 ORDER UNDER SECTION 83A.

7 (5) If an award or order described in subsection (4)
8 requires the retirement system to withhold payment of a retire-
9 ment allowance, deferred retirement allowance, accumulated con-
10 tributions, or other benefit from the person to whom it is due or
11 requires the retirement system to make payment or requires the
12 person to request that the retirement system make payment of a
13 retirement allowance, deferred retirement allowance, accumulated
14 contributions, or other benefit, for the purpose of meeting the
15 person's obligations to a spouse, former spouse, or child, as
16 provided in subsection (4), the withholding or payment provisions
17 of the award or order shall be effective only against such
18 amounts as they become payable to the person otherwise entitled
19 to receive the retirement allowance, EXCEPT AS PROVIDED IN A
20 QUALIFIED DOMESTIC RELATIONS ORDER UNDER SECTION 83A. The limi-
21 tation contained in this subsection shall not apply to the accu-
22 mulated contributions of a person who has terminated employment
23 prior to 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 RETIREMENT ALLOWANCE, AN OPTIONAL
2 BENEFIT, OR ANY OTHER BENEFIT ACCRUED OR ACCRUING TO A PARTICI-
3 PANT 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 subsection. The election shall be in
23 writing and filed with the retirement board at least 15 days
24 before the effective date of the retirement allowance. The
25 amount of retirement allowance under either subdivision (b) or
26 (c) shall be the actuarial equivalent of the amount of retirement
27 allowance 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 (2) In addition to the election under subsection (1), a
21 retirant other than disability retirant who is 60 years of age or
22 less may elect to coordinate his or her retirement allowance with
23 an estimated primary social security benefit. The retirant shall
24 be paid an increased retirement allowance until 62 years of age
25 and a reduced retirement allowance after 62 years of age. The
26 increased retirement allowance paid until 62 years of age shall
27 approximate the sum of the reduced retirement allowance payable

1 after 62 years of age and the retirant's estimated social
2 security primary insurance amount. The estimated social security
3 primary insurance amount shall be determined by the retirement
4 system. The election under this subsection shall be made at the
5 same time and in the same manner as required under
6 subsection (1).

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

1 deferred member is married at the retirement allowance effective
2 date UNLESS OTHERWISE PROVIDED IN A QUALIFIED DOMESTIC RELATIONS
3 ORDER UNDER SECTION 83A. Payment to a retirement allowance bene-
4 ficiary shall start the first day of the month following the
5 retirant's death.

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

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

6 (6) If the retirement allowance payments terminate before an
7 aggregate amount equal to the retirant's accumulated contribu-
8 tions has been paid, the difference between the retirant's accu-
9 mulated contributions and the aggregate amount of retirement
10 allowance payments made shall be paid to the person designated in
11 a writing filed with the retirement board on a form provided by
12 the retirement board. If the designated person does not survive
13 the retirant or retirement allowance beneficiary, the difference
14 shall be paid to the deceased recipient's estate or to the legal
15 representative of the deceased recipient.

16 (7) A RETIREMENT ALLOWANCE PAYABLE UNDER A PAYMENT OPTION
17 PROVIDED IN THIS SECTION IS SUBJECT TO A QUALIFIED DOMESTIC RELA-
18 TIONS ORDER UNDER SECTION 83A.

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

1 of the deceased member's death, elected the option set forth in
2 subsection (3), and nominated the surviving spouse as retirement
3 allowance beneficiary. The surviving spouse's retirement allow-
4 ance shall terminate upon the surviving spouse's death. A sur-
5 viving spouse who on June 27, 1984, is receiving a retirement
6 allowance under this section or the predecessor to this section
7 under former Act No. 136 of the Public Acts of 1945 shall be eli-
8 gible to continue receiving that retirement allowance regardless
9 of the surviving spouse's remarriage. A surviving spouse whose
10 retirement allowance under this section or the predecessor to
11 this section under former Act No. 136 of the Public Acts of 1945
12 was terminated due to the surviving spouse's remarriage shall be
13 eligible to receive that allowance beginning on the first day of
14 the month following the month in which written application for
15 reinstatement is filed with the board, but shall not be eligible
16 to receive the allowance attributable to any month beginning
17 before the month of reinstatement under this section. A surviv-
18 ing spouse of a person who was a deferred member on
19 October 31, 1980, who becomes eligible to receive a retirement
20 allowance under this section or the predecessor to this section
21 under former Act No. 136 of the Public Acts of 1945, shall be
22 eligible to receive that retirement allowance and that allowance
23 shall not be subject to termination because of the surviving
24 spouse's remarriage.

25 (2) If the other requirements of subsection (1) are met but
26 a surviving spouse does not exist, each of the deceased member's
27 surviving children less than 18 years of age shall receive an

1 allowance of an equal share of the retirement allowance ~~which~~
2 THAT would have been paid to the spouse if living at the time of
3 the deceased member's death. Payments under this subsection
4 shall cease upon the surviving child's marriage, adoption, or
5 becoming 18 years of age, whichever occurs first.

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

1 surviving spouse of the deceased member shall be presumed to be
2 50% dependent on the deceased member for his or her own financial
3 support. The surviving spouse's retirement allowance shall ter-
4minate upon the surviving spouse's death.

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

15 (5) For a member who contributes to the member investment
16 plan, the credited service eligibility requirement applicable to
17 the survivor benefits provided in this section are subject to
18 section 43c.

19 (6) 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.

22 Sec. 90. (1) If a member dies as a result of injury or ill-
23 ness arising out of and in the course of the member's reporting
24 unit service for which worker's disability compensation is paid,
25 or a duty disability retirant who is in receipt of weekly
26 worker's disability compensation on account of the retirant's
27 reporting unit service dies from the same causes for which the

1 person retired within 36 months after the retirant's retirement,
2 and in either case the death or the illness or injury resulting
3 in death is found by the retirement board to have resulted, with-
4 out the member's or retirant's willful negligence, from the per-
5 formance of the member's or retirant's reporting unit service,
6 the surviving spouse of the deceased member or retirant shall
7 receive a retirement allowance computed in the same manner as if
8 the member or retirant had retired for reasons of age and service
9 effective the day preceding the date of the member's or
10 retirant's death, elected the option provided in section
11 85(1)(b), and nominated the surviving spouse as retirement allow-
12 ance beneficiary. The surviving spouse's retirement allowance
13 shall terminate upon death. A surviving spouse who on June 27,
14 1984, is receiving a retirement allowance under this section or
15 the predecessor to this section under former Act No. 136 of the
16 Public Acts of 1945 shall be eligible to continue receiving that
17 retirement allowance regardless of the surviving spouse's
18 remarriage. A surviving spouse whose retirement allowance under
19 this section or the predecessor to this section under former Act
20 No. 136 of the Public Acts of 1945 was terminated due to the sur-
21 viving spouse's remarriage shall be eligible to receive that
22 allowance beginning on the first day of the month following the
23 month in which written application for reinstatement is filed
24 with the board, but shall not be eligible to receive the allow-
25 ance attributable to any month beginning before the month of
26 reinstatement under this section.

1 (2) If the other requirements of subsection (1) are met but
2 a surviving spouse does not exist, each child of the deceased
3 member or duty disability retirant who is less than 18 years of
4 age shall receive an allowance of an equal share of the retire-
5 ment allowance ~~which~~ THAT would have been paid to the spouse if
6 living at the time of the member's or retirant's death. Payments
7 under this subsection shall cease upon marriage, adoption, or
8 becoming 18 years of age, whichever occurs first.

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

23 (4) The retirement allowance beneficiary's duty death
24 retirement allowance shall be computed pursuant to section 84,
25 except that the reduction for early retirement shall not apply.
26 The effective date of the retirement allowance beneficiary's duty
27 death retirement allowance shall be the first of the month

1 following the month in which the member or retirant died. The
2 years of service credit used in computing the retirement allow-
3 ance beneficiary's duty death retirement allowance shall not be
4 less than 10 years. If the deceased member or duty disability
5 retirant has less than 5 consecutive years of credited service,
6 the average of the decedent's annual compensation shall be used.

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

12 (6) If, at the time a retirement allowance beneficiary's
13 duty death retirement allowance granted by this section is termi-
14 nated, the aggregate amount of retirement allowance payments
15 received by the retirement allowance beneficiary is less than the
16 accumulated contributions credited to the deceased member's or
17 duty disability retirant's account in the reserve for employee
18 contributions and the reserve for member investment plan at the
19 time of the member's or retirant's death, the difference between
20 the accumulated contributions and the aggregate amount of retire-
21 ment allowance payments received by the retirement allowance ben-
22 eficiary shall be paid to the legal representative of the
23 deceased member's or retirant's estate.

24 (7) THE PAYMENT OF A RETIREMENT ALLOWANCE TO A SURVIVING
25 SPOUSE UNDER THIS SECTION IS SUBJECT TO A QUALIFIED DOMESTIC
26 RELATIONS ORDER UNDER SECTION 83A.