

# HOUSE BILL No. 5110

October 2, 2001, Introduced by Reps. Caul, Birkholz, Vander Roest, Minore, Kolb, Sheltroun, Voorhees, Dennis, Pestka, Jacobs, Switalski, Bernero, Neumann, Rich Brown, Vander Veen, Spade, Kuipers, Gosselin, Murphy, Meyer, Clark, Tabor, Wojno, Bogardus, Ruth Johnson, Shackleton, Allen, Hansen, Rivet, Pappageorge, Middaugh, Mead, Drolet, George, Whitmer, Phillips, Daniels, Schauer and Richner and referred to the Committee on Appropriations.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 46 and 85 (MCL 38.1346 and 38.1385), section 46 as amended by 1991 PA 47 and section 85 as amended by 1998 PA 213.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**HOUSE BILL No. 5110** 1        Sec. 46. (1) ~~Except as otherwise provided in this section,~~  
2    ~~a~~ A retirement allowance, an optional benefit, or any other ben-  
3    efit accrued or accruing to a person under this act, the reserves  
4    created by this act, and the money, investments, or income of  
5    those reserves are exempt from state, county, municipal, or other  
6    local tax ~~and are not subject to execution, garnishment, attach-~~  
7    ~~ment, the operation of bankruptcy or insolvency laws, or other~~  
8    ~~process of law. The right to a retirement allowance, an optional~~  
9    ~~benefit, or any other benefit accrued or accruing to a person~~

1 ~~under this act is unassignable, except as specifically provided~~  
2 ~~in this act~~ AND SUBJECT TO THE PUBLIC EMPLOYEE RETIREMENT BENE-  
3 FIT PROTECTION ACT.

4 (2) The retirement system may offset retirement benefits or  
5 refunds payable under this act against amounts owed to the  
6 retirement system by a member, retirant, retirement allowance  
7 beneficiary, or refund beneficiary.

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

15 ~~(4) A retirement allowance, an optional benefit, accumu-~~  
16 ~~lated contributions, or any other benefit to a member, a deferred~~  
17 ~~member, a retirement allowance beneficiary, or a retirant under~~  
18 ~~this act is subject to award by a court pursuant to section 88 of~~  
19 ~~chapter 84 of the Revised Statutes of 1846, being section 552.18~~  
20 ~~of the Michigan Compiled Laws, and to any other order of a court~~  
21 ~~pertaining to alimony or child support. However, this subsection~~  
22 ~~does not permit or require a benefit to be paid or to be provided~~  
23 ~~that is not otherwise available under this act.~~

24 ~~(5) If an award or order described in subsection (4)~~  
25 ~~requires the retirement system to withhold payment of a retire-~~  
26 ~~ment allowance, deferred retirement allowance, accumulated~~  
27 ~~contributions, or other benefit from the person to whom it is due~~

~~1 or requires the retirement system to pay or requires the person  
2 to request that the retirement system pay a retirement allowance,  
3 deferred retirement allowance, accumulated contributions, or  
4 other benefit, for the purpose of meeting the person's obliga-  
5 tions to a spouse, former spouse, or child, as provided in  
6 subsection (4), the withholding or payment provisions of the  
7 award or order are effective only against such amounts as they  
8 become payable to the person otherwise entitled to receive the  
9 retirement allowance unless otherwise provided in an eligible  
10 domestic relations order under the eligible domestic relations  
11 order act. The limitation contained in this subsection does not  
12 apply to the accumulated contributions of a person who has termi-  
13 nated employment before acquiring a vested member status.~~

~~14 (6) A retirement allowance or an optional benefit payable to  
15 a member, deferred member, or retirant under this act is subject  
16 to an eligible domestic relations order under the eligible domes-  
17 tic relations order act.~~

18 Sec. 85. (1) A retiring member or retiring deferred member  
19 who meets the requirements of section 81 or 81a or a member whom  
20 the retirement board finds to be totally and permanently disabled  
21 and eligible to receive a retirement allowance under section 86  
22 or 87 shall elect to receive his or her retirement allowance  
23 under 1 of the payment options provided in this subsection. The  
24 election shall be in writing and filed with the retirement board  
25 at least 15 days before the effective date of the retirement  
26 allowance except as provided for a disability retirant under  
27 section 86 or 87. The amount of retirement allowance under

1 subdivision (b), (c), or (d) shall be the actuarial equivalent of  
2 the amount of retirement allowance under subdivision (a). The  
3 options are as follows:

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

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

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

23 (d) On and after January 1, 2000, a retirant shall be paid a  
24 reduced retirement allowance for life with the provision that  
25 upon the retirant's death, payment of 75% of the reduced retire-  
26 ment allowance is continued throughout the lifetime of the  
27 retirement allowance beneficiary whom the member designated in a

1 writing filed with the retirement board at the time of election  
2 of the option.

3       (2) In addition to the election under subsection (1), a  
4 retirant, other than a disability retirant who is 60 years of age  
5 or less, may elect to coordinate his or her retirement allowance  
6 with an estimated primary social security benefit. The retirant  
7 shall be paid an increased retirement allowance until 62 years of  
8 age and a reduced retirement allowance after 62 years of age.  
9 The increased retirement allowance paid until 62 years of age  
10 shall approximate the sum of the reduced retirement allowance  
11 payable after 62 years of age and the retirant's estimated social  
12 security primary insurance amount. The estimated social security  
13 primary insurance amount shall be determined by the retirement  
14 system. The election under this subsection shall be made at the  
15 same time and in the same manner as required under  
16 subsection (1).

17       (3) Except as otherwise provided in this section, the elec-  
18 tion of a payment option in subsections (1) and (2) shall not be  
19 changed on or after the effective date of the retirement  
20 allowance. Except as provided in subsection (5), the retirement  
21 allowance beneficiary selected under subsection (1)(b), (c), or  
22 (d) shall not be changed on or after the effective date of the  
23 retirement allowance and shall be either a spouse, brother,  
24 sister, parent, or child, including an adopted child, of the  
25 member, deferred member, retiring member, or retiring deferred  
26 member entitled to make the election under this act. Another  
27 retirement allowance beneficiary shall not be selected. If a

1 member, deferred member, retiring member, or retiring deferred  
2 member is married at the retirement allowance effective date, an  
3 election under subsection (1), other than an election under  
4 subsection (1)(b), (c), or (d) naming the spouse as retirement  
5 allowance beneficiary, shall not be effective unless the election  
6 is signed by the spouse, except that this requirement may be  
7 waived by the board if the signature of a spouse cannot be  
8 obtained because of extenuating circumstances. For purposes of  
9 this subsection, "spouse" means the person to whom the member,  
10 deferred member, retiring member, or retiring deferred member is  
11 married at the retirement allowance effective date. Payment to a  
12 retirement allowance beneficiary shall start the first day of the  
13 month following the retirant's death.

14 (4) If the retirement allowance beneficiary selected under  
15 subsection (1)(b), (c), or (d) predeceases the retirant, the  
16 retirant's benefit shall revert to a straight retirement allow-  
17 ance including post-retirement adjustments, if any, shall be  
18 effective the first of the month following the death, and shall  
19 be paid during the remainder of the retirant's life. This sub-  
20 section applies to a retirant whose effective date of retirement  
21 is after June 28, 1976, but the straight retirement allowance  
22 shall not be payable for any month beginning before the later of  
23 the retirement allowance beneficiary's death or October 31,  
24 1980. This subsection also applies to a retirant whose effective  
25 date of retirement was on or before June 28, 1976, but the  
26 straight retirement allowance shall not be payable for any month  
27 beginning before the later of the retirement allowance

1 beneficiary's death or January 1, 1986. A retirant who on  
2 January 1, 1986 is receiving a reduced retirement allowance  
3 because the retirant designated a retirement allowance benefi-  
4 ciary and the retirement allowance beneficiary predeceased the  
5 retirant is eligible to receive the straight retirement allowance  
6 beginning January 1, 1986, but the straight retirement allowance  
7 shall not be payable for any month beginning before January 1,  
8 1986.

9 (5) A retirant who returns to service pursuant to section 61  
10 and whose retirement allowance beneficiary selected under  
11 subsection (1)(b), (c), or (d) predeceases the member before he  
12 or she again becomes a retirant may again choose a retirement  
13 allowance beneficiary pursuant to subsection (1)(b), (c), or  
14 (d).

15 (6) If a retirant receiving a reduced retirement allowance  
16 under subsection (1)(b), (c), or (d) is divorced from the spouse  
17 who had been designated as the retirant's retirement allowance  
18 beneficiary under subsection (1)(b), (c), or (d), the election of  
19 a reduced retirement allowance payment option shall be considered  
20 void by the retirement system if the judgment of divorce or award  
21 or order of the court, or an amended judgment of divorce or award  
22 or order of the court, described in ~~section 46~~ THE PUBLIC  
23 EMPLOYEE RETIREMENT BENEFIT PROTECTION ACT and dated after June  
24 27, 1991 provides that the election of a reduced retirement  
25 allowance payment option under subsection (1)(b), (c), or (d) is  
26 to be considered void by the retirement system and the retirant  
27 provides a certified copy of the judgment of divorce or award or

1 order of the court, or an amended judgment of divorce or award or  
2 order of the court, to the retirement system. If the election of  
3 a reduced retirement allowance payment option under subsection  
4 (1)(b), (c), or (d) is considered void by the retirement system  
5 under this subsection, the retirant's retirement allowance shall  
6 revert to a straight retirement allowance, including postretire-  
7 ment adjustments, if any, subject to an award or order of the  
8 court as described in ~~section 46~~ THE PUBLIC EMPLOYEE RETIREMENT  
9 BENEFIT PROTECTION ACT. The retirement allowance shall revert to  
10 a straight retirement allowance under this subsection effective  
11 the first of the month after the date the retirement system  
12 receives a certified copy of the judgment of divorce or award or  
13 order of the court. This subsection does not supersede a judg-  
14 ment of divorce or award or order of the court in effect on June  
15 27, 1991. This subsection does not require the retirement system  
16 to distribute or pay retirement assets on behalf of a retirant in  
17 an amount that exceeds the actuarially determined amount that  
18 would otherwise become payable if a judgment of divorce had not  
19 been rendered.

20 (7) If the retirement allowance payments terminate before an  
21 aggregate amount equal to the retirant's accumulated contribu-  
22 tions has been paid, the difference between the retirant's accu-  
23 mulated contributions and the aggregate amount of retirement  
24 allowance payments made shall be paid to the person designated in  
25 a writing filed with the retirement board on a form provided by  
26 the retirement board. If the designated person does not survive  
27 the retirant or retirement allowance beneficiary, the difference



1 shall be paid to the deceased recipient's estate or to the legal  
2 representative of the deceased recipient.

3 ~~(8) A retirement allowance payable under a payment option~~  
4 ~~provided in this section is subject to an eligible domestic rela-~~  
5 ~~tions order under the eligible domestic relations order act, 1991~~  
6 ~~PA 46, MCL 38.1701 to 38.1711.~~

7 Enacting section 1. This amendatory act does not take  
8 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5108  
9 (request no. 02139'01 \*\*) of the 91st Legislature is enacted into  
10 law.