

# HOUSE BILL No. 4061

January 28, 2003, Introduced by Reps. Wojno, Gielegem, Condino and Bieda and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1937 PA 345, entitled  
"Fire fighters and police officers retirement act,"  
by amending section 6 (MCL 38.556), as amended by 2002 PA 98.

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

1       Sec. 6. (1) Age and service retirement benefits payable  
2 under this act are as follows:

3       (a) A member who is 55 years of age or older and who has 25  
4 or more years of service as a police officer or fire fighter in  
5 the employ of the municipality affected by this act may retire  
6 from service upon written application to the retirement board  
7 stating a date, not less than 30 days or more than 90 days after  
8 the execution and filing of the application, on which the member  
9 desires to be retired. The retirement board shall grant the  
10 benefits to which the member is entitled under this act, unless  
11 the member continues employment. If the member continues

1 employment, the member's pension shall be deferred with service  
2 years of credit until actual retirement. Upon the approval of  
3 the legislative body or the electors of a municipality under this  
4 act, a member under 50 years of age who has 25 or more years of  
5 service, or without the necessity for approval, a member 50 years  
6 of age or more who has 25 or more years of service, may leave  
7 service and receive the full retirement benefits payable  
8 throughout the member's life as provided in subdivision (e).

9 (b) A member who is 60 years of age or older shall be retired  
10 by the retirement board upon the written application of the  
11 legislative body, or board or official provided in the charter of  
12 the municipality as head of the department in which the member is  
13 employed. Upon retirement, the retirement board shall grant the  
14 benefits to which the member is entitled under this act, unless  
15 the member continues employment. If the member continues  
16 employment, the member's pension shall be deferred with service  
17 years of credit until actual retirement.

18 (c) A member who is 65 years of age shall be retired by the  
19 retirement board on the first day of the month following  
20 attainment of 65 years of age.

21 (d) A member who has 10 or more years of service shall have  
22 vested retirement benefits that are not subject to forfeiture on  
23 account of disciplinary action, charges, or complaints. If the  
24 member leaves employment before the date the member would have  
25 first become eligible to retire as provided in subdivision (a)  
26 for any reason except the member's retirement or death, the  
27 member is entitled to a pension that shall begin the first day of

1 the calendar month immediately after the month in which the  
2 member's written application for the pension is filed with the  
3 retirement board that is on or after the date the member would  
4 have been eligible to retire had the member continued in  
5 employment. The retirement board shall grant the member the  
6 benefits to which the member is entitled under this act, unless  
7 the member resumes service. If the member resumes service, the  
8 member's pension shall be further deferred with service years of  
9 credit until the member actually retires.

10 (e) Upon retirement from service as provided in this  
11 subsection, a member shall receive a regular retirement pension  
12 payable throughout the member's life of 2% of the member's  
13 average final compensation multiplied by the first 25 years of  
14 service credited to the member, plus 1% of the member's average  
15 final compensation multiplied by the number of years, and  
16 fraction of a year, of service rendered by the member in excess  
17 of 25 years. A municipality under this act, upon approval of the  
18 legislative body or the electors of the municipality, may  
19 increase the percentage of the payment from 2% up to a maximum of  
20 2.5%. If an increase is approved, the increase shall not be  
21 reduced for members under the system at the time of the  
22 increase. The legislative body may also increase the percentage  
23 of employee contributions. If a retired member dies before the  
24 total of regular pension payments received by the member equals  
25 the total of the member's contributions made to the retirement  
26 system, the difference between the member's total contributions  
27 and the total of the member's regular retirement pension payments

1 received shall be paid in a single sum to the person or persons  
2 the member nominates by written designation duly executed and  
3 filed with the retirement board. If there is not a person or  
4 persons surviving the retired member, the difference, if any,  
5 shall be paid to the retired member's legal representative or  
6 estate.

7 (f) As used in this section, "average final compensation"  
8 means the average of the highest annual compensation received by  
9 a member during a period of 5 consecutive years of service  
10 contained within the member's 10 years of service immediately  
11 preceding the member's retirement or leaving service. However,  
12 if so provided in a collective bargaining agreement entered into  
13 between a municipality under this act and the appropriate  
14 recognized bargaining agent, average final compensation may mean  
15 the average of the 3 years of highest annual compensation  
16 received by a member during the member's 10 years of service  
17 immediately preceding the member's retirement or leaving  
18 service. If the member has less than 5 years of service, average  
19 final compensation means the annual average compensation received  
20 by the member during his or her total years of service.

21 (g) A member shall be given service credit for time spent in  
22 the military, naval, marine, or other armed service of the United  
23 States government during time of war, or other national emergency  
24 recognized by the board, if the member was employed by the  
25 municipality at the time of entry into the armed service, and is  
26 or was reemployed by the municipality as a police officer or fire  
27 fighter within 6 months after the date of termination of his or

1 her required enlistment or assignment in the armed service. A  
2 municipality by a 3/5 vote of its governing body or by a majority  
3 vote of the qualified electors may provide service credit for not  
4 more than 6 years of active military service to the United States  
5 government to a member who is employed subsequent to this  
6 military service upon payment to the retirement system of 5% of  
7 the member's full-time or equated full-time compensation for the  
8 fiscal year in which payment is made multiplied by the years of  
9 service that the member elects to purchase up to the maximum.  
10 Service is not creditable if it is or would be creditable under  
11 any other federal, state, or local publicly supported retirement  
12 system. However, this restriction does not apply to those  
13 persons who have or will have acquired retirement eligibility  
14 under the federal government for service in the reserve. A  
15 member shall be given service credit for the time the member is  
16 absent from active service without full pay on account of  
17 sickness or injury. If the absence from active service is due to  
18 nonservice connected sickness or injury, not more than 60 days of  
19 the absence shall be credited as service in any 1 calendar year,  
20 as determined by the retirement board.

21 (h) Before the effective date of the member's retirement as  
22 provided in this subsection, but not after the effective date of  
23 the member's retirement, a member may elect to receive his or her  
24 benefit in a pension payable throughout the member's life, called  
25 a regular retirement pension, or the member may elect to receive  
26 the actuarial equivalent, computed as of the effective date of  
27 retirement, of the member's regular retirement pension in a

1 reduced retirement pension payable throughout the member's life,  
2 and nominate a survivor beneficiary, under an option provided in  
3 this subdivision. Upon the death of a retirant who retires on or  
4 after July 1, 1975, and who is receiving a regular retirement  
5 pension, his or her spouse, if living, shall receive a pension  
6 equal to 60% of the regular retirement pension the deceased  
7 retirant was receiving. Benefits shall not be paid under this  
8 subdivision on account of the death of a retirant if the member  
9 elected to receive his or her pension under an option provided in  
10 this subdivision. As used in this subsection, "spouse" means the  
11 person to whom the retirant was legally married on both the  
12 effective date of retirement and the date of death. Except as  
13 otherwise provided in this act, if a member fails to elect an  
14 option before the effective date of retirement, then the pension  
15 shall be paid as a regular retirement pension. A member may  
16 elect 1 of the following options:

17 (i) Option I. Upon the death of a retired member, his or her  
18 reduced retirement pension shall be continued throughout the life  
19 of and paid to the person, having an insurable interest in the  
20 retired member's life, that the member nominated by written  
21 designation executed and filed with the retirement board before  
22 the effective date of the member's retirement.

23 (ii) Option II. Upon the death of a retired member, 1/2 of  
24 his or her reduced retirement pension shall be continued  
25 throughout the life of and paid to the person, having an  
26 insurable interest in the retired member's life, that the member  
27 nominated by written designation executed and filed with the

1 retirement board before the effective date of the member's  
2 retirement.

3 (i) If a member continues in service on or after the date of  
4 acquiring 20 years of service credit, does not have an option I  
5 election provided for in subdivision (j) in force, and dies while  
6 in service of the municipality before the effective date of the  
7 member's retirement, leaving a surviving spouse, the spouse shall  
8 receive a pension computed in the same manner as if the member  
9 had retired effective the day preceding the date of the member's  
10 death, elected option I provided for in subdivision (h), and  
11 nominated the spouse as survivor beneficiary. Upon the death of  
12 the spouse the pension shall terminate. A pension shall not be  
13 paid under this subdivision on account of the death of a member  
14 if benefits are paid under subsection (2) on account of the  
15 member's death.

16 (j) A member who continues in service on or after the date of  
17 acquiring 25 years of service credit may, at any time before the  
18 effective date of the member's retirement, by written declaration  
19 executed and filed with the board in the manner and form  
20 prescribed by the board, elect option I provided for in  
21 subdivision (h) and nominate a survivor beneficiary whom the  
22 board finds to be dependent upon the member for at least 50% of  
23 the beneficiary's support. If a member who has an option I  
24 election provided for in this subdivision in force dies while in  
25 service before the effective date of the member's retirement, the  
26 member's survivor beneficiary shall immediately receive the same  
27 pension that the survivor beneficiary would have been entitled to

1 receive under option I if the member had retired pursuant to this  
2 act effective the day preceding the date of the member's death,  
3 notwithstanding that the member may not have attained 55 years of  
4 age. If a member who has an option I election provided for in  
5 this subdivision in force subsequently retires pursuant to this  
6 act, the member, within 90 days immediately preceding the  
7 effective date of the member's retirement, but not after the  
8 effective date of the member's retirement, may elect an option  
9 provided for in subdivision (h). The option election is  
10 effective as of the effective date of the member's retirement. A  
11 pension shall not be paid under this subdivision on account of  
12 the death of a member if benefits are paid under subsection (2)  
13 on account of the member's death.

14 (k) If a retirant receiving a reduced retirement pension  
15 under subdivision (h)(i) or (ii) is divorced from the spouse who  
16 had been named the retirant's survivor beneficiary under  
17 subdivision (h)(i) or (ii), the election of a reduced retirement  
18 pension payment option shall be considered void by the retirement  
19 system if the judgment of divorce or award or order of the court,  
20 or an amended judgment of divorce or award or order of the court,  
21 described in section 9 and dated after ~~the effective date of the~~  
22 ~~amendatory act that added this subdivision~~ **June 27, 1991**  
23 provides that the election of a reduced retirement pension  
24 payment option under subdivision (h)(i) or (ii) is to be  
25 considered void by the retirement system and the retirant  
26 provides a certified copy of the judgment of divorce or award or  
27 order of the court, or an amended judgment of divorce or award or

1 order of the court, to the retirement system. If the election of  
2 a reduced retirement pension payment option under subdivision  
3 (h)(i) or (ii) is considered void by the retirement system under  
4 this subsection, the retirant's retirement pension shall revert  
5 to a regular retirement pension, including postretirement  
6 adjustments, if any, subject to an award or order of the court as  
7 described in the public employee retirement benefit protection  
8 act. The retirement pension shall revert to a regular retirement  
9 pension under this subdivision effective the first day of the  
10 month after the date the retirement system receives a certified  
11 copy of the judgment of divorce or award or order of the court.  
12 This subdivision does not supersede a judgment of divorce or  
13 award or order of the court in effect on ~~the effective date of~~  
14 ~~the amendatory act that added this subdivision~~ **June 27, 1991.**  
15 This subdivision does not require the retirement system to  
16 distribute or pay retirement assets on behalf of a retirant in an  
17 amount that exceeds the actuarially determined amount that would  
18 otherwise become payable if a judgment of divorce had not been  
19 rendered.

20 (2) Disability and service connected death benefits payable  
21 under this act are as follows:

22 (a) To a surviving spouse, a duty death pension of the same  
23 amount each week as that which has been paid the surviving spouse  
24 under the worker's disability compensation act of 1969, 1969 PA  
25 317, MCL 418.101 to 418.941, to become due and payable on the  
26 termination of the payments to the surviving spouse by a  
27 municipality under the worker's disability compensation act of

1 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue for  
2 the surviving spouse's life. ~~or until his or her remarriage.~~

3 (b) If death results to a member in the line of duty, and the  
4 member leaves surviving children, the children shall be paid a  
5 pension of the same amount as that which has been paid to them as  
6 a weekly benefit under the worker's disability compensation act  
7 of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and  
8 payable upon termination of the payments under the worker's  
9 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to  
10 418.941, and to continue to each surviving child until he or she  
11 attains 18 years of age, or until his or her marriage or death  
12 before attaining 18 years of age.

13 (c) If death results to a member in the line of duty and the  
14 member leaves other surviving dependents, the dependents shall  
15 receive a pension of the same amount as that which has been paid  
16 to them as a weekly benefit under the worker's disability  
17 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to  
18 become due and payable upon termination of the payments under the  
19 worker's disability compensation act of 1969, 1969 PA 317, MCL  
20 418.101 to 418.941, and to continue until the time the retirement  
21 board determines that the need for a pension no longer exists.

22 (d) Upon the application of a member or the member's  
23 department head, a member who becomes totally incapacitated for  
24 duty by reason of a personal injury or disease occurring as the  
25 natural and proximate result of causes arising out of and in the  
26 course of the member's employment by the municipality shall be  
27 retired by the retirement board. The member shall be given a

1 medical examination by a medical committee consisting of a  
2 physician named by the retirement board, a physician named by the  
3 member claiming benefits, and a third physician designated by the  
4 first 2 physicians named. The medical committee, if determined  
5 by a majority opinion, shall certify in writing that the member  
6 is mentally or physically incapacitated for the further  
7 performance of duty as a police officer or fire fighter in the  
8 service of the municipality; that the incapacity is likely to be  
9 permanent; and that the member should be retired. Upon  
10 retirement for disability as provided in this subdivision, a  
11 member who has not attained 55 years of age shall receive a  
12 disability retirement pension of 50% of the member's average  
13 final compensation, which shall be determined according to  
14 subsection (1)(f), and shall be payable until the member becomes  
15 55 years of age. Upon becoming 55 years of age, the disabled  
16 member shall receive a disability retirement pension computed  
17 according to subsection (1)(e). In computing the disability  
18 retirement pension, the member shall be given service credit for  
19 the period of receipt of a disability retirement pension before  
20 attainment of 55 years of age. If a member retired after  
21 attaining 55 years of age on account of disability, as provided  
22 in this subdivision, the member shall receive a disability  
23 retirement pension computed according to subsection (1)(e),  
24 notwithstanding that the member may not have 25 years of service  
25 credit. The disability retirement pension provided for in this  
26 subdivision is subject to subdivisions (f) and (g).

27 (e) Upon the application of a member or the member's

1 department head, a member in service who has 5 or more years of  
2 service credit and who becomes totally and permanently  
3 incapacitated for duty by reason of a personal injury or disease  
4 occurring as the result of causes arising outside the course of  
5 the member's employment by the municipality may be retired by the  
6 retirement board. The member shall be given a medical  
7 examination by a medical committee consisting of a physician  
8 named by the retirement board, a physician named by the member  
9 claiming benefits, and a third physician designated by the first  
10 2 physicians named. The medical committee, if determined by a  
11 majority opinion, shall certify in writing that the member is  
12 mentally or physically incapacitated for the further performance  
13 of duty as a police officer or fire fighter in the service of the  
14 municipality, that the incapacity is likely to be permanent, and  
15 that the member should be retired. Upon retirement for  
16 disability, as provided in this subdivision, a member who has not  
17 attained 55 years of age shall receive a disability retirement  
18 pension until the member becomes 55 years of age, recovers, or  
19 dies, whichever occurs first, of 1.5% of the member's average  
20 final compensation multiplied by the number of years of service  
21 credited to the member. Upon becoming 55 years of age, the  
22 member's disability retirement pension shall be increased to 2%  
23 of the member's average final compensation multiplied by the  
24 number of years of service credited to the member at the time of  
25 his or her retirement. Upon retirement for disability as  
26 provided in this subdivision, a member who is 55 years of age or  
27 older shall receive a disability retirement pension computed

1 according to subsection (1)(e). ~~This~~ **The disability retirement**  
2 **pension provided for in this** subdivision is subject to  
3 subdivisions (f) and (g).

4 (f) At least once each year during the first 5 years after  
5 the retirement of a member with a disability retirement pension  
6 and at least once in every 3-year period after disability  
7 retirement, the retirement board may, and upon the retired  
8 member's application shall, require a retired member who has not  
9 attained 55 years of age to undergo a medical examination. The  
10 medical examination shall be given by or under the direction of a  
11 physician, designated by the retirement board, at the place of  
12 residence of the retired member or other place mutually agreed  
13 upon. If a retired member who has not attained 55 years of age  
14 refuses to submit to the medical examination in the period, the  
15 member's disability retirement pension may be discontinued by the  
16 retirement board. If the member's refusal continues for 1 year,  
17 all the member's rights to his or her disability retirement  
18 pension may be revoked by the retirement board. If upon a  
19 medical examination of the retired member the physician reports  
20 to the retirement board that the retired member is physically  
21 capable of resuming employment in the classification held by the  
22 member at the time of retirement, the member shall be restored to  
23 active service in the employ of the municipality and payment of  
24 the disability retirement pension shall cease if the report of  
25 the physician is concurred in by the retirement board. A retired  
26 member restored to active service shall again become a member of  
27 the retirement system from the date of return to service. The

1 member shall contribute to the retirement system after  
2 restoration to active service in the same manner as before the  
3 member's disability retirement. Service credited to the member  
4 at the time of disability retirement shall be restored to full  
5 effect. The member shall be given service credit for the period  
6 the member was receiving a duty disability retirement pension  
7 provided for in subdivision (d), but shall not be given service  
8 credit for the period the member was receiving a nonduty  
9 disability retirement pension provided for in subdivision (e).  
10 Amounts paid under the worker's disability compensation act of  
11 1969, 1969 PA 317, MCL 418.101 to 418.941, to a retired member  
12 shall be offset against and payable in place of benefits provided  
13 under this act. If the benefits under the worker's disability  
14 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941,  
15 are less than the benefits payable under this act, the amount to  
16 be paid out of the funds of the retirement system shall be the  
17 difference between the benefits provided under the worker's  
18 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to  
19 418.941, and the benefits provided in this act. Upon the  
20 termination of benefits under the worker's disability  
21 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941,  
22 the benefits shall be paid pursuant to this act.

23 (g) Within 60 days before a member becomes 55 years of age,  
24 or before retirement from service if retirement occurs after the  
25 member becomes 55 years of age, a disabled member who is retired  
26 as provided in subdivision (d) or (e) may elect to continue to  
27 receive a disability retirement pension as a benefit terminating

1 at death, to be known as a regular disability pension, or may  
2 elect to receive the actuarial equivalent, at that time, of a  
3 regular disability pension in a reduced disability pension  
4 payable throughout life pursuant to an option provided in  
5 subsection (1)(h). If a disabled member fails to elect an  
6 option, as provided in this subdivision, before becoming 55 years  
7 of age or before retirement, the member's retirement pension  
8 shall be paid to the member as a regular disability pension  
9 terminating at death. If a disabled member who has not elected  
10 an option provided in subsection (1)(h) dies before the total of  
11 the member's regular disability pension payments received equals  
12 or exceeds the total of the member's contributions made to the  
13 retirement system, the remainder, if any, shall be paid in a  
14 single sum to the person or persons nominated by the member by  
15 written designation duly executed and filed with the board. If  
16 there is not a designated person or persons surviving, then the  
17 remainder, if any, shall be paid to the retired member's legal  
18 representative or estate.