

**SUBSTITUTE FOR
HOUSE BILL NO. 5985**

A bill to amend 1992 PA 234, entitled
"The judges retirement act of 1992,"
by amending section 506 (MCL 38.2506), as amended by 2002 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 506. (1) ~~Upon~~**On** application for retirement under this
2 act, a member or vested former member who meets the requirements of
3 section 501 may elect to receive a retirement allowance as a
4 straight life retirement allowance or as an optional retirement
5 allowance under 1 of the payment options provided in this section.
6 The member or vested former member shall file a written election
7 with the retirement system before the effective date of the
8 retirement allowance. If a member or vested former member fails to
9 file a written election under this subsection, the member or vested



1 former member is considered to have elected the straight life
 2 retirement allowance under section 503. The member or vested former
 3 member shall designate in the written election a retirement
 4 allowance beneficiary that ~~shall~~**must** be either the spouse,
 5 brother, sister, parent, or child, including an adopted child, of
 6 the member or vested former member. The amount of retirement
 7 allowance under options A and B are the actuarial equivalent of the
 8 amount of the straight life retirement allowance calculated under
 9 section 503. ~~The~~**Subject to subsection (2), the** options are as
 10 follows:

11 (a) Option A. The retirement system ~~shall~~**will** pay an optional
 12 retirement allowance to the retirant for life with the provision
 13 that ~~upon~~**on** the retirant's death, payment of the optional
 14 retirement allowance is continued throughout the lifetime of the
 15 retirement allowance beneficiary whom the member or vested former
 16 member designated in writing and filed with the retirement system
 17 at the time of election of the option.

18 (b) Option B. The retirement system ~~shall~~**will** pay an optional
 19 retirement allowance for life to the retirant with the provision
 20 that ~~upon~~**on** the retirant's death, payment of 1/2 of the optional
 21 retirement allowance is continued throughout the lifetime of the
 22 retirement allowance beneficiary whom the member or vested former
 23 member designated in writing and filed with the retirement system
 24 at the time of election of the option.

25 **(2) If a retirement allowance beneficiary designated under**
 26 **subsection (1) (a) or (b) is a beneficiary of a trust established**
 27 **under 42 USC 1396p(d) (4) (A) or (C), the retirement allowance**
 28 **payable to the retirement allowance beneficiary may be paid by the**
 29 **retirement system to the trust on written direction to the**



1 retirement system by the retirant or, after the retirant is
 2 deceased, by the retirement allowance beneficiary or by the
 3 retirement allowance beneficiary's legal representative if the
 4 retirement allowance beneficiary is a minor or is incapacitated.

5 (3) ~~(2)~~—Except as otherwise provided in this section, a
 6 retirant shall not change the election of a payment option or the
 7 designation of a retirement allowance beneficiary under subsection
 8 (1) after the retirement allowance effective date. ~~If~~**When** a
 9 retirant who elected a payment option under subsection (1) (a) or
 10 (b) dies, the retirement system shall pay the optional retirement
 11 allowance to the option A beneficiary or option B beneficiary
 12 effective the first day of the month following the retirant's
 13 death. If the option A or option B beneficiary designated under
 14 this section is the surviving spouse of the deceased retirant, the
 15 surviving spouse may elect to receive a retirement allowance as
 16 provided in section 508 ~~in lieu~~**instead** of the survivor portion of
 17 the optional form of payment elected by the retirant under this
 18 section.

19 (4) ~~(3)~~—If the option A beneficiary or option B beneficiary
 20 predeceases the retirant, the retirant's benefit reverts to a
 21 straight life retirement allowance and the retirement system shall
 22 begin payment of the straight life retirement allowance to the
 23 retirant effective the first day of the month ~~following~~**after** the
 24 option A or option B beneficiary's death.

25 (5) ~~(4)~~—The retirement system shall provide each member or
 26 vested former member who applies for retirement a written
 27 explanation of the optional forms of payment under this section
 28 before the member or vested former member retires.

29 (6) ~~(5)~~—If a retirant receiving an optional retirement



1 allowance under this section is divorced from the spouse who had
 2 been designated the option A or option B beneficiary, the
 3 retirement system shall consider the election of the optional form
 4 of payment option under this section void if the judgment of
 5 divorce or award or order of the court, or an amended judgment of
 6 divorce or award or order of the court, described in the public
 7 employee retirement benefit protection act, **2002 PA 100, MCL**
 8 **38.1681 to 38.1689**, and dated after June 27, 1991 provides that the
 9 election of the optional form of payment option under this section
 10 is to be considered void by the retirement system and the retirant
 11 provides a certified copy of the judgment of divorce or award or
 12 order of the court, or an amended judgment of divorce or award or
 13 order of the court, to the retirement system. If the **retirement**
 14 **system considers the** election of an optional form of payment under
 15 this section ~~is considered void by the retirement system~~ under this
 16 subsection, the retirant's retirement allowance ~~shall~~ **must** revert
 17 to a straight life retirement allowance, including postretirement
 18 adjustments, if any, subject to an award or order of the court as
 19 described in the public employee retirement benefit protection act,
 20 **2002 PA 100, MCL 38.1681 to 38.1689**. The retirement allowance ~~shall~~
 21 **must** revert to a straight life retirement allowance under this
 22 subsection effective the first of the month after the date the
 23 retirement system receives a certified copy of the judgment of
 24 divorce or award or order of the court. This subsection does not
 25 supersede a judgment of divorce or award or order of the court in
 26 effect on June 27, 1991. This subsection does not require the
 27 retirement system to distribute or pay retirement assets on behalf
 28 of a retirant in an amount that exceeds the actuarially determined
 29 amount that would otherwise become payable if a judgment of divorce



1 had not been rendered.

2 (7) ~~(6)~~—A member who continues active employment on or after
 3 the date ~~he or she~~**the member** acquires 8 years of credited service
 4 or who becomes eligible for a retirement allowance as a vested
 5 former member under section 501, whichever occurs first, may file a
 6 written election with the retirement system to elect option A as
 7 provided in subsection (1) (a). The member or vested former member
 8 shall nominate a retirement allowance beneficiary in the written
 9 election in the same manner as if the member or vested former
 10 member were then retiring from service. If the beneficiary's death
 11 or divorce from the member or vested former member occurs before
 12 the effective date of the member's or vested former member's
 13 retirement, the member's or vested former member's election of
 14 option A and nomination of retirement allowance beneficiary is
 15 automatically revoked and the member or vested former member may
 16 again elect option A and nominate a retirement allowance
 17 beneficiary at any time before the effective date of retirement. If
 18 a member or vested former member who has made an election and
 19 nominated a retirement allowance beneficiary as provided in this
 20 subsection dies before the effective date of ~~his or her~~**the member**
 21 **or vested former member's** retirement, ~~then~~ the retirement allowance
 22 beneficiary ~~shall~~**must** receive the retirement allowance that ~~he or~~
 23 ~~she~~**the retirement allowance beneficiary** would have been entitled
 24 to receive under option A if the member or vested former member had
 25 been retired on the date of the member's or vested former member's
 26 death. Except as otherwise provided by subsection ~~(7)~~, ~~(8)~~, if a
 27 member or vested former member who has made an election under this
 28 subsection subsequently retires under this act, ~~his or her~~**the**
 29 **member or vested former member's** election of option A takes effect



1 at the time of retirement. The member or vested former member,
2 before the effective date of retirement, but not after the
3 effective date of retirement, may revoke ~~his or her~~ **the member or**
4 **vested former member's** previous election of option A and elect to
5 receive ~~his or her~~ **the member or vested former member's** retirement
6 allowance as a straight life retirement allowance or under option B
7 as provided for in subsection (1). This subsection does not apply
8 on and after the date the settlement agreement in the case of
9 Michigan judges assn v Treasurer of the State of Michigan, case no.
10 98-DT-72771-CV (Ed Mi), becomes of no further force or effect, is
11 rendered null and void, or is otherwise terminated.

12 (8) ~~(7)~~—If a member, vested former member, retiring member, or
13 retiring vested former member is married on the effective date of
14 the retirement allowance, an election under this section, other
15 than an election of a payment option under subsection (1) naming
16 the spouse as retirement allowance beneficiary, ~~shall~~ **is** not be
17 effective unless the election is signed by the spouse. However,
18 this requirement may be waived by the retirement board if the
19 signature of a spouse cannot be obtained because of extenuating
20 circumstances. As used in this subsection, "spouse" means the
21 ~~person~~ **individual** to whom the member, vested former member,
22 retiring member, or retiring vested former member is married on the
23 effective date of the retirement allowance.

