

SUBSTITUTE FOR
HOUSE BILL NO. 5986

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 31 (MCL 38.31), as amended by 2002 PA 99.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) Except as **otherwise** provided in subsection (6),
2 **and subject to subsection (9)**, before the effective date of
3 retirement, but not after the effective date of retirement, a
4 member or deferred member who is eligible for retirement, as
5 provided in this act, shall elect to receive ~~his or her benefit in~~
6 ~~a retirement allowance payable throughout life, which shall be~~
7 ~~called~~ a regular retirement allowance, or to receive the actuarial
8 equivalent at that time of ~~his or her~~ **the member's or deferred**
9 **member's** regular retirement allowance in a reduced retirement

1 allowance payable throughout the lives of the retirant and a
2 retirement allowance beneficiary, ~~pursuant to~~ **under** 1 of the
3 following payment options:

4 (a) Option A. ~~Upon~~ **On** the retirant's death, ~~his or her~~ **the**
5 **retirant's** reduced retirement allowance ~~shall~~ **will** be continued
6 throughout the life of and paid to the retirement allowance
7 beneficiary whom the member nominated by written designation
8 executed and filed with the retirement board before the effective
9 date of ~~his or her~~ **the member's** retirement.

10 (b) Option B. ~~Upon~~ **On** the retirant's death, 1/2 of ~~his or her~~
11 **the retirant's** reduced retirement allowance ~~shall~~ **will** be continued
12 throughout the life of and paid to the retirement allowance
13 beneficiary whom the member nominated by written designation
14 executed and filed with the retirement board before the effective
15 date of ~~his or her~~ **the member's** retirement.

16 (c) Option C. ~~On and after January 1, 2000, upon~~ **After**
17 **December 31, 1999, on** the retirant's death, 3/4 of ~~his or her~~ **the**
18 **retirant's** reduced retirement allowance ~~shall~~ **will** be continued
19 throughout the life of and paid to the retirement allowance
20 beneficiary whom the member nominated by written designation
21 executed and filed with the retirement board before the effective
22 date of ~~his or her~~ **the member's** retirement.

23 (2) Except as **otherwise** provided in subsections (3) and (8),
24 the election of a payment option under subsection (1) ~~shall~~ **must**
25 not be changed on or after the effective date of the retirement
26 allowance. A retirement allowance beneficiary designated under this
27 section ~~shall~~ **must** not be changed on or after the effective date of
28 the retirement allowance, and ~~shall~~ **must** be ~~either~~ a spouse,
29 brother, sister, parent, child, including an adopted child, or

1 grandchild of the ~~person~~**individual** making the designation. Payment
 2 to a retirement allowance beneficiary ~~shall~~**must** begin on the first
 3 day of the month following the death of the retirant or member.

4 (3) If the retirement allowance beneficiary named under a
 5 payment option under subsection (1) predeceases the retirant, the
 6 retirant's benefit ~~shall~~**must** revert to the regular retirement
 7 allowance, effective with the first day of the month ~~following~~
 8 **after** the retirement allowance beneficiary's death. ~~For This~~
 9 **subsection applies to** a retirant whose effective date of retirement
 10 was ~~on or before June 28,~~**29**, 1976, ~~this subsection shall apply,~~
 11 but the regular retirement allowance is not payable for any month
 12 beginning before the later of the retirement allowance
 13 beneficiary's death or January 1, 1986. A retirant who on January
 14 1, 1986 is receiving a reduced retirement allowance because the
 15 retirant designated a retirement allowance beneficiary and the
 16 retirement allowance beneficiary predeceased the retirant is
 17 eligible to receive the regular retirement allowance beginning
 18 January 1, 1986, but the regular retirement allowance is not
 19 payable for any month beginning before January 1, 1986.

20 (4) A member who continues ~~in the employ of~~**to be employed by**
 21 this state on and after the date ~~he or she~~**the member** acquires 10
 22 years of service credit or becomes eligible for deferred retirement
 23 as provided by section 20(4) or (5), whichever occurs first, may by
 24 written declaration executed and filed with the retirement board
 25 elect option A, provided for in subsection (1)(a), and nominate a
 26 retirement allowance beneficiary in the same manner as if the
 27 member were then retiring from service, notwithstanding that the
 28 member may not have attained 60 years of age. If the beneficiary's
 29 death or divorce from the member occurs before the effective date

1 of the member's retirement, the member's election of option A and
2 nomination of retirement allowance beneficiary ~~shall be~~ **is**
3 automatically revoked and the member may again elect option A and
4 nominate a retirement allowance beneficiary at any time before the
5 effective date of retirement. If a member who has made an election
6 and nominated a retirement allowance beneficiary as provided in
7 this subsection dies before the effective date of ~~his or her~~ **the**
8 **member's** retirement, ~~then~~ the retirement allowance beneficiary
9 ~~shall~~ **must** immediately receive the retirement allowance that ~~he or~~
10 ~~she~~ **the retirement allowance beneficiary** would have been entitled
11 to receive under option A if the member had been regularly retired
12 on the date of the member's death. Except as otherwise provided by
13 subsection (5), if a member who has made an election under this
14 subsection subsequently retires under this act, ~~his or her~~ **the**
15 **member's** election of option A ~~shall take~~ **takes** effect at the time
16 of retirement. Subject to the requirements of subsection (5), the
17 member, before the effective date of retirement, but not after the
18 effective date of retirement, may revoke ~~his or her~~ **the member's**
19 previous election of option A and elect to receive ~~his or her~~ **the**
20 **member's** retirement allowance as a regular retirement allowance or
21 under option B or C as provided for in subsection (1). A retirement
22 allowance ~~shall~~ **must** not be paid under this subsection ~~on account~~
23 **because** of the death of a member if any benefits are paid under
24 section 27 ~~on account~~ **because** of ~~his or her~~ **the member's** death. If
25 a deferred member who has an option A election in effect dies
26 before the effective date of ~~his or her~~ **the deferred member's**
27 retirement, the retirement allowance payable under option A ~~shall~~
28 **must** be paid to the retirement allowance beneficiary at the time
29 the deceased deferred member otherwise would have been eligible to

1 begin receiving benefits.

2 (5) If a member, deferred member, retiring member, or retiring
 3 deferred member is married at the effective date of the retirement
 4 allowance, an election under this section, other than an election
 5 of a payment option under subsection (1) naming the spouse as
 6 retirement allowance beneficiary, ~~shall is~~ not ~~be~~ effective unless
 7 the election is signed by the spouse. However, this requirement may
 8 be waived by the retirement board if the signature of a spouse
 9 cannot be obtained because of extenuating circumstances. As used in
 10 this subsection, "spouse" means the ~~person~~ **individual** to whom the
 11 member, deferred member, retiring member, or retiring deferred
 12 member is married at the effective date of the retirement
 13 allowance.

14 (6) Until July 1, 1991, ~~upon~~ **on** request in a form as
 15 determined by the retirement board, a nonduty disability retirant
 16 who retired under section 24 may change ~~his or her~~ **the nonduty**
 17 **disability retirant's** election to receive a disability retirement
 18 allowance computed as a regular retirement allowance and elect to
 19 receive the actuarial equivalent at the time of the election
 20 ~~pursuant to~~ **under** this subsection of ~~his or her~~ **the nonduty**
 21 **disability retirant's** disability retirement allowance in a reduced
 22 retirement allowance payable to the retirant and the retirant's
 23 spouse ~~pursuant to~~ **under** the provisions of a payment option as
 24 provided in subsection (1), if the disability retirement allowance
 25 effective date was before November 12, 1985 and the retirant had 25
 26 or more years of credited service on the disability retirement
 27 allowance effective date. The nonduty disability retirant ~~shall~~
 28 **must** begin to receive the reduced retirement allowance under this
 29 subsection effective the first day of the month ~~following~~ **after** the

1 month in which the retirant makes the election ~~pursuant to~~ **under**
 2 this subsection. As used in this subsection, "spouse" means the
 3 ~~person~~ **individual** to whom the nonduty disability retirant was
 4 married on the effective date of ~~his or her~~ **the nonduty disability**
 5 **retirant's** disability retirement allowance and on the date the
 6 retirant makes the election ~~pursuant to~~ **under** this subsection.

7 (7) If a member who continues ~~in the employ of~~ **to be employed**
 8 **by** this state on and after the date ~~he or she~~ **the member** acquires
 9 10 years of service credit, or on and after the date ~~he or she~~ **the**
 10 **member** becomes eligible for deferred retirement as provided by
 11 section 20(4) or (5), whichever occurs first, and who does not have
 12 an election of option A in force as provided in subsection (4),
 13 dies before the effective date of retirement and leaves a surviving
 14 spouse, the spouse ~~shall~~ **must** receive a retirement allowance
 15 computed in the same manner as if the member had retired effective
 16 the day before the date of ~~his or her~~ **the member's** death, elected
 17 option A, and nominated the spouse as retirement allowance
 18 beneficiary. When the retirement allowance beneficiary dies, ~~his or~~
 19 ~~her~~ **the retirement allowance beneficiary's** retirement allowance
 20 ~~shall~~ **must** terminate. If the aggregate amount of retirement
 21 allowance payments received by the beneficiary is less than the
 22 accumulated contributions credited to the member's account in the
 23 employees' savings fund at the time of the member's death, the
 24 difference between the accumulated contributions and the aggregate
 25 amount of retirement allowance payments received by the beneficiary
 26 ~~shall~~ **must** be transferred from the employer's accumulation fund or
 27 pension reserve fund to the employees' savings fund and paid
 28 ~~pursuant to~~ **under** section 29. A retirement allowance ~~shall~~ **must** not
 29 be paid under this subsection ~~on account~~ **because** of the death of a

1 member if benefits are paid under section 27 ~~on account~~ **because** of
2 ~~his or her~~ **the member's** death. If the other requirements of this
3 subsection are met but a surviving spouse does not exist, each of
4 the deceased member's surviving children less than 18 years of age
5 ~~shall~~ **must** receive an allowance of an equal share of the retirement
6 allowance that would have been paid to the spouse if living at the
7 time of the deceased member's death. Payments under this subsection
8 ~~shall~~ **must** cease ~~upon~~ **on** the surviving child's marriage, adoption,
9 or becoming 18 years of age, ~~which~~ **whichever** occurs first.

10 (8) If a retirant receiving a reduced retirement allowance
11 under a payment option under subsection (1) is divorced from the
12 spouse who had been designated as the retirant's retirement
13 allowance beneficiary under the **payment** option, the **retirement**
14 **system shall consider the** election of the payment option ~~shall be~~
15 ~~considered void by the retirement system~~ if the judgment of divorce
16 or award or order of the court, or an amended judgment of divorce
17 or award or order of the court, described in the public employee
18 retirement benefit protection act, **2002 PA 100, MCL 38.1681 to**
19 **38.1689**, and dated after June 27, 1991 provides that the election
20 of the payment option under subsection (1) is to be considered void
21 by the retirement system and the retirant provides a certified copy
22 of the judgment of divorce or award or order of the court, or an
23 amended judgment of divorce or award or order of the court, to the
24 retirement system. If the **retirement system considers the** election
25 of a payment option under subsection (1) ~~is considered void by the~~
26 ~~retirement system~~ under this subsection, the retirant's retirement
27 allowance ~~shall~~ **must** revert to a regular retirement allowance,
28 including postretirement adjustments, if any, subject to an award
29 or order of the court as described in the public employee

1 retirement benefit protection act, **2002 PA 100, MCL 38.1681 to**
2 **38.1689**. The retirement allowance ~~shall~~**must** revert to a regular
3 retirement allowance under this subsection effective the first of
4 the month after the date the retirement system receives a certified
5 copy of the judgment of divorce or award or order of the court.
6 This subsection does not supersede a judgment of divorce or award
7 or order of the court in effect on June 27, 1991. This subsection
8 does not require the retirement system to distribute or pay
9 retirement assets on behalf of a retirant in an amount that exceeds
10 the actuarially determined amount that would otherwise become
11 payable if a judgment of divorce had not been rendered.

12 **(9) If a retirement allowance beneficiary designated under**
13 **subsection (1) (a) to (c) is a beneficiary of a trust established**
14 **under 42 USC 1396p(d) (4) (A) or (C), the retirement allowance**
15 **payable to the retirement allowance beneficiary may be paid by the**
16 **retirement system to the trust on written direction to the**
17 **retirement system by the retirant or, after the retirant is**
18 **deceased, by the retirement allowance beneficiary or by the**
19 **retirement allowance beneficiary's legal representative if the**
20 **retirement allowance beneficiary is a minor or is incapacitated.**

21 **(10) As used in this section, "regular retirement allowance"**
22 **means a retirement allowance payable for life.**