

HOUSE BILL NO. 5987

September 26, 2024, Introduced by Rep. Hill and referred to the Committee on Judiciary.

A bill to amend 1980 PA 300, entitled
"The public school employees retirement act of 1979,"
by amending section 85 (MCL 38.1385), as amended by 2006 PA 617.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 85. (1) A retiring member or retiring deferred member who
2 meets the requirements of section 81 or 81a or a member whom the
3 retirement board finds to be totally and permanently disabled and
4 eligible to receive a retirement allowance under section 86 or 87
5 shall elect to receive ~~his or her~~ **the member's** retirement allowance
6 under 1 of the payment options provided in this subsection. The

1 election ~~shall~~**must** be in writing and filed with the retirement
2 board at least 15 days before the effective date of the retirement
3 allowance except as provided for a disability retirant under
4 section 86 or 87. The amount of retirement allowance under
5 subdivision (b), (c), ~~or~~ (d), **or (e)** ~~shall~~**must** be the actuarial
6 equivalent of the amount of retirement allowance under subdivision
7 (a). The options are as follows:

8 (a) A retirant ~~shall~~**will** be paid a straight retirement
9 allowance for life computed ~~pursuant to~~**under** section 84. An
10 additional retirement allowance payment ~~shall~~**must** not be made ~~upon~~
11 **on** the retirant's death.

12 (b) A retirant ~~shall~~**will** be paid a reduced retirement
13 allowance for life with the provision that ~~upon~~**on** the retirant's
14 death, payment of the reduced retirement allowance is continued
15 throughout the lifetime of the retirement allowance beneficiary
16 whom the member or deferred member designates in a writing filed
17 with the retirement board at the time of election of this option. A
18 member or deferred member may elect this option and designate a
19 retirement allowance beneficiary under the conditions set forth in
20 section 82(2) or 89(3).

21 (c) A retirant ~~shall~~**will** be paid a reduced retirement
22 allowance for life with the provision that ~~upon~~**on** the retirant's
23 death, payment of 1/2 of the reduced retirement allowance is
24 continued throughout the lifetime of the retirement allowance
25 beneficiary whom the member designated in a writing filed with the
26 retirement board at the time of election of the option.

27 (d) ~~On and after January 1, 2000,~~ **After December 31, 1999,** a
28 retirant ~~shall~~**will** be paid a reduced retirement allowance for life
29 with the provision that ~~upon~~**on** the retirant's death, payment of

1 75% of the reduced retirement allowance is continued throughout the
2 lifetime of the retirement allowance beneficiary whom the member
3 designated in a writing filed with the retirement board at the time
4 of election of the option.

5 (e) If a retirement allowance beneficiary designated under
6 subdivisions (a) to (d) is a beneficiary of a trust established
7 under 42 USC 1396p(d) (4) (A) or (C), the retirement allowance
8 payable to the retirement allowance beneficiary may be paid by the
9 retirement system to the trust on written direction to the
10 retirement system by the retirant or, after the retirant is
11 deceased, by the retirement allowance beneficiary or by the
12 retirant's legal representative if the retirement allowance
13 beneficiary is a minor or is incapacitated.

14 (2) In addition to the election under subsection (1), a
15 retirant, other than a disability retirant who is 60 years of age
16 or less, may elect to coordinate his or her retirement allowance
17 with an estimated primary ~~social security~~ **Social Security** benefit.
18 The retirant ~~shall~~ **must** be paid an increased retirement allowance
19 until 62 years of age and a reduced retirement allowance after 62
20 years of age. The increased retirement allowance paid until 62
21 years of age ~~shall~~ **must** approximate the sum of the reduced
22 retirement allowance payable after 62 years of age and the
23 retirant's estimated ~~social security~~ **Social Security** primary
24 insurance amount. The **retirement system shall determine the**
25 estimated ~~social security~~ **Social Security** primary insurance amount.
26 ~~shall be determined by the retirement system.~~ The election under
27 this subsection ~~shall~~ **must** be made at the same time and in the same
28 manner as required under subsection (1).

29 (3) Except as otherwise provided in this section, the election

1 of a payment option in subsections (1) and (2) ~~shall~~**must** not be
2 changed on or after the effective date of the retirement allowance.
3 Except as provided in this section, the retirement allowance
4 beneficiary selected under subsection (1)(b), (c), or (d) ~~shall~~
5 **must** not be changed on or after the effective date of the
6 retirement allowance and ~~shall~~**must** be ~~either~~ a spouse, brother,
7 sister, parent, or child, including an adopted child, of the
8 member, deferred member, retiring member, or retiring deferred
9 member entitled to make the election under this act. Another
10 retirement allowance beneficiary ~~shall~~**must** not be selected. If a
11 member, deferred member, retiring member, or retiring deferred
12 member is married at the retirement allowance effective date, an
13 election under subsection (1), other than an election under
14 subsection (1)(b), (c), or (d) naming the spouse as retirement
15 allowance beneficiary, ~~shall~~**is** not ~~be~~ effective unless the
16 election is signed by the spouse, except that this requirement may
17 be waived by the board if the signature of a spouse cannot be
18 obtained because of extenuating circumstances. For purposes of this
19 subsection, "spouse" means the ~~person~~**individual** to whom the
20 member, deferred member, retiring member, or retiring deferred
21 member is married ~~at~~**on** the retirement allowance effective date.
22 Payment to a retirement allowance beneficiary ~~shall~~**must** start the
23 first day of the month ~~following~~**after** the retirant's death.

24 (4) Except as otherwise provided in subsection (8), if the
25 retirement allowance beneficiary selected under subsection (1)(b),
26 (c), or (d) predeceases the retirant, the retirant's benefit ~~shall~~
27 **must** revert to a straight retirement allowance including post-
28 retirement adjustments, if any, ~~shall~~**be** ~~is~~ effective the first of
29 the month ~~following~~**after** the death, and ~~shall~~**must** be paid during

1 the remainder of the retirant's life. This subsection applies to a
 2 retirant whose effective date of retirement is after June 28, 1976,
 3 but the straight retirement allowance ~~shall~~**must** not be payable for
 4 any month beginning before the later of the retirement allowance
 5 beneficiary's death or October 31, 1980. This subsection also
 6 applies to a retirant whose effective date of retirement was ~~on or~~
 7 before June ~~28,~~**29**, 1976, but the straight retirement allowance
 8 ~~shall~~**must** not be payable for any month beginning before the later
 9 of the retirement allowance beneficiary's death or January 1, 1986.
 10 A retirant who on January 1, 1986 is receiving a reduced retirement
 11 allowance because the retirant designated a retirement allowance
 12 beneficiary and the retirement allowance beneficiary predeceased
 13 the retirant is eligible to receive the straight retirement
 14 allowance beginning January 1, 1986, but the straight retirement
 15 allowance ~~shall~~**is** not ~~be~~ payable for any month beginning before
 16 January 1, 1986.

17 (5) A retirant who returns to service ~~pursuant to~~**under**
 18 section 61 and whose retirement allowance beneficiary selected
 19 under subsection (1)(b), (c), or (d) predeceases the member before
 20 he or she again becomes a retirant may again choose a retirement
 21 allowance beneficiary ~~pursuant to~~**under** subsection (1)(b), (c), or
 22 (d).

23 (6) If a retirant receiving a reduced retirement allowance
 24 under subsection (1)(b), (c), or (d) is divorced from the spouse
 25 who had been designated as the retirant's retirement allowance
 26 beneficiary under subsection (1)(b), (c), or (d), the **retirement**
 27 **system shall consider the** election of a reduced retirement
 28 allowance payment option ~~shall be considered void by the retirement~~
 29 ~~system~~ if the judgment of divorce or award or order of the court,

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

27 (7) If the retirement allowance payments terminate before an
 28 aggregate amount equal to the retirant's accumulated contributions
 29 has been paid, the difference between the retirant's accumulated

1 contributions and the aggregate amount of retirement allowance
2 payments made ~~shall~~**must** be paid to the ~~person~~**individual**
3 designated in a writing filed with the retirement board on a form
4 provided by the retirement board. If the designated ~~person~~
5 **individual** does not survive the retirant or retirement allowance
6 beneficiary, the difference shall be paid to the deceased
7 recipient's estate or to the legal representative of the deceased
8 recipient.

9 (8) A retirant who selected a retirement allowance beneficiary
10 under subsection (1)(b), (c), or (d) may change his or her
11 retirement allowance beneficiary if all of the following apply:

12 (a) The first retirement allowance beneficiary is a spouse.

13 (b) The first retirement allowance beneficiary predeceases the
14 retirant after the retirement allowance effective date.

15 (c) The retirant marries another spouse after the retirement
16 allowance effective date.

17 (d) The retirant files a written request with the retirement
18 system to name his or her current spouse as a retirement allowance
19 beneficiary not earlier than 180 days and not later than 1 year
20 after the marriage of the retirant and the current spouse except
21 that a retirant whose first retirement allowance beneficiary
22 predeceases the retirant after the retirement allowance effective
23 date and before ~~the effective date of the amendatory act that added~~
24 ~~this subsection shall have~~ **January 1, 2009 has** 180 days ~~from the~~
25 ~~effective date of the amendatory act that added this subsection~~
26 **after January 1, 2009** to file a written request with the retirement
27 system.

28 (9) A retirant who was not married on ~~his or her~~**the**
29 **retirant's** retirement allowance effective date and who did not

1 select a payment option provided in this section may select an
2 optional form of benefit payment under subsection (1)(b), (c), or
3 (d) and designate a retirement allowance beneficiary if all of the
4 following apply:

5 (a) The retirant marries after ~~his or her~~ **the retirant's**
6 retirement allowance effective date.

7 (b) The retirement allowance beneficiary is the retirant's
8 spouse.

9 (c) The retirement allowance beneficiary is only designated as
10 the retirement allowance beneficiary for that portion of the
11 retirant's retirement allowance that is not subject to an eligible
12 domestic relations order assigning a previous spouse a reduced
13 benefit under section 4(b) of the eligible domestic relations order
14 act, 1991 PA 46, MCL 38.1704.

15 (d) The retirant files a written request with the retirement
16 system to select the optional form of benefit payment under
17 subsection (1)(b), (c), or (d) and to designate his or her spouse
18 as the retirement allowance beneficiary, not earlier than 180 days
19 and not later than 1 year after the retirant's marriage except that
20 a retirant who marries after the retirement allowance effective
21 date and before ~~the effective date of the amendatory act that added~~
22 ~~this subsection shall have~~ **January 1, 2009 has** 180 days ~~from the~~
23 ~~effective date of the amendatory act that added this subsection~~
24 **after January 1, 2009** to file a written request with the retirement
25 system.

26 (10) The retirement allowance of the retirant who makes an
27 election under subsection (8) or (9) ~~shall~~ **must** not be greater than
28 the actuarial equivalent of the retirement allowance as determined
29 by the retirement board that the retirant would otherwise be

1 entitled to under subsection (1) (a) and ~~shall~~**must** become effective
2 the first day of the month ~~following~~**after** the filing of the
3 written request with the retirement system.

4 (11) If the retirant dies ~~no~~**not** later than 12 months after
5 the effective date of ~~his or her~~**the retirant's** election under
6 subsection (8) or (9), the retirement allowance for the surviving
7 spouse established under subsection (8) or (9) ~~shall~~**must** terminate
8 12 months after the death of the retirant.