

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)
Act 240 of 1943

38.31 Election of regular retirement allowance or reduced retirement allowance; payment options; designation of beneficiary; effect of beneficiary's death or divorce; request by nonduty disability retiree to change elections; death of member before effective date of retirement.

Sec. 31.

(1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in this act, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retiree and a retirement allowance beneficiary, pursuant to 1 of the following payment options:

(a) Option A. Upon the retiree's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retiree's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(c) Option C. On and after January 1, 2000, upon the retiree's death, 3/4 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsections (3) and (8), the election of a payment option under subsection (1) shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retiree or member.

(3) If the retirement allowance beneficiary named under a payment option under subsection (1) predeceases the retiree, the retiree's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retiree whose effective date of retirement was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retiree who on January 1, 1986 is receiving a reduced retirement allowance because the retiree designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retiree is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration executed and filed with the retirement board elect option A, provided for in subsection (1)(a), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. If the beneficiary's death or divorce from the member occurs before the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B or C as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies before the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance

beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

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

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retiree who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retiree and the retiree's spouse pursuant to the provisions of a payment option as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retiree had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retiree shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the month in which the retiree makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retiree was married on the effective date of his or her disability retirement allowance and on the date the retiree makes the election pursuant to this subsection.

(7) If a member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit, or on and after the date he or she becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, and who does not have an election of option A in force as provided in subsection (4), dies before the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid pursuant to section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death. If the other requirements of this subsection are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance that would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, which occurs first.

(8) If a retiree receiving a reduced retirement allowance under a payment option under subsection (1) is divorced from the spouse who had been designated as the retiree's retirement allowance beneficiary under the option, the election of the payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the payment option under subsection (1) is to be considered void by the retirement system and the retiree provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a payment option under subsection (1) is considered void by the retirement system under this subsection, the retiree's retirement allowance shall revert to a regular retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a regular retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retiree in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.31 ;-- Am. 1949, Act 72, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1968, Act 111, Eff. Nov. 15, 1968 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1976, Act 176, Imd. Eff. June 29, 1976 ;-- Am. 1985, Act 151, Imd. Eff. Nov. 12, 1985 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986 ;-- Am. 1990, Act 110, Eff. Apr. 1, 1991 ;-- Am. 1990, Act 177, Imd. Eff. July 2, 1990 ;-- Am. 1991, Act 48, Imd. Eff. June 27, 1991 ;-- Am. 1998, Act 205, Eff. Aug. 1, 1998 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002

