

**SUBSTITUTE FOR  
HOUSE BILL NO. 4585**

A bill to amend 1980 PA 300, entitled  
"The public school employees retirement act of 1979,"  
by amending sections 85 and 91 (MCL 38.1385 and 38.1391), section  
85 as amended by 2002 PA 94 and section 91 as amended by 1998 PA  
85.

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

1       Sec. 85. (1) A retiring member or retiring deferred member  
2 who meets the requirements of section 81 or 81a or a member whom  
3 the retirement board finds to be totally and permanently disabled  
4 and eligible to receive a retirement allowance under section 86  
5 or 87 shall elect to receive his or her retirement allowance  
6 under 1 of the payment options provided in this subsection. The  
7 election shall be in writing and filed with the retirement board  
8 at least 15 days before the effective date of the retirement  
9 allowance except as provided for a disability retirant under

1 section 86 or 87. The amount of retirement allowance under  
2 subdivision (b), (c), or (d) shall be the actuarial equivalent of  
3 the amount of retirement allowance under subdivision (a). The  
4 options are as follows:

5 (a) A retirant shall be paid a straight retirement allowance  
6 for life computed pursuant to section 84. An additional  
7 retirement allowance payment shall not be made upon the  
8 retirant's death.

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

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

24 (d) On and after January 1, 2000, a retirant shall be paid a  
25 reduced retirement allowance for life with the provision that  
26 upon the retirant's death, payment of 75% of the reduced  
27 retirement allowance is continued throughout the lifetime of the

1 retirement allowance beneficiary whom the member designated in a  
2 writing filed with the retirement board at the time of election  
3 of the option.

4 (2) In addition to the election under subsection (1), a  
5 retirant, other than a disability retirant who is 60 years of age  
6 or less, may elect to coordinate his or her retirement allowance  
7 with an estimated primary social security benefit. The retirant  
8 shall be paid an increased retirement allowance until 62 years of  
9 age and a reduced retirement allowance after 62 years of age.  
10 The increased retirement allowance paid until 62 years of age  
11 shall approximate the sum of the reduced retirement allowance  
12 payable after 62 years of age and the retirant's estimated social  
13 security primary insurance amount. The estimated social security  
14 primary insurance amount shall be determined by the retirement  
15 system. The election under this subsection shall be made at the  
16 same time and in the same manner as required under  
17 subsection (1).

18 (3) Except as otherwise provided in this section, the  
19 election of a payment option in subsections (1) and (2) shall not  
20 be changed on or after the effective date of the retirement  
21 allowance. Except as provided in ~~subsection (5)~~ **this section**,  
22 the retirement allowance beneficiary selected under  
23 subsection (1)(b), (c), or (d) shall not be changed on or after  
24 the effective date of the retirement allowance and shall be  
25 either a spouse, brother, sister, parent, or child, including an  
26 adopted child, of the member, deferred member, retiring member,  
27 or retiring deferred member entitled to make the election under

1 this act. Another retirement allowance beneficiary shall not be  
2 selected. If a member, deferred member, retiring member, or  
3 retiring deferred member is married at the retirement allowance  
4 effective date, an election under subsection (1), other than an  
5 election under subsection (1)(b), (c), or (d) naming the spouse  
6 as retirement allowance beneficiary, shall not be effective  
7 unless the election is signed by the spouse, except that this  
8 requirement may be waived by the board if the signature of a  
9 spouse cannot be obtained because of extenuating circumstances.  
10 For purposes of this subsection, "spouse" means the person to  
11 whom the member, deferred member, retiring member, or retiring  
12 deferred member is married at the retirement allowance effective  
13 date. Payment to a retirement allowance beneficiary shall start  
14 the first day of the month following the retirant's death.

15 (4) ~~If~~ **Except as otherwise provided in subsection (8), if**  
16 the retirement allowance beneficiary selected under  
17 subsection (1)(b), (c), or (d) predeceases the retirant, the  
18 retirant's benefit shall revert to a straight retirement  
19 allowance including post-retirement adjustments, if any, shall be  
20 effective the first of the month following the death, and shall  
21 be paid during the remainder of the retirant's life. This  
22 subsection applies to a retirant whose effective date of  
23 retirement is after June 28, 1976, but the straight retirement  
24 allowance shall not be payable for any month beginning before the  
25 later of the retirement allowance beneficiary's death or  
26 October 31, 1980. This subsection also applies to a retirant  
27 whose effective date of retirement was on or before June 28,

1 1976, but the straight retirement allowance shall not be payable  
2 for any month beginning before the later of the retirement  
3 allowance beneficiary's death or January 1, 1986. A retirant who  
4 on January 1, 1986 is receiving a reduced retirement allowance  
5 because the retirant designated a retirement allowance  
6 beneficiary and the retirement allowance beneficiary predeceased  
7 the retirant is eligible to receive the straight retirement  
8 allowance beginning January 1, 1986, but the straight retirement  
9 allowance shall not be payable for any month beginning before  
10 January 1, 1986.

11 (5) A retirant who returns to service pursuant to section 61  
12 and whose retirement allowance beneficiary selected under  
13 subsection (1)(b), (c), or (d) predeceases the member before he  
14 or she again becomes a retirant may again choose a retirement  
15 allowance beneficiary pursuant to subsection (1)(b), (c), or  
16 (d).

17 (6) If a retirant receiving a reduced retirement allowance  
18 under subsection (1)(b), (c), or (d) is divorced from the spouse  
19 who had been designated as the retirant's retirement allowance  
20 beneficiary under subsection (1)(b), (c), or (d), the election of  
21 a reduced retirement allowance payment option shall be considered  
22 void by the retirement system if the judgment of divorce or award  
23 or order of the court, or an amended judgment of divorce or award  
24 or order of the court, described in the public employee  
25 retirement benefit protection act, **2002 PA 100, MCL 38.1681 to**  
26 **38.1689**, and dated after June 27, 1991 provides that the election  
27 of a reduced retirement allowance payment option under subsection

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

23 (7) If the retirement allowance payments terminate before an  
24 aggregate amount equal to the retirant's accumulated  
25 contributions has been paid, the difference between the  
26 retirant's accumulated contributions and the aggregate amount of  
27 retirement allowance payments made shall be paid to the person

1 designated in a writing filed with the retirement board on a form  
2 provided by the retirement board. If the designated person does  
3 not survive the retirant or retirement allowance beneficiary, the  
4 difference shall be paid to the deceased recipient's estate or to  
5 the legal representative of the deceased recipient.

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

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

11 (b) The first retirement allowance beneficiary predeceases  
12 the retirant after the retirement allowance effective date.

13 (c) The retirant marries another spouse after the retirement  
14 allowance effective date.

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

25 (9) A retirant who was not married on his or her retirement  
26 allowance effective date and who did not select a payment option  
27 provided in this section may select an optional form of benefit

1 payment under subsection (1)(b), (c), or (d) and designate a  
2 retirement allowance beneficiary if all of the following apply:

3 (a) The retirant marries after his or her retirement  
4 allowance effective date.

5 (b) The retirement allowance beneficiary is the retirant's  
6 spouse.

7 (c) The retirant files a written request with the retirement  
8 system to select the optional form of benefit payment under  
9 subsection (1)(b), (c), or (d) and to designate his or her spouse  
10 as the retirement allowance beneficiary, not earlier than 180  
11 days and not later than 1 year after the retirant's marriage  
12 except that a retirant who marries after the retirement allowance  
13 effective date and before the effective date of the amendatory  
14 act that added this subsection shall have 180 days from the  
15 effective date of the amendatory act that added this subsection  
16 to file a written request with the retirement system.

17 (10) The retirement allowance of the retirant who makes an  
18 election under subsection (8) or (9) shall not be greater than  
19 the actuarial equivalent of the retirement allowance that the  
20 retirant would otherwise be entitled to under subsection (1)(a)  
21 and shall become effective the first day of the month following  
22 the filing of the written request with the retirement system.

23 Sec. 91. (1) ~~The~~ Except as otherwise provided in this  
24 section, the retirement system shall pay the entire monthly  
25 premium or membership or subscription fee for hospital,  
26 medical-surgical, and sick care benefits for the benefit of a  
27 retirant or retirement allowance beneficiary who elects coverage

1 in the plan authorized by the retirement board and the  
2 department. **A retirement allowance beneficiary who has become a**  
3 **retirement allowance beneficiary under section 85(8) or (9) is**  
4 **not a health insurance dependent and is not entitled to health**  
5 **insurance benefits under this section except as provided in**  
6 **subsection (10).**

7 (2) The retirement system may pay up to the maximum of the  
8 amount payable under subsection (1) toward the monthly premium  
9 for hospital, medical-surgical, and sick care benefits for the  
10 benefit of a retirant or retirement allowance beneficiary  
11 enrolled in a group health insurance or prepaid service plan not  
12 authorized by the retirement board and the department, if  
13 enrolled before June 1, 1975, for whom the retirement system on  
14 July 18, 1983 was making a payment towards his or her monthly  
15 premium.

16 (3) A retirant or retirement allowance beneficiary receiving  
17 hospital, medical-surgical, and sick care benefits coverage under  
18 subsection (1) or (2), until eligible for medicare, shall have an  
19 amount equal to the cost chargeable to a medicare recipient for  
20 part B of medicare deducted from his or her retirement  
21 allowance.

22 (4) The retirement system shall pay 90% of the monthly  
23 premium or membership or subscription fee for dental, vision, and  
24 hearing benefits for the benefit of a retirant or retirement  
25 allowance beneficiary who elects coverage in the plan authorized  
26 by the retirement board and the department. Payments shall begin  
27 under this subsection upon approval by the retirement board and

1 the department of plan coverage and a plan provider.

2 (5) The retirement system shall pay up to 90% of the maximum  
3 of the amount payable under subsection (1) toward the monthly  
4 premium or membership or subscription fee for hospital,  
5 medical-surgical, and sick care benefits coverage described in  
6 subsections (1) and (2) for each health insurance dependent of a  
7 retirant receiving benefits under subsection (1) or (2). Payment  
8 shall not exceed 90% of the actual monthly premium or membership  
9 or subscription fee. The retirement system shall pay 90% of the  
10 monthly premium or membership or subscription fee for dental,  
11 vision, and hearing benefits described in subsection (4) for the  
12 benefit of each health insurance dependent of a retirant  
13 receiving benefits under subsection (4). Payment for health  
14 benefits coverage for a health insurance dependent of a retirant  
15 shall not be made after the retirant's death, unless the retirant  
16 designated a retirement allowance beneficiary as provided in  
17 section 85 and the dependent was covered or eligible for coverage  
18 as a health insurance dependent of the retirant on the retirant's  
19 date of death. Payment for health benefits coverage shall not be  
20 made for a health insurance dependent after the later of the  
21 retirant's death or the retirement allowance beneficiary's  
22 death. Payment under this subsection and subsection (6) began  
23 October 1, 1985 for health insurance dependents who on July 10,  
24 1985 were covered by the hospital, medical-surgical, and sick  
25 care benefits plan authorized by the retirement board and the  
26 department. Payment under this subsection and subsection (6) for  
27 other health insurance dependents shall not begin before

1 January 1, 1986.

2 (6) The payment described in subsection (5) shall also be  
3 made for each health insurance dependent of a deceased member or  
4 deceased duty disability retirant if a retirement allowance is  
5 being paid to a retirement allowance beneficiary because of the  
6 death of the member or duty disability retirant as provided in  
7 section 43c(c), 89, or 90. Payment for health benefits coverage  
8 for a health insurance dependent shall not be made after the  
9 retirement allowance beneficiary's death.

10 (7) The payments provided by this section shall not be made  
11 on behalf of a retiring section 82 deferred member or health  
12 insurance dependent of a deferred member having less than 21 full  
13 years of attained credited service or the retiring deferred  
14 member's retirement allowance beneficiary, and shall not be made  
15 on behalf of a retirement allowance beneficiary of a deferred  
16 member who dies before retiring. The retirement system shall  
17 pay, on behalf of a retiring section 82 deferred member or health  
18 insurance dependent of a deferred member or a retirement  
19 allowance beneficiary of a deceased deferred member, either of  
20 whose allowance is based upon not less than 21 years of attained  
21 credited service, 10% of the payments provided by this section,  
22 increased by 10% for each attained full year of credited service  
23 beyond 21 years, not to exceed 100%. This subsection applies to  
24 any member who attains deferred status under section 82 after  
25 October 31, 1980.

26 (8) Any retirant or retirement allowance beneficiary excluded  
27 from payments under this section may participate in the hospital,

1 medical-surgical, and sick care benefits plan, the dental plan,  
2 vision plan, or hearing plan, or any combination of the plans  
3 described in this section in the manner prescribed by the  
4 retirement system at his or her own cost.

5 (9) The hospital, medical-surgical, and sick care benefits  
6 plan, dental plan, vision plan, and hearing plan that covers  
7 retirants, retirement allowance beneficiaries, and health  
8 insurance dependents pursuant to this section shall contain a  
9 coordination of benefits provision that provides all of the  
10 following:

11 (a) If the person covered under the hospital,  
12 medical-surgical, and sick care benefits plan is also eligible  
13 for medicare or medicaid, or both, then the benefits under  
14 medicare or medicaid, or both, shall be determined before the  
15 benefits of the hospital, medical-surgical, and sick care  
16 benefits plan provided pursuant to this section.

17 (b) If the person covered under any of the plans provided by  
18 this section is also covered under another plan that contains a  
19 coordination of benefits provision, the benefits shall be  
20 coordinated as provided by the coordination of benefits act, 1984  
21 PA 64, MCL 550.251 to 550.255.

22 (c) If the person covered under any of the plans provided by  
23 this section is also covered under another plan that does not  
24 contain a coordination of benefits provision, the benefits under  
25 the other plan shall be determined before the benefits of the  
26 plan provided pursuant to this section.

27 (10) **A surviving spouse selected as a retirement allowance**

1 beneficiary under section 85(8) or (9) may elect the insurance  
2 coverages provided in section 91 provided that premium payment  
3 for such coverages is the responsibility of the retirant and is  
4 paid in a manner prescribed by the system.

5 (11) ~~(10)~~ For purposes of this section:

6 (a) "Health insurance dependent" means any of the following:

7 (i) ~~The~~ **Except as provided in subsection (1), the** spouse of  
8 the retirant or the surviving spouse to whom the retirant or  
9 deceased member was married at the time of the retirant's or  
10 deceased member's death.

11 (ii) An unmarried child, by birth or adoption, of the  
12 retirant or deceased member, until December 31 of the calendar  
13 year in which the child becomes 19 years of age.

14 (iii) An unmarried child, by birth or adoption, of the  
15 retirant or deceased member, until December 31 of the calendar  
16 year in which the child becomes 25 years of age, who is enrolled  
17 as a full-time student, and who is or was at the time of the  
18 retirant's or deceased member's death a dependent of the retirant  
19 or deceased member as defined in section 152 of the internal  
20 revenue code.

21 (iv) An unmarried child, by birth or adoption, of the  
22 retirant or deceased member who is incapable of self-sustaining  
23 employment because of mental or physical disability, and who is  
24 or was at the time of the retirant's or deceased member's death a  
25 dependent of the retirant or deceased member as defined in  
26 section 152 of the internal revenue code.

27 (v) The parents of the retirant or deceased member, or the

1 parents of his or her spouse, who are residing in the household  
2 of the retirant or retirement allowance beneficiary.

3 (b) "Medicaid" means benefits under the federal medicaid  
4 program established under title XIX of the social security act,  
5 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to  
6 1396r-6, and 1396r-8 to 1396v.

7 (c) "Medicare" means benefits under the federal medicare  
8 program established under title XVIII of the social security act,  
9 chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,  
10 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to  
11 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,  
12 1395x to 1395yy, and 1395bbb to 1395ggg.