

# HOUSE BILL No. 4585

April 29, 2003, Introduced by Reps. Ehardt, Brandenburg, Robertson and Wojno and referred to the Committee on Senior Health, Security and Retirement.

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 2002 PA 94.

**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  
10 section 86 or 87. The amount of retirement allowance under  
11 subdivision (b), (c), or (d) shall be the actuarial equivalent of

1 the amount of retirement allowance under subdivision (a). The  
2 options are as follows:

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

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

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

22 (d) On and after January 1, 2000, a retirant shall be paid a  
23 reduced retirement allowance for life with the provision that  
24 upon the retirant's death, payment of 75% of the reduced  
25 retirement allowance is continued throughout the lifetime of the  
26 retirement allowance beneficiary whom the member designated in a  
27 writing filed with the retirement board at the time of election

1 of the option.

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

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

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

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

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

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

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

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

20 (7) If the retirement allowance payments terminate before an  
21 aggregate amount equal to the retirant's accumulated  
22 contributions has been paid, the difference between the  
23 retirant's accumulated contributions and the aggregate amount of  
24 retirement allowance payments made shall be paid to the person  
25 designated in a writing filed with the retirement board on a form  
26 provided by the retirement board. If the designated person does  
27 not survive the retirant or retirement allowance beneficiary, the

1 difference shall be paid to the deceased recipient's estate or to  
2 the legal representative of the deceased recipient.

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

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

8 (b) The first retirement allowance beneficiary predeceases  
9 the retirant after the retirement allowance effective date.

10 (c) The retirant marries another spouse after the retirement  
11 allowance effective date.

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

22 (9) A retirant who was not married on his or her retirement  
23 allowance effective date and who did not select a payment option  
24 provided in this section may select an optional form of benefit  
25 payment under subsection (1)(b), (c), or (d) and designate a  
26 retirement allowance beneficiary if all of the following apply:

27 (a) The retirant marries after his or her retirement

1 allowance effective date.

2 (b) The retirement allowance beneficiary is the retirant's  
3 spouse.

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

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