

Act No. 50
Public Acts of 1991
Approved by the Governor
June 27, 1991
Filed with the Secretary of State
June 27, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Reps. Barns, Brown, Gubow, Ciaramitaro, Martin, London, Dobb, Fitzgerald, Bankes,
Harder, Hoffman, Olshove, Weeks, Webb, Baade, Stallworth, Dobronski, Yokich and Bodem

ENROLLED HOUSE BILL No. 4764

AN ACT to amend sections 23 and 53 of Act No. 427 of the Public Acts of 1984, entitled as amended "An act to provide for a retirement system for municipal and judicial employees; to create a retirement board and to prescribe its powers and duties; to prescribe the powers and duties of certain other state officers and agencies; and to repeal certain acts and parts of acts," section 23 as amended by Act No. 291 of the Public Acts of 1986 and section 53 as amended by Act No. 51 of the Public Acts of 1989, being sections 38.1523 and 38.1553 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 23 and 53 of Act No. 427 of the Public Acts of 1984, section 23 as amended by Act No. 291 of the Public Acts of 1986 and section 53 as amended by Act No. 51 of the Public Acts of 1989, being sections 38.1523 and 38.1553 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 23. (1) A member or a vested former member may elect to have retirement allowance payments made under 1 of the forms of payment described in subsection (2), and may name a survivor beneficiary. The election of a form of payment and the naming of a survivor beneficiary shall be in writing and filed with the retirement board before the date the first retirement allowance payment is made. An election of form of payment shall not be changed on or after the date the first retirement allowance payment is made. A named survivor beneficiary shall not be changed on or after the date the first retirement allowance payment is made if form of payment II or III is elected. A named survivor beneficiary may be more than 1 person if form of payment IV is elected. A named survivor beneficiary shall have an insurable interest in the life of the member or vested former member at the time of naming.

(2) The member or vested former member may elect 1 of the following forms of payment:

(a) Form of Payment SL - Straight Life Retirement Allowance. Under form of payment SL the retirant is paid a retirement allowance for life. The amount shall be determined as provided in section 10.

(b) Form of Payment II - Life With Full Continuation to Survivor Beneficiary. Under form of payment II the retirant is paid a reduced retirement allowance until either the retirant or the named survivor beneficiary dies. Upon the death of the named survivor beneficiary, the retirant is paid the form of payment SL retirement allowance over the retirant's remaining life. Upon the death of the retirant during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid the full amount of the reduced form of payment II retirement allowance over the named survivor beneficiary's remaining life.

(c) Form of Payment III - Life With 1/2 Continuation to Survivor Beneficiary. Under form of payment III the retirant is paid a reduced retirement allowance until either the retirant or the named survivor beneficiary dies. Upon the death of the named survivor beneficiary, the retirant is paid the form of payment SL retirement allowance over the retirant's remaining life. Upon the death of the retirant during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid 1/2 of the amount of the reduced form of payment III retirement allowance over the named survivor beneficiary's remaining life.

(d) Form of Payment IV - Life With Period Certain Guarantee. Under form of payment IV the retirant is paid a reduced retirement allowance for life. Upon the death of the retirant during the guaranteed period, the named survivor beneficiary is paid the full amount of the reduced form of payment IV retirement allowance for the remainder of the guaranteed period. The guaranteed period shall be selected by the retirant at the time of election of form of payment IV and shall be either 60 months, 120 months, 180 months, or 240 months but the guaranteed period shall not exceed the retirant's life expectancy as of the date of the retirement. The actuarial present value of remaining guaranteed retirement allowance payments shall be paid to the legal representative of the retirant or the named survivor beneficiary, whichever survives the longest, if both the retirant and named survivor beneficiary die during the guaranteed period.

(e) Form of Payment V - Life with Accelerated Payment. Under form of payment V the retirant is paid a retirement allowance for life. The amount of retirement allowance is increased over the amount under form of payment SL until the retirant attains the adjustment age specified by the board and is reduced from the amount under form of payment SL after the retirant attains the adjustment age. The amount of increase and reduction shall be determined pursuant to procedures adopted by the retirement board. Form of payment V shall not be elected with respect to a retirement allowance computed under benefit program C-2 as provided in section 19.

(3) Payment shall be made under form of payment SL if there is not a timely election of form of payment.

(4) The amount of retirement allowance under forms of payment II, III, IV, and V shall have the same actuarial present value as the amount of retirement allowance under form of payment SL, computed as of the date of retirement.

(5) If a retiring member or vested former member is married at the retirement allowance effective date, an election under subsection (2), other than an election under subsection (2)(b), (c), or (d) naming the spouse as survivor beneficiary, is not effective unless the election is signed by the spouse, except that this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances.

(6) If a retirant receiving a reduced retirement allowance under subsection (2)(b) to (d) is divorced from the spouse who had been named the retirant's survivor beneficiary under subsection (2)(b) to (d), the election of a reduced retirement allowance form of payment 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 section 53 and dated after the effective date of the amendatory act that added this subsection provides that the election of a reduced retirement allowance form of payment under subsection (2)(b) to (d) is to be considered void by the retirement system and the retirant 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 reduced retirement allowance form of payment under subsection (2)(b) to (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in section 53. The retirement allowance shall revert to a straight life 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 the effective date of the amendatory act that added this subsection. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(7) A retirement allowance payable under a form of payment provided in this section is subject to an eligible domestic relations order under the eligible domestic relations order act.

Sec. 53. (1) The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, any other right accrued or accruing to an individual under this act, and any money belonging to the retirement system is not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and is unassignable, except as is otherwise specifically provided in this act.

(2) The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, or any other benefit under this act is subject to award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws, and to any other order of a court pertaining to alimony or child support. The right of an individual to a retirement allowance, to the return of accumulated contributions, the retirement allowance itself, or any other benefit under this act is subject to an eligible domestic relations order under the eligible domestic relations order act. However, this subsection does not permit or require a benefit to be paid or to be provided that is not otherwise available under the terms of this act.

(3) If an award or order described in subsection (2) requires the retirement system to withhold payment of a pension, deferred pension, accumulated contributions, or other benefit from the person to whom it is due or requires the retirement system to make payment or requires the person to request that the retirement system make payment of a pension, deferred pension, accumulated contributions, or other benefit, for the purpose of meeting the person's obligations to a spouse, former spouse or child, as provided in subsection (2), the withholding or payment provisions of the award or order shall be effective only against such amounts as they become payable to the person receiving a retirement allowance unless otherwise provided in an eligible domestic relations order under the eligible domestic relations order act. The limitation contained in this subsection does not apply to the accumulated contributions of a person who terminates employment before acquiring a vested member status.

(4) The retirement system shall have the right of setoff to recover overpayments made by the retirement system and to satisfy any claim arising from embezzlement or fraud by a member, retirant, or beneficiary. A transfer of money and assets to another retirement system authorized by an affirmative vote by a majority of the members on the municipality's governing body is not a violation of this section.

Section 2. This amendatory act shall not take effect unless House Bill No. 4884 of the 86th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.