

Act No. 52
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. Gubow, Ciaramitaro, Perry Bullard, Barns, Fitzgerald, Baade, Harder, Nye, Munsell, London, Berman, Johnson, Bankes, Jondahl, DeBeaussiaert, Martin and DeMars

ENROLLED HOUSE BILL No. 4766

AN ACT to amend sections 15 and 26 of Act No. 198 of the Public Acts of 1951, entitled as amended "An act to provide for a retirement system for judges, the constitutional court administrator, and certain elected and appointed state officials; to provide for the retirement of judges, the constitutional court administrator, and certain elected and appointed state officials due to age or disability; to provide for the payment of annuities; to create a retirement board and prescribe its powers and duties; to establish certain funds in connection with the system; to provide for the funding of the system; to provide for contributions to the system by judges, the constitutional court administrator, and certain elected and appointed state officials and by the state; and to prescribe penalties," section 26 as amended by Act No. 41 of the Public Acts of 1985, being sections 38.815 and 38.826 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 15 and 26 of Act No. 198 of the Public Acts of 1951, section 26 as amended by Act No. 41 of the Public Acts of 1985, being sections 38.815 and 38.826 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 15. (1) Before the effective date of his or her retirement, a member or former member may elect to be paid an annuity under an optional form of payment in lieu of a straight life annuity terminating upon his or her death. The amount of the member's optional form of annuity shall have an annuity reserve equal to the annuity reserve for the amount of the member's straight life annuity. If the member does not make a timely election of an optional form of payment, the member shall be paid a straight life annuity. The optional forms of payment are as follows:

(a) Option A—Joint and survivor annuity. Under option A the member shall be paid a reduced annuity throughout his or her life with the provision that upon his or her death the full reduced annuity shall be continued throughout the future life of and paid to the person, having an insurable interest in the member's life, nominated by written designation duly executed and filed with the board at the time of the member's election of option A.

(b) Option B—Modified joint and survivor annuity. Under option B the member shall be paid a reduced annuity throughout his or her life with the provision that upon his or her death 1/2 of the reduced annuity shall be continued throughout the future life of and paid to the person, having an insurable interest in the member's life, nominated by written designation duly executed and filed with the board at the time of the member's election of option B.

(2) If a retirant receiving a reduced annuity under subsection (1)(a) or (b) is divorced from the spouse who had been designated the retirant's survivor beneficiary under subsection (1)(a) or (b), the election of a reduced annuity 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 section 26

and dated after the effective date of the amendatory act that added this subsection provides that the election of a reduced annuity payment option under subsection (1)(a) or (b) 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 annuity payment option under subsection (1)(a) or (b) is considered void by the retirement system under this subsection, the retirant's annuity shall revert to a straight life annuity, including postretirement adjustments, if any, subject to an award or order of the court as described in section 26. The retirement allowance shall revert to a straight life annuity 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.

Sec. 26. (1) The right of a person to an annuity, to the return of accumulated contributions, the annuity itself, any optional benefit, any other right accrued or accruing to any member or beneficiary under this act, and the money belonging to the retirement system, are unassignable and are not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law, except as otherwise provided in this act.

(2) The right of a member, former member who meets the requirements of section 13a, or retired member to an annuity or deferred annuity, to the return of accumulated contributions, the annuity itself, any optional benefit, 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 a member, former member who meets the requirements of section 13a, or retired member to an annuity, or deferred annuity, to the return of accumulated contributions, the annuity itself, any optional benefit, or any other benefit under this act is subject to an eligible domestic relations order under the eligible domestic relations order act.

(3) If an award or order described in subsection (2) requires the retirement system to withhold payment of an annuity, deferred annuity, 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 an annuity, deferred annuity, 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 is effective only against those amounts as they become payable to the person receiving an annuity 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 has terminated employment before acquiring a vested member status.

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.