

Act No. 53  
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. Martin, Brown, Nye, Sikkema, DeMars and London

# **ENROLLED HOUSE BILL No. 4767**

AN ACT to amend sections 26 and 43 of Act No. 182 of the Public Acts of 1986, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," being sections 38.1626 and 38.1643 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 26 and 43 of Act No. 182 of the Public Acts of 1986, being sections 38.1626 and 38.1643 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 26. (1) A member who retires due to duty incurred disability after September 30, 1986, is entitled to receive a retirement allowance equal to 60% of the member's final average compensation.

(2) If a retirant receiving a retirement allowance under this section dies, the retirement allowance shall continue to be paid to the surviving spouse of the deceased retirant for the rest of the spouse's life.

(3) For purposes of this section, if there is no surviving spouse or upon the spouse's death, the retirement allowance shall be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there shall be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(4) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, shall not exceed the average annual salary paid to the member for the 2 years immediately before the duty disability retirement allowance effective date.

Sec. 43. (1) Except as provided in subsection (2), a retirement allowance, either before or after its order of distribution, shall not be held, seized, taken, detained, or levied on by virtue of any legal process issued out of any court against the beneficiary, but shall be paid directly to the beneficiary of the allowance.

(2) The right of a member or retirant to a retirement allowance, deferred retirement allowance, accumulated contributions, or 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 or retirant to a retirement allowance, deferred retirement allowance, accumulated contributions, or 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 a retirement allowance, deferred retirement allowance, 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 retirement allowance, deferred retirement allowance, 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 those 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 has terminated employment before acquiring a deferred 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.