

HOUSE BILL No. 4768

May 1, 1991, Introduced by Reps. Barns, Brown, Ciaramitaro, London, Nye, Johnson, Fitzgerald, Dolan, DeBeaussiaert, Berman, Gubow and DeMars and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 6, 8, and 9 of Act No. 345 of the Public Acts of 1937, entitled as amended

"Fire fighters and police officers retirement act,"

sections 6 and 8 as amended by Act No. 7 of the Public Acts of 1989 and section 9 as amended by Act No. 145 of the Public Acts of 1987, being sections 38.556, 38.558, and 38.559 of the Michigan Compiled Laws; and to add section 9a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6, 8, and 9 of Act No. 345 of the
2 Public Acts of 1937, sections 6 and 8 as amended by Act No. 7 of
3 the Public Acts of 1989 and section 9 as amended by Act No. 145
4 of the Public Acts of 1987, being sections 38.556, 38.558, and
5 38.559 of the Michigan Compiled Laws, are amended and section 9a
6 is added to read as follows:

1 Sec. 6. (1) ~~Pensions and~~ AGE AND SERVICE RETIREMENT

2 benefits payable under this act ~~shall be~~ ARE as follows:

3 ~~(1) Age and service retirement:~~

4 (a) A member who is 55 years of age or older and who has 25

5 or more years of service as a police officer or fire fighter in

6 the employ of the ~~city, village, or~~ municipality affected by

7 this act may retire from service upon written application to the

8 RETIREMENT board stating a date, not less than 30 days ~~nor~~ OR

9 more than 90 days after the execution and filing of the applica-

10 tion, on which the member desires to be retired. The RETIREMENT

11 board shall grant the benefits to which the member ~~may be~~ IS

12 entitled under this act, unless the member continues employment.

13 If the member continues employment, the member's pension shall be

14 deferred with service years of credit until actual retirement.

15 Upon the approval of the legislative body or ~~of~~ the electors of

16 a ~~city, village, or~~ municipality under this act, a member under

17 50 years of age who has 25 or more years of service, or without

18 the necessity for approval, a member 50 years of age or more who

19 has 25 or more years of service, may leave service and receive

20 the full retirement benefits payable throughout the member's life

21 as provided in ~~subparagraph~~ SUBDIVISION (e).

22 (b) A member who is 60 years of age or older shall be

23 retired by the retirement board upon the written application of

24 the legislative body, or board or official provided in the

25 charter of the ~~city, village, or~~ municipality as head of the

26 department in which the member is employed. Upon retirement, the

27 retirement board shall grant the benefits to which the member

1 ~~may be~~ IS entitled under this act, unless the member continues
2 employment. If the member continues employment, the member's
3 pension shall be deferred with service years of credit until
4 actual retirement.

5 (c) A member who is 65 years of age shall be retired by the
6 RETIREMENT board on the first day of the month following attain-
7 ment of 65 years of age.

8 (d) A member who has 10 or more years of service shall have
9 vested retirement benefits ~~—~~ THAT ARE not subject to forfeiture
10 on account of disciplinary action, charges, or complaints. If
11 the member leaves employment before the date the member would
12 have first become eligible to retire as provided in
13 ~~subparagraph~~ SUBDIVISION (a) ~~—~~ for any reason except the
14 member's retirement or death, the member ~~shall be~~ IS entitled
15 to a pension ~~which~~ THAT shall begin the first day of the calen-
16 dar month ~~next following~~ IMMEDIATELY AFTER the month in which
17 the member's written application for the pension is filed with
18 the RETIREMENT board ~~—~~ THAT IS on or after the date the member
19 would have been eligible to retire had the member continued in
20 employment. The RETIREMENT board shall grant the member the ben-
21 efits to which the member is entitled under this act, unless the
22 member resumes service. If the member resumes service, the
23 member's pension shall be further deferred with service years of
24 credit until the member actually retires.

25 (e) Upon retirement from service as provided in this
26 ~~subdivision~~ SUBSECTION, a member shall receive a regular
27 retirement pension payable throughout the member's life of 2% of

1 the member's average final compensation multiplied by the first
2 25 years of service credited to the member, plus 1% of the
3 member's average final compensation multiplied by the number of
4 years, and fraction of a year, of service rendered by the member
5 in excess of 25 years. A ~~city, village, or~~ municipality under
6 this act, ~~may,~~ upon approval of the legislative body or the
7 electors of the ~~city, village, or~~ municipality, MAY increase
8 the percentage of the payment from 2% up to a maximum of 2.5%.
9 If an increase is approved, the increase shall not be reduced for
10 members under the system at the time of the increase. The legis-
11 lative body may also increase the percentage of employee
12 contributions. If a retired member dies before the total of reg-
13 ular pension payments received by the member equals the total of
14 the member's contributions made to the retirement system, the
15 difference between the member's total contributions and the total
16 of the member's regular retirement pension payments received
17 shall be paid in a single sum to the person or persons the member
18 nominates by written designation duly executed and filed with the
19 RETIREMENT board. If there is not a person or persons surviving
20 the retired member, the difference, if any, shall be paid to the
21 retired member's LEGAL REPRESENTATIVE OR estate.

22 (f) ~~"Average"~~ AS USED IN THIS SECTION, "AVERAGE final
23 compensation" means the average of the highest annual compensa-
24 tion received by a member during a period of 5 consecutive years
25 of service contained within the member's 10 years of service
26 immediately preceding the member's retirement or leaving
27 service. However, if so provided in a collective bargaining

1 agreement entered into between a municipality under this act and
2 the appropriate recognized bargaining agent, average final com-
3 pensation may mean the average of the 3 years of highest annual
4 compensation received by a member during the member's 10 years of
5 service immediately preceding the member's retirement or leaving
6 service. If the member has less than 5 years of service, average
7 final compensation means the annual average compensation received
8 by the member during his or her total years of service.

9 (g) A member shall be given service credit for time spent in
10 the military, naval, marine, or other armed service of the United
11 States government during time of war, or other national emergency
12 recognized by the board, if the member was employed by the ~~city,~~
13 ~~village, or~~ municipality at the time of entry into the armed
14 service, and is or was reemployed by the ~~city, village, or~~
15 municipality as a police officer or fire fighter within 6 months
16 after the date of termination of his or her required enlistment
17 or assignment in the armed service. A ~~city, village, or~~ munic-
18 ipality by a 3/5 vote of its governing body or by a majority vote
19 of the qualified electors may provide service credit for not more
20 than 6 years of active military service to the United States gov-
21 ernment to a member who is employed subsequent to this military
22 service upon payment to the retirement system of 5% of the
23 member's full-time or equated full-time compensation for the
24 fiscal year in which payment is made multiplied by the years of
25 service that the member elects to purchase up to the maximum.
26 Service ~~shall~~ IS not ~~be~~ creditable if it is or would be
27 creditable under any other federal, state, or local publicly

1 supported retirement system. However, this restriction ~~shall~~
2 DOES not apply to those persons who have or will have acquired
3 retirement eligibility under the federal government for service
4 in the reserve. A member shall be given service credit for the
5 time the member is absent from active service without full pay on
6 account of sickness or injury. If the absence from active serv-
7 ice is due to nonservice connected sickness or injury, not more
8 than 60 days of the absence shall be credited as service in any 1
9 calendar year, as determined by the RETIREMENT board.

10 (h) Before the effective date of the member's retirement as
11 provided in this ~~subdivision~~ SUBSECTION, but not after the
12 effective date of the member's retirement, a member may elect to
13 receive his or her benefit in a pension payable throughout the
14 member's life, called a regular retirement pension, or the member
15 may elect to receive the actuarial equivalent, computed as of the
16 effective date of retirement, of the member's regular retirement
17 pension in a reduced retirement pension payable throughout the
18 member's life, and nominate a survivor beneficiary, ~~in accord-~~
19 ~~ance with~~ PURSUANT TO AN option ~~I or II as~~ provided in this
20 ~~subparagraph~~ SUBDIVISION. Upon the death of a retirant who
21 retires on or after July 1, 1975, and who is receiving a regular
22 retirement pension, his or her spouse, if living, shall receive a
23 pension equal to 60% of the ~~straight life~~ REGULAR RETIREMENT
24 pension the deceased retirant was receiving. Benefits shall not
25 be paid under this ~~subparagraph~~ SUBDIVISION on account of the
26 death of a retirant if the member elected to receive his or her
27 pension under ~~either~~ AN option ~~I or II~~ provided ~~for~~ in this

1 ~~subparagraph~~ SUBDIVISION. As used in this ~~subdivision~~

2 SUBSECTION, "spouse" means the person to whom the retirant was
3 legally married on both the effective date of retirement and the
4 date of death. Except as otherwise provided in this act, if a
5 member fails to elect an option before the effective date of
6 retirement, then the pension shall be paid as a regular retire-
7 ment pension. A MEMBER MAY ELECT 1 OF THE FOLLOWING OPTIONS:

8 (i) Option I. Upon the death of a retired member, his or
9 her reduced retirement pension shall be continued throughout the
10 life of and paid to the person, having an insurable interest in
11 the retired member's life, THAT the member nominated by written
12 designation duly executed and filed with the RETIREMENT board
13 before the effective date of the member's retirement.

14 (ii) Option II. Upon the death of a retired member, 1/2 of
15 his or her reduced retirement pension shall be continued through-
16 out the life of and paid to the person, having an insurable
17 interest in the retired member's life, THAT the member nominated
18 by written designation duly executed and filed with the
19 RETIREMENT board before the effective date of the member's
20 retirement.

21 (i) If a member continues in service on or after the date of
22 acquiring 20 years of service credit, does not have an option I
23 election provided for in ~~subparagraph~~ SUBDIVISION (j) in force,
24 and dies while in service of the ~~city or village~~ MUNICIPALITY
25 before the effective date of the member's retirement, leaving a
26 surviving spouse, the spouse shall receive a pension computed in
27 the same manner as if the member had retired effective the day

1 preceding the date of the member's death, elected option I
2 provided for in ~~subparagraph~~ SUBDIVISION (h), and nominated the
3 spouse as survivor beneficiary. Upon the death of the spouse the
4 pension shall terminate. A pension shall not be paid under this
5 ~~subparagraph~~ SUBDIVISION on account of the death of a member if
6 benefits are paid under ~~subdivision~~ SUBSECTION (2) on account
7 of the member's death.

8 (j) A member who continues in service on or after the date
9 of acquiring 25 years of service credit may, at any time before
10 the effective date of the member's retirement, by written decla-
11 ration duly executed and filed with the board in the manner and
12 form prescribed by the board, elect option I provided for in
13 ~~subparagraph~~ SUBDIVISION (h) and nominate a survivor benefi-
14 ciary whom the board finds to be dependent upon the member for at
15 least 50% of the beneficiary's support. If a member who has an
16 option I election provided for in this ~~subparagraph~~ SUBDIVISION
17 in force dies while in service before the effective date of the
18 member's retirement, the member's survivor beneficiary shall
19 immediately receive the same ~~retirement allowance as~~ PENSION
20 THAT the survivor beneficiary would have been entitled to receive
21 under the option I if the member had retired pursuant to this act
22 effective the day preceding the date of the member's death, not-
23 withstanding that the member may not have attained 55 years of
24 age. If a member who has an option I election provided for in
25 this ~~subparagraph~~ SUBDIVISION in force subsequently retires
26 pursuant to this act, the member, within 90 days immediately
27 preceding the effective date of the member's retirement, but not

1 after the effective date of the member's retirement, ~~shall have~~
2 ~~the right to make an election of~~ MAY ELECT AN option provided
3 for in ~~subparagraph~~ SUBDIVISION (h). The option election is
4 effective as of the effective date of the member's retirement. A
5 pension shall not be paid under this ~~subparagraph~~ SUBDIVISION
6 on account of the death of a member if benefits are paid under
7 ~~subdivision~~ SUBSECTION (2) on account of the member's death.

8 (2) Disability and service connected death benefits PAYABLE
9 UNDER THIS ACT ARE AS FOLLOWS:

10 (a) To a surviving spouse, a duty death pension of the same
11 amount each week as that which has been paid the surviving spouse
12 under the worker's disability compensation act of 1969, Act
13 No. 317 of the Public Acts of 1969, being sections 418.101 to
14 418.941 of the Michigan Compiled Laws, to become due and payable
15 on the termination of the payments to the surviving spouse by a
16 municipality under Act No. 317 of the Public Acts of 1969, and to
17 continue for the surviving spouse's life or until his or her
18 remarriage.

19 (b) If death results to a member in the line of duty, and
20 the member leaves surviving children, the children shall be paid
21 a pension of the same amount as that which has been paid to them
22 as a weekly benefit under Act No. 317 of the Public Acts of 1969,
23 to become due and payable upon termination of the payments under
24 Act No. 317 of the Public Acts of 1969, and to continue to each
25 surviving child until he or she attains 18 years of age, or until
26 his or her marriage or death before attaining 18 years of age.

1 (c) If death results to a member in the line of duty and the
2 member leaves other surviving dependents, the dependents shall
3 receive a pension of the same amount as that which has been paid
4 to them as a weekly benefit under Act No. 317 of the Public Acts
5 of 1969, to become due and payable upon termination of the pay-
6 ments under Act No. 317 of the Public Acts of 1969 and to con-
7 tinue until the time the RETIREMENT board determines that the
8 need for A pension ~~or pensions~~ no longer exists.

9 (d) Upon the application of a member or the member's depart-
10 ment head, a member who becomes totally incapacitated for duty by
11 reason of a personal injury or disease occurring as the natural
12 and proximate result of causes arising out of and in the course
13 of the member's employment by the ~~city, village, or~~ municipal-
14 ity shall be retired by the retirement board. ~~After~~ THE MEMBER
15 SHALL BE GIVEN a medical examination ~~of a member made~~ by a med-
16 ical committee consisting of a physician named by the retirement
17 board, a physician named by the member claiming benefits, and a
18 third physician designated by the first 2 physicians named. ~~→~~
19 ~~the~~ THE medical committee, IF DETERMINED by a majority opinion,
20 shall certify in writing that the member is mentally or physi-
21 cally incapacitated for the further performance of duty as a
22 police officer or fire fighter in the service of the ~~city, vil-~~
23 ~~lage, or~~ municipality; that the incapacity is likely to be per-
24 manent; and that the member should be retired. Upon retirement
25 for disability as provided in this ~~subparagraph~~ SUBDIVISION, a
26 member who has not attained 55 years of age shall receive a
27 disability retirement pension of 50% of the member's average

1 final compensation, which shall be determined according to
2 ~~subdivision~~ SUBSECTION (1)(f), and shall be payable until the
3 member becomes 55 years of age. Upon becoming 55 years of age,
4 the disabled member shall receive a disability RETIREMENT pension
5 computed according to ~~subdivision~~ SUBSECTION (1)(e). In com-
6 puting the DISABILITY RETIREMENT pension, the member shall be
7 given service credit for the period of receipt of a disability
8 RETIREMENT pension before attainment of 55 years of age. If a
9 member retired after attaining 55 years of age on account of dis-
10 ability, as provided in this ~~subparagraph~~ SUBDIVISION, the
11 member shall receive a disability RETIREMENT pension computed
12 according to ~~subdivision~~ SUBSECTION (1)(e), notwithstanding
13 that the member may not have 25 years of service credit. The
14 disability RETIREMENT pension provided for in this ~~subparagraph~~
15 ~~shall be~~ SUBDIVISION IS subject to ~~subparagraphs~~ SUBDIVISIONS
16 (f) and (g).

17 (e) Upon the application of a member or the member's depart-
18 ment head, a member in service who has 5 or more years of service
19 credit and who becomes totally and permanently incapacitated for
20 duty by reason of a personal injury or disease occurring as the
21 result of causes arising outside the course of the member's
22 employment by the ~~city, village, or~~ municipality may be retired
23 by the retirement board. ~~After~~ THE MEMBER SHALL BE GIVEN a
24 medical examination ~~of the member made~~ by a medical committee
25 consisting of a physician named by the retirement board, a physi-
26 cian named by the member claiming benefits, and a third physician
27 designated by the first 2 physicians named. ~~the~~ THE medical

1 committee, IF DETERMINED by a majority opinion, shall certify in
2 writing that the member is mentally or physically incapacitated
3 for the further performance of duty as a police officer or fire
4 fighter in the service of the ~~city, village, or~~ municipality,
5 that the incapacity is likely to be permanent, and that the
6 member should be retired. Upon retirement for disability, as
7 provided in this ~~subparagraph~~ SUBDIVISION, a member who has not
8 attained 55 years of age shall receive a disability retirement
9 pension until the member becomes 55 years of age, ~~or prior~~
10 ~~recovery or death~~ RECOVERS, OR DIES, WHICHEVER OCCURS FIRST, of
11 1.5% of the member's average final compensation multiplied by the
12 number of years of service credited to the member. Upon becoming
13 55 years of age, the member's disability retirement pension shall
14 be increased to 2% of the member's average final compensation
15 multiplied by the number of years of service credited to the
16 member at the time of his or her retirement. Upon retirement for
17 disability as provided in this ~~subparagraph~~ SUBDIVISION, a
18 member who is 55 years of age or older shall receive a disability
19 RETIREMENT pension computed according to ~~subdivision~~ SUBSECTION
20 (1)(e). This ~~subparagraph shall be~~ SUBDIVISION IS subject to
21 ~~subparagraphs~~ SUBDIVISIONS (f) and (g).

22 (f) At least once each year during the first 5 years after
23 the retirement of a member with a disability retirement pension .
24 and at least once in every 3-year period after disability retire-
25 ment, the RETIREMENT board may, and upon the retired member's
26 application shall, require a retired member who has not attained
27 55 years of age to undergo a medical examination. ~~to be made~~

1 THE MEDICAL EXAMINATION SHALL BE GIVEN by or under the direction
2 of a physician, designated by the RETIREMENT board, at the place
3 of residence of the retired member or other place mutually agreed
4 upon. If a retired member who has not attained 55 years of age
5 refuses to submit to the medical examination in the period, the
6 member's disability retirement pension may be discontinued by the
7 RETIREMENT board. If the member's refusal continues for 1 year,
8 all the member's rights in and to his or her disability retire-
9 ment pension may be revoked by the RETIREMENT board. If upon a
10 medical examination of the retired member the physician reports
11 to the RETIREMENT board that the retired member is physically
12 able and capable of resuming employment in the classification
13 held by the member at the time of retirement, the member shall be
14 restored to active service in the employ of the ~~city, village,~~
15 ~~or~~ municipality and payment of the disability RETIREMENT pension
16 shall cease if the report of the physician is concurred in by the
17 RETIREMENT board. A retired member restored to active service
18 shall again become a member of the retirement system from the
19 date of return to service. The member shall contribute to the
20 retirement system after restoration to active service in the same
21 manner as before the member's disability retirement. Service
22 credited to the member at the time of disability retirement shall
23 be restored to full force and effect. The member shall be given
24 service credit for the period the member was receiving a duty
25 disability RETIREMENT pension provided for in ~~subparagraph~~
26 SUBDIVISION (d), but shall not be given service credit for the
27 period the member was receiving a nonduty disability RETIREMENT

1 pension provided for in ~~subparagraph~~ SUBDIVISION (e). Amounts
2 paid under Act No. 317 of the Public Acts of 1969 to a retired
3 member shall be offset against and payable in place of benefits
4 provided under this act. If the benefits under Act No. 317 of
5 the Public Acts of 1969 are less than the benefits payable under
6 this act, the amount to be paid out of the funds of the retire-
7 ment system shall be the difference between the benefits provided
8 under Act No. 317 of the Public Acts of 1969 and the benefits
9 provided in this act. Upon the termination of benefits under Act
10 No. 317 of the Public Acts of 1969, the benefits shall be paid
11 ~~in accordance with~~ PURSUANT TO this act.

12 (g) Within 60 days before a member becomes 55 years of age,
13 or before retirement from service if retirement occurs after the
14 member becomes 55 years of age, a disabled member who is retired
15 as provided in ~~subparagraph~~ SUBDIVISION (d) or (e) may elect to
16 continue to receive a disability retirement pension as a benefit
17 terminating at death, to be known as a regular disability pen-
18 sion, or may elect to receive the actuarial equivalent, at that
19 time, of a regular disability ~~retirement~~ pension in a reduced
20 disability ~~retirement~~ pension payable throughout life ~~in~~
21 ~~accordance with~~ PURSUANT TO AN option ~~I or II~~ provided in
22 ~~subdivision~~ SUBSECTION (1)(h). If a disabled member fails to
23 elect an option, as provided in this ~~subparagraph~~ SUBDIVISION,
24 before becoming 55 years of age or before retirement, the
25 member's retirement pension shall be paid to the member as a reg-
26 ular disability pension terminating at death. If a disabled
27 member who has not elected AN option ~~I or II~~ PROVIDED IN

1 SUBSECTION (1)(H) dies before the total of the member's regular
2 disability pension payments received equals or exceeds the total
3 of the member's contributions made to the retirement system, the
4 remainder, if any, shall be paid in a single sum to the person or
5 persons nominated by the member by written designation duly exe-
6 cuted and filed with the board. If there is not a designated
7 person or persons surviving, then the remainder, if any, shall be
8 paid to the retired member's legal representative OR ESTATE.

9 (3) A PENSION PAYABLE OR MEMBER CONTRIBUTIONS RETURNED UNDER
10 THIS SECTION ARE SUBJECT TO AN ELIGIBLE DOMESTIC RELATIONS ORDER
11 UNDER SECTION 9A.

12 Sec. 8. Refunds of salary contributions:

13 (1) If a fire fighter or police officer dies before being
14 placed on pension, the total amount of the member's salary deduc-
15 tions, with interest as the board may determine, but not to
16 exceed 2% per annum, shall be payable to the person or persons
17 that the member nominated by written designation duly executed
18 and filed with the RETIREMENT board. If there is no designated
19 person or persons surviving, then the total of the member's
20 salary deductions shall be paid to the member's legal representa-
21 tive or estate.

22 (2) If a fire fighter or police officer becomes separated
23 from the service before being eligible for retirement, the member
24 shall be paid the total of the member's contributions together
25 with interest as the board may determine, but not to exceed 2%
26 per annum credited to the member upon his or her written request
27 for a refund. If the person again becomes employed by the ~~city~~,

1 ~~village, or~~ municipality as a police officer or fire fighter, he
2 or she shall, within 1 year following his or her reemployment,
3 repay to the retirement system the amount previously withdrawn
4 together with interest at 2% per year.

5 (3) A REFUND OF A MEMBER'S SALARY DEDUCTIONS UNDER THIS SEC-
6 TION IS SUBJECT TO AN ELIGIBLE DOMESTIC RELATIONS ORDER UNDER
7 SECTION 9A.

8 Sec. 9. (1) The contributions of a member to the retirement
9 system shall be 5% of the salary paid to the member by the
10 municipality. The officer responsible for making up the payroll
11 shall cause the contributions provided for in this subsection to
12 be deducted from the salary of each member on each payroll for
13 each payroll period so long as he or she remains an active member
14 in the employ of the municipality. ~~and each of the~~ THE amounts
15 deducted shall be paid into the funds of the retirement system.
16 The members' contributions provided for in this act shall be made
17 notwithstanding that the minimum salary provided for by law
18 ~~shall be~~ IS changed by the members' contributions. Every
19 member shall be considered to consent and to agree to the deduc-
20 tions made and provided for in this act and shall receipt for his
21 or her full salary and payment of his or her salary less the
22 deduction, which ~~shall be~~ IS a full and complete discharge and
23 acquittance of all claims and demands for the services rendered
24 by the member during the period covered by the payment, except as
25 to benefits provided by this retirement system.

26 (2) For the purpose of creating and maintaining a fund for
27 the payment of the pensions and other benefits payable as

1 provided in this act, the municipality, subject to the provisions
2 of this act, shall appropriate, at the end of such regular inter-
3 vals as may be adopted, quarterly, semiannually, or annually, an
4 amount sufficient to maintain actuarially determined reserves
5 covering pensions payable or ~~which~~ THAT might be payable on
6 account of service performed and to be performed by active mem-
7 bers, and pensions being paid TO retired members and
8 beneficiaries. The appropriations to be made by the municipality
9 in any fiscal year shall be sufficient to pay all pensions due
10 and payable in that fiscal year to all retired members and
11 beneficiaries. The amount of ~~such~~ THE appropriation in ~~any~~ A
12 fiscal year shall not be less than 10% of the aggregate pay
13 received during that fiscal year by members of the retirement
14 system unless, by actuarial determination, it is satisfactorily
15 established that a lesser percentage is needed. All deductions
16 and appropriations shall be payable to the treasurer of the
17 municipality and he or she shall pay the deductions and appropri-
18 ations into the retirement system. Except in ~~cities which~~
19 MUNICIPALITIES THAT are subject to the 15 mill tax limitation as
20 provided by section 6 of article IX of the state constitution of
21 1963, the amount required by taxation to meet the appropriations
22 to be made by municipalities under this act shall be in addition
23 to any tax limitation imposed upon tax rates in those municipali-
24 ties by charter provisions or by state law subject to section 25
25 of article IX of the state constitution of 1963.

26 (3) If, at the beginning or during any fiscal year, it has
27 been satisfactorily determined by the retirement board that the

1 accumulated funds of the retirement system plus the
2 municipality's contribution of 10% of the aggregate pay received
3 during that fiscal year by members of the retirement system plus
4 members' contributions of 5% of payroll, are insufficient to pay
5 all pensions and other benefits due and payable in that year out
6 of funds of the retirement system, then all pensions and other
7 benefits payable shall be prorated for the remainder of the
8 fiscal year by the RETIREMENT board.

9 (4) Any clerical, legal, actuarial, or medical expenses
10 required by the RETIREMENT board, or any other necessary expense
11 for the operation of the retirement system, shall be provided for
12 by the municipality or shall be paid from the investment income
13 of the retirement system, as determined by the governing body of
14 the municipality. The retirement board shall submit expenses
15 periodically to the governing body of the municipality. If use
16 of investment income to pay these expenses causes an actuarial
17 insufficiency in the assets of the retirement system used to pay
18 pensions, the insufficiency shall be made up by the
19 municipality.

20 (5) All pensions allowed and payable to retired members and
21 beneficiaries under this act shall become obligations of and be
22 payable from the funds of the retirement system.

23 (6) The right of ~~any~~ A person to a pension, to the return
24 of MEMBER contributions, to any optional benefits, or any other
25 right accrued or accruing to ~~any~~ A member or beneficiary under
26 this act and the money belonging to the retirement system ~~shall~~
27 ~~be~~ IS unassignable and ~~shall not be~~ IS NOT subject to

1 execution, garnishment, attachment, the operation of bankruptcy
2 or insolvency law, or any other process of law, except as is spe-
3 cifically provided in this act.

4 (7) The right of a member, deferred vested member who meets
5 the requirements of section 6(1)(d), or retired member to a pen-
6 sion, to the return of MEMBER contributions, to any optional ben-
7 efit, or any other benefit under ~~the provisions of~~ this act
8 ~~shall be~~ IS subject to award by a court pursuant to section 18
9 of chapter 84 of the Revised Statutes of 1846, being section
10 552.18 of the Michigan Compiled Laws, and to any other order of a
11 court pertaining to ALIMONY OR child support. THE RIGHT OF A
12 MEMBER, DEFERRED VESTED MEMBER UNDER SECTION 6(1)(D), OR RETIRED
13 MEMBER TO A PENSION, TO THE RETURN OF MEMBER CONTRIBUTIONS, TO
14 ANY OPTIONAL BENEFITS, OR TO ANY OTHER BENEFIT UNDER THIS ACT IS
15 SUBJECT TO AN ELIGIBLE DOMESTIC RELATIONS ORDER UNDER SECTION 9A.

16 (8) If an award or order described in subsection (7)
17 requires the retirement system to withhold payment of a pension,
18 deferred pension, accumulated contributions, or other benefit
19 from the person to whom it is due or requires the retirement
20 system to make payment or requires the person to request that the
21 retirement system make payment of a pension, deferred pension,
22 accumulated contributions, or other benefit, for the purpose of
23 meeting the person's obligations to a spouse, former spouse, or
24 child, as provided in subsection (7), the withholding or payment
25 provisions of the award or order ~~shall be~~ IS effective only
26 against such amounts as they become payable to the person
27 receiving a retirement allowance UNLESS OTHERWISE PROVIDED IN AN

1 ELIGIBLE DOMESTIC RELATIONS ORDER UNDER SECTION 9A. The
2 limitation contained in this subsection ~~shall~~ DOES not apply to
3 the accumulated contributions of a person who ~~has terminated~~
4 TERMINATES employment ~~prior to~~ BEFORE acquiring a vested member
5 status.

6 SEC. 9A. (1) AS USED IN THIS SECTION:

7 (A) "ALTERNATE PAYEE" MEANS A SPOUSE OF A PARTICIPANT UNDER
8 A JUDGMENT OF SEPARATE MAINTENANCE, OR A FORMER SPOUSE, CHILD, OR
9 DEPENDENT OF A PARTICIPANT, WHO IS NAMED IN AN ELIGIBLE DOMESTIC
10 RELATIONS ORDER.

11 (B) "BENEFIT" MEANS A PENSION, A RETIREMENT ALLOWANCE, OR AN
12 OPTIONAL BENEFIT ACCRUED OR ACCRUING TO A PARTICIPANT UNDER THIS
13 ACT OR A POSTRETIREMENT ADJUSTMENT PAYABLE TO A PARTICIPANT UNDER
14 THIS ACT.

15 (C) "DOMESTIC RELATIONS ORDER" MEANS A JUDGMENT, DECREE, OR
16 ORDER OF A COURT MADE PURSUANT TO THE DOMESTIC RELATIONS LAW OF
17 THIS STATE AND RELATING TO THE PROVISION OF ALIMONY PAYMENTS,
18 CHILD SUPPORT, OR MARITAL PROPERTY RIGHTS TO A SPOUSE OF A PAR-
19 TICIPANT UNDER A JUDGMENT OF SEPARATE MAINTENANCE, OR A FORMER
20 SPOUSE, CHILD, OR DEPENDENT OF A PARTICIPANT.

21 (D) "EARLIEST RETIREMENT DATE" MEANS THE EARLIEST DATE ON
22 WHICH A PARTICIPANT MEETS ALL OF THE REQUIREMENTS FOR RETIREMENT
23 UNDER THIS ACT EXCEPT FOR TERMINATION OF EMPLOYMENT.

24 (E) "ELIGIBLE DOMESTIC RELATIONS ORDER" OR "EDRO" MEANS A
25 DOMESTIC RELATIONS ORDER THAT IS CONSIDERED AN ELIGIBLE DOMESTIC
26 RELATIONS ORDER UNDER SUBSECTION (10) OR THAT MEETS ALL OF THE
27 FOLLOWING REQUIREMENTS:

1 (i) THE DOMESTIC RELATIONS ORDER STATES THE NAME, LAST KNOWN
2 ADDRESS, AND SOCIAL SECURITY NUMBER OF THE PARTICIPANT.

3 (ii) THE DOMESTIC RELATIONS ORDER STATES THE NAME, LAST
4 KNOWN ADDRESS, AND SOCIAL SECURITY NUMBER OF THE ALTERNATE
5 PAYEE.

6 (iii) THE DOMESTIC RELATIONS ORDER STATES THE AMOUNT OR PER-
7 CENTAGE OF THE BENEFIT TO BE PAID TO AN ALTERNATE PAYEE, OR THE
8 MANNER UNDER WHICH THE RETIREMENT SYSTEM IS TO DETERMINE THE
9 AMOUNT OR PERCENTAGE OF THE BENEFIT TO BE PAID TO AN ALTERNATE
10 PAYEE.

11 (iv) THE DOMESTIC RELATIONS ORDER STATES THAT IT APPLIES TO
12 THE MUNICIPALITY'S FIRE FIGHTERS AND POLICE OFFICERS RETIREMENT
13 SYSTEM AND THAT THE RETIREMENT SYSTEM SHALL MAKE PAYMENTS TO THE
14 ALTERNATE PAYEE AS REQUIRED UNDER THE ELIGIBLE DOMESTIC RELATIONS
15 ORDER AND THIS SECTION.

16 (v) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE
17 RETIREMENT SYSTEM TO PROVIDE A TYPE OR FORM OF BENEFIT NOT PRO-
18 VIDED BY THIS ACT OR A FORM OF PAYMENT NOT PROVIDED BY THIS
19 SECTION.

20 (vi) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE
21 RETIREMENT SYSTEM TO PROVIDE AN INCREASED BENEFIT DETERMINED ON
22 THE BASIS OF ACTUARIAL VALUE.

23 (vii) THE DOMESTIC RELATIONS ORDER DOES NOT REQUIRE THE PAY-
24 MENT OF A BENEFIT TO AN ALTERNATE PAYEE THAT IS REQUIRED TO BE
25 PAID TO ANOTHER ALTERNATE PAYEE UNDER A PREVIOUSLY FILED ELIGIBLE
26 DOMESTIC RELATIONS ORDER.

1 (viii) THE DOMESTIC RELATIONS ORDER IS FILED BEFORE THE
2 PARTICIPANT'S RETIREMENT ALLOWANCE EFFECTIVE DATE.

3 (F) "PARTICIPANT" MEANS A MEMBER, DEFERRED MEMBER, DECEASED
4 FORMER MEMBER, OR RETIRANT UNDER THIS ACT.

5 (G) "POSTRETIREMENT ADJUSTMENT " MEANS A POSTRETIREMENT
6 ADJUSTMENT ADOPTED PURSUANT TO SECTION 6D.

7 (2) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN ALTER-
8 NATE PAYEE IS ENTITLED TO AN ACTUAL INTEREST IN A SHARE OF A BEN-
9 EFIT THAT IS OR WILL BECOME PAYABLE TO A PARTICIPANT UNDER THIS
10 ACT, IF SO PROVIDED IN AN EDRO FILED WITH THE RETIREMENT SYSTEM.
11 THE RETIREMENT SYSTEM SHALL ADMINISTER THE PAYMENT OF A BENEFIT
12 UNDER THIS ACT PURSUANT TO THE EDRO AND THIS SECTION.

13 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PAY-
14 MENT OF A BENEFIT TO AN ALTERNATE PAYEE UNDER AN EDRO AND THIS
15 SECTION SHALL BEGIN ON THE RETIREMENT ALLOWANCE EFFECTIVE DATE OF
16 THE PARTICIPANT. THE PAYMENT OF A BENEFIT UNDER AN EDRO AND THIS
17 SECTION SHALL BE PAID IN 1 OF THE FOLLOWING FORMS:

18 (A) A SINGLE LIFE ANNUITY THAT IS EQUAL TO THE ACTUARIAL
19 EQUIVALENT OF THE ALTERNATE PAYEE'S SHARE OF THE BENEFIT PAYABLE
20 THROUGHOUT THE LIFE OF THE ALTERNATE PAYEE.

21 (B) A REDUCED BENEFIT THAT IS EQUAL TO THE ACTUARIAL EQUIVA-
22 LENT OF THE TOTAL BENEFIT BEING DIVIDED UNDER THE EDRO PAYABLE
23 THROUGHOUT THE LIVES OF THE PARTICIPANT AND THE ALTERNATE PAYEE.
24 THE REDUCED BENEFIT SHALL BE PAYABLE IN THE MANNER PROVIDED UNDER
25 OPTION I OR II UNDER SECTION 6(1)(H). THE EDRO SHALL SPECIFY THE
26 PERCENTAGE OR AMOUNT OF THE REDUCED BENEFIT THAT IS PAYABLE UNDER
27 THIS SUBDIVISION TO THE PARTICIPANT AND TO THE ALTERNATE PAYEE

1 WHILE BOTH ARE ALIVE. IF THE PARTICIPANT PREDECEASES THE
2 ALTERNATE PAYEE WHILE A REDUCED BENEFIT IS BEING PAID TO THE PAR-
3 TICIPANT AND THE ALTERNATE PAYEE UNDER THIS SUBDIVISION, THE SUR-
4 VIVOR PORTION OF THE REDUCED BENEFIT SHALL BE PAYABLE TO THE
5 ALTERNATE PAYEE. IF THE ALTERNATE PAYEE PREDECEASES THE PARTICI-
6 PANT WHILE A REDUCED BENEFIT IS BEING PAID TO THE PARTICIPANT AND
7 THE ALTERNATE PAYEE UNDER THIS SUBDIVISION, THE ALTERNATE PAYEE'S
8 PERCENTAGE OR AMOUNT OF THE REDUCED BENEFIT SHALL REVERT TO AND
9 BECOME PAYABLE TO THE PARTICIPANT.

10 (C) A SINGLE LIFE ANNUITY THAT IS EQUAL TO THE ALTERNATE
11 PAYEE'S SHARE OF THE BENEFIT PAYABLE THROUGHOUT THE LIFE OF THE
12 PARTICIPANT.

13 (4) AN EDRO MAY PROVIDE FOR THE PAYMENT OF A BENEFIT TO AN
14 ALTERNATE PAYEE BEGINNING ON OR AFTER THE PARTICIPANT'S EARLIEST
15 RETIREMENT DATE BUT BEFORE THE PARTICIPANT TERMINATES EMPLOYMENT
16 AS PROVIDED IN THIS SUBSECTION. AN ALTERNATE PAYEE SHALL BEGIN
17 TO RECEIVE THE PAYMENT OF A BENEFIT UNDER THIS SUBSECTION EFFEC-
18 TIVE THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MONTH
19 IN WHICH THE ALTERNATE PAYEE NOTIFIES THE RETIREMENT SYSTEM OF
20 HIS OR HER ELECTION TO BEGIN TO RECEIVE PAYMENT OF HIS OR HER
21 INTEREST IN THE BENEFIT OF A PARTICIPANT. IF AN ALTERNATE PAYEE
22 ELECTS TO RECEIVE HIS OR HER INTEREST IN THE BENEFIT OF A PARTIC-
23 IPANT AFTER THE PARTICIPANT'S EARLIEST RETIREMENT DATE BUT BEFORE
24 THE PARTICIPANT'S TERMINATION OF EMPLOYMENT, THE ALTERNATE PAYEE
25 IS ONLY ENTITLED TO THE ACTUARIAL EQUIVALENT OF THE ALTERNATE
26 PAYEE'S SHARE OF THE PARTICIPANT'S BENEFIT THAT WOULD BE PAYABLE
27 WHEN THE PARTICIPANT REACHES 60 YEARS OF AGE. IF THE PARTICIPANT

1 RETIRES BEFORE 60 YEARS OF AGE, THE RETIREMENT SYSTEM SHALL
2 RECALCULATE THE BENEFIT PAYABLE TO THE ALTERNATE PAYEE SO THAT
3 THE RECALCULATED BENEFIT PAYABLE TO THE ALTERNATE PAYEE PLUS THE
4 BENEFIT PREVIOUSLY PAID TO THE ALTERNATE PAYEE ARE THE ACTUARIAL
5 EQUIVALENT OF THE ALTERNATE PAYEE'S SHARE OF THE BENEFIT PAYABLE
6 TO THE PARTICIPANT. IF THE RECALCULATED BENEFIT IS MORE THAN THE
7 BENEFIT THE ALTERNATE PAYEE IS RECEIVING, THE RETIREMENT SYSTEM
8 SHALL BEGIN PAYING THE RECALCULATED BENEFIT TO THE ALTERNATE
9 PAYEE EFFECTIVE THE FIRST DAY OF THE MONTH IMMEDIATELY FOLLOWING
10 THE MONTH IN WHICH THE PARTICIPANT RETIRES.

11 (5) AN EDRO MAY PROVIDE THAT A SPOUSE UNDER A JUDGMENT OF
12 SEPARATE MAINTENANCE OR A FORMER SPOUSE IS CONSIDERED THE SPOUSE
13 OF A PARTICIPANT FOR THE PURPOSE OF RECEIVING A BENEFIT AS A SUR-
14 VIVING SPOUSE UNDER SECTION 6. THE BENEFIT PAYABLE TO A SPOUSE
15 UNDER A JUDGMENT OF SEPARATE MAINTENANCE OR A FORMER SPOUSE AS A
16 SURVIVING SPOUSE UNDER THIS SUBSECTION SHALL BE COMPUTED AS PRO-
17 VIDED IN THE EDRO AND SECTION 6. IF THE AMOUNT OR PERCENTAGE OF
18 THE BENEFIT TO BE PAID TO A SPOUSE UNDER A JUDGMENT OF SEPARATE
19 MAINTENANCE OR A FORMER SPOUSE AS THE SURVIVING SPOUSE OF THE
20 PARTICIPANT UNDER THIS SUBSECTION IS LESS THAN THE ENTIRE AMOUNT
21 PAYABLE UNDER SECTION 6, THE SURVIVING SPOUSE OR OTHER BENEFI-
22 CIARY OF THE PARTICIPANT, AS DETERMINED UNDER SECTION 6, SHALL BE
23 ENTITLED TO RECEIVE THE PORTION OF THE BENEFIT NOT PAYABLE TO A
24 SPOUSE UNDER A JUDGMENT OF SEPARATE MAINTENANCE OR A FORMER
25 SPOUSE UNDER THIS SUBSECTION.

26 (6) IF AN ALTERNATE PAYEE UNDER THIS SECTION DIES BEFORE
27 RECEIVING ANY PAYMENT OF HIS OR HER INTEREST IN A BENEFIT

1 PURSUANT TO THIS SECTION AND AN EDRO, THAT INTEREST REVERTS TO
2 THE PARTICIPANT.

3 (7) THE CREATION, ASSIGNMENT, OR RECOGNITION OF A RIGHT OF
4 AN ALTERNATE PAYEE TO AN ACTUAL INTEREST IN A SHARE OF A BENEFIT
5 THAT IS OR WILL BECOME PAYABLE TO A PARTICIPANT PURSUANT TO AN
6 EDRO UNDER THIS SECTION IS NOT A PROHIBITED ASSIGNMENT UNDER SEC-
7 TION 9.

8 (8) THE RETIREMENT SYSTEM SHALL ESTABLISH A REASONABLE PRO-
9 CEDURE TO DETERMINE IF A DOMESTIC RELATIONS ORDER IS AN EDRO
10 UNDER THIS SECTION. THE RETIREMENT SYSTEM SHALL PROMPTLY NOTIFY
11 THE PARTICIPANT AND ALTERNATE PAYEE NAMED IN A DOMESTIC RELATIONS
12 ORDER THAT THE RETIREMENT SYSTEM HAS RECEIVED THE DOMESTIC RELA-
13 TIONS ORDER. THE NOTICE SHALL INCLUDE A DESCRIPTION OF THE PRO-
14 CEDURE BY WHICH THE RETIREMENT SYSTEM DETERMINES IF THE DOMESTIC
15 RELATIONS ORDER IS AN EDRO UNDER THIS SECTION.

16 (9) THE RETIREMENT SYSTEM SHALL, WITHIN A REASONABLE PERIOD
17 OF TIME AFTER RECEIVING A DOMESTIC RELATIONS ORDER, DETERMINE IF
18 THE DOMESTIC RELATIONS ORDER IS AN EDRO UNDER THIS SECTION. IF
19 THE RETIREMENT SYSTEM DETERMINES THAT THE DOMESTIC RELATIONS
20 ORDER IS AN EDRO UNDER THIS SECTION, THE RETIREMENT SYSTEM SHALL
21 PROMPTLY NOTIFY THE PARTICIPANT AND ALTERNATE PAYEE NAMED IN THE
22 EDRO THAT THE DOMESTIC RELATIONS ORDER IS AN EDRO. THE RETIRE-
23 MENT SYSTEM SHALL BEGIN THE PAYMENT OF A BENEFIT UNDER THIS SEC-
24 TION PURSUANT TO THE EDRO AND THIS SECTION ON THE FIRST DAY OF
25 THE MONTH FOLLOWING THE MONTH IN WHICH THE DOMESTIC RELATIONS
26 ORDER WAS DETERMINED TO BE AN EDRO OR THE FIRST DAY OF THE MONTH
27 FOLLOWING THE MONTH IN WHICH A BENEFIT IS PAYABLE UNDER THE EDRO

1 AND THIS SECTION, WHICHEVER IS LATER. IF THE RETIREMENT SYSTEM
2 DETERMINES THAT THE DOMESTIC RELATIONS ORDER IS NOT AN EDRO UNDER
3 THIS SECTION, THE RETIREMENT SYSTEM SHALL PROMPTLY NOTIFY THE
4 PARTICIPANT AND ALTERNATE PAYEE NAMED IN THE DOMESTIC RELATIONS
5 ORDER THAT THE DOMESTIC RELATIONS ORDER IS NOT AN EDRO. THE
6 RETIREMENT SYSTEM SHALL SPECIFY IN THE NOTICE WHY THE RETIREMENT
7 SYSTEM DETERMINED THAT THE DOMESTIC RELATIONS ORDER IS NOT AN
8 EDRO UNDER THIS SECTION. A DETERMINATION BY THE RETIREMENT
9 SYSTEM THAT A DOMESTIC RELATIONS ORDER IS NOT AN EDRO UNDER THIS
10 SECTION DOES NOT PROHIBIT A PARTICIPANT, ALTERNATE PAYEE, OR
11 COURT FROM FILING AN AMENDED DOMESTIC RELATIONS ORDER WITH THE
12 RETIREMENT SYSTEM UNDER THIS SECTION.

13 (10) A DOMESTIC RELATIONS ORDER FILED WITH THE RETIREMENT
14 SYSTEM BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
15 THIS SECTION SHALL BE CONSIDERED AN EDRO UNDER THIS SECTION IF
16 THE RETIREMENT SYSTEM IS MAKING PAYMENTS UNDER THE DOMESTIC RELA-
17 TIONS ORDER ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
18 ADDED THIS SECTION OR TO THE EXTENT A DOMESTIC RELATIONS ORDER IS
19 CONSISTENT WITH THE PROVISIONS OF THIS SECTION. THIS SUBSECTION
20 DOES NOT PROHIBIT A PARTICIPANT, ALTERNATE PAYEE, OR COURT FROM
21 FILING AN AMENDED DOMESTIC RELATIONS ORDER UNDER THIS SECTION.