

HOUSE BILL No. 4781

May 2, 1991, Introduced by Reps. Barns, DeMars and Murphy and referred to the Committee on Senior Citizens and Retirement.

A bill to amend sections 21, 22, 23, 24, 25, 27, 33, and 34 of Act No. 240 of the Public Acts of 1943, entitled as amended "State employees' retirement act," section 22 as amended by Act No. 57 of the Public Acts of 1987, sections 23 and 27 as amended by Act No. 241 of the Public Acts of 1987, and section 25 as amended by Act No. 1 of the Public Acts of 1986, being sections 38.21, 38.22, 38.23, 38.24, 38.25, 38.27, 38.33, and 38.34 of the Michigan Compiled Laws; and to add section 35.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 21, 22, 23, 24, 25, 27, 33, and 34 of
2 Act No. 240 of the Public Acts of 1943, section 22 as amended by
3 Act No. 57 of the Public Acts of 1987, sections 23 and 27 as
4 amended by Act No. 241 of the Public Acts of 1987, and section 25
5 as amended by Act No. 1 of the Public Acts of 1986, being

1 sections 38.21, 38.22, 38.23, 38.24, 38.25, 38.27, 38.33, and
2 38.34 of the Michigan Compiled Laws, are amended and section 35
3 is added to read as follows:

4 Sec. 21. (1) ~~Subject to the provisions of sections 33 and~~
5 ~~34, upon the application of a member, or his department head, or~~
6 ~~the state personnel director, a member who becomes totally inca-~~
7 ~~pacitated for duty in the service of the state of Michigan with-~~
8 ~~out willful negligence on his part, by reason of a personal~~
9 ~~injury or disease, which the retirement board finds to have~~
10 ~~occurred as the natural and proximate result of the said member's~~
11 ~~actual performance of duty in the service of the state, shall be~~
12 ~~retired: Provided, The medical advisor after a medical examina-~~
13 ~~tion of said member shall certify in writing that said member is~~
14 ~~mentally or physically totally incapacitated for the further per-~~
15 ~~formance of duty in the service of the state, and that such inca-~~
16 ~~capacity will probably be permanent, and that said member should be~~
17 ~~retired: And provided further, That the retirement board concurs~~
18 ~~in the recommendation of the medical advisor.~~ A MEMBER WHO
19 BECOMES TOTALLY INCAPACITATED FOR THE STATE EMPLOYMENT THAT THE
20 MEMBER WAS PERFORMING IMMEDIATELY BEFORE TERMINATING THAT EMPLOY-
21 MENT BECAUSE OF THE INCAPACITY, OR FOR THE STATE EMPLOYMENT FOR
22 WHICH THE MEMBER IS QUALIFIED BY REASON OF TRAINING OR EXPERIENCE
23 OR BOTH, IS ENTITLED TO RECEIVE A DISABILITY RETIREMENT ALLOWANCE
24 CALCULATED UNDER SECTION 22 OR 23, WHICHEVER APPLIES, IF THE
25 RETIREMENT BOARD DETERMINES THAT ALL OF THE FOLLOWING REQUIRE-
26 MENTS ARE MET:

1 (A) THE MEMBER DOES NOT MEET THE AGE AND SERVICE
2 REQUIREMENTS UNDER SECTION 19(1) OR IS NOT QUALIFIED FOR AN
3 UNREDUCED RETIREMENT ALLOWANCE UNDER SECTION 19(2).

4 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A PER-
5 SONAL INJURY OR DISEASE.

6 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
7 LIKELY TO BE PERMANENT.

8 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
9 ITY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

10 (i) THE PERSONAL INJURY OR DISEASE OCCURRED AS THE NATURAL
11 AND PROXIMATE RESULT OF THE MEMBER'S ACTUAL PERFORMANCE OF DUTY
12 IN THE SERVICE OF THE STATE.

13 (ii) THE PERSONAL INJURY OR DISEASE DID NOT OCCUR AS A
14 RESULT OF THE WILLFUL NEGLIGENCE OF THE MEMBER.

15 (E) NOT LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S
16 STATE EMPLOYMENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE
17 MEMBER'S PERSONAL REPRESENTATIVE OR GUARDIAN, THE MEMBER'S
18 DEPARTMENT HEAD, OR THE STATE PERSONNEL DIRECTOR FILED AN APPLI-
19 CATION FOR A DISABILITY RETIREMENT ALLOWANCE FOR THAT MEMBER WITH
20 THE RETIREMENT BOARD.

21 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
22 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-
23 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE
24 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD
25 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER
26 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
27 EVALUATION.

1 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
2 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
3 SECTION 31(1).

4 Sec. 22. Upon retirement for disability ~~—~~ as provided in
5 section 21, a member who ~~has attained age~~ IS 60 YEARS OF AGE OR
6 OLDER shall receive a service retirement allowance ~~as provided~~
7 ~~for in~~ CALCULATED UNDER section 20. ~~Notwithstanding that he or~~
8 ~~she may~~ HOWEVER, IF THE MEMBER DOES not have 10 years of cred-
9 ited service, he or she shall be credited with ~~10 years~~ THE
10 AMOUNT of service NECESSARY TO REACH 10 YEARS OF CREDITED
11 SERVICE.

12 Sec. 23. ~~Upon retirement for disability, as provided for~~
13 ~~in section 21, a member who has not attained age 60 years shall~~
14 ~~receive the following benefits, subject to the provisions of sec-~~
15 ~~tions 33 and 34.~~

16 ~~(a) A disability retirement allowance of 2/3 of the~~
17 ~~retirant's final average compensation, the retirement allowance~~
18 ~~to begin as of date of the retirant's disability, but not more~~
19 ~~than 6 months before the date the retirant's application for dis-~~
20 ~~ability retirement was filed with the retirement board, and not~~
21 ~~before the date the retirant's name last appeared on a state pay-~~
22 ~~roll with pay, whichever is later, and to continue to the attain-~~
23 ~~ment of age 60 years or recovery or death, whichever event shall~~
24 ~~first occur. The disability retirement allowance payable to a~~
25 ~~disability retirant shall not exceed \$6,000.00 per annum, nor be~~
26 ~~more than an amount which when added to the statutory worker's~~
27 ~~compensation benefits applicable in the retirant's case shall~~

~~1 exceed the retirant's final compensation. The increase in the
2 maximum amount payable under this subdivision as provided by this
3 1987 amendatory act shall be payable to retirants on the pension
4 payroll as of July 1, 1987.~~

~~5 (b) Upon attaining age 60 years or July 1, 1987, whichever
6 is later, the disability retirant shall receive a retirement
7 allowance computed according to section 20. In computing the
8 retirant's retirement allowance, the retirant shall be given mem-
9 bership service credit for the period during which the retirant
10 was receiving the disability retirement allowance provided for in
11 subdivision (a). If the computation results in a retirement
12 allowance less than the disability retirement allowance provided
13 in subdivision (a), the retirant shall receive a retirement
14 allowance equal to the disability retirement allowance. Upon
15 attaining age 60 years or July 1, 1987, whichever is later, the
16 retirant may elect an option provided for in section 31(1).~~

~~17 (c) During the period a disability retirant is receiving a
18 disability retirement allowance, as provided for in subdivision
19 (a), the retirant's contributions to the employees' savings fund
20 shall be suspended and the balance in the fund, standing to the
21 retirant's credit as of the date the disability retirement allow-
22 ance begins, shall remain in the savings fund and shall be accu-
23 mulated at regular interest. Upon attaining age 60 years or
24 July 1, 1987, whichever is later, the retirant's accumulated con-
25 tributions shall be transferred from the employees' savings fund
26 to the pension reserve fund. If the disability retirant should
27 die before attaining age 60 years, the accumulated contributions~~

~~1 standing to the retirant's credit in the employees' savings fund~~
~~2 shall be paid to the person or persons the retirant nominated by~~
~~3 written designation duly executed and filed with the retirement~~
~~4 board, or if there is not a designated person or persons surviv-~~
~~5 ing, then to the retirant's legal representative.~~

6 (1) A DISABILITY RETIRANT IN RECEIPT OF A DISABILITY RETIRE-
7 MENT ALLOWANCE UNDER THIS SECTION ON THE EFFECTIVE DATE OF THE
8 AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL HAVE HIS OR HER
9 DISABILITY RETIREMENT ALLOWANCE RECALCULATED UNDER
10 SECTION 20(1). THE RECALCULATED RETIREMENT ALLOWANCE UNDER THIS
11 SUBSECTION IS SUBJECT TO THE OTHER PROVISIONS OF THIS SECTION.
12 THE CONTRIBUTIONS AND ACCUMULATED INTEREST STANDING TO A DISABIL-
13 ITY RETIRANT'S CREDIT IN THE EMPLOYEES' SAVINGS FUND SHALL BE
14 TRANSFERRED TO THE PENSION RESERVE FUND ON THE DATE OF THE RECAL-
15 CULATION OF A DISABILITY RETIREMENT ALLOWANCE UNDER THIS
16 SUBSECTION.

17 (2) UPON RETIREMENT FOR DISABILITY AS PROVIDED IN SECTION
18 21, A MEMBER WHO IS LESS THAN 60 YEARS OLD SHALL RECEIVE A DIS-
19 ABILITY RETIREMENT ALLOWANCE CALCULATED UNDER SECTION 20(1). FOR
20 THE PURPOSE OF CALCULATING OR RECALCULATING A DISABILITY RETIRE-
21 MENT ALLOWANCE UNDER THIS SECTION, A DISABILITY RETIRANT SHALL BE
22 GIVEN MEMBERSHIP SERVICE CREDIT FOR THE PERIOD BEGINNING ON THE
23 EFFECTIVE DATE OF THE DISABILITY RETIREMENT ALLOWANCE AND ENDING
24 ON THE DATE OF THE DISABILITY RETIRANT'S SIXTIETH BIRTHDAY.

25 (3) A RECALCULATED DISABILITY RETIREMENT ALLOWANCE UNDER
26 SUBSECTION (1) IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH
27 FOLLOWING THE DATE OF THE RECALCULATION AND IS NOT PAYABLE FOR

1 ANY MONTH BEFORE THE DATE OF THE RECALCULATION. A DISABILITY
2 RETIREMENT ALLOWANCE PAYABLE UNDER SUBSECTION (2) IS PAYABLE
3 BEGINNING ON THE FIRST DAY OF THE MONTH FOLLOWING THE DATE THE
4 MEMBER BECAME TOTALLY INCAPACITATED FOR STATE EMPLOYMENT.
5 HOWEVER, A DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER
6 SUBSECTION (2) SHALL NOT BE PAID BEFORE THE FIRST DAY OF THE
7 MONTH FOLLOWING THE LATER OF THE FOLLOWING:

8 (A) SIX MONTHS BEFORE THE DATE THE APPLICATION FOR A DIS-
9 ABILITY RETIREMENT ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD
10 UNDER SECTION 21.

11 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
12 THE STATE PAYROLL WITH PAY.

13 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
14 DISABILITY RETIRANT ELECTS TO RECEIVE A REGULAR DISABILITY
15 RETIREMENT ALLOWANCE UNDER SECTION 31, THE DISABILITY RETIREMENT
16 ALLOWANCE PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION
17 SHALL NOT BE LESS THAN \$6,000.00 PER YEAR. EXCEPT AS OTHERWISE
18 PROVIDED IN THIS SUBSECTION, IF A DISABILITY RETIRANT ELECTS TO
19 RECEIVE A REDUCED DISABILITY RETIREMENT ALLOWANCE UNDER OPTION A
20 OR B UNDER SECTION 31, THE DISABILITY RETIREMENT ALLOWANCE PAY-
21 ABLE TO A DISABILITY RETIRANT UNDER THIS SECTION SHALL NOT BE
22 LESS THAN THE ACTUARIAL EQUIVALENT AT THE TIME OF THE ELECTION OF
23 \$6,000.00 PER YEAR. A DISABILITY RETIREMENT ALLOWANCE FIRST PAY-
24 ABLE TO A DISABILITY RETIRANT UNDER THIS SECTION, EXCEPT A RECAL-
25 CULATED DISABILITY RETIREMENT ALLOWANCE UNDER SUBSECTION (1),
26 SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN ADDED TO THE STATUTORY
27 WORKER'S DISABILITY COMPENSATION BENEFITS PAYABLE TO THE

1 DISABILITY RETIRANT EXCEEDS THE DISABILITY RETIRANT'S FINAL
2 COMPENSATION.

3 (5) THE RECEIPT OF A DISABILITY RETIREMENT ALLOWANCE UNDER
4 THIS SECTION IS SUBJECT TO SECTIONS 33, 34, AND 35.

5 Sec. 24. (1) ~~Subject to the provisions of sections 33 and~~
6 ~~34, upon application of a member, or his department head, or the~~
7 ~~state personnel director, a member who has been a state employee~~
8 ~~at least 10 years becomes totally and permanently incapacitated~~
9 ~~for duty as the result of causes occurring not in the performance~~
10 ~~of duty to the state, may be retired by the retirement board:~~
11 ~~Provided, The medical advisor after a medical examination of such~~
12 ~~member, shall certify that such member is mentally or physically~~
13 ~~incapacitated for the further performance of duty, and such inca-~~
14 ~~capacity is likely to be permanent and that such member should be~~
15 ~~retired.~~ A MEMBER WHO BECOMES TOTALLY INCAPACITATED FOR THE
16 STATE EMPLOYMENT THAT THE MEMBER WAS PERFORMING IMMEDIATELY
17 BEFORE TERMINATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR
18 FOR THE STATE EMPLOYMENT FOR WHICH THE MEMBER IS QUALIFIED BY
19 REASON OF TRAINING OR EXPERIENCE OR BOTH, IS ENTITLED TO RECEIVE
20 A DISABILITY RETIREMENT ALLOWANCE CALCULATED PURSUANT TO
21 SECTION 25 IF THE RETIREMENT BOARD DETERMINES THAT ALL OF THE
22 FOLLOWING REQUIREMENTS ARE MET:

23 (A) THE MEMBER HAS NOT MET THE AGE REQUIREMENT UNDER
24 SECTION 19(1) OR QUALIFIED FOR AN UNREDUCED RETIREMENT ALLOWANCE
25 UNDER SECTION 19(2), BUT HAS ACCRUED AT LEAST 10 YEARS OF CRED-
26 ITED SERVICE.

1 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A
2 PERSONAL INJURY OR DISEASE.

3 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
4 LIKELY TO BE PERMANENT.

5 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
6 ITY DID NOT OCCUR IN THE PERFORMANCE OF DUTY IN THE SERVICE OF
7 THE STATE.

8 (E) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
9 ITY WAS NOT THE RESULT OF THE WILLFUL NEGLIGENCE OF THE MEMBER.

10 (F) NOT LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S
11 STATE EMPLOYMENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE
12 MEMBER'S PERSONAL REPRESENTATIVE OR GUARDIAN, THE MEMBER'S
13 DEPARTMENT HEAD, OR THE STATE PERSONNEL DIRECTOR FILED AN APPLI-
14 CATION FOR A DISABILITY RETIREMENT ALLOWANCE FOR THAT MEMBER WITH
15 THE RETIREMENT BOARD.

16 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
17 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-
18 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE
19 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD
20 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER
21 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
22 EVALUATION.

23 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
24 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
25 SECTION 31(1).

1 Sec. 25. (1) Upon retirement for disability ~~—~~ as provided
 2 in section 24, a member shall receive a retirement allowance
 3 ~~computed in accordance with~~ CALCULATED UNDER section 20(1).

4 (2) THE DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER
 5 SUBSECTION (1) IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH
 6 FOLLOWING THE LATER OF EITHER OF THE FOLLOWING:

7 (A) THE DATE THE APPLICATION FOR A DISABILITY RETIREMENT
 8 ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD UNDER SECTION 24.

9 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
 10 THE STATE PAYROLL WITH PAY.

11 (3) ~~The retirement allowance or pension provided shall not~~
 12 ~~be less than \$600.00 per annum. Upon retirement, the member may~~
 13 ~~elect an option provided for in section 31(1).~~ THE RECEIPT OF A
 14 DISABILITY RETIREMENT ALLOWANCE UNDER THIS SECTION IS SUBJECT TO
 15 SECTIONS 33, 34, AND 35.

16 Sec. 27. (1) ~~if~~ A SURVIVOR IN RECEIPT OF A RETIREMENT
 17 ALLOWANCE UNDER THIS SECTION ON THE EFFECTIVE DATE OF THE AMENDA-
 18 TORY ACT THAT ADDED THIS SUBSECTION SHALL HAVE HIS OR HER RETIRE-
 19 MENT ALLOWANCE RECALCULATED UNDER SUBSECTIONS (2) AND (3) EFFEC-
 20 TIVE THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE DATE OF
 21 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THE RECALCULATED
 22 RETIREMENT ALLOWANCE UNDER THIS SUBSECTION IS SUBJECT TO THE
 23 OTHER PROVISIONS OF THIS SECTION.

24 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (4), (5), AND (6), IF
 25 a member dies as a result of a personal injury or disease arising
 26 out of and in the course of his or her employment with the state
 27 ~~—, or a disability retirant who retired under section 21 dies~~

1 ~~prior to becoming age 60 and within 3 years after the member's~~
2 ~~disability retirement from the same causes for which he or she~~
3 ~~was retired, and such death or illness or injuries~~ AND THE PER-
4 SONAL INJURY OR DISEASE resulting in death ~~are~~ IS found by the
5 retirement board to have been the sole and exclusive result of
6 employment with the state, the ~~applicable benefits provided in~~
7 ~~subsections (2), (3), (4), and (5) shall be paid, subject to sub-~~
8 ~~section (6).~~

9 ~~(2) The accumulated contributions standing to the member's~~
10 ~~account in the employees' savings fund shall be paid to such~~
11 ~~person or persons as the member has nominated by written designa-~~
12 ~~tion duly executed and filed with the retirement board, or if~~
13 ~~there are no such designated person or persons surviving, then to~~
14 ~~the member's legal representative.~~

15 ~~(3) A retirement allowance of 1/3 of the final compensation~~
16 ~~of the deceased person shall be paid to the surviving spouse to~~
17 ~~whom the deceased person was married at the time he or she last~~
18 ~~terminated employment with the state. If a child or children~~
19 ~~under the age of 18 years also survives the deceased person, each~~
20 ~~such child shall receive an allowance of an equal share of 1/4 of~~
21 ~~the deceased person's final compensation. Upon the marriage,~~
22 ~~death, or attainment of age 18 years of any such child, there~~
23 ~~shall be a redistribution by the retirement board to the deceased~~
24 ~~person's remaining children under age 18 years.~~

25 ~~(4) If there is no surviving spouse or if the surviving~~
26 ~~spouse dies before the youngest surviving child of the deceased~~
27 ~~person reaches the age of 18 years, then each such child under~~

~~1 age 18 shall each receive an allowance equal to 1/4 of the
2 deceased person's final compensation, but the total so paid in
3 any year to the children of a deceased person shall not exceed
4 1/2 of his or her final compensation. If there are more than 2
5 such surviving children under age 18 years, each such child shall
6 receive an allowance of an equal share of 1/2 of the deceased
7 person's final compensation. Upon the marriage, death, or
8 attainment of age 18 years of any such child, the child's allow-
9 ance shall terminate and there shall be a redistribution by the
10 retirement board to any remaining eligible children of the
11 deceased under age 18, but a child shall not receive an allowance
12 more than 1/4 of the deceased person's final compensation.~~

~~13 (5) If there is neither a spouse nor a child under age 18
14 years surviving the deceased person, then there shall be paid to
15 each parent of the deceased person whom the retirement board
16 after investigation determines to have been actually dependent
17 upon the deceased person through absence of earning power due to
18 disability, an allowance of 1/6 of the deceased person's final
19 compensation.~~

~~20 (6) The total of the retirement allowances payable under
21 subsections (3), (4), and (5) on account of the death of a member
22 or retirant shall not exceed \$2,400.00 per annum, nor an amount
23 which, when added to the statutory worker's compensation benefit
24 to which the dependents of the member or retirant are entitled,
25 exceeds his or her final compensation. SURVIVING SPOUSE SHALL
26 RECEIVE A RETIREMENT ALLOWANCE CALCULATED OR RECALCULATED AS IF
27 THE DECEASED MEMBER HAD RETIRED EFFECTIVE THE DAY BEFORE THE DATE~~

1 OF DEATH, ELECTED OPTION A UNDER SECTION 31(1), AND NOMINATED HIS
2 OR HER SPOUSE AS RETIREMENT ALLOWANCE BENEFICIARY. THE RETIRE-
3 MENT ALLOWANCE SHALL BE CALCULATED OR RECALCULATED BASED UPON THE
4 AMOUNT OF THE DECEASED MEMBER'S CREDITED SERVICE AND THE FOLLOW-
5 ING AMOUNT OF SERVICE:

6 (A) SERVICE CREDIT SHALL BE GRANTED FOR THE PERIOD BEGINNING
7 ON THE DATE OF DEATH AND ENDING ON THE DATE THE DECEASED MEMBER
8 WOULD HAVE BECOME 60 YEARS OF AGE.

9 (B) IF AFTER APPLICATION OF SUBDIVISION (A), THE DECEASED
10 MEMBER DOES NOT HAVE 10 YEARS OF CREDITED SERVICE, THE AMOUNT OF
11 SERVICE NECESSARY TO REACH 10 YEARS OF CREDITED SERVICE SHALL BE
12 GRANTED.

13 (3) THE RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE
14 UNDER THIS SECTION SHALL NOT BE LESS THAN \$6,000.00 PER YEAR.
15 THE FIRST RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE
16 UNDER SUBSECTION (2) SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN
17 ADDED TO THE STATUTORY WORKER'S DISABILITY COMPENSATION BENEFITS
18 PAYABLE TO THE SURVIVING SPOUSE OF THE DECEASED MEMBER EQUALS THE
19 DECEASED MEMBER'S FINAL COMPENSATION.

20 (4) IF THE REQUIREMENTS OF SUBSECTION (2) ARE MET BUT THE
21 DECEASED MEMBER IS SURVIVED BY A SPOUSE AND A CHILD OR CHILDREN
22 UNDER 18 YEARS OF AGE, THEN THE RETIREMENT ALLOWANCE CALCULATED
23 UNDER SUBSECTIONS (2) AND (3) SHALL BE PAYABLE AS FOLLOWS:

24 (A) ONE HALF TO THE SURVIVING SPOUSE.

25 (B) ONE HALF TO THE SURVIVING CHILD OR CHILDREN UNDER 18
26 YEARS OF AGE, IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE
27 TO A SURVIVING CHILD UNDER THIS SUBSECTION SHALL TERMINATE UPON

1 THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18 YEARS OF AGE,
2 WHICHEVER OCCURS FIRST. THAT CHILD'S SHARE OF THE TERMINATED
3 RETIREMENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE REMAINING
4 CHILDREN UNDER 18 YEARS OF AGE, IF ANY. WHEN THERE ARE NO SUR-
5 VIVING CHILDREN ENTITLED TO A SHARE OF THE RETIREMENT ALLOWANCE
6 UNDER THIS SUBSECTION, THE CHILDREN'S SHARE SHALL REVERT TO THE
7 SURVIVING SPOUSE.

8 (5) IF THE REQUIREMENTS OF SUBSECTION (2) ARE MET AND THE
9 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE BUT IS SURVIVED BY A
10 CHILD OR CHILDREN UNDER 18 YEARS OF AGE, THEN THE RETIREMENT
11 ALLOWANCE CALCULATED UNDER SUBSECTIONS (2) AND (3) SHALL BE PAID
12 TO THE SURVIVING CHILD OR CHILDREN IN EQUAL SHARES. THE RETIRE-
13 MENT ALLOWANCE PAYABLE TO A SURVIVING CHILD UNDER THIS SUBSECTION
14 SHALL TERMINATE UPON THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18
15 YEARS OF AGE, WHICHEVER OCCURS FIRST. THAT CHILD'S SHARE OF THE
16 TERMINATED RETIREMENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE
17 REMAINING CHILDREN UNDER 18 YEARS OF AGE, IF ANY.

18 (6) IF THE REQUIREMENTS OF SUBSECTION (2) ARE MET AND THE
19 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE OR A CHILD OR CHIL-
20 DREN UNDER 18 YEARS OF AGE BUT IS SURVIVED BY A PARENT OR PARENTS
21 WHO WERE DEPENDENT UPON THE DECEASED MEMBER FOR 50% OR MORE OF
22 SUPPORT, THEN THE RETIREMENT ALLOWANCE CALCULATED UNDER
23 SUBSECTIONS (2) AND (3) SHALL BE PAID TO THE SURVIVING PARENT OR
24 PARENTS IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE TO A
25 SURVIVING PARENT UNDER THIS SUBSECTION SHALL TERMINATE UPON THAT
26 PARENT'S DEATH.

1 Sec. 33. (1) ~~(a)~~ Once each year during the first 5 years
2 following the retirement of a member ~~on a disability retirement~~
3 ~~allowance~~ UNDER SECTION 21 OR 24, and at least once in every
4 3-year period thereafter, the retirement board may, and upon the
5 retirant's application shall, require ~~any~~ A disability retirant
6 ~~—, who has not attained age~~ IS UNDER 60 years ~~—, OF AGE to~~
7 ~~undergo a medical examination; such examination to be made by or~~
8 ~~under the direction of the medical advisor at the place of resi-~~
9 ~~dence of said retirant, or other place mutually agreed upon.~~
10 ~~Should any disability retirant, who has not attained age 60~~
11 ~~years, refuse to submit to such medical examination in any such~~
12 ~~period, his disability retirement allowance may be discontinued~~
13 ~~until his withdrawal of such refusal, and should such refusal~~
14 ~~continue for 1 year, all his rights in and to his disability~~
15 ~~retirement allowance may be revoked by the retirement board. If~~
16 ~~upon such medical examination of a disability retirant, the medi-~~
17 ~~cal advisor reports and his report is concurred in by the retire-~~
18 ~~ment board, that the disability retirant is physically able and~~
19 ~~capable of resuming employment, he shall be restored to active~~
20 ~~service with the state and his disability retirement allowance~~
21 ~~shall cease.~~ SUBMIT TO A MEDICAL EVALUATION DESCRIBED IN
22 SECTION 21(2) OR A VOCATIONAL EVALUATION DESCRIBED IN
23 SECTION 35(1), OR BOTH. THE RETIREMENT BOARD MAY RECOMMEND THAT
24 THE DISABILITY RETIRANT PARTICIPATE IN A PROGRAM OF VOCATIONAL
25 REHABILITATION IN THE MANNER PROVIDED IN SECTION 35. IF A DIS-
26 ABILITY RETIRANT WHO IS UNDER 60 YEARS OF AGE REFUSES TO SUBMIT
27 TO THE EVALUATION OR EVALUATIONS REQUIRED BY THE RETIREMENT BOARD

1 UNDER THIS SECTION, HIS OR HER DISABILITY RETIREMENT ALLOWANCE
2 MAY BE DISCONTINUED UNTIL THE DISABILITY RETIRANT SUBMITS TO THE
3 REQUIRED EVALUATION OR EVALUATIONS. IF THE REFUSAL CONTINUES FOR
4 1 YEAR, ALL OF THE DISABILITY RETIRANT'S RIGHTS IN AND TO A DIS-
5 ABILITY RETIREMENT ALLOWANCE MAY BE REVOKED BY THE RETIREMENT
6 BOARD.

7 (2) THE RETIREMENT BOARD MAY PAY FROM THE FUNDS OF THE
8 RETIREMENT SYSTEM THE COST OF PARTICIPATION BY A DISABILITY
9 RETIRANT IN A PROGRAM OF VOCATIONAL REHABILITATION OR A RETURN TO
10 WORK PROGRAM ADMINISTERED BY THIS STATE IF THE AMOUNT PAYABLE FOR
11 PARTICIPATION IN THE PROGRAM PLUS THE AMOUNT OF A DIFFERENTIAL
12 PAYMENT PAYABLE UNDER SECTION 35(5), IF ANY, IS LESS THAN THE
13 PROJECTED BENEFIT TOTAL. AS USED IN THIS SUBSECTION, "PROJECTED
14 BENEFIT TOTAL" MEANS THE DIFFERENCE BETWEEN 60 AND THE DISABILITY
15 RETIRANT'S AGE AT HIS OR HER PROJECTED REEMPLOYMENT DATE MULTI-
16 PLIED BY THE ANNUAL DISABILITY BENEFIT PAYABLE TO THE DISABILITY
17 RETIRANT.

18 (3) IF THE RETIREMENT BOARD DETERMINES THAT A DISABILITY
19 RETIRANT IS NO LONGER INCAPACITATED FOR THE STATE EMPLOYMENT THAT
20 THE DISABILITY RETIRANT WAS PERFORMING IMMEDIATELY BEFORE TERMI-
21 NATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR FOR THE
22 STATE EMPLOYMENT FOR WHICH THE DISABILITY RETIRANT IS QUALIFIED
23 BY REASON OF TRAINING OR EXPERIENCE OR BOTH, THE RETIREMENT BOARD
24 SHALL RECOMMEND THAT THIS STATE REEMPLOY THE DISABILITY
25 RETIRANT. THE RETIREMENT SYSTEM SHALL CONTINUE TO PAY A DISABIL-
26 ITY RETIREMENT ALLOWANCE TO A DISABILITY RETIRANT UNTIL HE OR SHE
27 IS REEMPLOYED BY THIS STATE, SUBJECT TO SUBSECTION (4).

1 (4) ~~(b) Should~~ IF the secretary ~~report and certify~~
 2 REPORTS AND CERTIFIES to the retirement board that ~~such~~ A dis-
 3 ability ~~beneficiary~~ RETIRANT is engaged in ~~a~~ gainful occupa-
 4 tion paying more than the difference between his OR HER disabil-
 5 ity retirement allowance and his OR HER ADJUSTED final compensa-
 6 tion, and ~~should~~ IF the retirement board ~~concur in such~~
 7 CONCURS IN THE report, then the amount of ~~his~~ THE DISABILITY
 8 retirement allowance shall be reduced to an amount ~~which~~ THAT
 9 together with the amount earned by ~~him shall equal~~ THE DISABIL-
 10 ITY RETIRANT EQUALS his OR HER ADJUSTED final compensation.
 11 ~~Should~~ IF the earnings of ~~such~~ THE disability retirant ~~be~~
 12 ~~later changed~~ CHANGE, the amount of his OR HER retirement allow-
 13 ance shall ~~be further modified in like manner~~ AGAIN BE ADJUSTED
 14 UNDER THIS SECTION. AS USED IN THIS SUBSECTION, "ADJUSTED FINAL
 15 COMPENSATION" MEANS THE SUM OF THE DISABILITY RETIRANT'S FINAL
 16 COMPENSATION AND AN AMOUNT EQUAL TO THE PRODUCT OF 3% OF THE DIS-
 17 ABILITY RETIRANT'S FINAL COMPENSATION AND THE NUMBER OF 12-MONTH
 18 PERIODS BETWEEN THE DISABILITY RETIREMENT ALLOWANCE EFFECTIVE
 19 DATE AND THE DATE OF THE CALCULATION UNDER THIS SUBSECTION.
 20 Sec. 34. A disability retirant who has been or ~~shall be~~
 21 IS reinstated in active service ~~, as provided in section 33,~~
 22 ~~shall from~~ UNDER SECTION 33 OR 35 AGAIN BECOMES A MEMBER BEGIN-
 23 NING ON the date of ~~such~~ THE reinstatement. ~~again become a~~
 24 ~~member of the retirement system.~~ Upon reinstatement of ~~such~~
 25 THE disability retirant to active service, any balance ~~he may~~
 26 ~~have~~ STANDING TO HIS OR HER CREDIT in the pension reserve fund
 27 at the time of ~~such~~ THE reinstatement ~~to active service,~~

1 shall be transferred from the pension reserve fund to the
2 employees' savings fund and credited to his OR HER individual
3 account in the employees' savings fund. Any service ~~on the~~
4 ~~basis of which his retirement allowance was computed at the time~~
5 ~~of his retirement,~~ CREDIT ACCRUED BY THE REINSTATED DISABILITY
6 RETIRANT BEFORE DISABILITY RETIREMENT shall be restored to full
7 force and effect, and, except in the case of retirement for
8 ~~non-duty~~ NONDUTY disability ~~as provided in~~ UNDER section 24,
9 ~~he~~ THE DISABILITY RETIRANT shall be given service credit for
10 the period of time ~~he was out of service due to such disability~~
11 A DISABILITY RETIREMENT ALLOWANCE WAS PAID.

12 SEC. 35. (1) BEFORE A FINAL DETERMINATION IS MADE THAT A
13 MEMBER IS TOTALLY INCAPACITATED FOR STATE EMPLOYMENT UNDER SEC-
14 TION 21 OR 24 AND THAT A DISABILITY RETIREMENT ALLOWANCE IS PAY-
15 ABLE UNDER SECTION 23 OR 25, THE RETIREMENT BOARD MAY REQUIRE
16 THAT A WRITTEN VOCATIONAL EVALUATION OF THE DISABILITY APPLICANT
17 BE PREPARED BY A REHABILITATION AGENCY. THE EVALUATION SHALL
18 CONTAIN ALL OF THE FOLLOWING:

19 (A) A DESCRIPTION OF THE DISABILITY APPLICANT'S VOCATIONAL
20 LIMITATIONS, IF ANY, RESULTING FROM THE PERSONAL INJURY OR DIS-
21 EASE THAT IS THE BASIS OF THE CLAIMED INCAPACITY.

22 (B) A DESCRIPTION OF THE DISABILITY APPLICANT'S POTENTIAL,
23 IF ANY, FOR VOCATIONAL REHABILITATION.

24 (C) A RECOMMENDATION REGARDING A PROGRAM OF VOCATIONAL REHA-
25 BILITATION OF THE DISABILITY APPLICANT, IF APPLICABLE.

26 (2) IF THE RETIREMENT BOARD DETERMINES THAT THE APPLICANT IS
27 OTHERWISE QUALIFIED FOR A DISABILITY RETIREMENT ALLOWANCE UNDER

1 SECTIONS 21 AND 23 OR SECTIONS 24 AND 25, BUT THAT THE POTENTIAL
2 EXISTS FOR THE VOCATIONAL REHABILITATION OF THE DISABILITY APPLI-
3 CANT FOR REASONABLE STATE EMPLOYMENT COMPATIBLE WITH THE DISABIL-
4 ITY APPLICANT'S MENTAL AND PHYSICAL CONDITION, THE DISABILITY
5 APPLICANT SHALL BE RETIRED UNDER THE APPLICABLE SECTIONS. THE
6 RETIREMENT BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PAR-
7 TICIPATE IN GOOD FAITH IN A REASONABLE PROGRAM OF VOCATIONAL
8 REHABILITATION OR A RETURN TO WORK PROGRAM ADMINISTERED BY THIS
9 STATE.

10 (3) THE AGENCY PROVIDING A PROGRAM OF VOCATIONAL REHABILITA-
11 TION OR RETURN TO WORK PROGRAM SHALL REPORT TO THE RETIREMENT
12 BOARD ON A PERIODIC BASIS, AS REQUIRED BY THE RETIREMENT BOARD,
13 REGARDING THE PROGRESS OF THE DISABILITY RETIRANT WHO PARTICI-
14 PATES IN A PROGRAM OF VOCATIONAL REHABILITATION OR RETURN TO WORK
15 PROGRAM UNDER SUBSECTION (2). IF THE RETIREMENT BOARD DETERMINES
16 THAT THE DISABILITY RETIRANT IS NO LONGER INCAPACITATED FOR THE
17 STATE EMPLOYMENT THAT HE OR SHE WAS PERFORMING IMMEDIATELY BEFORE
18 TERMINATION OF THAT STATE EMPLOYMENT BECAUSE OF THE INCAPACITY OR
19 FOR THE STATE EMPLOYMENT FOR WHICH HE OR SHE IS QUALIFIED BY
20 REASON OF TRAINING OR EXPERIENCE OR BOTH, THE DISABILITY RETIRANT
21 SHALL BE CONSIDERED REHABILITATED.

22 (4) THE RETIREMENT BOARD SHALL RECOMMEND THAT THIS STATE
23 OFFER REASONABLE STATE EMPLOYMENT TO THE DISABILITY RETIRANT WHO
24 IS CONSIDERED REHABILITATED UNDER SUBSECTION (3). THE REASONABLE
25 STATE EMPLOYMENT OFFERED TO THE REHABILITATED DISABILITY RETIRANT
26 SHALL BE COMPATIBLE WITH THE REHABILITATED DISABILITY RETIRANT'S
27 MENTAL AND PHYSICAL CONDITION.

1 (5) A REHABILITATED DISABILITY RETIRANT WHO ACCEPTS
2 REASONABLE STATE EMPLOYMENT UNDER SUBSECTION (4) IS NOT ENTITLED
3 TO RECEIVE A DISABILITY RETIREMENT ALLOWANCE UNDER SECTIONS 21
4 AND 23 OR SECTIONS 24 AND 25. THE RETIREMENT SYSTEM SHALL CEASE
5 PAYING THE DISABILITY RETIREMENT ALLOWANCE TO THE REHABILITATED
6 DISABILITY RETIRANT EFFECTIVE UPON THE BEGINNING DATE OF THE
7 ACCEPTED STATE EMPLOYMENT. HOWEVER, IF THE REHABILITATED DIS-
8 ABILITY RETIRANT ACCEPTS THE OFFERED STATE EMPLOYMENT, RESUMES
9 STATE EMPLOYMENT UNDER THIS SUBSECTION, AND THE COMPENSATION PAY-
10 ABLE FOR THAT STATE EMPLOYMENT IS LESS THAN THE REHABILITATED
11 DISABILITY RETIRANT'S ADJUSTED FINAL COMPENSATION, THEN THE
12 RETIREMENT SYSTEM SHALL PAY TO THE REHABILITATED DISABILITY
13 RETIRANT A DIFFERENTIAL PAYMENT EQUAL TO THE DIFFERENCE, IF ANY,
14 BETWEEN THE AMOUNT OF COMPENSATION PAYABLE FOR THE ACCEPTED STATE
15 EMPLOYMENT AND ADJUSTED FINAL COMPENSATION. HOWEVER, THE DIFFER-
16 ENTIAL PAYMENT SHALL NOT EXCEED AN AMOUNT CALCULATED UNDER SEC-
17 TION 23 OR 25, WHICHEVER APPLIES. AS USED IN THIS SUBSECTION,
18 "ADJUSTED FINAL COMPENSATION" MEANS THE SUM OF THE DISABILITY
19 RETIRANT'S FINAL COMPENSATION AND AN AMOUNT EQUAL TO THE PRODUCT
20 OF 3% OF THE DISABILITY RETIRANT'S FINAL COMPENSATION AND THE
21 NUMBER OF 12-MONTH PERIODS BETWEEN THE DISABILITY RETIREMENT
22 ALLOWANCE EFFECTIVE DATE AND THE DATE OF THE CALCULATION UNDER
23 THIS SUBSECTION.

24 (6) IF THE RETIREMENT BOARD, WITHIN 6 MONTHS AFTER A REHA-
25 BILITATED DISABILITY RETIRANT RESUMES STATE EMPLOYMENT UNDER SUB-
26 SECTION (5), DETERMINES THAT THE REHABILITATED DISABILITY
27 RETIRANT CONTINUES TO BE TOTALLY INCAPACITATED FOR STATE

1 EMPLOYMENT UNDER SECTION 21 OR 24, THE RETIREMENT BOARD MAY WAIVE
2 ALL OR A PORTION OF THE APPLICATION REQUIREMENTS UNDER SECTION 21
3 OR 24.