

# HOUSE BILL No. 4784

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

A bill to amend section 6 of Act No. 345 of the Public Acts of 1937, entitled as amended  
"Fire fighters and police officers retirement act,"  
as amended by Act No. 7 of the Public Acts of 1989, being  
section 38.556 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 6 of Act No. 345 of the Public Acts of  
2 1937, as amended by Act No. 7 of the Public Acts of 1989, being  
3 section 38.556 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 6. (1) ~~Pensions and~~ AGE AND SERVICE RETIREMENT bene-  
6 fits payable under this act shall be as follows:

7       ~~(1) Age and service retirement.~~

8       (a) A member who is 55 years of age or older and who has 25  
9 or more years of service as a police officer or fire fighter in

1 the employ of the city, village, or municipality affected by this  
2 act may retire from service upon written application to the board  
3 stating a date, not less than 30 days nor more than 90 days after  
4 the execution and filing of the application, on which the member  
5 desires to be retired. The board shall grant the benefits to  
6 which the member ~~may be~~ IS entitled under this act, unless the  
7 member continues employment. If the member continues employment,  
8 the member's pension shall be deferred with service years of  
9 credit until actual retirement. Upon the approval of the legis-  
10 lative body or of the electors of a city, village, or municipal-  
11 ity under this act, a member under 50 years of age who has 25 or  
12 more years of service, or without the necessity for approval, a  
13 member 50 years of age or more who has 25 or more years of serv-  
14 ice, may leave service and receive the full retirement benefits  
15 payable throughout the member's life as provided in  
16 ~~subparagraph~~ SUBDIVISION (e).

17 (b) A member who is 60 years of age or older shall be  
18 retired by the retirement board upon the written application of  
19 the legislative body, or board or official provided in the  
20 charter of the city, village, or municipality as head of the  
21 department in which the member is employed. Upon retirement, the  
22 retirement board shall grant the benefits to which the member  
23 ~~may be~~ IS entitled under this act, unless the member continues  
24 employment. If the member continues employment, the member's  
25 pension shall be deferred with service years of credit until  
26 actual retirement.

1 (c) A member who is 65 years of age shall be retired by the  
2 board on the first day of the month following attainment of 65  
3 years of age.

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

21 (e) Upon retirement from service as provided in this  
22 ~~subdivision~~ SUBSECTION, a member shall receive a regular  
23 retirement pension payable throughout the member's life of 2% of  
24 the member's average final compensation multiplied by the first  
25 25 years of service credited to the member, plus 1% of the  
26 member's average final compensation multiplied by the number of  
27 years, and fraction of a year, of service rendered by the member

1 in excess of 25 years. A city, village, or municipality under  
2 this act, may, upon approval of the legislative body or the elec-  
3 tors of the city, village, or municipality, increase the percen-  
4 tage of the payment from 2% up to a maximum of 2.5%. If an  
5 increase is approved, the increase shall not be reduced for mem-  
6 bers under the system at the time of the increase. The legisla-  
7 tive body may also increase the percentage of employee  
8 contributions. If a retired member dies before the total of reg-  
9 ular pension payments received by the member equals the total of  
10 the member's contributions made to the retirement system, the  
11 difference between the member's total contributions and the total  
12 of the member's regular retirement pension payments received  
13 shall be paid in a single sum to the person or persons the member  
14 nominates by written designation duly executed and filed with the  
15 board. If there is not a person or persons surviving the retired  
16 member, the difference, if any, shall be paid to the retired  
17 member's estate.

18 (f) "Average final compensation" means the average of the  
19 highest annual compensation received by a member during a period  
20 of 5 consecutive years of service contained within the member's  
21 10 years of service immediately preceding the member's retirement  
22 or leaving service. However, if so provided in a collective bar-  
23 gaining agreement entered into between a municipality under this  
24 act and the appropriate recognized bargaining agent, average  
25 final compensation may mean the average of the 3 years of highest  
26 annual compensation received by a member during the member's 10  
27 years of service immediately preceding the member's retirement or

1 leaving service. If the member has less than 5 years of service,  
2 average final compensation means the annual average compensation  
3 received by the member during his or her total years of service.

4 (g) A member shall be given service credit for time spent in  
5 the military, naval, marine, or other armed service of the United  
6 States government during time of war, or other national emergency  
7 recognized by the board, if the member was employed by the city,  
8 village, or municipality at the time of entry into the armed  
9 service, and is or was reemployed by the city, village, or munic-  
10 ipality as a police officer or fire fighter within 6 months after  
11 the date of termination of his or her required enlistment or  
12 assignment in the armed service. A city, village, or municipal-  
13 ity by a 3/5 vote of its governing body or by a majority vote of  
14 the qualified electors may provide service credit for not more  
15 than 6 years of active military service to the United States gov-  
16 ernment to a member who is employed subsequent to this military  
17 service upon payment to the retirement system of 5% of the  
18 member's full-time or equated full-time compensation for the  
19 fiscal year in which payment is made multiplied by the years of  
20 service that the member elects to purchase up to the maximum.  
21 Service ~~shall~~ IS not ~~be~~ creditable if it is or would be cred-  
22 itable under any other federal, state, or local publicly sup-  
23 ported retirement system. However, this restriction ~~shall~~ DOES  
24 not apply to those persons who have or will have acquired retire-  
25 ment eligibility under the federal government for service in the  
26 reserve. A member shall be given service credit for the time the  
27 member is absent from active service without full pay on account

1 of sickness or injury. If the absence from active service is due  
2 to nonservice connected sickness or injury, not more than 60 days  
3 of the absence shall be credited as service in any 1 calendar  
4 year, as determined by the board.

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

1 retirement, then the pension shall be paid as a regular  
2 retirement pension. A MEMBER MAY ELECT 1 OF THE FOLLOWING  
3 OPTIONS:

4 (i) Option I. Upon the death of a retired member, his or  
5 her reduced retirement pension shall be continued throughout the  
6 life of and paid to the person, having an insurable interest in  
7 the retired member's life, the member nominated by written design-  
8 nation duly executed and filed with the board before the effec-  
9 tive date of the member's retirement.

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

16 (i) If a member continues in service on or after the date of  
17 acquiring 20 years of service credit, does not have an option I  
18 election provided for in ~~subparagraph~~ SUBDIVISION (j) in force,  
19 and dies while in service of the city or village before the  
20 effective date of the member's retirement, leaving a surviving  
21 spouse, the spouse shall receive a pension computed in the same  
22 manner as if the member had retired effective the day preceding  
23 the date of the member's death, elected option I provided for in  
24 ~~subparagraph~~ SUBDIVISION (h), and nominated the spouse as sur-  
25 vivor beneficiary. Upon the death of the spouse, the pension  
26 shall terminate. A pension shall not be paid under this  
27 subparagraph on account of the death of a member if benefits are

1 paid under ~~subdivision~~ SUBSECTION (2) on account of the  
2 member's death.

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



1 death of a member if benefits are paid under ~~subdivision~~

2 SUBSECTION (2) on account of the member's death.

3 (2) Disability and service connected death benefits PAYABLE  
4 UNDER THIS ACT SHALL BE AS FOLLOWS:

5 (a) To a surviving spouse, a duty death pension of the same  
6 amount each week as that which has been paid the surviving spouse  
7 under the worker's disability compensation act of 1969, Act  
8 No. 317 of the Public Acts of 1969, being sections 418.101 to  
9 418.941 of the Michigan Compiled Laws, to become due and payable  
10 on the termination of the payments to the surviving spouse by a  
11 municipality under Act No. 317 of the Public Acts of 1969, and to  
12 continue for the surviving spouse's life or until his or her  
13 remarriage.

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

22 (c) If death results to a member in the line of duty and the  
23 member leaves other surviving dependents, the dependents shall  
24 receive a pension of the same amount as that which has been paid  
25 to them as a weekly benefit under Act No. 317 of the Public Acts  
26 of 1969, to become due and payable upon termination of the  
27 payments under Act No. 317 of the Public Acts of 1969 and to

1 continue until the time the board determines that the need for  
2 pension or pensions no longer exists.

3 (d) Upon the application of a member or the member's depart-  
4 ment head, a member who becomes totally incapacitated for duty by  
5 reason of a personal injury or disease occurring as the natural  
6 and proximate result of causes arising out of and in the course  
7 of the member's employment by the city, village, or municipality  
8 shall be retired by the retirement board. After a medical exami-  
9 nation of a member made by a medical committee consisting of a  
10 physician named by the retirement board, a physician named by the  
11 member claiming benefits, and a third physician designated by the  
12 first 2 physicians named, the medical committee, by a majority  
13 opinion, shall certify in writing that the member is mentally or  
14 physically incapacitated for the further performance of duty as a  
15 police officer or fire fighter in the service of the city, vil-  
16 lage, or municipality; that the incapacity is likely to be per-  
17 manent; and that the member should be retired. Upon retirement  
18 for disability as provided in this ~~subparagraph~~ SUBDIVISION, a  
19 member who has not attained 55 years of age shall receive a dis-  
20 ability retirement pension of 50% of the member's average final  
21 compensation, which shall be determined according to  
22 ~~subdivision~~ SUBSECTION (1)(f), and shall be payable until the  
23 member becomes 55 years of age. IF A DISABILITY RETIRANT WHO  
24 RETIRED UNDER THIS SUBDIVISION AFTER DECEMBER 31, 1991 DIES  
25 BEFORE ATTAINING 55 YEARS OF AGE, HIS OR HER SURVIVING SPOUSE  
26 SHALL RECEIVE A SURVIVOR DISABILITY PENSION EQUAL TO 60% OF THE  
27 DISABILITY PENSION PAYABLE TO THE DISABILITY RETIRANT ON THE DATE

1 OF HIS OR HER DEATH. Upon becoming 55 years of age, the disabled  
2 member shall receive a disability pension computed according to  
3 ~~subdivision~~ SUBSECTION (1)(e). In computing the pension, the  
4 member shall be given service credit for the period of receipt of  
5 a disability pension before attainment of 55 years of age. If a  
6 member retired after attaining 55 years of age on account of dis-  
7 ability, as provided in this subparagraph, the member shall  
8 receive a disability pension computed according to ~~subdivision~~  
9 SUBSECTION (1)(e), notwithstanding that the member may not have  
10 25 years of service credit. The disability pension provided for  
11 in this ~~subparagraph shall be~~ SUBDIVISION IS subject to  
12 ~~subparagraphs~~ SUBDIVISIONS (f) and (g).

13 (e) Upon the application of a member or the member's depart-  
14 ment head, a member in service who has 5 or more years of service  
15 credit and who becomes totally and permanently incapacitated for  
16 duty by reason of a personal injury or disease occurring as the  
17 result of causes arising outside the course of the member's  
18 employment by the city, village, or municipality may be retired  
19 by the retirement board. After a medical examination of the  
20 member made by a medical committee consisting of a physician  
21 named by the retirement board, a physician named by the member  
22 claiming benefits, and a third physician designated by the first  
23 2 physicians named, the medical committee, by a majority opinion,  
24 shall certify in writing that the member is mentally or physi-  
25 cally incapacitated for the further performance of duty as a  
26 police officer or fire fighter in the service of the city,  
27 village, or municipality, that the incapacity is likely to be

1 permanent, and that the member should be retired. Upon  
2 retirement for disability, as provided in this subparagraph, a  
3 member who has not attained 55 years of age shall receive a dis-  
4 ability retirement pension until the member becomes 55 years of  
5 age, ~~or prior recovery or death~~ RECOVERS, OR DIES, WHICHEVER  
6 OCCURS FIRST, of 1.5% of the member's average final compensation  
7 multiplied by the number of years of service credited to the  
8 member. IF A DISABILITY RETIRANT WHO RETIRED UNDER THIS SUBDIVI-  
9 SION AFTER DECEMBER 31, 1991 DIES BEFORE ATTAINING 55 YEARS OF  
10 AGE, HIS OR HER SURVIVING SPOUSE SHALL RECEIVE A SURVIVOR DIS-  
11 ABILITY PENSION EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE TO  
12 THE DISABILITY RETIRANT ON THE DATE OF HIS OR HER DEATH. Upon  
13 becoming 55 years of age, the member's disability retirement pen-  
14 sion shall be increased to 2% of the member's average final com-  
15 pensation multiplied by the number of years of service credited  
16 to the member at the time of his or her retirement. Upon retire-  
17 ment for disability as provided in this ~~subparagraph~~  
18 SUBDIVISION, a member who is 55 years of age or older shall  
19 receive a disability pension computed according to ~~subdivision~~  
20 SUBSECTION (1)(e). This ~~subparagraph shall be~~ SUBDIVISION IS  
21 subject to ~~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 board may, and upon the retired member's application  
26 shall, require a retired member who has not attained 55 years of  
27 age to undergo a medical examination to be made by or under the

1 direction of a physician, designated by the board, at the place  
2 of residence of the retired member or other place mutually agreed  
3 upon. If a retired member who has not attained 55 years of age  
4 refuses to submit to the medical examination in the period, the  
5 member's disability retirement pension may be discontinued by the  
6 board. If the member's refusal continues for 1 year, all the  
7 member's rights in and to his or her disability retirement pen-  
8 sion may be revoked by the board. If upon a medical examination  
9 of the retired member the physician reports to the board that the  
10 retired member is physically able and capable of resuming employ-  
11 ment in the classification held by the member at the time of  
12 retirement, the member shall be restored to active service in the  
13 employ of the city, village, or municipality and payment of the  
14 disability pension shall cease if the report of the physician is  
15 concurred in by the board. A retired member restored to active  
16 service shall again become a member of the retirement system from  
17 the date of return to service. The member shall contribute to  
18 the retirement system after restoration to active service in the  
19 same manner as before the member's disability retirement.  
20 Service credited to the member at the time of disability retire-  
21 ment shall be restored to full force and effect. The member  
22 shall be given service credit for the period the member was  
23 receiving a duty disability pension provided for in  
24 ~~subparagraph~~ SUBDIVISION (d), but shall not be given service  
25 credit for the period the member was receiving a nonduty disabil-  
26 ity pension provided for in ~~subparagraph~~ SUBDIVISION (e).  
27 Amounts paid under Act No. 317 of the Public Acts of 1969 to a

1 retired member shall be offset against and payable in place of  
2 benefits provided under this act. If the benefits under Act  
3 No. 317 of the Public Acts of 1969 are less than the benefits  
4 payable under this act, the amount to be paid out of the funds of  
5 the retirement system shall be the difference between the bene-  
6 fits provided under Act No. 317 of the Public Acts of 1969 and  
7 the benefits provided in this act. Upon the termination of bene-  
8 fits under Act No. 317 of the Public Acts of 1969, the benefits  
9 shall be paid ~~in accordance with~~ PURSUANT TO this act.

10 (g) Within 60 days before a member becomes 55 years of age,  
11 or before retirement from service if retirement occurs after the  
12 member becomes 55 years of age, a disabled member who is retired  
13 as provided in ~~subparagraph~~ SUBDIVISION (d) or (e) may elect to  
14 continue to receive a disability retirement pension as a benefit  
15 terminating at death, to be known as a regular disability pen-  
16 sion, or may elect to receive the actuarial equivalent, at that  
17 time, of a regular disability retirement pension in a reduced  
18 disability retirement pension payable throughout life ~~in accord-~~  
19 ~~ance with~~ PURSUANT TO AN option ~~I or II~~ provided in  
20 ~~subdivision~~ SUBSECTION (1)(h). If a disabled member fails to  
21 elect an option, as provided in this subparagraph, before becom-  
22 ing 55 years of age or before retirement, the member's retirement  
23 pension shall be paid to the member as a regular disability pen-  
24 sion terminating at death. HOWEVER, UPON THE DEATH OF A DISABIL-  
25 ITY RETIRANT WHO RETIRED AFTER DECEMBER 31, 1991 AND WHO WAS  
26 RECEIVING A REGULAR DISABILITY PENSION, THE SURVIVING SPOUSE OF  
27 THAT DECEASED DISABILITY RETIRANT SHALL RECEIVE A SURVIVOR

1 DISABILITY PENSION EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE  
2 TO THE DISABILITY RETIRANT ON THE DATE OF HIS OR HER DEATH. If a  
3 disabled member who has not elected AN option I or II PROVIDED IN  
4 SUBSECTION (1)(H) dies before the total of the member's regular  
5 disability pension payments received equals or exceeds the total  
6 of the member's contributions made to the retirement system, the  
7 remainder, if any, shall be paid in a single sum to the person or  
8 persons nominated by the member by written designation duly exe-  
9 cuted and filed with the board. If there is not a designated  
10 person or persons surviving, then the remainder, if any, shall be  
11 paid to the retired member's legal representative.