

SENATE BILL No. 635

December 3, 1991, Introduced by Senator EHLERS and referred to the Committee on Mental Health, Human Resources, and Senior Citizens.

A bill to amend section 31 of Act No. 240 of the Public Acts of 1943, entitled as amended
"State employees' retirement act,"
as amended by Act No. 48 of the Public Acts of 1991, being section 38.31 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 31 of Act No. 240 of the Public Acts of
2 1943, as amended by Act No. 48 of the Public Acts of 1991, being
3 section 38.31 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 31. (1) Except as provided in subsection (6), before
6 the effective date of retirement, but not after the effective
7 date of retirement, a member or deferred member who is eligible
8 for retirement, as provided in section 19, 19a, 21, 24, 46, or
9 48, shall elect to receive his or her benefit in a retirement

1 allowance payable throughout life, which shall be called a
2 regular retirement allowance, or to receive the actuarial equiva-
3 lent at that time of his or her regular retirement allowance in a
4 reduced retirement allowance payable throughout the lives of the
5 retirant and a retirement allowance beneficiary, pursuant to 1 of
6 the following options:

7 (a) Option A. Upon the retirant's death his or her reduced
8 retirement allowance shall be continued throughout the life of
9 and paid to the retirement allowance beneficiary whom the member
10 nominated by written designation duly executed and filed with the
11 retirement board before the effective date of his or her
12 retirement.

13 (b) Option B. Upon the retirant's death, 1/2 of his or her
14 reduced retirement allowance shall be continued throughout the
15 life of and paid to the retirement allowance beneficiary whom the
16 member nominated by written designation duly executed and filed
17 with the retirement board before the effective date of his or her
18 retirement.

19 (2) Except as provided in subsections (3) and (8), the elec-
20 tion of an option shall not be changed on or after the effective
21 date of the retirement allowance. A retirement allowance benefi-
22 ciary designated under this section shall not be changed on or
23 after the effective date of the retirement allowance, and shall
24 be either a spouse, brother, sister, parent, child, including an
25 adopted child, or grandchild of the person making the
26 designation. Payment to a retirement allowance beneficiary shall

1 begin on the first day of the month following the death of the
2 retirant or member.

3 (3) If the retirement allowance beneficiary named under
4 option A or B under subsection (1) predeceases the retirant, the
5 retirant's benefit shall revert to the regular retirement allow-
6 ance, effective with the first day of the month following the
7 retirement allowance beneficiary's death. For a retirant whose
8 effective date of retirement was on or before June 28, 1976, this
9 subsection ~~shall apply~~ APPLIES, but the regular retirement
10 allowance is not payable for any month beginning before the later
11 of the retirement allowance beneficiary's death or January 1,
12 1986. A retirant who on January 1, 1986 is receiving a reduced
13 retirement allowance because the retirant designated a retirement
14 allowance beneficiary and the retirement allowance beneficiary
15 predeceased the retirant is eligible to receive the regular
16 retirement allowance beginning January 1, 1986, but the regular
17 retirement allowance is not payable for any month beginning
18 before January 1, 1986. IF A RETIRANT WHOSE RETIREMENT BENEFIT
19 REVERTS TO A REGULAR RETIREMENT ALLOWANCE UNDER THIS SUBSECTION
20 BECAUSE HIS OR HER RETIREMENT ALLOWANCE BENEFICIARY WAS A SPOUSE
21 WHO PREDECEASED THE RETIRANT SUBSEQUENTLY REMARRIES, THE RETIR-
22 ANT, WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT
23 THAT ADDED THIS SENTENCE OR THE DATE OF HIS OR HER REMARRIAGE,
24 WHICHEVER IS LATER, MAY BY WRITTEN DECLARATION DULY EXECUTED AND
25 FILED WITH THE RETIREMENT BOARD ELECT AN OPTION UNDER SUBSECTION
26 (1) NAMING HIS OR HER SPOUSE AS THE RETIREMENT ALLOWANCE

1 BENEFICIARY. THE REDUCED RETIREMENT ALLOWANCE SHALL BE PAYABLE
2 EFFECTIVE THE FIRST DAY OF THE MONTH FOLLOWING THE ELECTION.

3 (4) A member who continues in the employ of this state on
4 and after the date he or she acquires 10 years of service credit
5 or becomes eligible for deferred retirement as provided by sec-
6 tion 20(4) or (5), whichever occurs first, may by written decla-
7 ration duly executed and filed with the retirement board elect
8 option A, provided for in subsection (1)(a), and nominate a
9 retirement allowance beneficiary in the same manner as if the
10 member were then retiring from service, notwithstanding that the
11 member may not have attained 60 years of age. In the case of the
12 beneficiary's death or divorce from the member before the effec-
13 tive date of the member's retirement, the member's election of
14 option A and nomination of retirement allowance beneficiary shall
15 be automatically revoked and the member may again elect option A
16 and nominate a retirement allowance beneficiary at any time
17 before the effective date of retirement. If a member who has
18 made an election and nominated a retirement allowance beneficiary
19 as provided in this subsection dies before the effective date of
20 his or her retirement, then the retirement allowance beneficiary
21 shall immediately receive the retirement allowance that he or she
22 would have been entitled to receive under option A if the member
23 had been regularly retired on the date of the member's death.
24 Except as otherwise provided by subsection (5), if a member who
25 has made an election under this subsection subsequently retires
26 under this act, his or her election of option A shall take effect
27 at the time of retirement. Subject to the requirements of

1 subsection (5), the member may, before the effective date of
2 retirement, but not after the effective date of retirement,
3 revoke his or her previous election of option A and elect to
4 receive his or her retirement allowance as a regular retirement
5 allowance or under option B as provided for in subsection
6 (1)(b). A retirement allowance shall not be paid under this sub-
7 section on account of the death of a member if any benefits are
8 paid under section 27 on account of his or her death. If a
9 deferred member who has an option A election in effect dies
10 before the effective date of his or her retirement, the retire-
11 ment allowance payable under option A shall be paid to the
12 retirement allowance beneficiary at the time the deceased
13 deferred member otherwise would have been eligible to begin
14 receiving benefits.

15 (5) If a member, deferred member, retiring member, or retir-
16 ing deferred member is married at the effective date of the
17 retirement allowance, an election under this section, other than
18 an election of an option under subsection (1) naming the spouse
19 as retirement allowance beneficiary, shall not be effective
20 unless the election is signed by the spouse. However, this
21 requirement may be waived by the retirement board if the signa-
22 ture of a spouse cannot be obtained because of extenuating
23 circumstances. As used in this subsection, "spouse" means the
24 person to whom the member, deferred member, retiring member, or
25 retiring deferred member is married at the effective date of the
26 retirement allowance.

1 (6) Until July 1, 1991, upon request in a form as determined
2 by the retirement board, a nonduty disability retirant who
3 retired under section 24 may change his or her election to
4 receive a disability retirement allowance computed as a regular
5 retirement allowance and elect to receive the actuarial equiva-
6 lent at the time of the election pursuant to this subsection of
7 his or her disability retirement allowance in a reduced retire-
8 ment allowance payable to the retirant and the retirant's spouse
9 pursuant to the provisions of option A or B as provided in
10 subsection (1), if the disability retirement allowance effective
11 date was before November 12, 1985 and the retirant had 25 or more
12 years of credited service on the disability retirement allowance
13 effective date. The nonduty disability retirant shall begin to
14 receive the reduced retirement allowance under this subsection
15 effective the first day of the month following the month in which
16 the retirant makes the election pursuant to this subsection. As
17 used in this subsection, "spouse" means the person to whom the
18 nonduty disability retirant was married on the effective date of
19 his or her disability retirement allowance and on the date the
20 retirant makes the election pursuant to this subsection.

21 (7) If a member who continues in the employ of the state on
22 and after the date he or she acquires 10 years of service credit,
23 or on and after the date he or she becomes eligible for deferred
24 retirement as provided by section 20(4) or (5), whichever occurs
25 first, and who does not have an election of option A in force as
26 provided in subsection (4), dies before the effective date of
27 retirement and leaves a surviving spouse, the spouse shall

1 receive a retirement allowance computed in the same manner as if
2 the member had retired effective the day before the date of his
3 or her death, elected option A, and nominated the spouse as
4 retirement allowance beneficiary. When the retirement allowance
5 beneficiary dies, his or her retirement allowance shall
6 terminate. If the aggregate amount of retirement allowance pay-
7 ments received by the beneficiary is less than the accumulated
8 contributions credited to the member's account in the employees'
9 savings fund at the time of the member's death, the difference
10 between the accumulated contributions and the aggregate amount of
11 retirement allowance payments received by the beneficiary shall
12 be transferred from the employer's accumulation fund or pension
13 reserve fund to the employees' savings fund and paid pursuant to
14 section 29. A retirement allowance shall not be paid under this
15 subsection on account of the death of a member if benefits are
16 paid under section 27 on account of his or her death.

17 (8) If a retirant receiving a reduced retirement allowance
18 under option A or B under subsection (1) is divorced from the
19 spouse who had been designated as the retirant's retirement
20 allowance beneficiary under option A or B, the election of option
21 A or B shall be considered void by the retirement system if the
22 judgment of divorce or award or order of the court, or an amended
23 judgment of divorce or award or order of the court, described in
24 section 40 and dated after ~~the effective date of the amendatory~~
25 ~~act that added this subsection~~ JUNE 27, 1991 provides that the
26 election of option A or B under subsection (1) is to be
27 considered void by the retirement system and the retirant

1 provides a certified copy of the judgment of divorce or award or
2 order of the court, or an amended judgment of divorce or award or
3 order of the court, to the retirement system. If the election of
4 option A or B under subsection (1) is considered void by the
5 retirement system under this subsection, the retirant's retire-
6 ment allowance shall revert to a regular retirement allowance,
7 including postretirement adjustments, if any, subject to an award
8 or order of the court as described in section 40. The retirement
9 allowance shall revert to a regular retirement allowance under
10 this subsection effective the first of the month after the date
11 the retirement system receives a certified copy of the judgment
12 of divorce or award or order of the court. This subsection does
13 not supersede a judgment of divorce or award or order of the
14 court in effect on ~~the effective date of the amendatory act that~~
15 ~~added this subsection~~ JUNE 27, 1991. This subsection does not
16 require the retirement system to distribute or pay retirement
17 assets on behalf of a retirant in an amount that exceeds the
18 actuarially determined amount that would otherwise become payable
19 if a judgment of divorce had not been rendered.

20 (9) A retirement allowance payable under a payment option
21 provided in this section is subject to an eligible domestic rela-
22 tions order under the eligible domestic relations order act, ACT
23 NO. 46 OF THE PUBLIC ACTS OF 1991, BEING SECTIONS 38.1701 TO
24 38.1711 OF THE MICHIGAN COMPILED LAWS.