

# SENATE BILL No. 682

January 21, 1992, Introduced by Senator EHLERS and referred to the Committee on Mental Health, Human Resources, and Senior Citizens.

A bill to amend section 85 of Act No. 300 of the Public Acts of 1980, entitled

"The public school employees retirement act of 1979,"

as amended by Act No. 47 of the Public Acts of 1991, being section 38.1385 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 85 of Act No. 300 of the Public Acts of  
2 1980, as amended by Act No. 47 of the Public Acts of 1991, being  
3 section 38.1385 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 85. (1) A retiring member or retiring deferred member  
6 who meets the requirements of section 81 or 81a or a member whom  
7 the retirement board finds to be totally and permanently disabled  
8 and eligible to receive a retirement allowance under section 86  
9 or 87 shall elect to receive his or her retirement allowance

1 under 1 of the payment options provided in this subsection. The  
2 election shall be in writing and filed with the retirement board  
3 at least 15 days before the effective date of the retirement  
4 allowance except as provided for a disability retirant under sec-  
5 tion 86 or 87. The amount of retirement allowance under either  
6 subdivision (b) or (c) shall be the actuarial equivalent of the  
7 amount of retirement allowance under subdivision (a). The  
8 options are as follows:

9 (a) A retirant shall be paid a straight retirement allowance  
10 for life computed pursuant to section 84. An additional retire-  
11 ment allowance payment shall not be made upon the retirant's  
12 death.

13 (b) A retirant shall be paid a reduced retirement allowance  
14 for life with the provision that upon the retirant's death, pay-  
15 ment of the reduced retirement allowance is continued throughout  
16 the lifetime of the retirement allowance beneficiary whom the  
17 member or deferred member designates in a writing filed with the  
18 retirement board at the time of election of this option. A  
19 member or deferred member may elect this option and designate a  
20 retirement allowance beneficiary under the conditions set forth  
21 in section 82(2) or 89(3).

22 (c) A retirant shall be paid a reduced retirement allowance  
23 for life with the provision that upon the retirant's death, pay-  
24 ment of 1/2 of the reduced retirement allowance is continued  
25 throughout the lifetime of the retirement allowance beneficiary  
26 whom the member designated in a writing filed with the retirement  
27 board at the time of election of the option.

1       (2) In addition to the election under subsection (1), a  
2   retirant, other than a disability retirant who is 60 years of age  
3   or less, may elect to coordinate his or her retirement allowance  
4   with an estimated primary social security benefit. The retirant  
5   shall be paid an increased retirement allowance until 62 years of  
6   age and a reduced retirement allowance after 62 years of age.  
7   The increased retirement allowance paid until 62 years of age  
8   shall approximate the sum of the reduced retirement allowance  
9   payable after 62 years of age and the retirant's estimated social  
10   security primary insurance amount. The estimated social security  
11   primary insurance amount shall be determined by the retirement  
12   system. The election under this subsection shall be made at the  
13   same time and in the same manner as required under  
14   subsection (1).

15       (3) Except as otherwise provided in this section, the elec-  
16   tion of a payment option in subsections (1) and (2) shall not be  
17   changed on or after the effective date of the retirement  
18   allowance. Except as provided in subsection (4) OR (5), the  
19   retirement allowance beneficiary selected under subsection (1)(b)  
20   or (c) shall not be changed on or after the effective date of the  
21   retirement allowance and shall be either a spouse, brother,  
22   sister, parent, or child, including an adopted child, of the  
23   member, deferred member, retiring member, or retiring deferred  
24   member entitled to make the election under this act. Another  
25   retirement allowance beneficiary shall not be selected. If a  
26   member, deferred member, retiring member, or retiring deferred  
27   member is married at the retirement allowance effective date, an

1 election under subsection (1), other than an election under  
2 subsection (1)(b) or (c) naming the spouse as retirement allow-  
3 ance beneficiary, shall not be effective unless the election is  
4 signed by the spouse, except that this requirement may be waived  
5 by the board if the signature of a spouse cannot be obtained  
6 because of extenuating circumstances. For purposes of this sub-  
7 section, "spouse" means the person to whom the member, deferred  
8 member, retiring member, or retiring deferred member is married  
9 at the retirement allowance effective date. Payment to a retire-  
10 ment allowance beneficiary shall start the first day of the month  
11 following the retirant's death.

12       (4) If the retirement allowance beneficiary selected under  
13 subsection (1)(b) or (c) predeceases the retirant, the retirant's  
14 benefit shall revert to a straight retirement allowance including  
15 post-retirement adjustments, if any, shall be effective the first  
16 of the month following the death, and shall be paid during the  
17 remainder of the retirant's life. This subsection applies to a  
18 retirant whose effective date of retirement is after June 28,  
19 1976, but the straight retirement allowance shall not be payable  
20 for any month beginning before the later of the retirement allow-  
21 ance beneficiary's death or October 31, 1980. This subsection  
22 also applies to a retirant whose effective date of retirement was  
23 on or before June 28, 1976, but the straight retirement allowance  
24 shall not be payable for any month beginning before the later of  
25 the retirement allowance beneficiary's death or January 1, 1986.  
26 A retirant who on January 1, 1986 is receiving a reduced  
27 retirement allowance because the retirant designated a retirement

1 allowance beneficiary and the retirement allowance beneficiary  
2 predeceased the retirant is eligible to receive the straight  
3 retirement allowance beginning January 1, 1986, but the straight  
4 retirement allowance shall not be payable for any month beginning  
5 before January 1, 1986. IF A RETIRANT WHOSE RETIREMENT BENEFIT  
6 REVERTS TO A STRAIGHT RETIREMENT ALLOWANCE UNDER THIS SUBSECTION  
7 BECAUSE HIS OR HER RETIREMENT ALLOWANCE BENEFICIARY WAS A SPOUSE  
8 WHO PREDECEASED THE RETIRANT SUBSEQUENTLY REMARRIES, THE RETIR-  
9 ANT, WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT  
10 THAT ADDED THIS SENTENCE OR THE DATE OF HIS OR HER REMARRIAGE,  
11 WHICHEVER IS LATER, MAY BY WRITTEN DECLARATION DULY EXECUTED AND  
12 FILED WITH THE RETIREMENT BOARD ELECT AN OPTION UNDER  
13 SUBSECTION (1) NAMING HIS OR HER SPOUSE AS THE RETIREMENT ALLOW-  
14 ANCE BENEFICIARY. THE REDUCED RETIREMENT ALLOWANCE SHALL BE PAY-  
15 ABLE EFFECTIVE THE FIRST DAY OF THE MONTH FOLLOWING THE ELECTION.

16 (5) A retirant who returns to service pursuant to section 61  
17 and whose retirement allowance beneficiary selected under  
18 subsection (1)(b) or (c) predeceases the member before he or she  
19 again becomes a retirant may again choose a retirement allowance  
20 beneficiary pursuant to subsection (1)(b) or (c).

21 (6) If a retirant receiving a reduced retirement allowance  
22 under subsection (1)(b) or (c) is divorced from the spouse who  
23 had been designated as the retirant's retirement allowance bene-  
24 ficiary under subsection (1)(b) or (c), the election of a reduced  
25 retirement allowance payment option shall be considered void by  
26 the retirement system if the judgment of divorce or award or  
27 order of the court, or an amended judgment of divorce or award or

1 order of the court, described in section 46 and dated after ~~the~~  
2 ~~effective date of the amendatory act that added this subsection~~  
3 JUNE 27, 1991 provides that the election of a reduced retirement  
4 allowance payment option under subsection (1)(b) or (c) is to be  
5 considered void by the retirement system and the retirant pro-  
6 vides a certified copy of the judgment of divorce or award or  
7 order of the court, or an amended judgment of divorce or award or  
8 order of the court, to the retirement system. If the election of  
9 a reduced retirement allowance payment option under  
10 subsection (1)(b) or (c) is considered void by the retirement  
11 system under this subsection, the retirant's retirement allowance  
12 shall revert to a straight retirement allowance, including post-  
13 retirement adjustments, if any, subject to an award or order of  
14 the court as described in section 46. The retirement allowance  
15 shall revert to a straight retirement allowance under this sub-  
16 section effective the first of the month after the date the  
17 retirement system receives a certified copy of the judgment of  
18 divorce or award or order of the court. This subsection does not  
19 supersede a judgment of divorce or award or order of the court in  
20 effect on ~~the effective date of the amendatory act that added~~  
21 ~~this subsection~~ JUNE 27, 1991. This subsection does not require  
22 the retirement system to distribute or pay retirement assets on  
23 behalf of a retirant in an amount that exceeds the actuarially  
24 determined amount that would otherwise become payable if a judg-  
25 ment of divorce had not been rendered.

26 (7) If the retirement allowance payments terminate before an  
27 aggregate amount equal to the retirant's accumulated

1 contributions has been paid, the difference between the  
2 retirant's accumulated contributions and the aggregate amount of  
3 retirement allowance payments made shall be paid to the person  
4 designated in a writing filed with the retirement board on a form  
5 provided by the retirement board. If the designated person does  
6 not survive the retirant or retirement allowance beneficiary, the  
7 difference shall be paid to the deceased recipient's estate or to  
8 the legal representative of the deceased recipient.

9 (8) A retirement allowance payable under a payment option  
10 provided in this section is subject to an eligible domestic rela-  
11 tions order under the eligible domestic relations order act, ACT  
12 NO. 46 OF THE PUBLIC ACTS OF 1991, BEING SECTIONS 38.1701 TO  
13 38.1711 OF THE MICHIGAN COMPILED LAWS.