



# HOUSE BILL No. 4284

February 2, 1995, Introduced by Reps. Curtis, Wetters, Harder, Clack, Tesanovich, Freeman and Cherry and referred to the Committee on Appropriations.

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. 54 of the Public Acts of 1991, 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. 54 of the Public Acts of 1991, being  
3 section 38.556 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 6. (1) Age and service retirement benefits payable  
6 under this act are as follows:

7 (a) A member who is 55 years of age or older and who has 25  
8 or more years of service as a police officer or fire fighter in  
9 the employ of the municipality affected by this act may retire

1 from service upon written application to the retirement board  
2 stating a date, not less than 30 days or more than 90 days after  
3 the execution and filing of the application, on which the member  
4 desires to be retired. The retirement board shall grant the ben-  
5 efits to which the member is entitled under this act, unless the  
6 member continues employment. If the member continues employment,  
7 the member's pension shall be deferred with service years of  
8 credit until actual retirement. Upon the approval of the legis-  
9 lative body or the electors of a municipality under this act, a  
10 member under 50 years of age who has 25 or more years of service,  
11 or without the necessity for approval, a member 50 years of age  
12 or more who has 25 or more years of service, may leave service  
13 and receive the full retirement benefits payable throughout the  
14 member's life as provided in subdivision (e).

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

24 (c) A member who is 65 years of age shall be retired by the  
25 retirement board on the first day of the month following attain-  
26 ment of 65 years of age.

1 (d) A member who has 10 or more years of service shall have  
2 vested retirement benefits that are not subject to forfeiture on  
3 account of disciplinary action, charges, or complaints. If the  
4 member leaves employment before the date the member would have  
5 first become eligible to retire as provided in subdivision (a)  
6 for any reason except the member's retirement or death, the  
7 member is entitled to a pension that shall begin the first day of  
8 the calendar month immediately after the month in which the  
9 member's written application for the pension is filed with the  
10 retirement board that is on or after the date the member would  
11 have been eligible to retire had the member continued in  
12 employment. The retirement board shall grant the member the ben-  
13 efits to which the member is entitled under this act, unless the  
14 member resumes service. If the member resumes service, the  
15 member's pension shall be further deferred with service years of  
16 credit until the member actually retires.

17 (e) Upon retirement from service as provided in this subsec-  
18 tion, a member shall receive a regular retirement pension payable  
19 throughout the member's life of 2% of the member's average final  
20 compensation multiplied by the first 25 years of service credited  
21 to the member, plus 1% of the member's average final compensation  
22 multiplied by the number of years, and fraction of a year, of  
23 service rendered by the member in excess of 25 years. A munici-  
24 pality under this act, upon approval of the legislative body or  
25 the electors of the municipality, may increase the percentage of  
26 the payment from 2% up to a maximum of 2.5%. If an increase is  
27 approved, the increase shall not be reduced for members under the

1 system at the time of the increase. The legislative body may  
2 also increase the percentage of employee contributions. If a  
3 retired member dies before the total of regular pension payments  
4 received by the member equals the total of the member's contribu-  
5 tions made to the retirement system, the difference between the  
6 member's total contributions and the total of the member's regu-  
7 lar retirement pension payments received shall be paid in a  
8 single sum to the person or persons the member nominates by writ-  
9 ten designation duly executed and filed with the retirement  
10 board. If there is not a person or persons surviving the retired  
11 member, the difference, if any, shall be paid to the retired  
12 member's legal representative or estate.

13 (f) As used in this section, "average final compensation"  
14 means the average of the highest annual compensation received by  
15 a member during a period of 5 consecutive years of service con-  
16 tained within the member's 10 years of service immediately pre-  
17 ceding the member's retirement or leaving service. However, if  
18 so provided in a collective bargaining agreement entered into  
19 between a municipality under this act and the appropriate recog-  
20 nized bargaining agent, average final compensation may mean the  
21 average of the 3 years of highest annual compensation received by  
22 a member during the member's 10 years of service immediately pre-  
23 ceding the member's retirement or leaving service. If the member  
24 has less than 5 years of service, average final compensation  
25 means the annual average compensation received by the member  
26 during his or her total years of service.

1 (g) A member shall be given service credit for time spent in  
2 the military, naval, marine, or other armed service of the United  
3 States government during time of war, or other national emergency  
4 recognized by the board, if the member was employed by the munic-  
5 ipality at the time of entry into the armed service, and is or  
6 was reemployed by the municipality as a police officer or fire  
7 fighter within 6 months after the date of termination of his or  
8 her required enlistment or assignment in the armed service. A  
9 municipality by a 3/5 vote of its governing body or by a majority  
10 vote of the qualified electors may provide service credit for not  
11 more than 6 years of active military service to the United States  
12 government to a member who is employed subsequent to this mili-  
13 tary service upon payment to the retirement system of 5% of the  
14 member's full-time or equated full-time compensation for the  
15 fiscal year in which payment is made multiplied by the years of  
16 service that the member elects to purchase up to the maximum.  
17 Service is not creditable if it is or would be creditable under  
18 any other federal, state, or local publicly supported retirement  
19 system. However, this restriction does not apply to those per-  
20 sons who have or will have acquired retirement eligibility under  
21 the federal government for service in the reserve. A member  
22 shall be given service credit for the time the member is absent  
23 from active service without full pay on account of sickness or  
24 injury. If the absence from active service is due to nonservice  
25 connected sickness or injury, not more than 60 days of the  
26 absence shall be credited as service in any 1 calendar year, as  
27 determined by the retirement board.

1 (h) Before the effective date of the member's retirement as  
2 provided in this subsection, but not after the effective date of  
3 the member's retirement, a member may elect to receive his or her  
4 benefit in a pension payable throughout the member's life, called  
5 a regular retirement pension, or the member may elect to receive  
6 the actuarial equivalent, computed as of the effective date of  
7 retirement, of the member's regular retirement pension in a  
8 reduced retirement pension payable throughout the member's life,  
9 and nominate a survivor beneficiary, pursuant to an option pro-  
10 vided in this subdivision. ~~Upon~~ UNTIL THE EFFECTIVE DATE OF  
11 THE AMENDATORY ACT THAT ADDED THE IMMEDIATELY SUCCEEDING SEN-  
12 TENCE, UPON the death of a retirant who retires on or after July  
13 1, 1975, and who is receiving a regular retirement pension, his  
14 or her spouse, if living, shall receive a pension equal to 60% of  
15 the regular retirement pension the deceased retirant was  
16 receiving. BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT  
17 THAT ADDED THIS SENTENCE, UPON THE DEATH OF A RETIRANT WHO  
18 RETIRES ON OR AFTER JULY 1, 1965, AND WHO IS RECEIVING A REGULAR  
19 RETIREMENT PENSION, HIS OR HER SPOUSE, IF LIVING, SHALL RECEIVE A  
20 PENSION EQUAL TO 60% OF THE REGULAR RETIREMENT PENSION THE  
21 DECEASED RETIRANT WAS RECEIVING. Benefits shall not be paid under  
22 this subdivision on account of the death of a retirant if the  
23 member elected to receive his or her pension under an option pro-  
24 vided in this subdivision. As used in this subsection, "spouse"  
25 means the person to whom the retirant was legally married on both  
26 the effective date of retirement and the date of death. Except  
27 as otherwise provided in this act, if a member fails to elect an

1 option before the effective date of retirement, then the pension  
2 shall be paid as a regular retirement pension. A member may  
3 elect 1 of the following 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, that the member nominated by written  
8 designation duly executed and filed with the retirement board  
9 before the effective 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, that the member nominated  
14 by written designation duly executed and filed with the retire-  
15 ment board before 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 subdivision (j) in force, and dies while  
19 in service of the municipality before the effective date of the  
20 member's retirement, leaving a surviving spouse, the spouse shall  
21 receive a pension computed in the same manner as if the member  
22 had retired effective the day preceding the date of the member's  
23 death, elected option I provided for in subdivision (h), and nom-  
24 inated the spouse as survivor beneficiary. Upon the death of the  
25 spouse the pension shall terminate. A pension shall not be paid  
26 under this subdivision on account of the death of a member if

1 benefits are paid under subsection (2) on account of the member's  
2 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 sub-  
8 division (h) and nominate a survivor beneficiary whom the board  
9 finds to be dependent upon the member for at least 50% of the  
10 beneficiary's support. If a member who has an option I election  
11 provided for in this subdivision in force dies while in service  
12 before the effective date of the member's retirement, the  
13 member's survivor beneficiary shall immediately receive the same  
14 pension that the survivor beneficiary would have been entitled to  
15 receive under the option I if the member had retired pursuant to  
16 this act effective the day preceding the date of the member's  
17 death, notwithstanding that the member may not have attained 55  
18 years of age. If a member who has an option I election provided  
19 for in this subdivision in force subsequently retires pursuant to  
20 this act, the member, within 90 days immediately preceding the  
21 effective date of the member's retirement, but not after the  
22 effective date of the member's retirement, may elect an option  
23 provided for in subdivision (h). The option election is effec-  
24 tive as of the effective date of the member's retirement. A pen-  
25 sion shall not be paid under this subdivision on account of the  
26 death of a member if benefits are paid under subsection (2) on  
27 account of the member's death.

1 (k) If a retirant receiving a reduced retirement pension  
2 under subdivision (h)(i) or (ii) is divorced from the spouse who  
3 had been named the retirant's survivor beneficiary under subdivi-  
4 sion (h)(i) or (ii), the election of a reduced retirement pension  
5 payment option shall be considered void by the retirement system  
6 if the judgment of divorce or award or order of the court, or an  
7 amended judgment of divorce or award or order of the court,  
8 described in section 9 and dated after ~~the effective date of the~~  
9 ~~amendatory act that added this subdivision~~ JUNE 27, 1991 pro-  
10 vides that the election of a reduced retirement pension payment  
11 option under subdivision (h)(i) or (ii) is to be considered void  
12 by the retirement system and the retirant provides a certified  
13 copy of the judgment of divorce or award or order of the court,  
14 or an amended judgment of divorce or award or order of the court,  
15 to the retirement system. If the election of a reduced retire-  
16 ment pension payment option under subdivision (h)(i) or (ii) is  
17 considered void by the retirement system under this subsection,  
18 the retirant's retirement pension shall revert to a regular  
19 retirement pension, including postretirement adjustments, if any,  
20 subject to an award or order of the court as described in section  
21 9. The retirement pension shall revert to a regular retirement  
22 pension under this subdivision effective the first of the month  
23 after the date the retirement system receives a certified copy of  
24 the judgment of divorce or award or order of the court. This  
25 subdivision does not supersede a judgment of divorce or award or  
26 order of the court in effect on ~~the effective date of the~~  
27 ~~amendatory act that added this subdivision~~ JUNE 27, 1991. This

1 subdivision does not require the retirement system to distribute  
2 or pay retirement assets on behalf of a retirant in an amount  
3 that exceeds the actuarially determined amount that would other-  
4 wise become payable if a judgment of divorce had not been  
5 rendered.

6 (2) Disability and service connected death benefits payable  
7 under this act are as follows:

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

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

25 (c) If death results to a member in the line of duty and the  
26 member leaves other surviving dependents, the dependents shall  
27 receive a pension of the same amount as that which has been paid

1 to them as a weekly benefit under Act No. 317 of the Public Acts  
2 of 1969, to become due and payable upon termination of the pay-  
3 ments under Act No. 317 of the Public Acts of 1969 and to con-  
4 tinue until the time the retirement board determines that the  
5 need for a pension no longer exists.

6 (d) Upon the application of a member or the member's depart-  
7 ment head, a member who becomes totally incapacitated for duty by  
8 reason of a personal injury or disease occurring as the natural  
9 and proximate result of causes arising out of and in the course  
10 of the member's employment by the municipality shall be retired  
11 by the retirement board. The member shall be given a medical  
12 examination by a medical committee consisting of a physician  
13 named by the retirement board, a physician named by the member  
14 claiming benefits, and a third physician designated by the first  
15 2 physicians named. The medical committee, if determined by a  
16 majority opinion, shall certify in writing that the member is  
17 mentally or physically incapacitated for the further performance  
18 of duty as a police officer or fire fighter in the service of the  
19 municipality; that the incapacity is likely to be permanent; and  
20 that the member should be retired. Upon retirement for disabil-  
21 ity as provided in this subdivision, a member who has not  
22 attained 55 years of age shall receive a disability retirement  
23 pension of 50% of the member's average final compensation, which  
24 shall be determined according to subsection (1)(f), and shall be  
25 payable until the member becomes 55 years of age. Upon becoming  
26 55 years of age, the disabled member shall receive a disability  
27 retirement pension computed according to subsection (1)(e). In

1 computing the disability retirement pension, the member shall be  
2 given service credit for the period of receipt of a disability  
3 retirement pension before attainment of 55 years of age. If a  
4 member retired after attaining 55 years of age on account of dis-  
5 ability, as provided in this subdivision, the member shall  
6 receive a disability retirement pension computed according to  
7 subsection (1)(e), notwithstanding that the member may not have  
8 25 years of service credit. The disability retirement pension  
9 provided for in this subdivision is subject to subdivisions (f)  
10 and (g).

11 (e) Upon the application of a member or the member's depart-  
12 ment head, a member in service who has 5 or more years of service  
13 credit and who becomes totally and permanently incapacitated for  
14 duty by reason of a personal injury or disease occurring as the  
15 result of causes arising outside the course of the member's  
16 employment by the municipality may be retired by the retirement  
17 board. The member shall be given a medical examination by a med-  
18 ical committee consisting of a physician named by the retirement  
19 board, a physician named by the member claiming benefits, and a  
20 third physician designated by the first 2 physicians named. The  
21 medical committee, if determined by a majority opinion, shall  
22 certify in writing that the member is mentally or physically  
23 incapacitated for the further performance of duty as a police  
24 officer or fire fighter in the service of the municipality, that  
25 the incapacity is likely to be permanent, and that the member  
26 should be retired. Upon retirement for disability, as provided  
27 in this subdivision, a member who has not attained 55 years of

1 age shall receive a disability retirement pension until the  
2 member becomes 55 years of age, recovers, or dies, whichever  
3 occurs first, of 1.5% of the member's average final compensation  
4 multiplied by the number of years of service credited to the  
5 member. Upon becoming 55 years of age, the member's disability  
6 retirement pension shall be increased to 2% of the member's aver-  
7 age final compensation multiplied by the number of years of serv-  
8 ice credited to the member at the time of his or her retirement.  
9 Upon retirement for disability as provided in this subdivision, a  
10 member who is 55 years of age or older shall receive a disability  
11 retirement pension computed according to subsection (1)(e). This  
12 subdivision is subject to subdivisions (f) and (g).

13 (f) At least once each year during the first 5 years after  
14 the retirement of a member with a disability retirement pension  
15 and at least once in every 3-year period after disability retire-  
16 ment, the retirement board may, and upon the retired member's  
17 application shall, require a retired member who has not attained  
18 55 years of age to undergo a medical examination. The medical  
19 examination shall be given by or under the direction of a physi-  
20 cian, designated by the retirement board, at the place of resi-  
21 dence of the retired member or other place mutually agreed upon.  
22 If a retired member who has not attained 55 years of age refuses  
23 to submit to the medical examination in the period, the member's  
24 disability retirement pension may be discontinued by the retire-  
25 ment board. If the member's refusal continues for 1 year, all  
26 the member's rights in and to his or her disability retirement  
27 pension may be revoked by the retirement board. If upon a

1 medical examination of the retired member the physician reports  
2 to the retirement board that the retired member is physically  
3 able and capable of resuming employment in the classification  
4 held by the member at the time of retirement, the member shall be  
5 restored to active service in the employ of the municipality and  
6 payment of the disability retirement pension shall cease if the  
7 report of the physician is concurred in by the retirement board.  
8 A retired member restored to active service shall again become a  
9 member of the retirement system from the date of return to  
10 service. The member shall contribute to the retirement system  
11 after restoration to active service in the same manner as before  
12 the member's disability retirement. Service credited to the  
13 member at the time of disability retirement shall be restored to  
14 full force and effect. The member shall be given service credit  
15 for the period the member was receiving a duty disability retire-  
16 ment pension provided for in subdivision (d), but shall not be  
17 given service credit for the period the member was receiving a  
18 nonduty disability retirement pension provided for in subdivision  
19 (e). Amounts paid under Act No. 317 of the Public Acts of 1969  
20 to a retired member shall be offset against and payable in place  
21 of benefits provided under this act. If the benefits under Act  
22 No. 317 of the Public Acts of 1969 are less than the benefits  
23 payable under this act, the amount to be paid out of the funds of  
24 the retirement system shall be the difference between the bene-  
25 fits provided under Act No. 317 of the Public Acts of 1969 and  
26 the benefits provided in this act. Upon the termination of

1 benefits under Act No. 317 of the Public Acts of 1969, the  
2 benefits shall be paid pursuant to this act.

3 (g) Within 60 days before a member becomes 55 years of age,  
4 or before retirement from service if retirement occurs after the  
5 member becomes 55 years of age, a disabled member who is retired  
6 as provided in subdivision (d) or (e) may elect to continue to  
7 receive a disability retirement pension as a benefit terminating  
8 at death, to be known as a regular disability pension, or may  
9 elect to receive the actuarial equivalent, at that time, of a  
10 regular disability pension in a reduced disability pension pay-  
11 able throughout life pursuant to an option provided in subsection  
12 (1)(h). If a disabled member fails to elect an option, as pro-  
13 vided in this subdivision, before becoming 55 years of age or  
14 before retirement, the member's retirement pension shall be paid  
15 to the member as a regular disability pension terminating at  
16 death. If a disabled member who has not elected an option pro-  
17 vided in subsection (1)(h) dies before the total of the member's  
18 regular disability pension payments received equals or exceeds  
19 the total of the member's contributions made to the retirement  
20 system, the remainder, if any, shall be paid in a single sum to  
21 the person or persons nominated by the member by written designa-  
22 tion duly executed and filed with the board. If there is not a  
23 designated person or persons surviving, then the remainder, if  
24 any, shall be paid to the retired member's legal representative  
25 or estate.