



# HOUSE BILL No. 4890

May 24, 1995, Introduced by Reps. Brewer, Baird, Harder, Martinez, Olshove, Tesanovich, Mathieu and DeMars and referred to the Committee on Appropriations.

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 THIS STATE.

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

15 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT  
16 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S STATE EMPLOY-  
17 MENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S PERSONAL  
18 REPRESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT HEAD, OR THE  
19 STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A DISABILITY  
20 RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIREMENT BOARD.  
21 UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT BOARD, FOR  
22 GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY RETIREMENT  
23 ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF THE  
24 MEMBER'S STATE EMPLOYMENT BECAUSE OF THE INCAPACITY.

25 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY  
26 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE  
27 RETIREMENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF

1 THE APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT  
2 BOARD SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR  
3 OTHER EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE  
4 EVALUATION.

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

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

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

20 ~~(a) A disability retirement allowance of 2/3 of the~~  
21 ~~retirant's final average compensation, the retirement allowance~~  
22 ~~to begin as of date of the retirant's disability, but not more~~  
23 ~~than 6 months before the date the retirant's application for dis-~~  
24 ~~ability retirement was filed with the retirement board, and not~~  
25 ~~before the date the retirant's name last appeared on a state pay-~~  
26 ~~roll with pay, whichever is later, and to continue to the~~  
27 ~~attainment of age 60 years or recovery or death, whichever event~~

1 ~~shall first occur. The disability retirement allowance payable~~  
2 ~~to a disability retirant shall not exceed \$6,000.00 per annum,~~  
3 ~~nor be more than an amount which when added to the statutory~~  
4 ~~worker's compensation benefits applicable in the retirant's case~~  
5 ~~shall exceed the retirant's final compensation. The increase in~~  
6 ~~the maximum amount payable under this subdivision as provided by~~  
7 ~~this 1987 amendatory act shall be payable to retirants on the~~  
8 ~~pension payroll as of July 1, 1987.~~

9 (1) UPON RETIREMENT FOR DISABILITY AS PROVIDED IN SECTION  
10 21, A MEMBER WHO IS LESS THAN 60 YEARS OLD SHALL RECEIVE A DIS-  
11 ABILITY RETIREMENT ALLOWANCE CALCULATED UNDER SECTION 20(1). A  
12 DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER THIS SUBSECTION IS  
13 PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH FOLLOWING THE  
14 DATE THE MEMBER BECOMES TOTALLY INCAPACITATED FOR STATE  
15 EMPLOYMENT. HOWEVER, A DISABILITY RETIREMENT ALLOWANCE PAYABLE  
16 UNDER THIS SUBSECTION SHALL NOT BE PAID BEFORE THE FIRST DAY OF  
17 THE MONTH FOLLOWING THE LATER OF THE FOLLOWING:

18 (A) SIX MONTHS BEFORE THE DATE THE APPLICATION FOR A DIS-  
19 ABILITY RETIREMENT ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD  
20 UNDER SECTION 21.

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

23 (2) ~~(b) Upon attaining age 60 years, or July 1, 1987,~~  
24 ~~whichever is later, the~~ A disability retirant UNDER  
25 SUBSECTION (1) shall receive a retirement allowance ~~computed~~  
26 ~~according to~~ CALCULATED UNDER section 20. ~~In computing the~~  
27 FOR THE PURPOSE OF CALCULATING THAT retirant's retirement

1 allowance, the retirant shall be given membership service credit  
2 for the period during which the retirant was receiving the dis-  
3 ability retirement allowance provided for in ~~subdivision (a)~~  
4 SUBSECTION (1). If the computation results in a retirement  
5 allowance less than the disability retirement allowance provided  
6 in ~~subdivision (a)~~ SUBSECTION (1), the retirant shall receive a  
7 retirement allowance equal to the disability retirement  
8 allowance. ~~Upon attaining age 60 years or July 1, 1987, which~~  
9 ~~ever is later, the retirant may elect an option provided for in~~  
10 ~~section 31(1).~~

11 (3) ~~(c)~~ During the period a disability retirant is receiv-  
12 ing a disability retirement allowance ~~, as provided for in sub~~  
13 ~~division (a)~~ UNDER SUBSECTION (1), the DISABILITY retirant's  
14 contributions to the employees' savings fund shall be suspended  
15 and the balance in the fund, standing to the DISABILITY  
16 retirant's credit as of the date the disability retirement allow-  
17 ance begins, shall remain in the savings fund and shall be accu-  
18 mulated at regular interest. Upon attaining age 60 years, ~~or~~  
19 ~~July 1, 1987, whichever is later,~~ the DISABILITY retirant's  
20 accumulated contributions shall be transferred from the  
21 employees' savings fund to the pension reserve fund. If the dis-  
22 ability retirant should die before attaining age 60 years, the  
23 accumulated contributions standing to the DISABILITY retirant's  
24 credit in the employees' savings fund shall be paid to the person  
25 or persons the retirant nominated by written designation duly  
26 executed and filed with the retirement board, or if there is not

1 a designated person or persons surviving, then to the retirant's  
2 legal representative OR ESTATE.

3 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A  
4 DISABILITY RETIRANT ELECTS TO RECEIVE A REGULAR DISABILITY  
5 RETIREMENT ALLOWANCE UNDER SECTION 31, THE DISABILITY RETIREMENT  
6 ALLOWANCE PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION  
7 SHALL NOT BE LESS THAN \$6,000.00 PER YEAR. EXCEPT AS OTHERWISE  
8 PROVIDED IN THIS SUBSECTION, IF A DISABILITY RETIRANT ELECTS TO  
9 RECEIVE A REDUCED DISABILITY RETIREMENT ALLOWANCE UNDER OPTION A  
10 OR B UNDER SECTION 31, THE DISABILITY RETIREMENT ALLOWANCE PAY-  
11 ABLE TO A DISABILITY RETIRANT UNDER THIS SECTION SHALL NOT BE  
12 LESS THAN THE ACTUARIAL EQUIVALENT AT THE TIME OF THE ELECTION OF  
13 \$6,000.00 PER YEAR. A DISABILITY RETIREMENT ALLOWANCE FIRST PAY-  
14 ABLE TO A DISABILITY RETIRANT UNDER THIS SECTION SHALL NOT BE  
15 MORE THAN AN AMOUNT THAT WHEN ADDED TO THE STATUTORY WORKER'S  
16 DISABILITY COMPENSATION BENEFITS PAYABLE TO THE DISABILITY RETIR-  
17 ANT EXCEEDS THE DISABILITY RETIRANT'S FINAL COMPENSATION.

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

20 Sec. 24. (1) ~~Subject to the provisions of sections 33 and~~  
21 ~~34, upon application of a member, or his department head, or the~~  
22 ~~state personnel director, a member who has been a state employee~~  
23 ~~at least 10 years becomes totally and permanently incapacitated~~  
24 ~~for duty as the result of causes occurring not in the performance~~  
25 ~~of duty to the state, may be retired by the retirement board:~~  
26 ~~Provided, The medical advisor after a medical examination of such~~  
27 ~~member, shall certify that such member is mentally or physically~~

~~1 incapacitated for the further performance of duty, and such~~  
~~2 incapacity is likely to be permanent and that such member should~~  
~~3 be retired.~~ A MEMBER WHO BECOMES TOTALLY INCAPACITATED FOR THE  
4 STATE EMPLOYMENT THAT THE MEMBER WAS PERFORMING IMMEDIATELY  
5 BEFORE TERMINATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR  
6 FOR THE STATE EMPLOYMENT FOR WHICH THE MEMBER IS QUALIFIED BY  
7 REASON OF TRAINING OR EXPERIENCE OR BOTH, IS ENTITLED TO RECEIVE  
8 A DISABILITY RETIREMENT ALLOWANCE PURSUANT TO SECTION 25 IF THE  
9 RETIREMENT BOARD DETERMINES THAT ALL OF THE FOLLOWING REQUIRE-  
10 MENTS ARE MET:

11 (A) THE MEMBER HAS NOT MET THE AGE REQUIREMENT UNDER  
12 SECTION 19(1) OR QUALIFIED FOR AN UNREDUCED RETIREMENT ALLOWANCE  
13 UNDER SECTION 19(2), BUT HAS ACCRUED AT LEAST THE MINIMUM NUMBER  
14 OF YEARS OF CREDITED SERVICE NEEDED TO VEST IN THE RETIREMENT  
15 SYSTEM.

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

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

20 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-  
21 ITY DID NOT OCCUR IN THE PERFORMANCE OF DUTY IN THE SERVICE OF  
22 THIS STATE.

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

25 (F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT  
26 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S STATE  
27 EMPLOYMENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S

1 PERSONAL REPRESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT  
2 HEAD, OR THE STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A  
3 DISABILITY RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIRE-  
4 MENT BOARD. UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT  
5 BOARD, FOR GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY  
6 RETIREMENT ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF  
7 THE MEMBER'S STATE EMPLOYMENT BECAUSE OF THE INCAPACITY.

8 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY  
9 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-  
10 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE  
11 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD  
12 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER  
13 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE  
14 EVALUATION.

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

18 (4) UPON ATTAINING AGE 60 YEARS, A DISABILITY RETIRANT UNDER  
19 SUBSECTION (1) IS CONSIDERED RETIRED UNDER THE PROVISIONS OF SEC-  
20 TION 19(1) AND SHALL RECEIVE A RETIREMENT ALLOWANCE CALCULATED  
21 UNDER SECTION 20.

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

25 (2) THE DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER  
26 SUBSECTION (1) IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH  
27 FOLLOWING THE LATER OF EITHER OF THE FOLLOWING:

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

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

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

10 Sec. 27. (1) ~~if~~ EXCEPT AS PROVIDED IN SUBSECTIONS (3),  
11 (4), AND (5), IF a member dies as a result of a personal injury  
12 or disease arising out of and in the course of his or her employ-  
13 ment with the state  ~~or a disability retirant who retired under~~  
14 ~~section 21 dies prior to becoming age 60 and within 3 years after~~  
15 ~~the member's disability retirement from the same causes for which~~  
16 ~~he or she was retired, and such death or illness or injuries~~ AND  
17 THE PERSONAL INJURY OR DISEASE resulting in death ~~are~~ IS found  
18 by the retirement board to have been the sole and exclusive  
19 result of employment with the state, the ~~applicable benefits~~  
20 ~~provided in subsections (2), (3), (4), and (5) shall be paid,~~  
21 ~~subject to subsection (6).~~

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

1 ~~(3) A retirement allowance of  $\frac{1}{3}$  of the final compensation~~  
2 ~~of the deceased person shall be paid to the surviving spouse to~~  
3 ~~whom the deceased person was married at the time he or she last~~  
4 ~~terminated employment with the state. If a child or children~~  
5 ~~under the age of 18 years also survives the deceased person, each~~  
6 ~~such child shall receive an allowance of an equal share of  $\frac{1}{4}$  of~~  
7 ~~the deceased person's final compensation. Upon the marriage,~~  
8 ~~death, or attainment of age 18 years of any such child, there~~  
9 ~~shall be a redistribution by the retirement board to the deceased~~  
10 ~~person's remaining children under age 18 years.~~

11 ~~(4) If there is no surviving spouse or if the surviving~~  
12 ~~spouse dies before the youngest surviving child of the deceased~~  
13 ~~person reaches the age of 18 years, then each such child under~~  
14 ~~age 18 shall each receive an allowance equal to  $\frac{1}{4}$  of the~~  
15 ~~deceased person's final compensation, but the total so paid in~~  
16 ~~any year to the children of a deceased person shall not exceed~~  
17  ~~$\frac{1}{2}$  of his or her final compensation. If there are more than 2~~  
18 ~~such surviving children under age 18 years, each such child shall~~  
19 ~~receive an allowance of an equal share of  $\frac{1}{2}$  of the deceased~~  
20 ~~person's final compensation. Upon the marriage, death, or~~  
21 ~~attainment of age 18 years of any such child, the child's allow-~~  
22 ~~ance shall terminate and there shall be a redistribution by the~~  
23 ~~retirement board to any remaining eligible children of the~~  
24 ~~deceased under age 18, but a child shall not receive an allowance~~  
25 ~~more than  $\frac{1}{4}$  of the deceased person's final compensation.~~

26 ~~(5) If there is neither a spouse nor a child under age 18~~  
27 ~~years surviving the deceased person, then there shall be paid to~~

1 ~~each parent of the deceased person whom the retirement board~~  
2 ~~after investigation determines to have been actually dependent~~  
3 ~~upon the deceased person through absence of earning power due to~~  
4 ~~disability, an allowance of 1/6 of the deceased person's final~~  
5 ~~compensation.~~

6 ~~(6) The total of the retirement allowances payable under~~  
7 ~~subsections (3), (4), and (5) on account of the death of a member~~  
8 ~~or retirant shall not exceed \$2,400.00 per annum, nor an amount~~  
9 ~~which, when added to the statutory worker's compensation benefit~~  
10 ~~to which the dependents of the member or retirant are entitled,~~  
11 ~~exceeds his or her final compensation.~~ SURVIVING SPOUSE SHALL  
12 RECEIVE A RETIREMENT ALLOWANCE CALCULATED AS IF THE DECEASED  
13 MEMBER HAD RETIRED EFFECTIVE THE DAY BEFORE THE DATE OF DEATH,  
14 ELECTED OPTION A UNDER SECTION 31(1), AND NOMINATED HIS OR HER  
15 SPOUSE AS RETIREMENT ALLOWANCE BENEFICIARY. THE RETIREMENT  
16 ALLOWANCE SHALL BE CALCULATED BASED UPON THE AMOUNT OF THE  
17 DECEASED MEMBER'S CREDITED SERVICE. HOWEVER, IF THE DECEASED  
18 MEMBER DOES NOT HAVE THE MINIMUM NUMBER OF YEARS OF CREDITED  
19 SERVICE NEEDED TO VEST IN THE RETIREMENT SYSTEM, THE AMOUNT OF  
20 SERVICE NECESSARY TO REACH THAT AMOUNT OF CREDITED SERVICE SHALL  
21 BE GRANTED.

22 (2) THE RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE  
23 UNDER THIS SECTION SHALL NOT BE LESS THAN \$6,000.00 PER YEAR.  
24 THE FIRST RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE  
25 UNDER SUBSECTION (1) SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN  
26 ADDED TO THE STATUTORY WORKER'S DISABILITY COMPENSATION BENEFITS

1 PAYABLE TO THE SURVIVING SPOUSE OF THE DECEASED MEMBER EQUALS THE  
2 DECEASED MEMBER'S FINAL COMPENSATION.

3 (3) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET BUT THE  
4 DECEASED MEMBER IS SURVIVED BY A SPOUSE AND A CHILD OR CHILDREN  
5 UNDER 18 YEARS OF AGE, THEN THE RETIREMENT ALLOWANCE CALCULATED  
6 UNDER SUBSECTIONS (1) AND (2) SHALL BE PAYABLE AS FOLLOWS:

7 (A) ONE HALF TO THE SURVIVING SPOUSE.

8 (B) ONE HALF TO THE SURVIVING CHILD OR CHILDREN UNDER 18  
9 YEARS OF AGE, IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE  
10 TO A SURVIVING CHILD UNDER THIS SUBSECTION SHALL TERMINATE UPON  
11 THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18 YEARS OF AGE, WHICH-  
12 EVER OCCURS FIRST. THAT CHILD'S SHARE OF THE TERMINATED RETIRE-  
13 MENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE REMAINING CHIL-  
14 DREN UNDER 18 YEARS OF AGE, IF ANY. WHEN THERE ARE NO SURVIVING  
15 CHILDREN ENTITLED TO A SHARE OF THE RETIREMENT ALLOWANCE UNDER  
16 THIS SUBSECTION, THE CHILDREN'S SHARE SHALL REVERT TO THE SURVIV-  
17 ING SPOUSE.

18 (5) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND THE  
19 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE BUT IS SURVIVED BY A  
20 CHILD OR CHILDREN UNDER 18 YEARS OF AGE, THEN THE RETIREMENT  
21 ALLOWANCE CALCULATED UNDER SUBSECTIONS (1) AND (2) SHALL BE PAID  
22 TO THE SURVIVING CHILD OR CHILDREN IN EQUAL SHARES. THE RETIRE-  
23 MENT ALLOWANCE PAYABLE TO A SURVIVING CHILD UNDER THIS SUBSECTION  
24 SHALL TERMINATE UPON THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18  
25 YEARS OF AGE, WHICHEVER OCCURS FIRST. THAT CHILD'S SHARE OF THE  
26 TERMINATED RETIREMENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE  
27 REMAINING CHILDREN UNDER 18 YEARS OF AGE, IF ANY.

1 (6) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND THE  
2 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE OR A CHILD OR CHIL-  
3 DREN UNDER 18 YEARS OF AGE BUT IS SURVIVED BY A PARENT OR PARENTS  
4 WHO WERE DEPENDENT UPON THE DECEASED MEMBER FOR 50% OR MORE OF  
5 SUPPORT, THEN THE RETIREMENT ALLOWANCE CALCULATED UNDER  
6 SUBSECTIONS (1) AND (2) SHALL BE PAID TO THE SURVIVING PARENT OR  
7 PARENTS IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE TO A  
8 SURVIVING PARENT UNDER THIS SUBSECTION SHALL TERMINATE UPON THAT  
9 PARENT'S DEATH.

10 (7) A RETIREMENT ALLOWANCE PAYABLE UNDER THIS SECTION TO A  
11 SURVIVING SPOUSE BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT  
12 THAT ADDED THIS SUBSECTION SHALL NOT BE LESS THAN \$6,000.00 PER  
13 YEAR. A PORTION OF A RETIREMENT ALLOWANCE PAYABLE UNDER THIS  
14 SECTION TO SURVIVING CHILDREN OR PARENTS BEFORE THE EFFECTIVE  
15 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL NOT  
16 BE LESS THAN THAT PORTION OF A \$6,000.00 ANNUAL RETIREMENT ALLOW-  
17 ANCE THAT THAT CHILD OR PARENT WAS ENTITLED TO UNDER THIS SECTION  
18 BEFORE THAT DATE.

19 Sec. 33. (1) ~~(a)~~ Once each year during the first ~~5~~ 6  
20 years following the retirement of a member ~~on a disability~~  
21 ~~retirement allowance, and at least once in every 3 year period~~  
22 ~~thereafter~~ UNDER SECTION 21 OR 24, the retirement board may, and  
23 upon the retirant's application shall, require ~~any~~ A disability  
24 retirant ~~who has not attained age~~ IS UNDER 60 years ~~of~~  
25 AGE to ~~undergo a medical examination, such examination to be~~  
26 ~~made by or under the direction of the medical advisor at the~~  
27 ~~place of residence of said retirant, or other place mutually~~

~~1 agreed upon. Should any disability retirant, who has not  
2 attained age 60 years, refuse to submit to such medical examina-  
3 tion in any such period, his disability retirement allowance may  
4 be discontinued until his withdrawal of such refusal, and should  
5 such refusal continue for 1 year, all his rights in and to his  
6 disability retirement allowance may be revoked by the retirement  
7 board. If upon such medical examination of a disability retir-  
8 ant, the medical advisor reports and his report is concurred in  
9 by the retirement board, that the disability retirant is physi-  
10 cally able and capable of resuming employment, he shall be  
11 restored to active service with the state and his disability  
12 retirement allowance shall cease.~~ SUBMIT TO A MEDICAL EVALUATION  
13 DESCRIBED IN SECTION 21(2) OR A VOCATIONAL EVALUATION DESCRIBED  
14 IN SECTION 35(1), OR BOTH. THE RETIREMENT BOARD SHALL MAKE REA-  
15 SONABLE ACCOMMODATIONS REGARDING THE LOCATION AND METHOD OF THE  
16 MEDICAL OR VOCATIONAL EVALUATION TAKING INTO CONSIDERATION THE  
17 LOCATION AND HEALTH OF THE DISABILITY RETIRANT. THE RETIREMENT  
18 BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PARTICIPATE IN A  
19 PROGRAM OF VOCATIONAL REHABILITATION IN THE MANNER PROVIDED IN  
20 SECTION 35. IF A DISABILITY RETIRANT WHO IS UNDER 60 YEARS OF  
21 AGE REFUSES TO SUBMIT TO THE EVALUATION OR EVALUATIONS REQUIRED  
22 BY THE RETIREMENT BOARD UNDER THIS SECTION, HIS OR HER DISABILITY  
23 RETIREMENT ALLOWANCE MAY BE DISCONTINUED UNTIL THE DISABILITY  
24 RETIRANT SUBMITS TO THE REQUIRED EVALUATION OR EVALUATIONS. IF  
25 THE REFUSAL CONTINUES FOR 1 YEAR, ALL OF THE DISABILITY  
26 RETIRANT'S RIGHTS IN AND TO A DISABILITY RETIREMENT ALLOWANCE MAY  
27 BE REVOKED BY THE RETIREMENT BOARD.

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

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

22 (4) ~~(b) Should~~ IF the secretary ~~report and certify~~  
23 REPORTS AND CERTIFIES to the retirement board that ~~such~~ A dis-  
24 ability ~~beneficiary~~ RETIRANT is engaged in ~~a~~ gainful occupa-  
25 tion paying more than the difference between his OR HER disabil-  
26 ity retirement allowance and his OR HER ADJUSTED final  
27 compensation, and ~~should~~ IF the retirement board ~~concur in~~

1 ~~such~~ CONCURS IN THE report, then the amount of ~~his~~ THE  
 2 DISABILITY retirement allowance shall be reduced to an amount  
 3 ~~which~~ THAT together with the amount earned by ~~him shall equal~~  
 4 THE DISABILITY RETIRANT EQUALS his OR HER ADJUSTED final  
 5 compensation. ~~Should~~ IF the earnings of ~~such~~ THE disability  
 6 retirant ~~be later changed~~ CHANGE, the amount of his OR HER  
 7 retirement allowance shall ~~be further modified in like manner~~  
 8 AGAIN BE ADJUSTED UNDER THIS SECTION. AS USED IN THIS SUBSEC-  
 9 TION, "ADJUSTED FINAL COMPENSATION" MEANS THE DISABILITY  
 10 RETIRANT'S FINAL COMPENSATION PLUS A 1-STEP INCREASE AT THAT  
 11 CLASSIFICATION, IF ANY, WHICH AMOUNT IS THEN INCREASED BY 3% COM-  
 12 POUNDED ANNUALLY FOR EACH YEAR OR MAJOR PORTION OF A YEAR THAT  
 13 EXPIRES AFTER THE DISABILITY RETIREMENT EFFECTIVE DATE AND THE  
 14 DATE OF THE CALCULATION UNDER THIS SUBSECTION.

15 Sec. 34. A disability retirant who has been or ~~shall be~~  
 16 IS reinstated in active service ~~, as provided in section 33,~~  
 17 ~~shall from~~ UNDER SECTION 33 OR 35 AGAIN BECOMES A MEMBER BEGIN-  
 18 NING ON the date of ~~such~~ THE reinstatement. ~~again become a~~  
 19 ~~member of the retirement system.~~ Upon reinstatement of ~~such~~  
 20 THE disability retirant to active service, any balance ~~he may~~  
 21 ~~have~~ STANDING TO HIS OR HER CREDIT in the pension reserve fund  
 22 at the time of ~~such~~ THE reinstatement ~~to active service,~~  
 23 shall be transferred from the pension reserve fund to the  
 24 employees' savings fund and credited to his OR HER individual  
 25 account in the employees' savings fund. Any service ~~, on the~~  
 26 ~~basis of which his retirement allowance was computed at the time~~  
 27 ~~of his retirement,~~ CREDIT ACCRUED BY THE REINSTATED DISABILITY

1 RETIRANT BEFORE DISABILITY RETIREMENT shall be restored to full  
2 force and effect, and, except in the case of retirement for  
3 ~~non-duty~~ NONDUTY disability ~~as provided in~~ UNDER section 24,  
4 ~~he~~ THE DISABILITY RETIRANT shall be given service credit for  
5 the period of time ~~he was out of service due to such disability~~  
6 A DISABILITY RETIREMENT ALLOWANCE WAS PAID.

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

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

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

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

21 (2) IF THE RETIREMENT BOARD DETERMINES THAT THE APPLICANT IS  
22 OTHERWISE QUALIFIED FOR A DISABILITY RETIREMENT ALLOWANCE UNDER  
23 SECTIONS 21 AND 23 OR SECTIONS 24 AND 25, BUT THAT THE POTENTIAL  
24 EXISTS FOR THE VOCATIONAL REHABILITATION OF THE DISABILITY APPLI-  
25 CANT FOR REASONABLE STATE EMPLOYMENT COMPATIBLE WITH THE DISABIL-  
26 ITY APPLICANT'S MENTAL AND PHYSICAL CONDITION, THE DISABILITY  
27 APPLICANT SHALL BE RETIRED UNDER THE APPLICABLE SECTIONS. THE

1 RETIREMENT BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT  
2 PARTICIPATE IN GOOD FAITH IN A REASONABLE PROGRAM OF VOCATIONAL  
3 REHABILITATION OR A RETURN TO WORK PROGRAM ADMINISTERED BY THIS  
4 STATE.

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

17 (4) THE RETIREMENT BOARD SHALL RECOMMEND THAT THIS STATE  
18 OFFER REASONABLE STATE EMPLOYMENT TO THE DISABILITY RETIRANT WHO  
19 IS CONSIDERED REHABILITATED UNDER SUBSECTION (3). THE REASONABLE  
20 STATE EMPLOYMENT OFFERED TO THE REHABILITATED DISABILITY RETIRANT  
21 SHALL BE COMPATIBLE WITH THE REHABILITATED DISABILITY RETIRANT'S  
22 MENTAL AND PHYSICAL CONDITION.

23 (5) A REHABILITATED DISABILITY RETIRANT WHO ACCEPTS REASON-  
24 ABLE STATE EMPLOYMENT UNDER SUBSECTION (4) IS NOT ENTITLED TO  
25 RECEIVE A DISABILITY RETIREMENT ALLOWANCE UNDER SECTIONS 21 AND  
26 23 OR SECTIONS 24 AND 25. THE RETIREMENT SYSTEM SHALL CEASE  
27 PAYING THE DISABILITY RETIREMENT ALLOWANCE TO THE REHABILITATED

1 DISABILITY RETIRANT EFFECTIVE UPON THE BEGINNING DATE OF THE  
2 ACCEPTED STATE EMPLOYMENT. HOWEVER, IF THE REHABILITATED DIS-  
3 ABILITY RETIRANT ACCEPTS THE OFFERED STATE EMPLOYMENT, RESUMES  
4 STATE EMPLOYMENT UNDER THIS SUBSECTION, AND THE COMPENSATION PAY-  
5 ABLE FOR THAT STATE EMPLOYMENT IS LESS THAN THE REHABILITATED  
6 DISABILITY RETIRANT'S ADJUSTED FINAL COMPENSATION, THEN THE  
7 RETIREMENT SYSTEM SHALL PAY TO THE REHABILITATED DISABILITY  
8 RETIRANT A DIFFERENTIAL PAYMENT EQUAL TO THE DIFFERENCE, IF ANY,  
9 BETWEEN THE AMOUNT OF COMPENSATION PAYABLE FOR THE ACCEPTED STATE  
10 EMPLOYMENT AND ADJUSTED FINAL COMPENSATION. HOWEVER, THE DIFFER-  
11 ENTIAL PAYMENT SHALL NOT EXCEED AN AMOUNT CALCULATED UNDER SEC-  
12 TION 23 OR 25, WHICHEVER APPLIES. AS USED IN THIS SUBSECTION,  
13 "ADJUSTED FINAL COMPENSATION" MEANS THE DISABILITY RETIRANT'S  
14 FINAL COMPENSATION PLUS A 1-STEP INCREASE AT THAT CLASSIFICATION,  
15 IF ANY, WHICH AMOUNT IS THEN INCREASED BY 3% COMPOUNDED ANNUALLY  
16 FOR EACH YEAR OR MAJOR PORTION OF A YEAR THAT EXPIRES AFTER THE  
17 DISABILITY RETIREMENT EFFECTIVE DATE AND THE DATE OF THE CALCULA-  
18 TION UNDER THIS SUBSECTION.

19 (6) IF THE RETIREMENT BOARD, WITHIN 6 MONTHS AFTER A REHA-  
20 BILITATED DISABILITY RETIRANT RESUMES STATE EMPLOYMENT UNDER SUB-  
21 SECTION (5), DETERMINES THAT THE REHABILITATED DISABILITY RETIR-  
22 ANT CONTINUES TO BE TOTALLY INCAPACITATED FOR STATE EMPLOYMENT  
23 UNDER SECTION 21 OR 24, THE RETIREMENT BOARD MAY WAIVE ALL OR A  
24 PORTION OF THE APPLICATION REQUIREMENTS UNDER SECTION 21 OR 24.