



HOUSE BILL No. 5432

November 29, 1995, Introduced by Reps. DeHart, LaForge, Prusi, DeMars, Brewer, Tesanovich, Kelly, Harder, Curtis, Gire, Pitoniak, Hanley and Willard 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 the death of a retirant who
11 retires on or after July 1, 1975, and who is receiving a regular
12 retirement pension, his or her spouse, if living, shall receive a
13 pension equal to 60% of the regular retirement pension the
14 deceased retirant was receiving. Benefits shall not be paid
15 under this subdivision on account of the death of a retirant if
16 the member elected to receive his or her pension under an option
17 provided in this subdivision. As used in this subsection,
18 "spouse" means the person to whom the retirant was legally mar-
19 ried on both the effective date of retirement and the date of
20 death. Except as otherwise provided in this act, if a member
21 fails to elect an option before the effective date of retirement,
22 then the pension shall be paid as a regular retirement pension.
23 A member may elect 1 of the following options:

24 (i) Option I. Upon the death of a retired member, his or
25 her reduced retirement pension shall be continued throughout the
26 life of and paid to the person, having an insurable interest in
27 the retired member's life, that the member nominated by written

1 designation duly executed and filed with the retirement board
2 before the effective date of the member's retirement.

3 (ii) Option II. Upon the death of a retired member, 1/2 of
4 his or her reduced retirement pension shall be continued through-
5 out the life of and paid to the person, having an insurable
6 interest in the retired member's life, that the member nominated
7 by written designation duly executed and filed with the retire-
8 ment board before the effective date of the member's retirement.

9 (i) If a member continues in service on or after the date of
10 acquiring 20 years of service credit, does not have an option I
11 election provided for in subdivision (j) in force, and dies while
12 in service of the municipality before the effective date of the
13 member's retirement, leaving a surviving spouse, the spouse shall
14 receive a pension computed in the same manner as if the member
15 had retired effective the day preceding the date of the member's
16 death, elected option I provided for in subdivision (h), and nom-
17 inated the spouse as survivor beneficiary. Upon the death of the
18 spouse the pension shall terminate. A pension shall not be paid
19 under this subdivision on account of the death of a member if
20 benefits are paid under subsection (2) on account of the member's
21 death.

22 (j) A member who continues in service on or after the date
23 of acquiring 25 years of service credit may, at any time before
24 the effective date of the member's retirement, by written decla-
25 ration duly executed and filed with the board in the manner and
26 form prescribed by the board, elect option I provided for in
27 subdivision (h) and nominate a survivor beneficiary whom the

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

20 (k) If a retirant receiving a reduced retirement pension
21 under subdivision (h)(i) or (ii) is divorced from the spouse who
22 had been named the retirant's survivor beneficiary under subdivi-
23 sion (h)(i) or (ii), the election of a reduced retirement pension
24 payment option shall be considered void by the retirement system
25 if the judgment of divorce or award or order of the court, or an
26 amended judgment of divorce or award or order of the court,
27 described in section 9 and dated after ~~the effective date of the~~

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

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

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

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

18 (c) If death results to a member in the line of duty and the
19 member leaves other surviving dependents, the dependents shall
20 receive a pension of the same amount as that which has been paid
21 to them as a weekly benefit under Act No. 317 of the Public Acts
22 of 1969, to become due and payable upon termination of the pay-
23 ments under Act No. 317 of the Public Acts of 1969 and to con-
24 tinue until the time the retirement board determines that the
25 need for a pension no longer exists.

26 (d) Upon the application of a member or the member's
27 department head, a member who becomes totally incapacitated for

1 duty by reason of a personal injury or disease occurring as the
2 natural and proximate result of causes arising out of and in the
3 course of the member's employment by the municipality shall be
4 retired by the retirement board. The member shall be given a
5 medical examination by a medical committee consisting of a physi-
6 cian named by the retirement board, a physician named by the
7 member claiming benefits, and a third physician designated by the
8 first 2 physicians named. The medical committee, if determined
9 by a majority opinion, shall certify in writing that the member
10 is mentally or physically incapacitated for the further per-
11 formance of duty as a police officer or fire fighter in the serv-
12 ice of the municipality; that the incapacity is likely to be per-
13 manent; and that the member should be retired. Upon retirement
14 for disability as provided in this subdivision, a member who has
15 not attained 55 years of age shall receive a disability retire-
16 ment pension of 50% of the member's average final compensation,
17 which shall be determined according to subsection (1)(f), and
18 shall be payable until the member becomes 55 years of age. IF A
19 DISABILITY RETIRANT WHO RETIRED UNDER THIS SUBDIVISION AFTER
20 DECEMBER 31, 1995 DIES BEFORE ATTAINING 55 YEARS OF AGE, HIS OR
21 HER SURVIVING SPOUSE SHALL RECEIVE A SURVIVOR DISABILITY PENSION
22 EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE TO THE DISABILITY
23 RETIRANT ON THE DATE OF HIS OR HER DEATH. IF THERE IS NO SURVIV-
24 ING SPOUSE, THE SURVIVOR DISABILITY PENSION DESCRIBED IN THE PRE-
25 VIOUS SENTENCE SHALL BE PAID TO THE DISABILITY RETIRANT'S SURVIV-
26 ING CHILDREN, IF ANY, AND CONTINUE TO EACH SURVIVING CHILD UNTIL
27 HE OR SHE BECOMES 18 YEARS OLD, OR UNTIL HIS OR HER MARRIAGE OR

1 DEATH BEFORE BECOMING 18 YEARS OLD. Upon becoming 55 years of
2 age, the disabled member shall receive a disability retirement
3 pension computed according to subsection (1)(e). In computing
4 the disability retirement pension, the member shall be given
5 service credit for the period of receipt of a disability retire-
6 ment pension before attainment of 55 years of age. If a member
7 retired after attaining 55 years of age on account of disability,
8 as provided in this subdivision, the member shall receive a dis-
9 ability retirement pension computed according to subsection
10 (1)(e), notwithstanding that the member may not have 25 years of
11 service credit. The disability retirement pension provided for
12 in this subdivision is subject to 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 municipality may be retired by the retirement
19 board. The member shall be given a medical examination by a med-
20 ical committee consisting of a physician named by the retirement
21 board, a physician named by the member claiming benefits, and a
22 third physician designated by the first 2 physicians named. The
23 medical committee, if determined by a majority opinion, shall
24 certify in writing that the member is mentally or physically
25 incapacitated for the further performance of duty as a police
26 officer or fire fighter in the service of the municipality, that
27 the incapacity is likely to be permanent, and that the member

1 should be retired. Upon retirement for disability, as provided
2 in this subdivision, a member who has not attained 55 years of
3 age shall receive a disability retirement pension until the
4 member becomes 55 years of age, recovers, or dies, whichever
5 occurs first, of 1.5% of the member's average final compensation
6 multiplied by the number of years of service credited to the
7 member. IF A DISABILITY RETIRANT WHO RETIRED UNDER THIS SUBDIVI-
8 SION AFTER DECEMBER 31, 1995 DIES BEFORE ATTAINING 55 YEARS OF
9 AGE, HIS OR HER SURVIVING SPOUSE SHALL RECEIVE A SURVIVOR DIS-
10 ABILITY PENSION EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE TO
11 THE DISABILITY RETIRANT ON THE DATE OF HIS OR HER DEATH. IF THERE
12 IS NO SURVIVING SPOUSE, THE SURVIVOR DISABILITY PENSION DESCRIBED
13 IN THE PREVIOUS SENTENCE SHALL BE PAID TO THE DISABILITY
14 RETIRANT'S SURVIVING CHILDREN, IF ANY, AND CONTINUE TO EACH SUR-
15 VIVING CHILD UNTIL HE OR SHE BECOMES 18 YEARS OLD, OR UNTIL HIS
16 OR HER MARRIAGE OR DEATH BEFORE BECOMING 18 YEARS OLD. Upon
17 becoming 55 years of age, the member's disability retirement pen-
18 sion shall be increased to 2% of the member's average final com-
19 pensation multiplied by the number of years of service credited
20 to the member at the time of his or her retirement. Upon retire-
21 ment for disability as provided in this subdivision, a member who
22 is 55 years of age or older shall receive a disability retirement
23 pension computed according to subsection (1)(e). ~~This~~ THE DIS-
24 ABILITY RETIREMENT PENSION PROVIDED FOR IN THIS subdivision is
25 subject to subdivisions (f) and (g).

26 (f) At least once each year during the first 5 years after
27 the retirement of a member with a disability retirement pension

1 and at least once in every 3-year period after disability
2 retirement, the retirement board may, and upon the retired
3 member's application shall, require a retired member who has not
4 attained 55 years of age to undergo a medical examination. The
5 medical examination shall be given by or under the direction of a
6 physician, designated by the retirement board, at the place of
7 residence of the retired member or other place mutually agreed
8 upon. If a retired member who has not attained 55 years of age
9 refuses to submit to the medical examination in the period, the
10 member's disability retirement pension may be discontinued by the
11 retirement board. If the member's refusal continues for 1 year,
12 all the member's rights in and to his or her disability retire-
13 ment pension may be revoked by the retirement board. If upon a
14 medical examination of the retired member the physician reports
15 to the retirement board that the retired member is physically
16 able and capable of resuming employment in the classification
17 held by the member at the time of retirement, the member shall be
18 restored to active service in the employ of the municipality and
19 payment of the disability retirement pension shall cease if the
20 report of the physician is concurred in by the retirement board.
21 A retired member restored to active service shall again become a
22 member of the retirement system from the date of return to
23 service. The member shall contribute to the retirement system
24 after restoration to active service in the same manner as before
25 the member's disability retirement. Service credited to the
26 member at the time of disability retirement shall be restored to
27 full force and effect. The member shall be given service credit

1 for the period the member was receiving a duty disability
2 retirement pension provided for in subdivision (d), but shall not
3 be given service credit for the period the member was receiving a
4 nonduty disability retirement pension provided for in subdivision
5 (e). Amounts paid under Act No. 317 of the Public Acts of 1969
6 to a retired member shall be offset against and payable in place
7 of benefits provided under this act. If the benefits under Act
8 No. 317 of the Public Acts of 1969 are less than the benefits
9 payable under this act, the amount to be paid out of the funds of
10 the retirement system shall be the difference between the bene-
11 fits provided under Act No. 317 of the Public Acts of 1969 and
12 the benefits provided in this act. Upon the termination of bene-
13 fits under Act No. 317 of the Public Acts of 1969, the benefits
14 shall be paid pursuant to this act.

15 (g) Within 60 days before a member becomes 55 years of age,
16 or before retirement from service if retirement occurs after the
17 member becomes 55 years of age, a disabled member who is retired
18 as provided in subdivision (d) or (e) may elect to continue to
19 receive a disability retirement pension as a benefit terminating
20 at death, to be known as a regular disability pension, or may
21 elect to receive the actuarial equivalent, at that time, of a
22 regular disability pension in a reduced disability pension pay-
23 able throughout life pursuant to an option provided in subsection
24 (1)(h). If a disabled member fails to elect an option, as pro-
25 vided in this subdivision, before becoming 55 years of age or
26 before retirement, the member's retirement pension shall be paid
27 to the member as a regular disability pension terminating at

1 death. HOWEVER, UPON THE DEATH OF A DISABILITY RETIRANT WHO
2 RETIRED AFTER DECEMBER 31, 1995 AND WHO WAS RECEIVING A REGULAR
3 DISABILITY PENSION, THE SURVIVING SPOUSE OF THAT DECEASED DIS-
4 ABILITY RETIRANT SHALL RECEIVE A SURVIVOR DISABILITY PENSION
5 EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE TO THE DISABILITY
6 RETIRANT ON THE DATE OF HIS OR HER DEATH. IF THERE IS NO SURVIV-
7 ING SPOUSE, THE SURVIVOR DISABILITY PENSION DESCRIBED IN THE PRE-
8 VIOUS SENTENCE SHALL BE PAID TO THE DISABILITY RETIRANT'S SURVIV-
9 ING CHILDREN, IF ANY, AND CONTINUE TO EACH SURVIVING CHILD UNTIL
10 HE OR SHE BECOMES 18 YEARS OLD, OR UNTIL HIS OR HER MARRIAGE OR
11 DEATH BEFORE BECOMING 18 YEARS OLD. If a disabled member who has
12 not elected an option provided in subsection (1)(h) dies before
13 the total of the member's regular disability pension payments
14 received equals or exceeds the total of the member's contribu-
15 tions made to the retirement system, the remainder, if any, shall
16 be paid in a single sum to the person or persons nominated by the
17 member by written designation duly executed and filed with the
18 board. If there is not a designated person or persons surviving,
19 then the remainder, if any, shall be paid to the retired member's
20 legal representative or estate.