

# HOUSE BILL No. 4375

February 27, 2001, Introduced by Reps. Ehardt, Mead, Van Woerkom, Birkholz, Rich Brown, Bernero, Mortimer and Raczkowski and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1980 PA 300, entitled  
"The public school employees retirement act of 1979,"  
by amending section 85 (MCL 38.1385), as amended by 1998 PA 213.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 85. (1) A retiring member or retiring deferred member  
2 who meets the requirements of section 81 or 81a or a member whom  
3 the retirement board finds to be totally and permanently disabled  
4 and eligible to receive a retirement allowance under section 86  
5 or 87 shall elect to receive his or her retirement allowance  
6 under 1 of the payment options provided in this subsection. The  
7 election shall be in writing and filed with the retirement board  
8 at least 15 days before the effective date of the retirement  
9 allowance except as provided for a disability retirant under  
10 section 86 or 87. The amount of retirement allowance under  
11 subdivision (b), (c), or (d) shall be the actuarial equivalent of

1 the amount of retirement allowance under subdivision (a). The  
2 options are as follows:

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

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

16 (c) A retirant shall be paid a reduced retirement allowance  
17 for life with the provision that upon the retirant's death, pay-  
18 ment of 1/2 of the reduced retirement allowance is continued  
19 throughout the lifetime of the retirement allowance beneficiary  
20 whom the member designated in a writing filed with the retirement  
21 board at the time of election of the option.

22 (d) On and after January 1, 2000, a retirant shall be paid a  
23 reduced retirement allowance for life with the provision that  
24 upon the retirant's death, payment of 75% of the reduced retire-  
25 ment allowance is continued throughout the lifetime of the  
26 retirement allowance beneficiary whom the member designated in a

1 writing filed with the retirement board at the time of election  
2 of the option.

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

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

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

14 (4) ~~if~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (9), IF  
15 the retirement allowance beneficiary selected under  
16 subsection (1)(b), (c), or (d) predeceases the retirant, the  
17 retirant's benefit shall revert to a straight retirement allow-  
18 ance including post-retirement adjustments, if any, shall be  
19 effective the first of the month following the death, and shall  
20 be paid during the remainder of the retirant's life. This sub-  
21 section applies to a retirant whose effective date of retirement  
22 is after June 28, 1976, but the straight retirement allowance  
23 shall not be payable for any month beginning before the later of  
24 the retirement allowance beneficiary's death or October 31,  
25 1980. This subsection also applies to a retirant whose effective  
26 date of retirement was on or before June 28, 1976, but the  
27 straight retirement allowance shall not be payable for any month

1 beginning before the later of the retirement allowance  
2 beneficiary's death or January 1, 1986. A retirant who on  
3 January 1, 1986 is receiving a reduced retirement allowance  
4 because the retirant designated a retirement allowance benefi-  
5 ciary and the retirement allowance beneficiary predeceased the  
6 retirant is eligible to receive the straight retirement allowance  
7 beginning January 1, 1986, but the straight retirement allowance  
8 shall not be payable for any month beginning before January 1,  
9 1986.

10 (5) A retirant who returns to service pursuant to section 61  
11 and whose retirement allowance beneficiary selected under  
12 subsection (1)(b), (c), or (d) predeceases the member before he  
13 or she again becomes a retirant may again choose a retirement  
14 allowance beneficiary pursuant to subsection (1)(b), (c), or  
15 (d).

16 (6) If a retirant receiving a reduced retirement allowance  
17 under subsection (1)(b), (c), or (d) is divorced from the spouse  
18 who had been designated as the retirant's retirement allowance  
19 beneficiary under subsection (1)(b), (c), or (d), the election of  
20 a reduced retirement allowance payment option shall be considered  
21 void by the retirement system if the judgment of divorce or award  
22 or order of the court, or an amended judgment of divorce or award  
23 or order of the court, described in section 46 and dated after  
24 June 27, 1991 provides that the election of a reduced retirement  
25 allowance payment option under subsection (1)(b), (c), or (d) is  
26 to be considered void by the retirement system and the retirant  
27 provides a certified copy of the judgment of divorce or award or

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

19 (7) If the retirement allowance payments terminate before an  
20 aggregate amount equal to the retirant's accumulated contribu-  
21 tions has been paid, the difference between the retirant's accu-  
22 mulated contributions and the aggregate amount of retirement  
23 allowance payments made shall be paid to the person designated in  
24 a writing filed with the retirement board on a form provided by  
25 the retirement board. If the designated person does not survive  
26 the retirant or retirement allowance beneficiary, the difference

1 shall be paid to the deceased recipient's estate or to the legal  
2 representative of the deceased recipient.

3 (8) A retirement allowance payable under a payment option  
4 provided in this section is subject to an eligible domestic rela-  
5 tions order under the eligible domestic relations order act, 1991  
6 PA 46, MCL 38.1701 to 38.1711.

7 (9) A RETIRANT WHO SELECTED A RETIREMENT ALLOWANCE BENEFI-  
8 CIARY UNDER SUBSECTION (1)(B), (C), OR (D) MAY CHANGE HIS OR HER  
9 RETIREMENT ALLOWANCE BENEFICIARY IF ALL OF THE FOLLOWING APPLY:

10 (A) THE FIRST RETIREMENT ALLOWANCE BENEFICIARY IS A SPOUSE.

11 (B) THE FIRST RETIREMENT ALLOWANCE BENEFICIARY PREDECEASES  
12 THE RETIRANT AFTER THE RETIREMENT ALLOWANCE EFFECTIVE DATE.

13 (C) THE RETIRANT MARRIES ANOTHER SPOUSE AFTER THE RETIREMENT  
14 ALLOWANCE EFFECTIVE DATE.

15 (D) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT  
16 SYSTEM TO NAME HIS OR HER CURRENT SPOUSE AS A RETIREMENT ALLOW-  
17 ANCE BENEFICIARY NOT EARLIER THAN 180 DAYS AND NOT LATER THAN 1  
18 YEAR AFTER THE MARRIAGE OF THE RETIRANT AND THE CURRENT SPOUSE  
19 EXCEPT THAT A RETIRANT WHOSE FIRST RETIREMENT ALLOWANCE BENEFI-  
20 CIARY PREDECEASES THE RETIRANT AFTER THE RETIREMENT ALLOWANCE  
21 EFFECTIVE DATE AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY  
22 ACT THAT ADDED THIS SUBSECTION SHALL HAVE 180 DAYS FROM THE  
23 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
24 TO FILE A WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.

25 (10) A RETIRANT WHO WAS NOT MARRIED ON HIS OR HER RETIREMENT  
26 ALLOWANCE EFFECTIVE DATE AND WHO DID NOT SELECT A PAYMENT OPTION  
27 PROVIDED IN THIS SECTION MAY SELECT AN OPTIONAL FORM OF BENEFIT

1 PAYMENT UNDER SUBSECTION (1)(B), (C), OR (D) AND DESIGNATE A  
2 RETIREMENT ALLOWANCE BENEFICIARY IF ALL OF THE FOLLOWING APPLY:

3 (A) THE RETIRANT MARRIES AFTER HIS OR HER RETIREMENT ALLOW-  
4 ANCE EFFECTIVE DATE.

5 (B) THE RETIREMENT ALLOWANCE BENEFICIARY IS THE RETIRANT'S  
6 SPOUSE.

7 (C) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT  
8 SYSTEM TO SELECT THE OPTIONAL FORM OF BENEFIT PAYMENT UNDER  
9 SUBSECTION (1)(B), (C), OR (D) AND TO DESIGNATE HIS OR HER SPOUSE  
10 AS THE RETIREMENT ALLOWANCE BENEFICIARY, NOT EARLIER THAN 180  
11 DAYS AND NOT LATER THAN 1 YEAR AFTER THE RETIRANT'S MARRIAGE  
12 EXCEPT THAT A RETIRANT WHO MARRIES AFTER THE RETIREMENT ALLOWANCE  
13 EFFECTIVE DATE AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY  
14 ACT THAT ADDED THIS SUBSECTION SHALL HAVE 180 DAYS FROM THE  
15 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
16 TO FILE A WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.

17 (11) THE RETIREMENT ALLOWANCE OF THE RETIRANT WHO MAKES AN  
18 ELECTION UNDER SUBSECTION (9) OR (10) SHALL NOT BE GREATER THAN  
19 THE ACTUARIAL EQUIVALENT OF THE RETIREMENT ALLOWANCE THAT THE  
20 RETIRANT WOULD OTHERWISE BE ENTITLED TO UNDER SUBSECTION (1)(A)  
21 AND SHALL BECOME EFFECTIVE THE FIRST DAY OF THE MONTH FOLLOWING  
22 THE FILING OF THE WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.