

**THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)**  
**Act 300 of 1980**

**38.1390 Surviving spouse of deceased member receiving worker's disability compensation; computation, payment, and termination retirement allowance; remarriage of surviving spouse; allowance for surviving children less than 18; computation, payment, and termination of allowance for surviving child less than 18 or for surviving dependent parent; computation and effective date of retirement allowance beneficiary's duty death retirement allowance; use of average annual compensation; election to accept refund; payment to legal representative of deceased member's or retirant's estate.**

Sec. 90. (1) If a member dies as a result of injury or illness arising out of and in the course of the member's reporting unit service for which worker's disability compensation is paid, or a duty disability retirant who is in receipt of weekly worker's disability compensation on account of the retirant's reporting unit service dies from the same causes for which the person retired within 36 months after the retirant's retirement, and in either case the death or the illness or injury resulting in death is found by the retirement board to have resulted, without the member's or retirant's willful negligence, from the performance of the member's or retirant's reporting unit service, the surviving spouse of the deceased member or retirant shall receive a retirement allowance computed in the same manner as if the member or retirant had retired for reasons of age and service effective the day preceding the date of the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each child of the deceased member or duty disability retirant who is less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the member's or retirant's death. Payments under this subsection shall cease upon marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. The allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

(4) The retirement allowance beneficiary's duty death retirement allowance shall be computed pursuant to section 84, except that the reduction for early retirement shall not apply. The effective date of the retirement allowance beneficiary's duty death retirement allowance shall be the first of the month following the month in which the member or retirant died. The years of service credit used in computing the retirement allowance beneficiary's duty death retirement allowance shall not be less than 10 years. If the deceased member or duty disability retirant has less than 5 consecutive years of credited service, the average of the decedent's annual compensation shall be used.

(5) Instead of the duty death benefits provided in this section to an eligible retirement allowance beneficiary, the retirement allowance beneficiary, before receipt of his or her first payment, may elect to accept a refund of the deceased member or duty disability retirant's accumulated contributions.

(6) If, at the time a retirement allowance beneficiary's duty death retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary is less than the accumulated contributions credited to the deceased member's or duty disability retirant's account in the reserve for employee contributions and the reserve for member investment plan at the time of the member's or retirant's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary

shall be paid to the legal representative of the deceased member's or retirant's estate.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300