

**SUBSTITUTE FOR  
HOUSE BILL NO. 5985**

A bill to amend 1992 PA 234, entitled  
"The judges retirement act of 1992,"  
by amending section 506 (MCL 38.2506), as amended by 2002 PA 95.

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

1       Sec. 506. (1) ~~Upon~~**On** application for retirement under this  
2 act, a member or vested former member who meets the requirements of  
3 section 501 may elect to receive a retirement allowance as a  
4 straight life retirement allowance or as an optional retirement  
5 allowance under 1 of the payment options provided in this section.  
6 The member or vested former member shall file a written election  
7 with the retirement system before the effective date of the  
8 retirement allowance. If a member or vested former member fails to  
9 file a written election under this subsection, the member or vested

1 former member is considered to have elected the straight life  
2 retirement allowance under section 503. The member or vested former  
3 member shall designate in the written election a retirement  
4 allowance beneficiary that ~~shall~~**must** be either the spouse,  
5 brother, sister, parent, or child, including an adopted child, of  
6 the member or vested former member. The amount of retirement  
7 allowance under options A and B are the actuarial equivalent of the  
8 amount of the straight life retirement allowance calculated under  
9 section 503. ~~The~~**Subject to subsection (2), the** options are as  
10 follows:

11 (a) Option A. The retirement system ~~shall~~**will** pay an optional  
12 retirement allowance to the retirant for life with the provision  
13 that ~~upon~~**on** the retirant's death, payment of the optional  
14 retirement allowance is continued throughout the lifetime of the  
15 retirement allowance beneficiary whom the member or vested former  
16 member designated in writing and filed with the retirement system  
17 at the time of election of the option.

18 (b) Option B. The retirement system ~~shall~~**will** pay an optional  
19 retirement allowance for life to the retirant with the provision  
20 that ~~upon~~**on** the retirant's death, payment of 1/2 of the optional  
21 retirement allowance is continued throughout the lifetime of the  
22 retirement allowance beneficiary whom the member or vested former  
23 member designated in writing and filed with the retirement system  
24 at the time of election of the option.

25 **(2) If a retirement allowance beneficiary designated under**  
26 **subsection (1) (a) or (b) is a beneficiary of a trust established**  
27 **under 42 USC 1396p(d) (4) (A) or (C), the retirement allowance**  
28 **payable to the retirement allowance beneficiary may be paid by the**  
29 **retirement system to the trust on written direction to the**

1 retirement system by the retirant or, after the retirant is  
2 deceased, by the retirement allowance beneficiary or by the  
3 retirement allowance beneficiary's legal representative if the  
4 retirement allowance beneficiary is a minor or is incapacitated.

5 (3) ~~(2)~~—Except as otherwise provided in this section, a  
6 retirant shall not change the election of a payment option or the  
7 designation of a retirement allowance beneficiary under subsection  
8 (1) after the retirement allowance effective date. ~~If~~**When** a  
9 retirant who elected a payment option under subsection (1) (a) or  
10 (b) dies, the retirement system shall pay the optional retirement  
11 allowance to the option A beneficiary or option B beneficiary  
12 effective the first day of the month following the retirant's  
13 death. If the option A or option B beneficiary designated under  
14 this section is the surviving spouse of the deceased retirant, the  
15 surviving spouse may elect to receive a retirement allowance as  
16 provided in section 508 ~~in lieu~~**instead** of the survivor portion of  
17 the optional form of payment elected by the retirant under this  
18 section.

19 (4) ~~(3)~~—If the option A beneficiary or option B beneficiary  
20 predeceases the retirant, the retirant's benefit reverts to a  
21 straight life retirement allowance and the retirement system shall  
22 begin payment of the straight life retirement allowance to the  
23 retirant effective the first day of the month ~~following~~**after** the  
24 option A or option B beneficiary's death.

25 (5) ~~(4)~~—The retirement system shall provide each member or  
26 vested former member who applies for retirement a written  
27 explanation of the optional forms of payment under this section  
28 before the member or vested former member retires.

29 (6) ~~(5)~~—If a retirant receiving an optional retirement

1 allowance under this section is divorced from the spouse who had  
2 been designated the option A or option B beneficiary, the  
3 retirement system shall consider the election of the optional form  
4 of payment option under this section void if the judgment of  
5 divorce or award or order of the court, or an amended judgment of  
6 divorce or award or order of the court, described in the public  
7 employee retirement benefit protection act, **2002 PA 100, MCL**  
8 **38.1681 to 38.1689**, and dated after June 27, 1991 provides that the  
9 election of the optional form of payment option under this section  
10 is to be considered void by the retirement system and the retirant  
11 provides a certified copy of the judgment of divorce or award or  
12 order of the court, or an amended judgment of divorce or award or  
13 order of the court, to the retirement system. If the **retirement**  
14 **system considers the** election of an optional form of payment under  
15 this section ~~is considered void by the retirement system~~ under this  
16 subsection, the retirant's retirement allowance ~~shall~~ **must** revert  
17 to a straight life retirement allowance, including postretirement  
18 adjustments, if any, subject to an award or order of the court as  
19 described in the public employee retirement benefit protection act,  
20 **2002 PA 100, MCL 38.1681 to 38.1689**. The retirement allowance ~~shall~~  
21 **must** revert to a straight life retirement allowance under this  
22 subsection effective the first of the month after the date the  
23 retirement system receives a certified copy of the judgment of  
24 divorce or award or order of the court. This subsection does not  
25 supersede a judgment of divorce or award or order of the court in  
26 effect on June 27, 1991. This subsection does not require the  
27 retirement system to distribute or pay retirement assets on behalf  
28 of a retirant in an amount that exceeds the actuarially determined  
29 amount that would otherwise become payable if a judgment of divorce

1 had not been rendered.

2       (7) ~~(6)~~—A member who continues active employment on or after  
3 the date ~~he or she~~**the member** acquires 8 years of credited service  
4 or who becomes eligible for a retirement allowance as a vested  
5 former member under section 501, whichever occurs first, may file a  
6 written election with the retirement system to elect option A as  
7 provided in subsection (1) (a). The member or vested former member  
8 shall nominate a retirement allowance beneficiary in the written  
9 election in the same manner as if the member or vested former  
10 member were then retiring from service. If the beneficiary's death  
11 or divorce from the member or vested former member occurs before  
12 the effective date of the member's or vested former member's  
13 retirement, the member's or vested former member's election of  
14 option A and nomination of retirement allowance beneficiary is  
15 automatically revoked and the member or vested former member may  
16 again elect option A and nominate a retirement allowance  
17 beneficiary at any time before the effective date of retirement. If  
18 a member or vested former member who has made an election and  
19 nominated a retirement allowance beneficiary as provided in this  
20 subsection dies before the effective date of ~~his or her~~**the member**  
21 **or vested former member's** retirement, ~~then~~ the retirement allowance  
22 beneficiary ~~shall~~**must** receive the retirement allowance that ~~he or~~  
23 ~~she~~**the retirement allowance beneficiary** would have been entitled  
24 to receive under option A if the member or vested former member had  
25 been retired on the date of the member's or vested former member's  
26 death. Except as otherwise provided by subsection ~~(7)~~, **(8)**, if a  
27 member or vested former member who has made an election under this  
28 subsection subsequently retires under this act, ~~his or her~~**the**  
29 **member or vested former member's** election of option A takes effect

1 at the time of retirement. The member or vested former member,  
2 before the effective date of retirement, but not after the  
3 effective date of retirement, may revoke ~~his or her~~ **the member or**  
4 **vested former member's** previous election of option A and elect to  
5 receive ~~his or her~~ **the member or vested former member's** retirement  
6 allowance as a straight life retirement allowance or under option B  
7 as provided for in subsection (1). This subsection does not apply  
8 on and after the date the settlement agreement in the case of  
9 Michigan judges assn v Treasurer of the State of Michigan, case no.  
10 98-DT-72771-CV (Ed Mi), becomes of no further force or effect, is  
11 rendered null and void, or is otherwise terminated.

12 (8) ~~(7)~~—If a member, vested former member, retiring member, or  
13 retiring vested former member is married on the effective date of  
14 the retirement allowance, an election under this section, other  
15 than an election of a payment option under subsection (1) naming  
16 the spouse as retirement allowance beneficiary, ~~shall~~ **is** not be  
17 effective unless the election is signed by the spouse. However,  
18 this requirement may be waived by the retirement board if the  
19 signature of a spouse cannot be obtained because of extenuating  
20 circumstances. As used in this subsection, "spouse" means the  
21 ~~person~~ **individual** to whom the member, vested former member,  
22 retiring member, or retiring vested former member is married on the  
23 effective date of the retirement allowance.