

SUBSTITUTE FOR  
HOUSE BILL NO. 5987

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 2006 PA 617.

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

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

1 section 86 or 87. The amount of retirement allowance under  
2 subdivision (b), (c), or (d) ~~shall~~**must** be the actuarial equivalent  
3 of the amount of retirement allowance under subdivision (a). ~~The~~  
4 **Subject to subsection (12), the** options are as follows:

5 (a) A retirant ~~shall~~**will** be paid a straight retirement  
6 allowance for life computed ~~pursuant to~~**under** section 84. An  
7 additional retirement allowance payment ~~shall~~**must** not be made ~~upon~~  
8 **on** the retirant's death.

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

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

24 (d) ~~On and after January 1, 2000,~~ **After December 31, 1999,** a  
25 retirant ~~shall~~**will** be paid a reduced retirement allowance for life  
26 with the provision that ~~upon~~**on** the retirant's death, payment of  
27 75% of the reduced retirement allowance is continued throughout the  
28 lifetime of the retirement allowance beneficiary whom the member  
29 designated in a writing filed with the retirement board at the time

1 of election of the option.

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

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

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

12 (4) Except as otherwise provided in subsection (8), if the  
13 retirement allowance beneficiary selected under subsection (1)(b),  
14 (c), or (d) predeceases the retirant, the retirant's benefit ~~shall~~  
15 **must** revert to a straight retirement allowance including post-  
16 retirement adjustments, if any, ~~shall-be-is~~ effective the first of  
17 the month ~~following~~**after** the death, and ~~shall-must~~ be paid during  
18 the remainder of the retirant's life. This subsection applies to a  
19 retirant whose effective date of retirement is after June 28, 1976,  
20 but the straight retirement allowance ~~shall-must~~ not be payable for  
21 any month beginning before the later of the retirement allowance  
22 beneficiary's death or October 31, 1980. This subsection also  
23 applies to a retirant whose effective date of retirement was ~~on-or~~  
24 before June ~~28,~~**29**, 1976, but the straight retirement allowance  
25 ~~shall-must~~ not be payable for any month beginning before the later  
26 of the retirement allowance beneficiary's death or January 1, 1986.  
27 A retirant who on January 1, 1986 is receiving a reduced retirement  
28 allowance because the retirant designated a retirement allowance  
29 beneficiary and the retirement allowance beneficiary predeceased

1 the retirant is eligible to receive the straight retirement  
 2 allowance beginning January 1, 1986, but the straight retirement  
 3 allowance ~~shall-is~~ not be payable for any month beginning before  
 4 January 1, 1986.

5 (5) A retirant who returns to service ~~pursuant to-under~~  
 6 section 61 and whose retirement allowance beneficiary selected  
 7 under subsection (1)(b), (c), or (d) predeceases the member before  
 8 he or she again becomes a retirant may again choose a retirement  
 9 allowance beneficiary ~~pursuant to-under~~ subsection (1)(b), (c), or  
 10 (d).

11 (6) If a retirant receiving a reduced retirement allowance  
 12 under subsection (1)(b), (c), or (d) is divorced from the spouse  
 13 who had been designated as the retirant's retirement allowance  
 14 beneficiary under subsection (1)(b), (c), or (d), the **retirement**  
 15 **system shall consider the** election of a reduced retirement  
 16 allowance payment option ~~shall be considered void by the retirement~~  
 17 ~~system~~ if the judgment of divorce or award or order of the court,  
 18 or an amended judgment of divorce or award or order of the court,  
 19 described in the public employee retirement benefit protection act,  
 20 2002 PA 100, MCL 38.1681 to 38.1689, and dated after June 27, 1991  
 21 provides that the election of a reduced retirement allowance  
 22 payment option under subsection (1)(b), (c), or (d) is to be  
 23 considered void by the retirement system and the retirant provides  
 24 a certified copy of the judgment of divorce or award or order of  
 25 the court, or an amended judgment of divorce or award or order of  
 26 the court, to the retirement system. If the **retirement system**  
 27 **considers the** election of a reduced retirement allowance payment  
 28 option under subsection (1)(b), (c), or (d) ~~is considered void by~~  
 29 ~~the retirement system~~ under this subsection, the retirant's

1 retirement allowance ~~shall~~**must** revert to a straight retirement  
2 allowance, including postretirement adjustments, if any, subject to  
3 an award or order of the court as described in the public employee  
4 retirement benefit protection act, 2002 PA 100, MCL 38.1681 to  
5 38.1689. The retirement allowance ~~shall~~**must** revert to a straight  
6 retirement allowance under this subsection effective the first of  
7 the month after the date the retirement system receives a certified  
8 copy of the judgment of divorce or award or order of the court.  
9 This subsection does not supersede a judgment of divorce or award  
10 or order of the court in effect on June 27, 1991. This subsection  
11 does not require the retirement system to distribute or pay  
12 retirement assets on behalf of a retirant in an amount that exceeds  
13 the actuarially determined amount that would otherwise become  
14 payable if a judgment of divorce had not been rendered.

15 (7) If the retirement allowance payments terminate before an  
16 aggregate amount equal to the retirant's accumulated contributions  
17 has been paid, the difference between the retirant's accumulated  
18 contributions and the aggregate amount of retirement allowance  
19 payments made ~~shall~~**must** be paid to the ~~person~~**individual**  
20 designated in a writing filed with the retirement board on a form  
21 provided by the retirement board. If the designated ~~person~~  
22 **individual** does not survive the retirant or retirement allowance  
23 beneficiary, the difference shall be paid to the deceased  
24 recipient's estate or to the legal representative of the deceased  
25 recipient.

26 (8) A retirant who selected a retirement allowance beneficiary  
27 under subsection (1)(b), (c), or (d) may change his or her  
28 retirement allowance beneficiary if all of the following apply:

29 (a) The first retirement allowance beneficiary is a spouse.

1 (b) The first retirement allowance beneficiary predeceases the  
2 retirant after the retirement allowance effective date.

3 (c) The retirant marries another spouse after the retirement  
4 allowance effective date.

5 (d) The retirant files a written request with the retirement  
6 system to name his or her current spouse as a retirement allowance  
7 beneficiary not earlier than 180 days and not later than 1 year  
8 after the marriage of the retirant and the current spouse except  
9 that a retirant whose first retirement allowance beneficiary  
10 predeceases the retirant after the retirement allowance effective  
11 date and before ~~the effective date of the amendatory act that added~~  
12 ~~this subsection shall have~~ **January 1, 2009 has** 180 days ~~from the~~  
13 ~~effective date of the amendatory act that added this subsection~~  
14 **after January 1, 2009** to file a written request with the retirement  
15 system.

16 (9) A retirant who was not married on ~~his or her~~ **the**  
17 **retirant's** retirement allowance effective date and who did not  
18 select a payment option provided in this section may select an  
19 optional form of benefit payment under subsection (1)(b), (c), or  
20 (d) and designate a retirement allowance beneficiary if all of the  
21 following apply:

22 (a) The retirant marries after ~~his or her~~ **the retirant's**  
23 retirement allowance effective date.

24 (b) The retirement allowance beneficiary is the retirant's  
25 spouse.

26 (c) The retirement allowance beneficiary is only designated as  
27 the retirement allowance beneficiary for that portion of the  
28 retirant's retirement allowance that is not subject to an eligible  
29 domestic relations order assigning a previous spouse a reduced

1 benefit under section 4(b) of the eligible domestic relations order  
2 act, 1991 PA 46, MCL 38.1704.

3 (d) The retirant files a written request with the retirement  
4 system to select the optional form of benefit payment under  
5 subsection (1)(b), (c), or (d) and to designate his or her spouse  
6 as the retirement allowance beneficiary, not earlier than 180 days  
7 and not later than 1 year after the retirant's marriage except that  
8 a retirant who marries after the retirement allowance effective  
9 date and before ~~the effective date of the amendatory act that added~~  
10 ~~this subsection shall have~~ **January 1, 2009 has** 180 days ~~from the~~  
11 ~~effective date of the amendatory act that added this subsection~~  
12 **after January 1, 2009** to file a written request with the retirement  
13 system.

14 (10) The retirement allowance of the retirant who makes an  
15 election under subsection (8) or (9) ~~shall~~ **must** not be greater than  
16 the actuarial equivalent of the retirement allowance as determined  
17 by the retirement board that the retirant would otherwise be  
18 entitled to under subsection (1)(a) and ~~shall~~ **must** become effective  
19 the first day of the month ~~following~~ **after** the filing of the  
20 written request with the retirement system.

21 (11) If the retirant dies ~~no~~ **not** later than 12 months after  
22 the effective date of ~~his or her~~ **the retirant's** election under  
23 subsection (8) or (9), the retirement allowance for the surviving  
24 spouse established under subsection (8) or (9) ~~shall~~ **must** terminate  
25 12 months after the death of the retirant.

26 (12) **If a retirement allowance beneficiary selected under**  
27 **subsection (1)(a) to (d) is a beneficiary of a trust established**  
28 **under 42 USC 1396p(d)(4)(A) or (C), the retirement allowance**  
29 **payable to the retirement allowance beneficiary may be paid by the**



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