

HOUSE BILL NO. 5986

September 26, 2024, Introduced by Reps. Hope, Byrnes and Hill and referred to the Committee on Judiciary.

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 31 (MCL 38.31), as amended by 2002 PA 99.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) Except as **otherwise** provided in subsection (6),
2 before the effective date of retirement, but not after the
3 effective date of retirement, a member or deferred member who is
4 eligible for retirement, as provided in this act, shall elect to
5 receive ~~his or her benefit in a retirement allowance payable~~
6 ~~throughout life, which shall be called a regular retirement~~

1 allowance, or to receive the actuarial equivalent at that time of
2 ~~his or her the member's or deferred member's~~ regular retirement
3 allowance in a reduced retirement allowance payable throughout the
4 lives of the retirant and a retirement allowance beneficiary,
5 ~~pursuant to~~ **under** 1 of the following payment options:

6 (a) Option A. ~~Upon~~ **On** the retirant's death, ~~his or her the~~
7 **retirant's** reduced retirement allowance ~~shall~~ **will** be continued
8 throughout the life of and paid to the retirement allowance
9 beneficiary whom the member nominated by written designation
10 executed and filed with the retirement board before the effective
11 date of ~~his or her the member's~~ retirement.

12 (b) Option B. ~~Upon~~ **On** the retirant's death, 1/2 of ~~his or her~~
13 **the retirant's** reduced retirement allowance ~~shall~~ **will** be continued
14 throughout the life of and paid to the retirement allowance
15 beneficiary whom the member nominated by written designation
16 executed and filed with the retirement board before the effective
17 date of ~~his or her the member's~~ retirement.

18 (c) Option C. ~~On and after January 1, 2000, upon~~ **After**
19 **December 31, 1999, on** the retirant's death, 3/4 of ~~his or her the~~
20 **retirant's** reduced retirement allowance ~~shall~~ **will** be continued
21 throughout the life of and paid to the retirement allowance
22 beneficiary whom the member nominated by written designation
23 executed and filed with the retirement board before the effective
24 date of ~~his or her the member's~~ retirement.

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

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

5 (2) Except as **otherwise** provided in subsections (3) and (8),
6 the election of a payment option under subsection (1) ~~shall~~**must**
7 not be changed on or after the effective date of the retirement
8 allowance. A retirement allowance beneficiary designated under this
9 section ~~shall~~**must** not be changed on or after the effective date of
10 the retirement allowance, and ~~shall~~**must** be either a spouse,
11 brother, sister, parent, child, including an adopted child, or
12 grandchild of the ~~person~~**individual** making the designation **or a**
13 **trust described in subsection (1) (d)**. Payment to a retirement
14 allowance beneficiary ~~shall~~**must** begin on the first day of the
15 month following the death of the retirant or member.

16 (3) If the retirement allowance beneficiary named under a
17 payment option under subsection (1) predeceases the retirant, the
18 retirant's benefit ~~shall~~**must** revert to the regular retirement
19 allowance, effective with the first day of the month ~~following~~
20 **after** the retirement allowance beneficiary's death. ~~For This~~
21 **subsection applies to** a retirant whose effective date of retirement
22 was ~~on or before June 28,~~**29**, 1976, ~~this subsection shall apply,~~
23 but the regular retirement allowance is not payable for any month
24 beginning before the later of the retirement allowance
25 beneficiary's death or January 1, 1986. A retirant who on January
26 1, 1986 is receiving a reduced retirement allowance because the
27 retirant designated a retirement allowance beneficiary and the
28 retirement allowance beneficiary predeceased the retirant is
29 eligible to receive the regular retirement allowance beginning

1 January 1, 1986, but the regular retirement allowance is not
2 payable for any month beginning before January 1, 1986.

3 (4) A member who continues ~~in the employ of~~ **to be employed by**
4 this state on and after the date ~~he or she~~ **the member** acquires 10
5 years of service credit or becomes eligible for deferred retirement
6 as provided by section 20(4) or (5), whichever occurs first, may by
7 written declaration executed and filed with the retirement board
8 elect option A, provided for in subsection (1)(a), and nominate a
9 retirement allowance beneficiary in the same manner as if the
10 member were then retiring from service, notwithstanding that the
11 member may not have attained 60 years of age. If the beneficiary's
12 death or divorce from the member occurs before the effective date
13 of the member's retirement, the member's election of option A and
14 nomination of retirement allowance beneficiary ~~shall be~~ **is**
15 automatically revoked and the member may again elect option A and
16 nominate a retirement allowance beneficiary at any time before the
17 effective date of retirement. If a member who has made an election
18 and nominated a retirement allowance beneficiary as provided in
19 this subsection dies before the effective date of ~~his or her~~ **the**
20 **member's** retirement, ~~then~~ the retirement allowance beneficiary
21 ~~shall~~ **must** immediately receive the retirement allowance that ~~he or~~
22 ~~she~~ **the retirement allowance beneficiary** would have been entitled
23 to receive under option A if the member had been regularly retired
24 on the date of the member's death. Except as otherwise provided by
25 subsection (5), if a member who has made an election under this
26 subsection subsequently retires under this act, ~~his or her~~ **the**
27 **member's** election of option A ~~shall take~~ **takes** effect at the time
28 of retirement. Subject to the requirements of subsection (5), the
29 member, before the effective date of retirement, but not after the

1 effective date of retirement, may revoke ~~his or her~~ **the member's**
 2 previous election of option A and elect to receive ~~his or her~~ **the**
 3 **member's** retirement allowance as a regular retirement allowance or
 4 under option B or C as provided for in subsection (1). A retirement
 5 allowance ~~shall~~ **must** not be paid under this subsection ~~on account~~
 6 **because** of the death of a member if any benefits are paid under
 7 section 27 ~~on account~~ **because** of ~~his or her~~ **the member's** death. If
 8 a deferred member who has an option A election in effect dies
 9 before the effective date of ~~his or her~~ **the deferred member's**
 10 retirement, the retirement allowance payable under option A ~~shall~~
 11 **must** be paid to the retirement allowance beneficiary at the time
 12 the deceased deferred member otherwise would have been eligible to
 13 begin receiving benefits.

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

26 (6) Until July 1, 1991, ~~upon~~ **on** request in a form as
 27 determined by the retirement board, a nonduty disability retirant
 28 who retired under section 24 may change ~~his or her~~ **the nonduty**
 29 **disability retirant's** election to receive a disability retirement

1 allowance computed as a regular retirement allowance and elect to
 2 receive the actuarial equivalent at the time of the election
 3 ~~pursuant to~~ **under** this subsection of ~~his or her~~ **the nonduty**
 4 **disability retirant's** disability retirement allowance in a reduced
 5 retirement allowance payable to the retirant and the retirant's
 6 spouse ~~pursuant to~~ **under** the provisions of a payment option as
 7 provided in subsection (1), if the disability retirement allowance
 8 effective date was before November 12, 1985 and the retirant had 25
 9 or more years of credited service on the disability retirement
 10 allowance effective date. The nonduty disability retirant ~~shall~~
 11 **must** begin to receive the reduced retirement allowance under this
 12 subsection effective the first day of the month ~~following~~ **after** the
 13 month in which the retirant makes the election ~~pursuant to~~ **under**
 14 this subsection. As used in this subsection, "spouse" means the
 15 ~~person~~ **individual** to whom the nonduty disability retirant was
 16 married on the effective date of ~~his or her~~ **the nonduty disability**
 17 **retirant's** disability retirement allowance and on the date the
 18 retirant makes the election ~~pursuant to~~ **under** this subsection.

19 (7) If a member who continues ~~in the employ of~~ **to be employed**
 20 **by** this state on and after the date ~~he or she~~ **the member** acquires
 21 10 years of service credit, or on and after the date ~~he or she~~ **the**
 22 **member** becomes eligible for deferred retirement as provided by
 23 section 20(4) or (5), whichever occurs first, and who does not have
 24 an election of option A in force as provided in subsection (4),
 25 dies before the effective date of retirement and leaves a surviving
 26 spouse, the spouse ~~shall~~ **must** receive a retirement allowance
 27 computed in the same manner as if the member had retired effective
 28 the day before the date of ~~his or her~~ **the member's** death, elected
 29 option A, and nominated the spouse as retirement allowance

1 beneficiary. When the retirement allowance beneficiary dies, ~~his or~~
 2 ~~her~~ **the retirement allowance beneficiary's** retirement allowance
 3 ~~shall~~ **must** terminate. If the aggregate amount of retirement
 4 allowance payments received by the beneficiary is less than the
 5 accumulated contributions credited to the member's account in the
 6 employees' savings fund at the time of the member's death, the
 7 difference between the accumulated contributions and the aggregate
 8 amount of retirement allowance payments received by the beneficiary
 9 ~~shall~~ **must** be transferred from the employer's accumulation fund or
 10 pension reserve fund to the employees' savings fund and paid
 11 ~~pursuant to~~ **under** section 29. A retirement allowance ~~shall~~ **must** not
 12 be paid under this subsection ~~on account~~ **because** of the death of a
 13 member if benefits are paid under section 27 ~~on account~~ **because** of
 14 ~~his or her~~ **the member's** death. If the other requirements of this
 15 subsection are met but a surviving spouse does not exist, each of
 16 the deceased member's surviving children less than 18 years of age
 17 ~~shall~~ **must** receive an allowance of an equal share of the retirement
 18 allowance that would have been paid to the spouse if living at the
 19 time of the deceased member's death. Payments under this subsection
 20 ~~shall~~ **must** cease ~~upon~~ **on** the surviving child's marriage, adoption,
 21 or becoming 18 years of age, ~~which~~ **whichever** occurs first.

22 (8) If a retirant receiving a reduced retirement allowance
 23 under a payment option under subsection (1) is divorced from the
 24 spouse who had been designated as the retirant's retirement
 25 allowance beneficiary under the **payment** option, the **retirement**
 26 **system shall consider the** election of the payment option ~~shall be~~
 27 ~~considered void by the retirement system~~ if the judgment of divorce
 28 or award or order of the court, or an amended judgment of divorce
 29 or award or order of the court, described in the public employee

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

24 **(9) As used in this section, "regular retirement allowance"**
25 **means a retirement allowance payable for life.**