

SENATE BILL NO. 646

November 08, 2023, Introduced by Senators SHINK, MCBROOM, CHANG, BAYER, CHERRY and GEISS and referred to the Committee on Education.

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

1 election ~~shall~~**must** be in writing and filed with the retirement
2 board at least 15 days before the effective date of the retirement
3 allowance except as provided for a disability retirant under
4 section 86 or 87. The amount of retirement allowance under
5 subdivision (b), (c), or (d) ~~shall~~**must** be the actuarial equivalent
6 of the amount of retirement allowance under subdivision (a). The
7 options are as follows:

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

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

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

27 (d) ~~On and after January 1, 2000,~~ **After December 31, 1999,** a
28 retirant ~~shall~~**will** be paid a reduced retirement allowance for life
29 with the provision that ~~upon~~**on** the retirant's death, payment of

1 75% of the reduced retirement allowance is continued throughout the
 2 lifetime of the retirement allowance beneficiary whom the member
 3 designated in a writing filed with the retirement board at the time
 4 of election of the option.

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

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

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

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

1 A retirant who on January 1, 1986 is receiving a reduced retirement
 2 allowance because the retirant designated a retirement allowance
 3 beneficiary and the retirement allowance beneficiary predeceased
 4 the retirant is eligible to receive the straight retirement
 5 allowance beginning January 1, 1986, but the straight retirement
 6 allowance ~~shall-is~~ not be payable for any month beginning before
 7 January 1, 1986.

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

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

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

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

29 (8) A retirant who selected a retirement allowance beneficiary

1 under subsection (1)(b), (c), or (d) may change his or her
2 retirement allowance beneficiary if ~~all~~**either** of the following
3 ~~apply~~**requirements are satisfied:**

4 **(a) All of the following requirements are satisfied:**

5 **(i)** ~~(a)~~The first retirement allowance beneficiary is a spouse.

6 **(ii)** ~~(b)~~The first retirement allowance beneficiary predeceases
7 the retirant after the retirement allowance effective date.

8 **(iii)** ~~(c)~~The retirant marries another spouse after the
9 retirement allowance effective date.

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

21 **(b) All of the following requirements are satisfied:**

22 **(i)** The first retirement allowance beneficiary is a spouse.

23 **(ii)** The retirant is divorced after payment of his or her
24 retirement allowance began, and the election of the reduced
25 retirement allowance payment option is considered void under
26 subsection (6).

27 **(iii)** The retirant marries another spouse after the retirement
28 allowance effective date.

29 **(iv)** The retirant files a written request with the retirement

1 system to name his or her current spouse as a retirement allowance
2 beneficiary not earlier than 180 days and not later than 1 year
3 after the date of marriage of the retirant and the current spouse.
4 However, a retirant whose first retirement allowance beneficiary
5 was removed as retirement allowance beneficiary under subsection
6 (6) after the retirement allowance effective date and before the
7 effective date of the amendatory act that added this subparagraph
8 has 180 days from the effective date of the amendatory act that
9 added this subparagraph to file a written request with the
10 retirement system.

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

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

19 (b) The retirement allowance beneficiary is the retirant's
20 spouse.

21 (c) The retirement allowance beneficiary is only designated as
22 the retirement allowance beneficiary for that portion of the
23 retirant's retirement allowance that is not subject to an eligible
24 domestic relations order assigning a previous spouse a reduced
25 benefit under section 4(b) of the eligible domestic relations order
26 act, 1991 PA 46, MCL 38.1704.

27 (d) The retirant files a written request with the retirement
28 system to select the optional form of benefit payment under
29 subsection (1)(b), (c), or (d) and to designate his or her spouse

1 as the retirement allowance beneficiary, not earlier than 180 days
2 and not later than 1 year after the retirant's marriage except that
3 a retirant who marries after the retirement allowance effective
4 date and before ~~the effective date of the amendatory act that added~~
5 ~~this subsection shall have~~ **January 1, 2009 has** 180 days ~~from the~~
6 ~~effective date of the amendatory act that added this subsection~~
7 **after January 1, 2009** to file a written request with the retirement
8 system.

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

16 (11) If the retirant dies ~~no~~ **not** later than 12 months after
17 the effective date of ~~his or her~~ **the retirant's** election under
18 subsection (8) or (9), the retirement allowance for the surviving
19 spouse established under subsection (8) or (9) ~~shall~~ **must** terminate
20 12 months after the death of the retirant.