

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

***** 38.1385.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2009 *****

38.1385.amended Payment options; election; change of option or beneficiary; payment to beneficiary; reversion of benefit to straight retirement allowance; term of payment; beneficiary predeceasing retirant who returns to service; effect of election of retirant's divorce from spouse designated as beneficiary; payment of difference between accumulated contributions and aggregate amount of retirement allowance payments; change of beneficiary; optional form of benefit payment; limitation; termination.

Sec. 85. (1) A retiring member or retiring deferred member who meets the requirements of section 81 or 81a or a member whom the retirement board finds to be totally and permanently disabled and eligible to receive a retirement allowance under section 86 or 87 shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election shall be in writing and filed with the retirement board at least 15 days before the effective date of the retirement allowance except as provided for a disability retirant under section 86 or 87. The amount of retirement allowance under subdivision (b), (c), or (d) shall be the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

(a) A retirant shall be paid a straight retirement allowance for life computed pursuant to section 84. An additional retirement allowance payment shall not be made upon the retirant's death.

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

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

(d) On and after January 1, 2000, a retirant shall be paid a reduced retirement allowance for life with the provision that upon the retirant's death, payment of 75% of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(2) In addition to the election under subsection (1), a retirant, other than a disability retirant who is 60 years of age or less, may elect to coordinate his or her retirement allowance with an estimated primary social security benefit. The retirant shall be paid an increased retirement allowance until 62 years of age and a reduced retirement allowance after 62 years of age. The increased retirement allowance paid until 62 years of age shall approximate the sum of the reduced retirement allowance payable after 62 years of age and the retirant's estimated social security primary insurance amount. The estimated social security primary insurance amount shall be determined by the retirement system. The election under this subsection shall be made at the same time and in the same manner as required under subsection (1).

(3) Except as otherwise provided in this section, the election of a payment option in subsections (1) and (2) shall not be changed on or after the effective date of the retirement allowance. Except as provided in this section, the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) shall not be changed on or after the effective date of the retirement allowance and shall be either a spouse, brother, sister, parent, or child, including an adopted child, of the member, deferred member, retiring member, or retiring deferred member entitled to make the election under this act. Another retirement allowance beneficiary shall not be selected. If a member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date, an election under subsection (1), other than an election under subsection (1)(b), (c), or (d) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse, except that this requirement may be waived by the board if the signature of a spouse cannot be obtained because of extenuating circumstances. For purposes of this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date. Payment to a retirement allowance beneficiary shall start the first day of the month following the retirant's death.

(4) Except as otherwise provided in subsection (8), if the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the retirant, the retirant's benefit shall revert to a straight retirement

allowance including post-retirement adjustments, if any, shall be effective the first of the month following the death, and shall be paid during the remainder of the retirant's life. This subsection applies to a retirant whose effective date of retirement is after June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or October 31, 1980. This subsection also applies to a retirant whose effective date of retirement was on or before June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the straight retirement allowance beginning January 1, 1986, but the straight retirement allowance shall not be payable for any month beginning before January 1, 1986.

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

(6) If a retirant receiving a reduced retirement allowance under subsection (1)(b), (c), or (d) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under subsection (1)(b), (c), or (d), the election of a reduced retirement allowance payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689, and dated after June 27, 1991 provides that the election of a reduced retirement allowance payment option under subsection (1)(b), (c), or (d) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance payment option under subsection (1)(b), (c), or (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689. The retirement allowance shall revert to a straight retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(7) If the retirement allowance payments terminate before an aggregate amount equal to the retirant's accumulated contributions has been paid, the difference between the retirant's accumulated contributions and the aggregate amount of retirement allowance payments made shall be paid to the person designated in a writing filed with the retirement board on a form provided by the retirement board. If the designated person does not survive the retirant or retirement allowance beneficiary, the difference shall be paid to the deceased recipient's estate or to the legal representative of the deceased recipient.

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

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

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

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

(d) The retirant files a written request with the retirement system to name his or her current spouse as a retirement allowance beneficiary not earlier than 180 days and not later than 1 year after the marriage of the retirant and the current spouse except that a retirant whose first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

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

(a) The retirant marries after his or her retirement allowance effective date.

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

(c) The retirement allowance beneficiary is only designated as the retirement allowance beneficiary for that portion of the retirant's retirement allowance that is not subject to an eligible domestic relations order

assigning a previous spouse a reduced benefit under section 4(b) of the eligible domestic relations order act, 1991 PA 46, MCL 38.1704.

(d) The retirant files a written request with the retirement system to select the optional form of benefit payment under subsection (1)(b), (c), or (d) and to designate his or her spouse as the retirement allowance beneficiary, not earlier than 180 days and not later than 1 year after the retirant's marriage except that a retirant who marries after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

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

(11) If the retirant dies no later than 12 months after the effective date of his or her election under subsection (8) or (9), the retirement allowance for the surviving spouse established under subsection (8) or (9) shall terminate 12 months after the death of the retirant.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2006, Act 617, Eff. Jan. 1, 2009.

Popular name: Act 300