38.1389 Surviving spouse; computation, payment, and termination of retirement allowance; remarriage of surviving spouse; allowance for surviving child less than 18; election of retirement allowance beneficiary; grounds for voiding election; death of member; presumption of dependency; termination of allowance; payment to refund beneficiary; member contributing to member investment plan.

Sec. 89. (1) If a member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, dies before the effective date of his or her retirement and leaves a surviving spouse to whom the deceased member was married at time of death, the surviving spouse shall receive a retirement allowance computed in the same manner as if the deceased member had retired effective the day preceding the date of the deceased member's death, elected the option set forth in subsection (3), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section. A surviving spouse of a person who was a deferred member on October 31, 1980, who becomes eligible to receive a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945, shall be eligible to receive that retirement allowance and that allowance shall not be subject to termination because of the surviving spouse's remarriage.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) A member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, may elect the option provided in section 85(1)(b) and nominate a retirement allowance beneficiary as provided in section 85(3). The election shall be in writing and filed with the retirement board in a manner and form prescribed by the retirement board. The election shall be void upon the member's retirement, termination of employment except as provided in section 82(2), divorce, the retirement allowance beneficiary's death, or upon the retirement allowance beneficiary no longer being dependent upon the member before the member's death. If a member who has an option election under section 85(1)(b) in effect dies before the effective date of his or her retirement, the member's retirement allowance beneficiary, so long as the beneficiary continues to be so dependent, shall receive the same retirement allowance as the retirement allowance beneficiary would have been entitled to receive under the option provided in section 85(1)(b) if the member had been regularly retired pursuant to section 81 or 82 the day preceding the date of the member's death, even though the member may not have acquired entitlement to service retirement. The surviving spouse of the deceased member shall be presumed to be 50% dependent on the deceased member for his or her own financial support. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death.

(4) If at the time a retirement allowance beneficiary's retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary are less than the accumulated contributions credited to the deceased member's account in the reserve for employee contributions at the time of the deceased member's death, the difference between the deceased member's accumulated contributions and the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary shall be paid to the deceased member's refund beneficiary.

(5) For a member who contributes to the member investment plan, the credited service eligibility requirement applicable to the survivor benefits provided in this section are subject to section 43c.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

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