

# HOUSE BILL No. 4468

April 14, 1999, Introduced by Reps. DeHart and Schermesser and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1937 PA 345, entitled "Fire fighters and police officers retirement act," by amending section 6 (MCL 38.556), as amended by 1991 PA 54.

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

1       Sec. 6. (1) Age and service retirement benefits payable  
2 under this act are as follows:  
3       (a) A member who is 55 years of age or older and who has 25  
4 or more years of service as a police officer or fire fighter in  
5 the employ of the municipality affected by this act may retire  
6 from service upon written application to the retirement board  
7 stating a date, not less than 30 days or more than 90 days after  
8 the execution and filing of the application, on which the member  
9 desires to be retired. The retirement board shall grant the  
10 benefits to which the member is entitled under this act, unless  
11 the member continues employment. If the member continues

1 employment, the member's pension shall be deferred with service  
2 years of credit until actual retirement. Upon the approval of  
3 the legislative body or the electors of a municipality under this  
4 act, a member under 50 years of age who has 25 or more years of  
5 service, or without the necessity for approval, a member 50 years  
6 of age or more who has 25 or more years of service, may leave  
7 service and receive the full retirement benefits payable through-  
8 out the member's life as provided in subdivision (e).

9 (b) A member who is 60 years of age or older shall be  
10 retired by the retirement board upon the written application of  
11 the legislative body, or board or official provided in the  
12 charter of the municipality as head of the department in which  
13 the member is employed. Upon retirement, the retirement board  
14 shall grant the benefits to which the member is entitled under  
15 this act, unless the member continues employment. If the member  
16 continues employment, the member's pension shall be deferred with  
17 service years of credit until actual retirement.

18 (c) A member who is 65 years of age shall be retired by the  
19 retirement board on the first day of the month following attain-  
20 ment of 65 years of age.

21 (d) A member who has 10 or more years of service shall have  
22 vested retirement benefits that are not subject to forfeiture on  
23 account of disciplinary action, charges, or complaints. If the  
24 member leaves employment before the date the member would have  
25 first become eligible to retire as provided in subdivision (a)  
26 for any reason except the member's retirement or death, the  
27 member is entitled to a pension that shall begin the first day of

1 the calendar month immediately after the month in which the  
2 member's written application for the pension is filed with the  
3 retirement board that is on or after the date the member would  
4 have been eligible to retire had the member continued in  
5 employment. The retirement board shall grant the member the ben-  
6 efits to which the member is entitled under this act, unless the  
7 member resumes service. If the member resumes service, the  
8 member's pension shall be further deferred with service years of  
9 credit until the member actually retires.

10 (e) Upon retirement from service as provided in this subsec-  
11 tion, a member shall receive a regular retirement pension payable  
12 throughout the member's life of 2% of the member's average final  
13 compensation multiplied by the first 25 years of service credited  
14 to the member, plus 1% of the member's average final compensation  
15 multiplied by the number of years, and fraction of a year, of  
16 service rendered by the member in excess of 25 years. A munici-  
17 pality under this act, upon approval of the legislative body or  
18 the electors of the municipality, may increase the percentage of  
19 the payment from 2% up to a maximum of 2.5%. If an increase is  
20 approved, the increase shall not be reduced for members under the  
21 system at the time of the increase. The legislative body may  
22 also increase the percentage of employee contributions. If a  
23 retired member dies before the total of regular pension payments  
24 received by the member equals the total of the member's contribu-  
25 tions made to the retirement system, the difference between the  
26 member's total contributions and the total of the member's  
27 regular retirement pension payments received shall be paid in a

1 single sum to the person or persons the member nominates by  
2 written designation duly executed and filed with the retirement  
3 board. If there is not a person or persons surviving the retired  
4 member, the difference, if any, shall be paid to the retired  
5 member's legal representative or estate.

6 (f) As used in this section, "average final compensation"  
7 means the average of the highest annual compensation received by  
8 a member during a period of 5 consecutive years of service con-  
9 tained within the member's 10 years of service immediately pre-  
10 ceding the member's retirement or leaving service. However, if  
11 so provided in a collective bargaining agreement entered into  
12 between a municipality under this act and the appropriate recog-  
13 nized bargaining agent, average final compensation may mean the  
14 average of the 3 years of highest annual compensation received by  
15 a member during the member's 10 years of service immediately pre-  
16 ceding the member's retirement or leaving service. If the member  
17 has less than 5 years of service, average final compensation  
18 means the annual average compensation received by the member  
19 during his or her total years of service.

20 (g) A member shall be given service credit for time spent in  
21 the military, naval, marine, or other armed service of the United  
22 States government during time of war, or other national emergency  
23 recognized by the board, if the member was employed by the munic-  
24 ipality at the time of entry into the armed service, and is or  
25 was reemployed by the municipality as a police officer or fire  
26 fighter within 6 months after the date of termination of his or  
27 her required enlistment or assignment in the armed service. A

1 municipality by a 3/5 vote of its governing body or by a majority  
2 vote of the qualified electors may provide service credit for not  
3 more than 6 years of active military service to the United States  
4 government to a member who is employed subsequent to this mili-  
5 tary service upon payment to the retirement system of 5% of the  
6 member's full-time or equated full-time compensation for the  
7 fiscal year in which payment is made multiplied by the years of  
8 service that the member elects to purchase up to the maximum.  
9 Service is not creditable if it is or would be creditable under  
10 any other federal, state, or local publicly supported retirement  
11 system. However, this restriction does not apply to those per-  
12 sons who have or will have acquired retirement eligibility under  
13 the federal government for service in the reserve. A member  
14 shall be given service credit for the time the member is absent  
15 from active service without full pay on account of sickness or  
16 injury. If the absence from active service is due to nonservice  
17 connected sickness or injury, not more than 60 days of the  
18 absence shall be credited as service in any 1 calendar year, as  
19 determined by the retirement board.

20 (h) Before the effective date of the member's retirement as  
21 provided in this subsection, but not after the effective date of  
22 the member's retirement, a member may elect to receive his or her  
23 benefit in a pension payable throughout the member's life, called  
24 a regular retirement pension, or the member may elect to receive  
25 the actuarial equivalent, computed as of the effective date of  
26 retirement, of the member's regular retirement pension in a  
27 reduced retirement pension payable throughout the member's life,

1 and nominate a survivor beneficiary, pursuant to an option  
2 provided in this subdivision. Upon the death of a retirant who  
3 retires on or after July 1, 1975, and who is receiving a regular  
4 retirement pension, his or her spouse, if living, shall receive a  
5 pension equal to 60% of the regular retirement pension the  
6 deceased retirant was receiving. Benefits shall not be paid  
7 under this subdivision on account of the death of a retirant if  
8 the member elected to receive his or her pension under an option  
9 provided in this subdivision. As used in this subsection,  
10 "spouse" means the person to whom the retirant was legally mar-  
11 ried on both the effective date of retirement and the date of  
12 death. Except as otherwise provided in this act, if a member  
13 fails to elect an option before the effective date of retirement,  
14 then the pension shall be paid as a regular retirement pension.  
15 A member may elect 1 of the following options:

16       (i) Option I. Upon the death of a retired member, his or  
17 her reduced retirement pension shall be continued throughout the  
18 life of and paid to the person, having an insurable interest in  
19 the retired member's life, that the member nominated by written  
20 designation duly executed and filed with the retirement board  
21 before the effective date of the member's retirement.

22       (ii) Option II. Upon the death of a retired member, 1/2 of  
23 his or her reduced retirement pension shall be continued through-  
24 out the life of and paid to the person, having an insurable  
25 interest in the retired member's life, that the member nominated  
26 by written designation duly executed and filed with the

1 retirement board before the effective date of the member's  
2 retirement.

3 (i) If a member continues in service on or after the date of  
4 acquiring 20 years of service credit, does not have an option I  
5 election provided for in subdivision (j) in force, and dies while  
6 in service of the municipality before the effective date of the  
7 member's retirement, leaving a surviving spouse, the spouse shall  
8 receive a pension computed in the same manner as if the member  
9 had retired effective the day preceding the date of the member's  
10 death, elected option I provided for in subdivision (h), and nom-  
11 inated the spouse as survivor beneficiary. Upon the death of the  
12 spouse the pension shall terminate. A pension shall not be paid  
13 under this subdivision on account of the death of a member if  
14 benefits are paid under subsection (2) on account of the member's  
15 death.

16 (j) A member who continues in service on or after the date  
17 of acquiring 25 years of service credit may, at any time before  
18 the effective date of the member's retirement, by written decla-  
19 ration duly executed and filed with the board in the manner and  
20 form prescribed by the board, elect option I provided for in sub-  
21 division (h) and nominate a survivor beneficiary whom the board  
22 finds to be dependent upon the member for at least 50% of the  
23 beneficiary's support. If a member who has an option I election  
24 provided for in this subdivision in force dies while in service  
25 before the effective date of the member's retirement, the  
26 member's survivor beneficiary shall immediately receive the same  
27 pension that the survivor beneficiary would have been entitled to

1 receive under the option I if the member had retired pursuant to  
2 this act effective the day preceding the date of the member's  
3 death, notwithstanding that the member may not have attained 55  
4 years of age. If a member who has an option I election provided  
5 for in this subdivision in force subsequently retires pursuant to  
6 this act, the member, within 90 days immediately preceding the  
7 effective date of the member's retirement, but not after the  
8 effective date of the member's retirement, may elect an option  
9 provided for in subdivision (h). The option election is effec-  
10 tive as of the effective date of the member's retirement. A pen-  
11 sion shall not be paid under this subdivision on account of the  
12 death of a member if benefits are paid under subsection (2) on  
13 account of the member's death.

14 (k) If a retirant receiving a reduced retirement pension  
15 under subdivision (h)(i) or (ii) is divorced from the spouse who  
16 had been named the retirant's survivor beneficiary under subdivi-  
17 sion (h)(i) or (ii), the election of a reduced retirement pension  
18 payment option shall be considered void by the retirement system  
19 if the judgment of divorce or award or order of the court, or an  
20 amended judgment of divorce or award or order of the court,  
21 described in section 9 and dated after ~~the effective date of the~~  
22 ~~amendatory act that added this subdivision~~ JUNE 27, 1991 pro-  
23 vides that the election of a reduced retirement pension payment  
24 option under subdivision (h)(i) or (ii) is to be considered void  
25 by the retirement system and the retirant provides a certified  
26 copy of the judgment of divorce or award or order of the court,  
27 or an amended judgment of divorce or award or order of the court,



1 to the retirement system. If the election of a reduced  
2 retirement pension payment option under subdivision (h)(i) or  
3 (ii) is considered void by the retirement system under this sub-  
4 section, the retirant's retirement pension shall revert to a reg-  
5 ular retirement pension, including postretirement adjustments, if  
6 any, subject to an award or order of the court as described in  
7 section 9. The retirement pension shall revert to a regular  
8 retirement pension under this subdivision effective the first of  
9 the month after the date the retirement system receives a certi-  
10 fied copy of the judgment of divorce or award or order of the  
11 court. This subdivision does not supersede a judgment of divorce  
12 or award or order of the court in effect on ~~the effective date~~  
13 ~~of the amendatory act that added this subdivision~~ JUNE 27,  
14 1991. This subdivision does not require the retirement system to  
15 distribute or pay retirement assets on behalf of a retirant in an  
16 amount that exceeds the actuarially determined amount that would  
17 otherwise become payable if a judgment of divorce had not been  
18 rendered.

19 (2) Disability and service connected death benefits payable  
20 under this act are as follows:

21 (a) To a surviving spouse, a duty death pension of the same  
22 amount each week as that which has been paid the surviving spouse  
23 under the worker's disability compensation act of 1969, ~~Act~~  
24 ~~No. 317 of the Public Acts of 1969, being sections 418.101 to~~  
25 ~~418.941 of the Michigan Compiled Laws~~ 1969 PA 317, MCL 418.101  
26 TO 418.941, to become due and payable on the termination of the  
27 payments to the surviving spouse by a municipality under ~~Act~~

1 ~~No. 317 of the Public Acts of 1969~~ THE WORKER'S DISABILITY  
2 COMPENSATION ACT OF 1969, 1969 PA 317, MCL 418.101 TO 418.941,  
3 and to continue for the surviving spouse's life. ~~or until his or~~  
4 ~~her remarriage.~~

5 (b) If death results to a member in the line of duty, and  
6 the member leaves surviving children, the children shall be paid  
7 a pension of the same amount as that which has been paid to them  
8 as a weekly benefit under ~~Act No. 317 of the Public Acts of~~  
9 ~~1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA  
10 317, MCL 418.101 TO 418.941, to become due and payable upon ter-  
11 mination of the payments under ~~Act No. 317 of the Public Acts of~~  
12 ~~1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA  
13 317, MCL 418.101 TO 418.941, and to continue to each surviving  
14 child until he or she attains 18 years of age, or until his or  
15 her marriage or death before attaining 18 years of age.

16 (c) If death results to a member in the line of duty and the  
17 member leaves other surviving dependents, the dependents shall  
18 receive a pension of the same amount as that which has been paid  
19 to them as a weekly benefit under ~~Act No. 317 of the Public Acts~~  
20 ~~of 1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969  
21 PA 317, MCL 418.101 TO 418.941, to become due and payable upon  
22 termination of the payments under ~~Act No. 317 of the Public Acts~~  
23 ~~of 1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969  
24 PA 317, MCL 418.101 TO 418.941, and to continue until the time  
25 the retirement board determines that the need for a pension no  
26 longer exists.

1 (d) Upon the application of a member or the member's  
2 department head, a member who becomes totally incapacitated for  
3 duty by reason of a personal injury or disease occurring as the  
4 natural and proximate result of causes arising out of and in the  
5 course of the member's employment by the municipality shall be  
6 retired by the retirement board. The member shall be given a  
7 medical examination by a medical committee consisting of a physi-  
8 cian named by the retirement board, a physician named by the  
9 member claiming benefits, and a third physician designated by the  
10 first 2 physicians named. The medical committee, if determined  
11 by a majority opinion, shall certify in writing that the member  
12 is mentally or physically incapacitated for the further per-  
13 formance of duty as a police officer or fire fighter in the serv-  
14 ice of the municipality; that the incapacity is likely to be per-  
15 manent; and that the member should be retired. Upon retirement  
16 for disability as provided in this subdivision, a member who has  
17 not attained 55 years of age shall receive a disability retire-  
18 ment pension of 50% of the member's average final compensation,  
19 which shall be determined according to subsection (1)(f), and  
20 shall be payable until the member becomes 55 years of age. IF A  
21 DISABILITY RETIRANT WHO RETIRED UNDER THIS SUBDIVISION DIES  
22 BEFORE ATTAINING 55 YEARS OF AGE, HIS OR HER SURVIVING SPOUSE  
23 SHALL RECEIVE A SURVIVOR DISABILITY PENSION EQUAL TO 60% OF THE  
24 DISABILITY PENSION PAYABLE TO THE DISABILITY RETIRANT ON THE DATE  
25 OF HIS OR HER DEATH. IF THERE IS NO SURVIVING SPOUSE, THE SURVI-  
26 VOR DISABILITY PENSION DESCRIBED IN THE PREVIOUS SENTENCE SHALL  
27 BE PAID TO THE DISABILITY RETIRANT'S SURVIVING CHILDREN, IF ANY,

1 AND CONTINUE TO EACH SURVIVING CHILD UNTIL HE OR SHE BECOMES 18  
2 YEARS OLD, OR UNTIL HIS OR HER MARRIAGE OR DEATH BEFORE BECOMING  
3 18 YEARS OLD. Upon becoming 55 years of age, the disabled member  
4 shall receive a disability retirement pension computed according  
5 to subsection (1)(e). In computing the disability retirement  
6 pension, the member shall be given service credit for the period  
7 of receipt of a disability retirement pension before attainment  
8 of 55 years of age. If a member retired after attaining 55 years  
9 of age on account of disability, as provided in this subdivision,  
10 the member shall receive a disability retirement pension computed  
11 according to subsection (1)(e), notwithstanding that the member  
12 may not have 25 years of service credit. The disability retire-  
13 ment pension provided for in this subdivision is subject to sub-  
14 divisions (f) and (g).

15 (e) Upon the application of a member or the member's depart-  
16 ment head, a member in service who has 5 or more years of service  
17 credit and who becomes totally and permanently incapacitated for  
18 duty by reason of a personal injury or disease occurring as the  
19 result of causes arising outside the course of the member's  
20 employment by the municipality may be retired by the retirement  
21 board. The member shall be given a medical examination by a med-  
22 ical committee consisting of a physician named by the retirement  
23 board, a physician named by the member claiming benefits, and a  
24 third physician designated by the first 2 physicians named. The  
25 medical committee, if determined by a majority opinion, shall  
26 certify in writing that the member is mentally or physically  
27 incapacitated for the further performance of duty as a police

1 officer or fire fighter in the service of the municipality, that  
2 the incapacity is likely to be permanent, and that the member  
3 should be retired. Upon retirement for disability, as provided  
4 in this subdivision, a member who has not attained 55 years of  
5 age shall receive a disability retirement pension until the  
6 member becomes 55 years of age, recovers, or dies, whichever  
7 occurs first, of 1.5% of the member's average final compensation  
8 multiplied by the number of years of service credited to the  
9 member. IF A DISABILITY RETIRANT WHO RETIRED UNDER THIS SUBDIVI-  
10 SION DIES BEFORE ATTAINING 55 YEARS OF AGE, HIS OR HER SURVIVING  
11 SPOUSE SHALL RECEIVE A SURVIVOR DISABILITY PENSION EQUAL TO 60%  
12 OF THE DISABILITY PENSION PAYABLE TO THE DISABILITY RETIRANT ON  
13 THE DATE OF HIS OR HER DEATH. IF THERE IS NO SURVIVING SPOUSE,  
14 THE SURVIVOR DISABILITY PENSION DESCRIBED IN THE PREVIOUS SEN-  
15 TENCE SHALL BE PAID TO THE DISABILITY RETIRANT'S SURVIVING CHIL-  
16 DREN, IF ANY, AND CONTINUE TO EACH SURVIVING CHILD UNTIL HE OR  
17 SHE BECOMES 18 YEARS OLD, OR UNTIL HIS OR HER MARRIAGE OR DEATH  
18 BEFORE BECOMING 18 YEARS OLD. Upon becoming 55 years of age, the  
19 member's disability retirement pension shall be increased to 2%  
20 of the member's average final compensation multiplied by the  
21 number of years of service credited to the member at the time of  
22 his or her retirement. Upon retirement for disability as pro-  
23 vided in this subdivision, a member who is 55 years of age or  
24 older shall receive a disability retirement pension computed  
25 according to subsection (1)(e). ~~This~~ THE DISABILITY RETIREMENT  
26 PENSION PROVIDED FOR IN THIS subdivision is subject to  
27 subdivisions (f) and (g).

1 (f) At least once each year during the first 5 years after  
2 the retirement of a member with a disability retirement pension  
3 and at least once in every 3-year period after disability retire-  
4 ment, the retirement board may, and upon the retired member's  
5 application shall, require a retired member who has not attained  
6 55 years of age to undergo a medical examination. The medical  
7 examination shall be given by or under the direction of a physi-  
8 cian, designated by the retirement board, at the place of resi-  
9 dence of the retired member or other place mutually agreed upon.  
10 If a retired member who has not attained 55 years of age refuses  
11 to submit to the medical examination in the period, the member's  
12 disability retirement pension may be discontinued by the retire-  
13 ment board. If the member's refusal continues for 1 year, all  
14 the member's rights in and to his or her disability retirement  
15 pension may be revoked by the retirement board. If upon a medi-  
16 cal examination of the retired member the physician reports to  
17 the retirement board that the retired member is physically able  
18 and capable of resuming employment in the classification held by  
19 the member at the time of retirement, the member shall be  
20 restored to active service in the employ of the municipality and  
21 payment of the disability retirement pension shall cease if the  
22 report of the physician is concurred in by the retirement board.  
23 A retired member restored to active service shall again become a  
24 member of the retirement system from the date of return to  
25 service. The member shall contribute to the retirement system  
26 after restoration to active service in the same manner as before  
27 the member's disability retirement. Service credited to the

1 member at the time of disability retirement shall be restored to  
2 full force and effect. The member shall be given service credit  
3 for the period the member was receiving a duty disability retire-  
4 ment pension provided for in subdivision (d), but shall not be  
5 given service credit for the period the member was receiving a  
6 nonduty disability retirement pension provided for in subdivision  
7 (e). Amounts paid under ~~Act No. 317 of the Public Acts of 1969~~  
8 THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317,  
9 MCL 418.101 TO 418.941, to a retired member shall be offset  
10 against and payable in place of benefits provided under this  
11 act. If the benefits under ~~Act No. 317 of the Public Acts of~~  
12 ~~1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA  
13 317, MCL 418.101 TO 418.941, are less than the benefits payable  
14 under this act, the amount to be paid out of the funds of the  
15 retirement system shall be the difference between the benefits  
16 provided under ~~Act No. 317 of the Public Acts of 1969~~ THE  
17 WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317, MCL  
18 418.101 TO 418.941, and the benefits provided in this act. Upon  
19 the termination of benefits under ~~Act No. 317 of the Public Acts~~  
20 ~~of 1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969  
21 PA 317, MCL 418.101 TO 418.941, the benefits shall be paid pursu-  
22 ant to this act.

23 (g) Within 60 days before a member becomes 55 years of age,  
24 or before retirement from service if retirement occurs after the  
25 member becomes 55 years of age, a disabled member who is retired  
26 as provided in subdivision (d) or (e) may elect to continue to  
27 receive a disability retirement pension as a benefit terminating

1 at death, to be known as a regular disability pension, or may  
2 elect to receive the actuarial equivalent, at that time, of a  
3 regular disability pension in a reduced disability pension pay-  
4 able throughout life pursuant to an option provided in subsection  
5 (1)(h). If a disabled member fails to elect an option, as pro-  
6 vided in this subdivision, before becoming 55 years of age or  
7 before retirement, the member's retirement pension shall be paid  
8 to the member as a regular disability pension terminating at  
9 death. HOWEVER, UPON THE DEATH OF A DISABILITY RETIRANT WHO WAS  
10 RECEIVING A REGULAR DISABILITY PENSION, THE SURVIVING SPOUSE OF  
11 THAT DECEASED DISABILITY RETIRANT SHALL RECEIVE A SURVIVOR DIS-  
12 ABILITY PENSION EQUAL TO 60% OF THE DISABILITY PENSION PAYABLE TO  
13 THE DISABILITY RETIRANT ON THE DATE OF HIS OR HER DEATH. IF THERE  
14 IS NO SURVIVING SPOUSE, THE SURVIVOR DISABILITY PENSION DESCRIBED  
15 IN THE PREVIOUS SENTENCE SHALL BE PAID TO THE DISABILITY  
16 RETIRANT'S SURVIVING CHILDREN, IF ANY, AND CONTINUE TO EACH SUR-  
17 VIVING CHILD UNTIL HE OR SHE BECOMES 18 YEARS OLD, OR UNTIL HIS  
18 OR HER MARRIAGE OR DEATH BEFORE BECOMING 18 YEARS OLD. If a dis-  
19 abled member who has not elected an option provided in  
20 subsection (1)(h) dies before the total of the member's regular  
21 disability pension payments received equals or exceeds the total  
22 of the member's contributions made to the retirement system, the  
23 remainder, if any, shall be paid in a single sum to the person or  
24 persons nominated by the member by written designation duly exe-  
25 cuted and filed with the board. If there is not a designated  
26 person or persons surviving, then the remainder, if any, shall be  
27 paid to the retired member's legal representative or estate.