

SENATE BILL No. 1135

October 20, 2016, Introduced by Senators HERTEL, HOOD, BRANDENBURG and GREGORY and referred to the Committee on Appropriations.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending sections 506 and 604 (MCL 38.2506 and 38.2604), section 506 as amended by 2002 PA 95 and section 604 as amended by 2008 PA 514.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 506. (1) ~~Upon~~**ON** application for retirement under this
2 act, a member or vested former member who meets the requirements of
3 section 501 may elect to receive a retirement allowance as a
4 straight life retirement allowance or as an optional retirement
5 allowance under 1 of the payment options provided in this section.
6 The member or vested former member shall file a written election
7 with the retirement system before the effective date of the
8 retirement allowance. If a member or vested former member fails to

1 file a written election under this subsection, the member or vested
2 former member is considered to have elected the straight life
3 retirement allowance under section 503. The member or vested former
4 member shall designate in the written election a retirement
5 allowance beneficiary that ~~shall~~**MUST** be ~~either~~ the spouse,
6 brother, sister, parent, or child, including an adopted child, of
7 the member or vested former member. The amount of retirement
8 allowance under options A and B are the actuarial equivalent of the
9 amount of the straight life retirement allowance calculated under
10 section 503. The options are as follows:

11 (a) Option A. The retirement system ~~shall~~**WILL** pay an optional
12 retirement allowance to the retirant for life with the provision
13 that ~~upon~~**ON** the retirant's death, payment of the optional
14 retirement allowance is continued throughout the lifetime of the
15 retirement allowance beneficiary whom the member or vested former
16 member designated in writing and filed with the retirement system
17 at the time of election of the option.

18 (b) Option B. The retirement system ~~shall~~**WILL** pay an optional
19 retirement allowance for life to the retirant with the provision
20 that ~~upon~~**ON** the retirant's death, payment of 1/2 of the optional
21 retirement allowance is continued throughout the lifetime of the
22 retirement allowance beneficiary whom the member or vested former
23 member designated in writing and filed with the retirement system
24 at the time of election of the option.

25 (2) Except as otherwise provided in this section, a retirant
26 shall not change the election of a payment option or the
27 designation of a retirement allowance beneficiary under subsection

1 (1) after the retirement allowance effective date. ~~If~~**WHEN** a
2 retirant who elected a payment option under subsection (1)(a) or
3 (b) dies, the retirement system shall pay the optional retirement
4 allowance to the option A beneficiary or option B beneficiary
5 effective the first day of the month ~~following~~**AFTER** the retirant's
6 death. If the option A or option B beneficiary designated under
7 this section is the surviving spouse of the deceased retirant, the
8 surviving spouse may elect to receive a retirement allowance as
9 provided in section 508 ~~in lieu~~**INSTEAD** of the survivor portion of
10 the optional form of payment elected by the retirant under this
11 section.

12 (3) If the option A beneficiary or option B beneficiary
13 predeceases the retirant, the retirant's benefit reverts to a
14 straight life retirement allowance and the retirement system shall
15 begin payment of the straight life retirement allowance to the
16 retirant effective the first day of the month ~~following~~**AFTER** the
17 option A or option B beneficiary's death.

18 (4) The retirement system shall provide each member or vested
19 former member who applies for retirement a written explanation of
20 the optional forms of payment under this section before the member
21 or vested former member retires.

22 (5) If a retirant receiving an optional retirement allowance
23 under this section is divorced from the spouse who had been
24 designated the option A or option B beneficiary, the retirement
25 system shall consider the election of the optional form of payment
26 option under this section void if the judgment of divorce or award
27 or order of the court, or an amended judgment of divorce or award

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

26 (6) A member who continues active employment on or after the
27 date he or she acquires 8 years of credited service or who becomes

1 eligible for a retirement allowance as a vested former member under
2 section 501, whichever occurs first, may file a written election
3 with the retirement system to elect option A as provided in
4 subsection (1)(a). The member or vested former member shall
5 nominate a retirement allowance beneficiary in the written election
6 in the same manner as if the member or vested former member were
7 then retiring from service. If the beneficiary's death or divorce
8 from the member or vested former member occurs before the effective
9 date of the member's or vested former member's retirement, the
10 member's or vested former member's election of option A and
11 nomination of retirement allowance beneficiary is automatically
12 revoked and the member or vested former member may again elect
13 option A and nominate a retirement allowance beneficiary at any
14 time before the effective date of retirement. If a member or vested
15 former member who has made an election and nominated a retirement
16 allowance beneficiary as provided in this subsection dies before
17 the effective date of his or her retirement, ~~then~~ the retirement
18 allowance beneficiary ~~shall~~ **MUST** receive the retirement allowance
19 that ~~he or she~~ **THE RETIREMENT ALLOWANCE BENEFICIARY** would have been
20 entitled to receive under option A if the member or vested former
21 member had been retired on the date of the member's or vested
22 former member's death. Except as otherwise provided by subsection
23 (7), if a member or vested former member who has made an election
24 under this subsection subsequently retires under this act, his or
25 her election of option A takes effect at the time of retirement.
26 The member or vested former member, before the effective date of
27 retirement, but not after the effective date of retirement, may

1 revoke his or her previous election of option A and elect to
2 receive his or her retirement allowance as a straight life
3 retirement allowance or under option B as provided for in
4 subsection (1). This subsection does not apply on and after the
5 date the settlement agreement in the case of Michigan judges assn v
6 Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed
7 Mi), becomes of no further force or effect, is rendered null and
8 void, or is otherwise terminated.

9 (7) If a member, vested former member, retiring member, or
10 retiring vested former member is married on the effective date of
11 the retirement allowance, an election under this section, other
12 than an election of a payment option under subsection (1) naming
13 the spouse as retirement allowance beneficiary, ~~shall~~ IS not be
14 effective unless the election is signed by the spouse. However,
15 this requirement may be waived by the retirement board if the
16 signature of a spouse cannot be obtained because of extenuating
17 circumstances. As used in this subsection, "spouse" means the
18 ~~person~~ INDIVIDUAL to whom the member, vested former member,
19 retiring member, or retiring vested former member is married on the
20 effective date of the retirement allowance.

21 (8) IF THE RETIREMENT ALLOWANCE PAYMENTS TERMINATE BEFORE AN
22 AGGREGATE AMOUNT EQUAL TO THE RETIRANT'S ACCUMULATED CONTRIBUTIONS
23 HAS BEEN PAID, THE DIFFERENCE BETWEEN THE RETIRANT'S ACCUMULATED
24 CONTRIBUTIONS AND THE AGGREGATE AMOUNT OF RETIREMENT ALLOWANCE
25 PAYMENTS MADE MUST BE PAID TO THE INDIVIDUAL DESIGNATED IN A
26 WRITING FILED WITH THE RETIREMENT BOARD ON A FORM PROVIDED BY THE
27 RETIREMENT BOARD. IF THE DESIGNATED INDIVIDUAL DOES NOT SURVIVE THE

1 RETIRANT OR RETIREMENT ALLOWANCE BENEFICIARY, THE DIFFERENCE MUST
2 BE PAID TO THE DECEASED RECIPIENT'S ESTATE OR TO THE LEGAL
3 REPRESENTATIVE OF THE DECEASED RECIPIENT.

4 (9) A RETIRANT WHO SELECTED A RETIREMENT ALLOWANCE BENEFICIARY
5 UNDER SUBSECTION (1) (A) OR (B) MAY CHANGE HIS OR HER RETIREMENT
6 ALLOWANCE BENEFICIARY ONLY IF 1 OR MORE OF THE FOLLOWING
7 REQUIREMENTS ARE SATISFIED:

8 (A) THE RETIRANT WAS MARRIED ON HIS OR HER RETIREMENT
9 ALLOWANCE EFFECTIVE DATE AND ALL OF THE FOLLOWING APPLY:

10 (i) THE FIRST RETIREMENT ALLOWANCE BENEFICIARY PREDECEASES THE
11 RETIRANT AFTER THE RETIREMENT ALLOWANCE EFFECTIVE DATE.

12 (ii) THE RETIRANT MARRIES ANOTHER SPOUSE AFTER THE RETIREMENT
13 ALLOWANCE EFFECTIVE DATE.

14 (iii) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
15 SYSTEM SELECTING AN OPTIONAL RETIREMENT ALLOWANCE UNDER 1 OF THE
16 PAYMENT OPTIONS PROVIDED IN SUBSECTION (1) DESIGNATING HIS OR HER
17 CURRENT SPOUSE AS A RETIREMENT ALLOWANCE BENEFICIARY NOT EARLIER
18 THAN 180 DAYS AND NOT LATER THAN 1 YEAR AFTER THE DATE OF MARRIAGE
19 OF THE RETIRANT AND THE CURRENT SPOUSE. HOWEVER, A RETIRANT WHOSE
20 DATE OF MARRIAGE IS AFTER THE RETIREMENT ALLOWANCE EFFECTIVE DATE
21 AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
22 SUBSECTION HAS 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
23 ACT THAT ADDED THIS SUBSECTION TO FILE A WRITTEN REQUEST WITH THE
24 RETIREMENT SYSTEM.

25 (B) THE RETIRANT WAS MARRIED ON THE EFFECTIVE DATE OF HIS OR
26 HER RETIREMENT, BUT HIS OR HER MARRIAGE WAS NOT RECOGNIZED BY THIS
27 STATE AND ALL OF THE FOLLOWING APPLY:

1 (i) THE RETIRANT CONTINUES TO BE MARRIED TO THE SAME SPOUSE TO
2 WHOM HE OR SHE WAS MARRIED ON THE EFFECTIVE DATE OF RETIREMENT AND
3 WHOSE MARRIAGE IS CURRENTLY RECOGNIZED BY THIS STATE.

4 (ii) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
5 SYSTEM SELECTING 1 OF THE PAYMENT OPTIONS PROVIDED IN SUBSECTION
6 (1) AND DESIGNATING HIS OR HER CURRENT SPOUSE AS A RETIREMENT
7 ALLOWANCE BENEFICIARY NOT EARLIER THAN 180 DAYS AND NOT LATER THAN
8 1 YEAR AFTER THE DATE OF MARRIAGE OF THE RETIRANT AND THE CURRENT
9 SPOUSE. HOWEVER, A RETIRANT WHOSE DATE OF MARRIAGE IS AFTER THE
10 RETIRMENT ALLOWANCE EFFECTIVE DATE AND BEFORE THE EFFECTIVE DATE OF
11 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION HAS 180 DAYS AFTER
12 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION
13 TO FILE A WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.

14 (c) THE RETIRANT WAS NOT MARRIED ON HIS OR HER RETIREMENT
15 ALLOWANCE EFFECTIVE DATE AND ALL OF THE FOLLOWING APPLY:

16 (i) THE RETIRANT MARRIES AFTER THE RETIREMENT ALLOWANCE
17 EFFECTIVE DATE.

18 (ii) THE RETIREMENT ALLOWANCE BENEFICIARY IS THE RETIRANT'S
19 SPOUSE.

20 (iii) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
21 SYSTEM TO NAME HIS OR HER CURRENT SPOUSE AS A RETIREMENT ALLOWANCE
22 BENEFICIARY NOT EARLIER THAN 180 DAYS AND NOT LATER THAN 1 YEAR
23 AFTER THE DATE OF MARRIAGE OF THE RETIRANT AND THE CURRENT SPOUSE.
24 HOWEVER, A RETIRANT WHOSE DATE OF MARRIAGE IS AFTER THE RETIREMENT
25 ALLOWANCE EFFECTIVE DATE AND BEFORE THE EFFECTIVE DATE OF THE
26 AMENDATORY ACT THAT ADDED THIS SUBSECTION HAS 180 DAYS AFTER THE
27 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION TO

1 FILE A WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.

2 (10) A RETIRANT WHO WAS NOT MARRIED ON HIS OR HER RETIREMENT
3 ALLOWANCE EFFECTIVE DATE AND WHO DID NOT SELECT A PAYMENT OPTION
4 PROVIDED IN THIS SECTION MAY SELECT AN OPTIONAL FORM OF BENEFIT
5 PAYMENT UNDER SUBSECTION (1) (A) OR (B) AND DESIGNATE A RETIREMENT
6 ALLOWANCE BENEFICIARY IF ALL OF THE FOLLOWING APPLY:

7 (A) THE RETIRANT MARRIES AFTER HIS OR HER RETIREMENT ALLOWANCE
8 EFFECTIVE DATE.

9 (B) THE RETIREMENT ALLOWANCE BENEFICIARY IS THE RETIRANT'S
10 SPOUSE.

11 (C) THE RETIREMENT ALLOWANCE BENEFICIARY IS ONLY DESIGNATED AS
12 THE RETIREMENT ALLOWANCE BENEFICIARY FOR THAT PORTION OF THE
13 RETIRANT'S RETIREMENT ALLOWANCE THAT IS NOT SUBJECT TO AN ELIGIBLE
14 DOMESTIC RELATIONS ORDER ASSIGNING A PREVIOUS SPOUSE A REDUCED
15 BENEFIT UNDER SECTION 4(B) OF THE ELIGIBLE DOMESTIC RELATIONS ORDER
16 ACT, 1991 PA 46, MCL 38.1704.

17 (D) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
18 SYSTEM TO SELECT THE OPTIONAL FORM OF BENEFIT PAYMENT UNDER
19 SUBSECTION (1) (A) OR (B) AND TO DESIGNATE HIS OR HER SPOUSE AS THE
20 RETIREMENT ALLOWANCE BENEFICIARY NOT EARLIER THAN 180 DAYS AND NOT
21 LATER THAN 1 YEAR AFTER THE RETIRANT'S DATE OF MARRIAGE. HOWEVER, A
22 RETIRANT WHOSE DATE OF MARRIAGE IS AFTER THE RETIREMENT ALLOWANCE
23 EFFECTIVE DATE AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
24 THAT ADDED THIS SUBSECTION HAS 180 DAYS AFTER THE EFFECTIVE DATE OF
25 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION TO FILE A WRITTEN
26 REQUEST WITH THE RETIREMENT SYSTEM.

27 (11) THE RETIREMENT ALLOWANCE OF THE RETIRANT WHO MAKES AN

1 ELECTION UNDER SUBSECTION (9) OR (10) MUST NOT BE GREATER THAN THE
2 ACTUARIAL EQUIVALENT OF THE REGULAR RETIREMENT ALLOWANCE AS
3 DETERMINED BY THE RETIREMENT BOARD AND MUST BECOME EFFECTIVE THE
4 FIRST DAY OF THE MONTH AFTER THE FILING OF THE WRITTEN REQUEST WITH
5 THE RETIREMENT SYSTEM.

6 (12) IF THE RETIRANT DIES NO LATER THAN 12 MONTHS AFTER THE
7 EFFECTIVE DATE OF HIS OR HER ELECTION UNDER SUBSECTION (9) OR (10),
8 THE RETIREMENT ALLOWANCE FOR THE SURVIVING SPOUSE ESTABLISHED UNDER
9 SUBSECTION (9) (A) OR (C) OR (10) MUST TERMINATE 12 MONTHS AFTER THE
10 DEATH OF THE RETIRANT.

11 (13) AS USED IN THIS SECTION, "DATE OF MARRIAGE" MEANS THE
12 DATE THAT THE RETIRANT'S MARRIAGE IS RECOGNIZED BY THIS STATE.

13 Sec. 604. (1) This section is enacted ~~pursuant to~~ UNDER
14 section 401(a) of the internal revenue code, 26 USC 401, ~~that~~ WHICH
15 imposes certain administrative requirements and benefit limitations
16 for qualified governmental plans. This state intends that the
17 retirement system be a qualified pension plan created in trust
18 under section 401 of the internal revenue code, 26 USC 401, and
19 that the trust be an ~~exempt~~ organization EXEMPT FROM TAXATION under
20 section 501 of the internal revenue code, 26 USC 501. The
21 department shall administer the retirement system to fulfill ~~this~~
22 THE intent OF THIS SUBSECTION.

23 (2) The retirement system shall be administered in compliance
24 with the provisions of section 415 of the internal revenue code OF
25 1986, 26 USC 415, and regulations under that section that are
26 applicable to governmental plans and, beginning January 1, 2010,
27 applicable provisions of the final regulations issued by the

1 ~~internal revenue service~~ **INTERNAL REVENUE SERVICE** on April 5, 2007.
2 Employer-financed benefits provided by the retirement system under
3 this act ~~shall~~ **MUST** not exceed the applicable limitations set forth
4 in section 415 of the internal revenue code, 26 USC 415, as
5 adjusted by the commissioner of internal revenue under section
6 415(d) of the internal revenue code, 26 USC 415, to reflect cost-
7 of-living increases, and the retirement system shall adjust the
8 benefits, including benefits payable to retirants and retirement
9 allowance beneficiaries, subject to the limitation each calendar
10 year to conform with the adjusted limitation. For purposes of
11 section 415(b) of the internal revenue code, 26 USC 415, the
12 applicable limitation ~~shall apply~~ **APPLIES** to aggregated benefits
13 received from all qualified pension plans for which the office of
14 retirement services coordinates administration of that limitation.
15 If there is a conflict between this section and another section of
16 this act, this section prevails.

17 (3) The assets of the retirement system ~~shall~~ **MUST** be held in
18 trust and invested for the sole purpose of meeting the legitimate
19 obligations of the retirement system and ~~shall~~ **MUST** not be used for
20 any other purpose. The assets ~~shall~~ **MUST** not be used for or
21 diverted to a purpose other than for the exclusive benefit of the
22 members, vested former members, retirants, and retirement allowance
23 beneficiaries before satisfaction of all retirement system
24 liabilities.

25 (4) The retirement system shall return post-tax member
26 contributions made by a member and received by the retirement
27 system to a member ~~upon~~ **ON** retirement, ~~pursuant to internal revenue~~

1 ~~service~~ **UNDER INTERNAL REVENUE SERVICE** regulations and approved
2 ~~internal revenue service~~ **INTERNAL REVENUE SERVICE** exclusion ratio
3 tables.

4 (5) The required beginning date for retirement allowances and
5 other distributions ~~shall~~ **MUST** not be later than April 1 of the
6 calendar year following the calendar year in which the employee
7 attains age 70-1/2 or April 1 of the calendar year following the
8 calendar year in which the employee retires. The required minimum
9 distribution requirements imposed by section 401(a)(9) of the
10 internal revenue code, 26 USC 401, ~~shall~~ apply to this act and **MUST**
11 be administered in accordance with a reasonable and good faith
12 interpretation of the required minimum distribution requirements
13 for all years in which the required minimum distribution
14 requirements apply to this act.

15 (6) If the retirement system is terminated, the interest of
16 the members, vested former members, retirants, and retirement
17 allowance beneficiaries in the retirement system is nonforfeitable
18 to the extent funded as described in section 411(d)(3) of the
19 internal revenue code, 26 USC 411, and related ~~internal revenue~~
20 ~~service~~ **INTERNAL REVENUE SERVICE** regulations applicable to
21 governmental plans.

22 (7) Notwithstanding any other provision of this act to the
23 contrary that would limit a distributee's election under this act,
24 a distributee may elect, at the time and in the manner prescribed
25 by the retirement board, to have any portion of an eligible
26 rollover distribution paid directly to an eligible retirement plan
27 specified by the distributee in a direct rollover. This subsection

1 applies to distributions made ~~on or after January 1, 1993.~~**DECEMBER**
2 **31, 1992.**

3 (8) For purposes of determining actuarial equivalent
4 retirement allowances under sections 506(1)(a) and (b) and 602, the
5 actuarially assumed interest rate ~~shall~~**MUST** be ~~8% with utilization~~
6 ~~of the 1983 group annuity and mortality table.~~**DETERMINED BY THE**
7 **DIRECTOR OF THE DEPARTMENT AND THE RETIREMENT BOARD IN CONSULTATION**
8 **WITH THE ACTUARY USING THE MORTALITY TABLES RECOMMENDED BY THE**
9 **ACTUARY.**

10 (9) Notwithstanding any other provision of this act, the
11 compensation of a member of the retirement system ~~shall~~**MUST** be
12 taken into account for any year under the retirement system only to
13 the extent that it does not exceed the compensation limit
14 established in section 401(a)(17) of the internal revenue code, 26
15 USC 401, as adjusted by the commissioner of internal revenue. This
16 subsection applies to any person who first becomes a member of the
17 retirement system ~~on or after October 1,~~**SEPTEMBER 30, 1996.**

18 (10) Notwithstanding any other provision of this act,
19 contributions, benefits, and service credit with respect to
20 qualified military service will be provided under the retirement
21 system in accordance with section 414(u) of the internal revenue
22 code, **26 USC 414.** This subsection applies to all qualified military
23 service ~~on or after December 12,~~**11, 1994.** Beginning on January 1,
24 2007, in accordance with section 401(a)(37) of the internal revenue
25 code, 26 USC 401, if a member dies while performing qualified
26 military service, for purposes of determining any death benefits
27 payable under this act, the member ~~shall be~~**IS** treated as having

1 resumed and then terminated employment on account of death.