



# HOUSE BILL No. 5429

February 22, 2000, Introduced by Reps. Garcia, DeHart, Mans, Gosselin, Faunce, Vander Roest, Ehardt, Vear, DeWeese, Mortimer, Martinez, Mead, Scranton and Voorhees and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1937 PA 345, entitled  
"Firefighters 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 OR TO THE SURVIVING SPOUSE OF A DECEASED MEMBER FOR  
6 SERVICE NOT PREVIOUSLY PURCHASED BY THE MEMBER upon payment to  
7 the retirement system of 5% of the member's full-time or equated  
8 full-time compensation for the fiscal year in which payment is  
9 made multiplied by the years of service that the member elects to  
10 purchase up to the maximum OR 5% OF THE MEMBER'S FULL-TIME OR  
11 EQUATED FULL-TIME COMPENSATION FOR THE LAST FISCAL YEAR IN WHICH  
12 THE DECEASED MEMBER WAS A MEMBER OF THE RETIREMENT SYSTEM.

13 Service is not creditable if it is or would be creditable under  
14 any other federal, state, or local publicly supported retirement  
15 system. However, this restriction does not apply to those per-  
16 sons who have or will have acquired retirement eligibility under  
17 the federal government for service in the reserve. A member  
18 shall be given service credit for the time the member is absent  
19 from active service without full pay on account of sickness or  
20 injury. If the absence from active service is due to nonservice  
21 connected sickness or injury, not more than 60 days of the  
22 absence shall be credited as service in any 1 calendar year, as  
23 determined by the retirement board.

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

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

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

26       (ii) Option II. Upon the death of a retired member, 1/2 of  
27 his or her reduced retirement pension shall be continued

1 throughout the life of and paid to the person, having an  
2 insurable interest in the retired member's life, that the member  
3 nominated by written designation duly executed and filed with the  
4 retirement board before the effective date of the member's  
5 retirement.

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

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

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

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



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

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

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

1 TO 418.941, to become due and payable on the termination of the  
2 payments to the surviving spouse by a municipality under ~~Act~~  
3 ~~No. 317 of the Public Acts of 1969~~ THE WORKER'S DISABILITY COM-  
4 PENSATION ACT OF 1969, 1969 PA 317, MCL 418.101 TO 418.941, and  
5 to continue for the surviving spouse's life or until his or her  
6 remarriage.

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

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

1 the retirement board determines that the need for a pension no  
2 longer exists.

3 (d) Upon the application of a member or the member's depart-  
4 ment head, a member who becomes totally incapacitated for duty by  
5 reason of a personal injury or disease occurring as the natural  
6 and proximate result of causes arising out of and in the course  
7 of the member's employment by the municipality shall be retired  
8 by the retirement board. The member shall be given a medical  
9 examination by a medical committee consisting of a physician  
10 named by the retirement board, a physician named by the member  
11 claiming benefits, and a third physician designated by the first  
12 2 physicians named. The medical committee, if determined by a  
13 majority opinion, shall certify in writing that the member is  
14 mentally or physically incapacitated for the further performance  
15 of duty as a police officer or fire fighter in the service of the  
16 municipality; that the incapacity is likely to be permanent; and  
17 that the member should be retired. Upon retirement for disabil-  
18 ity as provided in this subdivision, a member who has not  
19 attained 55 years of age shall receive a disability retirement  
20 pension of 50% of the member's average final compensation, which  
21 shall be determined according to subsection (1)(f), and shall be  
22 payable until the member becomes 55 years of age. Upon becoming  
23 55 years of age, the disabled member shall receive a disability  
24 retirement pension computed according to subsection (1)(e). In  
25 computing the disability retirement pension, the member shall be  
26 given service credit for the period of receipt of a disability  
27 retirement pension before attainment of 55 years of age. If a

1 member retired after attaining 55 years of age on account of  
2 disability, as provided in this subdivision, the member shall  
3 receive a disability retirement pension computed according to  
4 subsection (1)(e), notwithstanding that the member may not have  
5 25 years of service credit. The disability retirement pension  
6 provided for in this subdivision is subject to subdivisions (f)  
7 and (g).

8 (e) Upon the application of a member or the member's depart-  
9 ment head, a member in service who has 5 or more years of service  
10 credit and who becomes totally and permanently incapacitated for  
11 duty by reason of a personal injury or disease occurring as the  
12 result of causes arising outside the course of the member's  
13 employment by the municipality may be retired by the retirement  
14 board. The member shall be given a medical examination by a med-  
15 ical committee consisting of a physician named by the retirement  
16 board, a physician named by the member claiming benefits, and a  
17 third physician designated by the first 2 physicians named. The  
18 medical committee, if determined by a majority opinion, shall  
19 certify in writing that the member is mentally or physically  
20 incapacitated for the further performance of duty as a police  
21 officer or fire fighter in the service of the municipality, that  
22 the incapacity is likely to be permanent, and that the member  
23 should be retired. Upon retirement for disability, as provided  
24 in this subdivision, a member who has not attained 55 years of  
25 age shall receive a disability retirement pension until the  
26 member becomes 55 years of age, recovers, or dies, whichever  
27 occurs first, of 1.5% of the member's average final compensation

1 multiplied by the number of years of service credited to the  
2 member. Upon becoming 55 years of age, the member's disability  
3 retirement pension shall be increased to 2% of the member's aver-  
4 age final compensation multiplied by the number of years of serv-  
5 ice credited to the member at the time of his or her retirement.  
6 Upon retirement for disability as provided in this subdivision, a  
7 member who is 55 years of age or older shall receive a disability  
8 retirement pension computed according to subsection (1)(e). This  
9 subdivision is subject to subdivisions (f) and (g).

10 (f) At least once each year during the first 5 years after  
11 the retirement of a member with a disability retirement pension  
12 and at least once in every 3-year period after disability retire-  
13 ment, the retirement board may, and upon the retired member's  
14 application shall, require a retired member who has not attained  
15 55 years of age to undergo a medical examination. The medical  
16 examination shall be given by or under the direction of a physi-  
17 cian, designated by the retirement board, at the place of resi-  
18 dence of the retired member or other place mutually agreed upon.  
19 If a retired member who has not attained 55 years of age refuses  
20 to submit to the medical examination in the period, the member's  
21 disability retirement pension may be discontinued by the retire-  
22 ment board. If the member's refusal continues for 1 year, all  
23 the member's rights in and to his or her disability retirement  
24 pension may be revoked by the retirement board. If upon a medi-  
25 cal examination of the retired member the physician reports to  
26 the retirement board that the retired member is physically able  
27 and capable of resuming employment in the classification held by

1 the member at the time of retirement, the member shall be  
2 restored to active service in the employ of the municipality and  
3 payment of the disability retirement pension shall cease if the  
4 report of the physician is concurred in by the retirement board.  
5 A retired member restored to active service shall again become a  
6 member of the retirement system from the date of return to  
7 service. The member shall contribute to the retirement system  
8 after restoration to active service in the same manner as before  
9 the member's disability retirement. Service credited to the  
10 member at the time of disability retirement shall be restored to  
11 full force and effect. The member shall be given service credit  
12 for the period the member was receiving a duty disability retire-  
13 ment pension provided for in subdivision (d), but shall not be  
14 given service credit for the period the member was receiving a  
15 nonduty disability retirement pension provided for in subdivision  
16 (e). Amounts paid under ~~Act No. 317 of the Public Acts of 1969~~  
17 THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317,  
18 MCL 418.101 TO 418.941, to a retired member shall be offset  
19 against and payable in place of benefits provided under this  
20 act. If the benefits under ~~Act No. 317 of the Public Acts of~~  
21 ~~1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969  
22 PA 317, MCL 418.101 TO 418.941, are less than the benefits pay-  
23 able under this act, the amount to be paid out of the funds of  
24 the retirement system shall be the difference between the bene-  
25 fits provided under ~~Act No. 317 of the Public Acts of 1969~~ THE  
26 WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317,  
27 MCL 418.101 TO 418.941, and the benefits provided in this act.

1 Upon the termination of benefits under ~~Act No. 317 of the Public~~  
2 ~~Acts of 1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969,  
3 1969 PA 317, MCL 418.101 TO 418.941, the benefits shall be paid  
4 pursuant to this act.

5 (g) Within 60 days before a member becomes 55 years of age,  
6 or before retirement from service if retirement occurs after the  
7 member becomes 55 years of age, a disabled member who is retired  
8 as provided in subdivision (d) or (e) may elect to continue to  
9 receive a disability retirement pension as a benefit terminating  
10 at death, to be known as a regular disability pension, or may  
11 elect to receive the actuarial equivalent, at that time, of a  
12 regular disability pension in a reduced disability pension pay-  
13 able throughout life pursuant to an option provided in subsection  
14 (1)(h). If a disabled member fails to elect an option, as pro-  
15 vided in this subdivision, before becoming 55 years of age or  
16 before retirement, the member's retirement pension shall be paid  
17 to the member as a regular disability pension terminating at  
18 death. If a disabled member who has not elected an option pro-  
19 vided in subsection (1)(h) dies before the total of the member's  
20 regular disability pension payments received equals or exceeds  
21 the total of the member's contributions made to the retirement  
22 system, the remainder, if any, shall be paid in a single sum to  
23 the person or persons nominated by the member by written designa-  
24 tion duly executed and filed with the board. If there is not a  
25 designated person or persons surviving, then the remainder, if  
26 any, shall be paid to the retired member's legal representative  
27 or estate.