

HOUSE BILL No. 4827

May 24, 2001, Introduced by Reps. Shackleton, Richardville, Raczkowski, Ehardt, Voorhees, Stewart, Kowall, Neumann, Rocca, Adamini, Rich Brown and Bovin 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 sections 6, 6a, and 6b (MCL 38.556, 38.556a, and
38.556b), section 6 as amended by 1991 PA 54, section 6a as
amended by 1982 PA 145, and section 6b as added by 1986 PA 30.

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

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1 benefits to which the member is entitled under this act, unless
2 the member continues employment. If the member continues employ-
3 ment, the member's pension shall be deferred with service years
4 of credit until actual retirement. Upon the approval of the leg-
5 islative body or the electors of a municipality under this act, a
6 member under 50 years of age who has 25 or more years of service,
7 or without the necessity for approval, a member 50 years of age
8 or more who has 25 or more years of service, may leave service
9 and receive the full retirement benefits payable throughout the
10 member's life as provided in subdivision (e).

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

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

23 (d) A member who has 10 or more years of service shall have
24 vested retirement benefits that are not subject to forfeiture on
25 account of disciplinary action, charges, or complaints. If the
26 member leaves employment before the date the member would have
27 first become eligible to retire as provided in subdivision (a)

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

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

1 between the member's total contributions and the total of the
2 member's regular retirement pension payments received shall be
3 paid in a single sum to the person or persons the member nomi-
4 nates by written designation duly executed and filed with the
5 retirement board. If there is not a person or persons surviving
6 the retired member, the difference, if any, shall be paid to the
7 retired member's legal representative or estate.

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

22 (g) A member shall be given service credit for time spent in
23 the military, naval, marine, or other armed service of the United
24 States government during time of war, or other national emergency
25 recognized by the board, if the member was employed by the munic-
26 ipality at the time of entry into the armed service, and is or
27 was reemployed by the municipality as a police officer or fire

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

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

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

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

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

1 by written designation ~~duly~~ executed and filed with the
2 retirement board before the effective date of the member's
3 retirement.

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

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

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

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

1 amended judgment of divorce or award or order of the court, to
2 the retirement system. If the election of a reduced retirement
3 pension payment option under subdivision (h)(i) or (ii) is con-
4 sidered void by the retirement system under this subsection, the
5 retirant's retirement pension shall revert to a regular retire-
6 ment pension, including postretirement adjustments, if any,
7 subject to an award or order of the court as described in section
8 9. The retirement pension shall revert to a regular retirement
9 pension under this subdivision effective the first DAY of the
10 month after the date the retirement system receives a certified
11 copy of the judgment of divorce or award or order of the court.
12 This subdivision does not supersede a judgment of divorce or
13 award or order of the court in effect on the effective date of
14 the amendatory act that added this subdivision. This subdivision
15 does not require the retirement system to distribute or pay
16 retirement assets on behalf of a retirant in an amount that
17 exceeds the actuarially determined amount that would otherwise
18 become payable if a judgment of divorce had not been 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. Upon
21 becoming 55 years of age, the disabled member shall receive a
22 disability retirement pension computed according to subsection
23 (1)(e). In computing the disability retirement pension, the
24 member shall be given service credit for the period of receipt of
25 a disability retirement pension before attainment of 55 years of
26 age. If a member retired after attaining 55 years of age on
27 account of disability, as provided in this subdivision, the

1 member shall receive a disability retirement pension computed
2 according to subsection (1)(e), notwithstanding that the member
3 may not have 25 years of service credit. The disability retire-
4 ment pension provided for in this subdivision is subject to sub-
5 divisions (f) and (g).

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

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

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

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

1 ~~of 1969~~ THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969
2 PA 317, MCL 418.101 TO 418.941, the benefits shall be paid pursu-
3 ant to this act.

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

1 Sec. 6a. ~~-(1)-~~ In a municipality having a population of
2 80,000 or more, section 6(1)(h) shall be applicable to any member
3 who continues in service on or after the date he or she acquires
4 15 years of service credit.

5 ~~-(2) After December 31, 1981, in a city completely sur-~~
6 ~~rounded by a city having a population of 80,000 or more which~~
7 ~~elects by a resolution of its governing body to be included under~~
8 ~~this subsection, a pension computed as provided in section~~
9 ~~6(1)(i) shall be paid to the surviving spouse of a member who~~
10 ~~continues in service on or after the date the member acquires 15~~
11 ~~years of service credit, who does not have an option I election~~
12 ~~as provided in section 6(1)(h), and who dies while in the service~~
13 ~~of the city before the effective date of the member's~~
14 ~~retirement.~~

15 Sec. 6b. ~~-(1)-~~ Notwithstanding section 6 or any predecessor
16 to section 6, ~~and subject to subsection (2),~~ the remarriage of
17 a surviving spouse shall not render the surviving spouse ineligi-
18 ble to receive a pension described in section 6(1)(i) or a duty
19 death pension described in section 6(2)(a). A surviving spouse
20 whose pension described in section 6(1)(i) or duty death pension
21 described in section 6(2)(a) was terminated due to the surviving
22 spouse's remarriage shall be eligible to receive that pension or
23 duty death pension beginning on the first day of the month fol-
24 lowing the month in which written application for reinstatement
25 is filed with the board, but shall not be eligible to receive the
26 pension or duty death pension attributable to any month beginning
27 before the month of reinstatement under this section.

1 ~~(2) Subsection (1) shall apply to a municipality upon~~
2 ~~approval by resolution of the governing body of the~~
3 ~~municipality.~~