

# HOUSE BILL No. 4332

March 12, 2003, Introduced by Reps. Shackleton, Sheltroun, Julian, Walker, Brown, Kooiman, Palsrok and Meyer 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 2002 PA 98, 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

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

11 (b) A member who is 60 years of age or older shall be retired  
12 by the retirement board upon the written application of the  
13 legislative body, or board or official provided in the charter of  
14 the municipality as head of the department in which the member is  
15 employed. Upon retirement, the retirement board shall grant the  
16 benefits to which the member is entitled under this act, unless  
17 the member continues employment. If the member continues  
18 employment, the member's pension shall be deferred with service  
19 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  
22 attainment 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  
8 benefits to which the member is entitled under this act, unless  
9 the 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  
13 subsection, a member shall receive a regular retirement pension  
14 payable throughout the member's life of 2% of the member's  
15 average final compensation multiplied by the first 25 years of  
16 service credited to the member, plus 1% of the member's average  
17 final compensation multiplied by the number of years, and  
18 fraction of a year, of service rendered by the member in excess  
19 of 25 years. A municipality under this act, upon approval of the  
20 legislative body or the electors of the municipality, may  
21 increase the percentage of the payment from 2% up to a maximum of  
22 2.5%. If an increase is approved, the increase shall not be  
23 reduced for members under the system at the time of the  
24 increase. The legislative body may also increase the percentage  
25 of employee contributions. If a retired member dies before the  
26 total of regular pension payments received by the member equals  
27 the total of the member's contributions made to the retirement

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

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

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

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

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

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

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

25 (ii) Option II. Upon the death of a retired member, 1/2 of  
26 his or her reduced retirement pension shall be continued  
27 throughout the life of and paid to the person, having an

1 insurable interest in the retired member's life, that the member  
2 nominated by written designation executed and filed with the  
3 retirement board before the effective date of the member's  
4 retirement.

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

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

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

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

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

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

24 (a) To a surviving spouse, a duty death pension of the same  
25 amount each week as that which has been paid the surviving spouse  
26 under the worker's disability compensation act of 1969, 1969 PA  
27 317, MCL 418.101 to 418.941, to become due and payable on the

1 termination of the payments to the surviving spouse by a  
2 municipality under the worker's disability compensation act of  
3 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue for  
4 the surviving spouse's life. ~~or until his or her remarriage.~~

5 (b) If death results to a member in the line of duty, and the  
6 member leaves surviving children, the children shall be paid a  
7 pension of the same amount as that which has been paid to them as  
8 a weekly benefit under the worker's disability compensation act  
9 of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and  
10 payable upon termination of the payments under the worker's  
11 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to  
12 418.941, and to continue to each surviving child until he or she  
13 attains 18 years of age, or until his or her marriage or death  
14 before attaining 18 years of age.

15 (c) If death results to a member in the line of duty and the  
16 member leaves other surviving dependents, the dependents shall  
17 receive a pension of the same amount as that which has been paid  
18 to them as a weekly benefit under the worker's disability  
19 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to  
20 become due and payable upon termination of the payments under the  
21 worker's disability compensation act of 1969, 1969 PA 317, MCL  
22 418.101 to 418.941, and to continue until the time the retirement  
23 board determines that the need for a pension no longer exists.

24 (d) Upon the application of a member or the member's  
25 department head, a member who becomes totally incapacitated for  
26 duty by reason of a personal injury or disease occurring as the  
27 natural and proximate result of causes arising out of and in the

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

1 subdivision is subject to subdivisions (f) and (g).

2 (e) Upon the application of a member or the member's  
3 department head, a member in service who has 5 or more years of  
4 service credit and who becomes totally and permanently  
5 incapacitated for duty by reason of a personal injury or disease  
6 occurring as the result of causes arising outside the course of  
7 the member's employment by the municipality may be retired by the  
8 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  
18 disability, as provided in this subdivision, a member who has not  
19 attained 55 years of age shall receive a disability retirement  
20 pension until the member becomes 55 years of age, recovers, or  
21 dies, whichever occurs first, of 1.5% of the member's average  
22 final compensation multiplied by the number of years of service  
23 credited to the member. Upon becoming 55 years of age, the  
24 member's disability retirement pension shall be increased to 2%  
25 of the member's average final compensation multiplied by the  
26 number of years of service credited to the member at the time of  
27 his or her retirement. Upon retirement for disability as

1 provided in this subdivision, a member who is 55 years of age or  
2 older shall receive a disability retirement pension computed  
3 according to subsection (1)(e). This subdivision is subject to  
4 subdivisions (f) and (g).

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

1 the retirement system from the date of return to service. The  
2 member shall contribute to the retirement system after  
3 restoration to active service in the same manner as before the  
4 member's disability retirement. Service credited to the member  
5 at the time of disability retirement shall be restored to full  
6 effect. The member shall be given service credit for the period  
7 the member was receiving a duty disability retirement pension  
8 provided for in subdivision (d), but shall not be given service  
9 credit for the period the member was receiving a nonduty  
10 disability retirement pension provided for in subdivision (e).  
11 Amounts paid under the worker's disability compensation act of  
12 1969, 1969 PA 317, MCL 418.101 to 418.941, to a retired member  
13 shall be offset against and payable in place of benefits provided  
14 under this act. If the benefits under the worker's disability  
15 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941,  
16 are less than the benefits payable under this act, the amount to  
17 be paid out of the funds of the retirement system shall be the  
18 difference between the benefits provided under the worker's  
19 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to  
20 418.941, and the benefits provided in this act. Upon the  
21 termination of benefits under the worker's disability  
22 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941,  
23 the benefits shall be paid pursuant to this act.

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

1 receive a disability retirement pension as a benefit terminating  
2 at death, to be known as a regular disability pension, or may  
3 elect to receive the actuarial equivalent, at that time, of a  
4 regular disability pension in a reduced disability pension  
5 payable throughout life pursuant to an option provided in  
6 subsection (1)(h). If a disabled member fails to elect an  
7 option, as provided in this subdivision, before becoming 55 years  
8 of age or before retirement, the member's retirement pension  
9 shall be paid to the member as a regular disability pension  
10 terminating at death. If a disabled member who has not elected  
11 an option provided in subsection (1)(h) dies before the total of  
12 the member's regular disability pension payments received equals  
13 or exceeds the total of the member's contributions made to the  
14 retirement system, the remainder, if any, shall be paid in a  
15 single sum to the person or persons nominated by the member by  
16 written designation duly executed and filed with the board. If  
17 there is not a designated person or persons surviving, then the  
18 remainder, if any, shall be paid to the retired member's legal  
19 representative or estate.

20       Sec. 6a. ~~(1)~~ In a municipality having a population of  
21 80,000 or more, section 6(1)(h) shall be applicable to any member  
22 who continues in service on or after the date he or she acquires  
23 15 years of service credit.

24       ~~(2) After December 31, 1981, in a city completely~~  
25 ~~surrounded by a city having a population of 80,000 or more which~~  
26 ~~elects by a resolution of its governing body to be included under~~  
27 ~~this subsection, a pension computed as provided in section~~

1 ~~6(1)(i) shall be paid to the surviving spouse of a member who~~  
2 ~~continues in service on or after the date the member acquires 15~~  
3 ~~years of service credit, who does not have an option I election~~  
4 ~~as provided in section 6(1)(h), and who dies while in the service~~  
5 ~~of the city before the effective date of the member's~~  
6 ~~retirement.~~

7       Sec. 6b. (1) Notwithstanding section 6 or any predecessor  
8 to section 6, ~~and subject to subsection (2),~~ the remarriage of  
9 a surviving spouse shall not render the surviving spouse  
10 ineligible to receive a pension described in section 6(1)(i) or a  
11 duty death pension described in section 6(2)(a). A surviving  
12 spouse whose pension described in section 6(1)(i) or duty death  
13 pension described in section 6(2)(a) was terminated due to the  
14 surviving spouse's remarriage shall be eligible to receive that  
15 pension or duty death pension beginning on the first day of the  
16 month following the month in which written application for  
17 reinstatement is filed with the board, but shall not be eligible  
18 to receive the pension or duty death pension attributable to any  
19 month beginning before the month of reinstatement under this  
20 section.

21       (2) ~~Subsection (1) shall apply to a municipality upon~~  
22 ~~approval by resolution of the governing body of the~~  
23 ~~municipality.~~ **Beginning on the effective date of the amendatory**  
24 **act that amended this subsection, the provisions of subsection**  
25 **(1) that apply to a surviving spouse who is eligible to receive a**  
26 **pension described in section 6(1)(i) shall apply to a**  
27 **municipality upon approval by resolution of the governing body of**

1 the municipality.

2       (3) Beginning on the effective date of the amendatory act  
3 that added this subsection, a surviving spouse who is eligible to  
4 receive a duty death pension described in section 6(2)(a) and who  
5 remarries after the effective date of the amendatory act that  
6 added this subsection shall not be denied a duty death pension  
7 described in section 6(2)(a) by a municipality because of the  
8 remarriage of the surviving spouse.