

SENATE BILL No. 1017

January 31, 2006, Introduced by Senators JELINEK, JOHNSON and PATTERSON and referred to the Committee on Education.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 85 and 91 (MCL 38.1385 and 38.1391), section 85 as amended by 2002 PA 94 and section 91 as amended by 2004 PA 117.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 85. (1) A retiring member or retiring deferred member who
2 meets the requirements of section 81 or 81a or a member whom the
3 retirement board finds to be totally and permanently disabled and
4 eligible to receive a retirement allowance under section 86 or 87
5 shall elect to receive his or her retirement allowance under 1 of
6 the payment options provided in this subsection. The election shall

1 be in writing and filed with the retirement board at least 15 days
2 before the effective date of the retirement allowance except as
3 provided for a disability retirant under section 86 or 87. The
4 amount of retirement allowance under subdivision (b), (c), or (d)
5 shall be the actuarial equivalent of the amount of retirement
6 allowance under subdivision (a). The options are as follows:

7 (a) A retirant shall be paid a straight retirement allowance
8 for life computed pursuant to section 84. An additional retirement
9 allowance payment shall not be made upon the retirant's death.

10 (b) A retirant shall be paid a reduced retirement allowance
11 for life with the provision that upon the retirant's death, payment
12 of the reduced retirement allowance is continued throughout the
13 lifetime of the retirement allowance beneficiary whom the member or
14 deferred member designates in a writing filed with the retirement
15 board at the time of election of this option. A member or deferred
16 member may elect this option and designate a retirement allowance
17 beneficiary under the conditions set forth in section 82(2) or
18 89(3).

19 (c) A retirant shall be paid a reduced retirement allowance
20 for life with the provision that upon the retirant's death, payment
21 of 1/2 of the reduced retirement allowance is continued throughout
22 the lifetime of the retirement allowance beneficiary whom the
23 member designated in a writing filed with the retirement board at
24 the time of election of the option.

25 (d) On and after January 1, 2000, a retirant shall be paid a
26 reduced retirement allowance for life with the provision that upon
27 the retirant's death, payment of 75% of the reduced retirement

1 allowance is continued throughout the lifetime of the retirement
2 allowance beneficiary whom the member designated in a writing filed
3 with the retirement board at the time of election of the option.

4 (2) In addition to the election under subsection (1), a
5 retirant, other than a disability retirant who is 60 years of age
6 or less, may elect to coordinate his or her retirement allowance
7 with an estimated primary social security benefit. The retirant
8 shall be paid an increased retirement allowance until 62 years of
9 age and a reduced retirement allowance after 62 years of age. The
10 increased retirement allowance paid until 62 years of age shall
11 approximate the sum of the reduced retirement allowance payable
12 after 62 years of age and the retirant's estimated social security
13 primary insurance amount. The estimated social security primary
14 insurance amount shall be determined by the retirement system. The
15 election under this subsection shall be made at the same time and
16 in the same manner as required under subsection (1).

17 (3) Except as otherwise provided in this section, the election
18 of a payment option in subsections (1) and (2) shall not be changed
19 on or after the effective date of the retirement allowance. Except
20 as provided in ~~subsection (5)~~ **THIS SECTION**, the retirement
21 allowance beneficiary selected under subsection (1)(b), (c), or (d)
22 shall not be changed on or after the effective date of the
23 retirement allowance and shall be either a spouse, brother, sister,
24 parent, or child, including an adopted child, of the member,
25 deferred member, retiring member, or retiring deferred member
26 entitled to make the election under this act. Another retirement
27 allowance beneficiary shall not be selected. If a member, deferred

1 member, retiring member, or retiring deferred member is married at
2 the retirement allowance effective date, an election under
3 subsection (1), other than an election under subsection (1)(b),
4 (c), or (d) naming the spouse as retirement allowance beneficiary,
5 shall not be effective unless the election is signed by the spouse,
6 except that this requirement may be waived by the board if the
7 signature of a spouse cannot be obtained because of extenuating
8 circumstances. For purposes of this subsection, "spouse" means the
9 person to whom the member, deferred member, retiring member, or
10 retiring deferred member is married at the retirement allowance
11 effective date. Payment to a retirement allowance beneficiary shall
12 start the first day of the month following the retirant's death.

13 (4) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), IF**
14 the retirement allowance beneficiary selected under subsection
15 (1)(b), (c), or (d) predeceases the retirant, the retirant's
16 benefit shall revert to a straight retirement allowance including
17 post-retirement adjustments, if any, shall be effective the first
18 of the month following the death, and shall be paid during the
19 remainder of the retirant's life. This subsection applies to a
20 retirant whose effective date of retirement is after June 28, 1976,
21 but the straight retirement allowance shall not be payable for any
22 month beginning before the later of the retirement allowance
23 beneficiary's death or October 31, 1980. This subsection also
24 applies to a retirant whose effective date of retirement was on or
25 before June 28, 1976, but the straight retirement allowance shall
26 not be payable for any month beginning before the later of the
27 retirement allowance beneficiary's death or January 1, 1986. A

1 retirant who on January 1, 1986 is receiving a reduced retirement
2 allowance because the retirant designated a retirement allowance
3 beneficiary and the retirement allowance beneficiary predeceased
4 the retirant is eligible to receive the straight retirement
5 allowance beginning January 1, 1986, but the straight retirement
6 allowance shall not be payable for any month beginning before
7 January 1, 1986.

8 (5) A retirant who returns to service pursuant to section 61
9 and whose retirement allowance beneficiary selected under
10 subsection (1)(b), (c), or (d) predeceases the member before he or
11 she again becomes a retirant may again choose a retirement
12 allowance beneficiary pursuant to subsection (1)(b), (c), or (d).

13 (6) If a retirant receiving a reduced retirement allowance
14 under subsection (1)(b), (c), or (d) is divorced from the spouse
15 who had been designated as the retirant's retirement allowance
16 beneficiary under subsection (1)(b), (c), or (d), the election of a
17 reduced retirement allowance payment option shall be considered
18 void by the retirement system if the judgment of divorce or award
19 or order of the court, or an amended judgment of divorce or award
20 or order of the court, described in the public employee retirement
21 benefit protection act, **2002 PA 100, MCL 38.1681 TO 38.1689**, and
22 dated after June 27, 1991 provides that the election of a reduced
23 retirement allowance payment option under subsection (1)(b), (c),
24 or (d) is to be considered void by the retirement system and the
25 retirant provides a certified copy of the judgment of divorce or
26 award or order of the court, or an amended judgment of divorce or
27 award or order of the court, to the retirement system. If the

1 election of a reduced retirement allowance payment option under
2 subsection (1)(b), (c), or (d) is considered void by the retirement
3 system under this subsection, the retirant's retirement allowance
4 shall revert to a straight retirement allowance, including
5 postretirement adjustments, if any, subject to an award or order of
6 the court as described in the public employee retirement benefit
7 protection act, **2002 PA 100, MCL 38.1681 TO 38.1689**. The retirement
8 allowance shall revert to a straight retirement allowance under
9 this subsection effective the first of the month after the date the
10 retirement system receives a certified copy of the judgment of
11 divorce or award or order of the court. This subsection does not
12 supersede a judgment of divorce or award or order of the court in
13 effect on June 27, 1991. This subsection does not require the
14 retirement system to distribute or pay retirement assets on behalf
15 of a retirant in an amount that exceeds the actuarially determined
16 amount that would otherwise become payable if a judgment of divorce
17 had not been rendered.

18 (7) If the retirement allowance payments terminate before an
19 aggregate amount equal to the retirant's accumulated contributions
20 has been paid, the difference between the retirant's accumulated
21 contributions and the aggregate amount of retirement allowance
22 payments made shall be paid to the person designated in a writing
23 filed with the retirement board on a form provided by the
24 retirement board. If the designated person does not survive the
25 retirant or retirement allowance beneficiary, the difference shall
26 be paid to the deceased recipient's estate or to the legal
27 representative of the deceased recipient.

1 (8) A RETIRANT WHO SELECTED A RETIREMENT ALLOWANCE BENEFICIARY
2 UNDER SUBSECTION (1) (B), (C), OR (D) MAY CHANGE HIS OR HER
3 RETIREMENT ALLOWANCE BENEFICIARY IF ALL OF THE FOLLOWING APPLY:

4 (A) THE FIRST RETIREMENT ALLOWANCE BENEFICIARY IS A SPOUSE.

5 (B) THE FIRST RETIREMENT ALLOWANCE BENEFICIARY PREDECEASES THE
6 RETIRANT AFTER THE RETIREMENT ALLOWANCE EFFECTIVE DATE.

7 (C) THE RETIRANT MARRIES ANOTHER SPOUSE AFTER THE RETIREMENT
8 ALLOWANCE EFFECTIVE DATE.

9 (D) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
10 SYSTEM TO NAME HIS OR HER CURRENT SPOUSE AS A RETIREMENT ALLOWANCE
11 BENEFICIARY NOT EARLIER THAN 180 DAYS AND NOT LATER THAN 1 YEAR
12 AFTER THE MARRIAGE OF THE RETIRANT AND THE CURRENT SPOUSE EXCEPT
13 THAT A RETIRANT WHOSE FIRST RETIREMENT ALLOWANCE BENEFICIARY
14 PREDECEASES THE RETIRANT AFTER THE RETIREMENT ALLOWANCE EFFECTIVE
15 DATE AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
16 THIS SUBSECTION SHALL HAVE 180 DAYS FROM THE EFFECTIVE DATE OF THE
17 AMENDATORY ACT THAT ADDED THIS SUBSECTION TO FILE A WRITTEN REQUEST
18 WITH THE RETIREMENT SYSTEM.

19 (9) A RETIRANT WHO WAS NOT MARRIED ON HIS OR HER RETIREMENT
20 ALLOWANCE EFFECTIVE DATE AND WHO DID NOT SELECT A PAYMENT OPTION
21 PROVIDED IN THIS SECTION MAY SELECT AN OPTIONAL FORM OF BENEFIT
22 PAYMENT UNDER SUBSECTION (1) (B), (C), OR (D) AND DESIGNATE A
23 RETIREMENT ALLOWANCE BENEFICIARY IF ALL OF THE FOLLOWING APPLY:

24 (A) THE RETIRANT MARRIES AFTER HIS OR HER RETIREMENT ALLOWANCE
25 EFFECTIVE DATE.

26 (B) THE RETIREMENT ALLOWANCE BENEFICIARY IS THE RETIRANT'S
27 SPOUSE.

1 (C) NO ELIGIBLE DOMESTIC RELATIONS ORDERS OR DOMESTIC
2 RELATIONS ORDERS HAVE BEEN FILED NAMING A PREVIOUS SPOUSE AS AN
3 ALTERNATE PAYEE WITH SURVIVOR BENEFITS.

4 (D) THE RETIRANT FILES A WRITTEN REQUEST WITH THE RETIREMENT
5 SYSTEM TO SELECT THE OPTIONAL FORM OF BENEFIT PAYMENT UNDER
6 SUBSECTION (1) (B), (C), OR (D) AND TO DESIGNATE HIS OR HER SPOUSE
7 AS THE RETIREMENT ALLOWANCE BENEFICIARY, NOT EARLIER THAN 180 DAYS
8 AND NOT LATER THAN 1 YEAR AFTER THE RETIRANT'S MARRIAGE EXCEPT THAT
9 A RETIRANT WHO MARRIES AFTER THE RETIREMENT ALLOWANCE EFFECTIVE
10 DATE AND BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
11 THIS SUBSECTION SHALL HAVE 180 DAYS FROM THE EFFECTIVE DATE OF THE
12 AMENDATORY ACT THAT ADDED THIS SUBSECTION TO FILE A WRITTEN REQUEST
13 WITH THE RETIREMENT SYSTEM.

14 (10) THE RETIREMENT ALLOWANCE OF THE RETIRANT WHO MAKES AN
15 ELECTION UNDER SUBSECTION (8) OR (9) SHALL NOT BE GREATER THAN THE
16 ACTUARIAL EQUIVALENT OF THE RETIREMENT ALLOWANCE THAT THE RETIRANT
17 WOULD OTHERWISE BE ENTITLED TO UNDER SUBSECTION (1) (A) AND SHALL
18 BECOME EFFECTIVE THE FIRST DAY OF THE MONTH FOLLOWING THE FILING OF
19 THE WRITTEN REQUEST WITH THE RETIREMENT SYSTEM.

20 Sec. 91. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
21 SECTION, THE retirement system shall pay the entire monthly premium
22 or membership or subscription fee for hospital, medical-surgical,
23 and sick care benefits for the benefit of a retirant or retirement
24 allowance beneficiary who elects coverage in the plan authorized by
25 the retirement board and the department. A RETIREMENT ALLOWANCE
26 BENEFICIARY WHO HAS BECOME A RETIREMENT ALLOWANCE BENEFICIARY UNDER
27 SECTION 85(8) OR (9) IS NOT A HEALTH INSURANCE DEPENDENT AND IS NOT

1 ENTITLED TO HEALTH INSURANCE BENEFITS UNDER THIS SECTION EXCEPT AS
2 PROVIDED IN SUBSECTION (10).

3 (2) The retirement system may pay up to the maximum of the
4 amount payable under subsection (1) toward the monthly premium for
5 hospital, medical-surgical, and sick care benefits for the benefit
6 of a retirant or retirement allowance beneficiary enrolled in a
7 group health insurance or prepaid service plan not authorized by
8 the retirement board and the department, if enrolled before June 1,
9 1975, for whom the retirement system on July 18, 1983 was making a
10 payment towards his or her monthly premium.

11 (3) A retirant or retirement allowance beneficiary receiving
12 hospital, medical-surgical, and sick care benefits coverage under
13 subsection (1) or (2), until eligible for medicare, shall have an
14 amount equal to the cost chargeable to a medicare recipient for
15 part B of medicare deducted from his or her retirement allowance.

16 (4) The retirement system shall pay 90% of the monthly premium
17 or membership or subscription fee for dental, vision, and hearing
18 benefits for the benefit of a retirant or retirement allowance
19 beneficiary who elects coverage in the plan authorized by the
20 retirement board and the department. Payments shall begin under
21 this subsection upon approval by the retirement board and the
22 department of plan coverage and a plan provider.

23 (5) The retirement system shall pay up to 90% of the maximum
24 of the amount payable under subsection (1) toward the monthly
25 premium or membership or subscription fee for hospital, medical-
26 surgical, and sick care benefits coverage described in subsections
27 (1) and (2) for each health insurance dependent of a retirant

1 receiving benefits under subsection (1) or (2). Payment shall not
2 exceed 90% of the actual monthly premium or membership or
3 subscription fee. The retirement system shall pay 90% of the
4 monthly premium or membership or subscription fee for dental,
5 vision, and hearing benefits described in subsection (4) for the
6 benefit of each health insurance dependent of a retirant receiving
7 benefits under subsection (4). Payment for health benefits coverage
8 for a health insurance dependent of a retirant shall not be made
9 after the retirant's death, unless the retirant designated a
10 retirement allowance beneficiary as provided in section 85 and the
11 dependent was covered or eligible for coverage as a health
12 insurance dependent of the retirant on the retirant's date of
13 death. Payment for health benefits coverage shall not be made for a
14 health insurance dependent after the later of the retirant's death
15 or the retirement allowance beneficiary's death. Payment under this
16 subsection and subsection (6) began October 1, 1985 for health
17 insurance dependents who on July 10, 1985 were covered by the
18 hospital, medical-surgical, and sick care benefits plan authorized
19 by the retirement board and the department. Payment under this
20 subsection and subsection (6) for other health insurance dependents
21 shall not begin before January 1, 1986.

22 (6) The payment described in subsection (5) shall also be made
23 for each health insurance dependent of a deceased member or
24 deceased duty disability retirant if a retirement allowance is
25 being paid to a retirement allowance beneficiary because of the
26 death of the member or duty disability retirant as provided in
27 section 43c(c), 89, or 90. Payment for health benefits coverage for

1 a health insurance dependent shall not be made after the retirement
2 allowance beneficiary's death.

3 (7) The payments provided by this section shall not be made on
4 behalf of a retiring section 82 deferred member or health insurance
5 dependent of a deferred member having less than 21 full years of
6 attained credited service or the retiring deferred member's
7 retirement allowance beneficiary, and shall not be made on behalf
8 of a retirement allowance beneficiary of a deferred member who dies
9 before retiring. The retirement system shall pay, on behalf of a
10 retiring section 82 deferred member or health insurance dependent
11 of a deferred member or a retirement allowance beneficiary of a
12 deceased deferred member, either of whose allowance is based upon
13 not less than 21 years of attained credited service, 10% of the
14 payments provided by this section, increased by 10% for each
15 attained full year of credited service beyond 21 years, not to
16 exceed 100%. This subsection applies to any member who attains
17 deferred status under section 82 after October 31, 1980.

18 (8) Any retirant or retirement allowance beneficiary excluded
19 from payments under this section may participate in the hospital,
20 medical-surgical, and sick care benefits plan, the dental plan,
21 vision plan, or hearing plan, or any combination of the plans
22 described in this section in the manner prescribed by the
23 retirement system at his or her own cost.

24 (9) The hospital, medical-surgical, and sick care benefits
25 plan, dental plan, vision plan, and hearing plan that covers
26 retirants, retirement allowance beneficiaries, and health insurance
27 dependents pursuant to this section shall contain a coordination of

1 benefits provision that provides all of the following:

2 (a) If the person covered under the hospital, medical-
3 surgical, and sick care benefits plan is also eligible for medicare
4 or medicaid, or both, then the benefits under medicare or medicaid,
5 or both, shall be determined before the benefits of the hospital,
6 medical-surgical, and sick care benefits plan provided pursuant to
7 this section.

8 (b) If the person covered under any of the plans provided by
9 this section is also covered under another plan that contains a
10 coordination of benefits provision, the benefits shall be
11 coordinated as provided by the coordination of benefits act, 1984
12 PA 64, MCL 550.251 to 550.255.

13 (c) If the person covered under any of the plans provided by
14 this section is also covered under another plan that does not
15 contain a coordination of benefits provision, the benefits under
16 the other plan shall be determined before the benefits of the plan
17 provided pursuant to this section.

18 **(10) A SURVIVING SPOUSE SELECTED AS A RETIREMENT ALLOWANCE**
19 **BENEFICIARY UNDER SECTION 85(8) OR (9) MAY ELECT THE INSURANCE**
20 **COVERAGES PROVIDED IN THIS SECTION PROVIDED THAT PAYMENT FOR THE**
21 **ELECTED COVERAGES IS THE RESPONSIBILITY OF THE RETIRANT AND IS PAID**
22 **IN A MANNER PRESCRIBED BY THE RETIREMENT SYSTEM.**

23 (11) ~~(10)~~ For purposes of this section:

24 (a) "Health insurance dependent" means any of the following:

25 (i) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (1), THE** spouse of
26 the retirant or the surviving spouse to whom the retirant or
27 deceased member was married at the time of the retirant's or

1 deceased member's death.

2 (ii) An unmarried child, by birth or adoption, of the retirant
3 or deceased member, until December 31 of the calendar year in which
4 the child becomes 19 years of age.

5 (iii) An unmarried child, by birth or adoption, of the retirant
6 or deceased member, until December 31 of the calendar year in which
7 the child becomes 25 years of age, who is enrolled as a full-time
8 student, and who is or was at the time of the retirant's or
9 deceased member's death a dependent of the retirant or deceased
10 member as defined in section 152 of the internal revenue code.

11 (iv) An unmarried child, by birth or adoption, of the retirant
12 or deceased member who is incapable of self-sustaining employment
13 because of mental or physical disability, and who is or was at the
14 time of the retirant's or deceased member's death a dependent of
15 the retirant or deceased member as defined in section 152 of the
16 internal revenue code.

17 (v) The parents of the retirant or deceased member, or the
18 parents of his or her spouse, who are residing in the household of
19 the retirant or retirement allowance beneficiary.

20 (vi) **THE SPOUSE OF THE RETIRANT WHO HAS BECOME A RETIREMENT**
21 **ALLOWANCE BENEFICIARY UNDER SECTION 85(8) OR (9) UNTIL THE DEATH OF**
22 **THE RETIRANT.**

23 (vii) ~~(vi)~~ An unmarried child who is not the child by birth or
24 adoption of the retirant or deceased member but who otherwise
25 qualifies to be a health insurance dependent under subparagraph
26 (ii), (iii), or (iv), if the retirant or deceased member is the legal
27 guardian of the unmarried child.

1 (b) "Medicaid" means benefits under the federal medicaid
2 program established under title XIX of the social security act,
3 chapter 531, 49 Stat. 620, 42 ~~U.S.C.~~ **USC** 1396 to 1396f, 1396g-1
4 to 1396r-6, and 1396r-8 to 1396v.

5 (c) "Medicare" means benefits under the federal medicare
6 program established under title XVIII of the social security act,
7 chapter 531, 49 Stat. 620, 42 ~~U.S.C.~~ **USC** 1395 to 1395b, 1395b-2,
8 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to
9 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,
10 1395x to 1395yy, and 1395bbb to 1395ggg.