

SENATE BILL No. 908

December 7, 1999, Introduced by Senators MC MANUS and STEIL and referred to the Committee on Appropriations.

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 21, 22, 23, 24, 25, 27, 33, and 34 (MCL 38.21, 38.22, 38.23, 38.24, 38.25, 38.27, 38.33, and 38.34), section 22 as amended by 1987 PA 57, sections 23 and 27 as amended by 1987 PA 241, and section 25 as amended by 1986 PA 1, and by adding section 35.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) ~~Subject to the provisions of sections 33 and~~
 2 ~~34, upon the application of a member, or his department head, or~~
 3 ~~the state personnel director, a member who becomes totally inca-~~
 4 ~~pacitated for duty in the service of the state of Michigan with-~~
 5 ~~out willful negligence on his part, by reason of a personal~~
 6 ~~injury or disease, which the retirement board finds to have~~
 7 ~~occurred as the natural and proximate result of the said member's~~

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~~1 actual performance of duty in the service of the state, shall be~~
~~2 retired: Provided, The medical advisor after a medical examina-~~
~~3 tion of said member shall certify in writing that said member is~~
~~4 mentally or physically totally incapacitated for the further per-~~
~~5 formance of duty in the service of the state, and that such inca-~~
~~6 pacity will probably be permanent, and that said member should be~~
~~7 retired: And provided further, That the retirement board concurs~~
~~8 in the recommendation of the medical advisor.~~ A MEMBER WHO

9 BECOMES TOTALLY INCAPACITATED FOR THE STATE EMPLOYMENT THAT THE
10 MEMBER WAS PERFORMING IMMEDIATELY BEFORE TERMINATING THAT EMPLOY-
11 MENT BECAUSE OF THE INCAPACITY, OR FOR THE STATE EMPLOYMENT FOR
12 WHICH THE MEMBER IS QUALIFIED BY REASON OF TRAINING OR EXPERIENCE
13 OR BOTH, IS ENTITLED TO RECEIVE A DISABILITY RETIREMENT ALLOWANCE
14 CALCULATED UNDER SECTION 22 OR 23, WHICHEVER APPLIES, IF THE
15 RETIREMENT BOARD DETERMINES THAT ALL OF THE FOLLOWING REQUIRE-
16 MENTS ARE MET:

17 (A) THE MEMBER DOES NOT MEET THE AGE AND SERVICE REQUIRE-
18 MENTS UNDER SECTION 19(1) OR IS NOT QUALIFIED FOR AN UNREDUCED
19 RETIREMENT ALLOWANCE UNDER SECTION 19(2).

20 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A PER-
21 SONAL INJURY OR DISEASE.

22 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
23 LIKELY TO BE PERMANENT.

24 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
25 ITY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

1 (i) THE PERSONAL INJURY OR DISEASE OCCURRED AS THE NATURAL
2 AND PROXIMATE RESULT OF THE MEMBER'S ACTUAL PERFORMANCE OF DUTY
3 IN THE SERVICE OF THIS STATE.

4 (ii) THE PERSONAL INJURY OR DISEASE DID NOT OCCUR AS A
5 RESULT OF THE WILLFUL NEGLIGENCE OF THE MEMBER.

6 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT
7 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S STATE EMPLOY-
8 MENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S PERSONAL
9 REPRESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT HEAD, OR THE
10 STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A DISABILITY
11 RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIREMENT BOARD.
12 UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT BOARD, FOR
13 GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY RETIREMENT
14 ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF THE
15 MEMBER'S STATE EMPLOYMENT BECAUSE OF THE INCAPACITY.

16 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
17 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-
18 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE
19 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD
20 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER
21 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
22 EVALUATION.

23 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
24 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
25 SECTION 31(1).

26 Sec. 22. Upon retirement for disability ~~—~~ as provided in
27 section 21, a member who ~~has attained age~~ IS 60 YEARS OF AGE OR

1 OLDER shall receive a service retirement allowance ~~as provided~~
2 ~~for in~~ CALCULATED UNDER section 20. ~~Notwithstanding that he or~~
3 ~~she may~~ HOWEVER, IF THE MEMBER DOES not have 10 years of cred-
4 ited service, he or she shall be credited with ~~10 years~~ THE
5 AMOUNT of service NECESSARY TO REACH 10 YEARS OF CREDITED
6 SERVICE.

7 Sec. 23. ~~Upon retirement for disability, as provided for~~
8 ~~in section 21, a member who has not attained age 60 years shall~~
9 ~~receive the following benefits, subject to the provisions of sec-~~
10 ~~tions 33 and 34:~~

11 (a) ~~A disability retirement allowance of 2/3 of the~~
12 ~~retirant's final average compensation, the retirement allowance~~
13 ~~to begin as of date of the retirant's disability, but not more~~
14 ~~than 6 months before the date the retirant's application for dis-~~
15 ~~ability retirement was filed with the retirement board, and not~~
16 ~~before the date the retirant's name last appeared on a state pay-~~
17 ~~roll with pay, whichever is later, and to continue to the attain-~~
18 ~~ment of age 60 years or recovery or death, whichever event shall~~
19 ~~first occur. The disability retirement allowance payable to a~~
20 ~~disability retirant shall not exceed \$6,000.00 per annum, nor be~~
21 ~~more than an amount which when added to the statutory worker's~~
22 ~~compensation benefits applicable in the retirant's case shall~~
23 ~~exceed the retirant's final compensation. The increase in the~~
24 ~~maximum amount payable under this subdivision as provided by this~~
25 ~~1987 amendatory act shall be payable to retirants on the pension~~
26 ~~payroll as of July 1, 1987.~~

1 (1) UPON RETIREMENT FOR DISABILITY AS PROVIDED IN SECTION
 2 21, A MEMBER WHO IS LESS THAN 60 YEARS OLD SHALL RECEIVE A
 3 DISABILITY RETIREMENT ALLOWANCE CALCULATED UNDER SECTION 20(1).
 4 A DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER THIS SUBSECTION
 5 IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH FOLLOWING THE
 6 DATE THE MEMBER BECOMES TOTALLY INCAPACITATED FOR STATE
 7 EMPLOYMENT. HOWEVER, A DISABILITY RETIREMENT ALLOWANCE PAYABLE
 8 UNDER THIS SUBSECTION SHALL NOT BE PAID BEFORE THE FIRST DAY OF
 9 THE MONTH FOLLOWING THE LATER OF THE FOLLOWING:

10 (A) SIX MONTHS BEFORE THE DATE THE APPLICATION FOR A DIS-
 11 ABILITY RETIREMENT ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD
 12 UNDER SECTION 21.

13 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
 14 THE STATE PAYROLL WITH PAY.

15 (2) ~~(b)~~ Upon attaining age 60 years, ~~or July 1, 1987,~~
 16 ~~whichever is later, the~~ A disability retirant UNDER
 17 SUBSECTION (1) shall receive a retirement allowance ~~computed~~
 18 ~~according to~~ CALCULATED UNDER section 20. ~~In computing the~~
 19 FOR THE PURPOSE OF CALCULATING THAT retirant's retirement allow-
 20 ance, the retirant shall be given membership service credit for
 21 the period during which the retirant was receiving the disability
 22 retirement allowance provided for in ~~subdivision (a)~~
 23 SUBSECTION (1). If the computation results in a retirement
 24 allowance less than the disability retirement allowance provided
 25 in ~~subdivision (a)~~ SUBSECTION (1), the retirant shall receive a
 26 retirement allowance equal to the disability retirement
 27 allowance. ~~Upon attaining age 60 years or July 1, 1987,~~

1 ~~whichever is later, the retirant may elect an option provided for~~
2 ~~in section 31(1).~~

3 (3) ~~(c)~~ During the period a disability retirant is receiv-
4 ing a disability retirement allowance ~~, as provided for in sub-~~
5 ~~division (a)~~ UNDER SUBSECTION (1), the DISABILITY retirant's
6 contributions to the employees' savings fund shall be suspended
7 and the balance in the fund, standing to the DISABILITY
8 retirant's credit as of the date the disability retirement allow-
9 ance begins, shall remain in the savings fund and shall be accu-
10 mulated at regular interest. Upon attaining age 60 years, ~~or~~
11 ~~July 1, 1987, whichever is later,~~ the DISABILITY retirant's
12 accumulated contributions shall be transferred from the
13 employees' savings fund to the pension reserve fund. If the dis-
14 ability retirant should die before attaining age 60 years, the
15 accumulated contributions standing to the DISABILITY retirant's
16 credit in the employees' savings fund shall be paid to the person
17 or persons the retirant nominated by written designation duly
18 executed and filed with the retirement board, or if there is not
19 a designated person or persons surviving, then to the retirant's
20 legal representative OR ESTATE.

21 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
22 DISABILITY RETIRANT ELECTS TO RECEIVE A REGULAR DISABILITY
23 RETIREMENT ALLOWANCE UNDER SECTION 31, THE DISABILITY RETIREMENT
24 ALLOWANCE PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION
25 SHALL NOT BE LESS THAN \$6,000.00 PER YEAR. EXCEPT AS OTHERWISE
26 PROVIDED IN THIS SUBSECTION, IF A DISABILITY RETIRANT ELECTS TO
27 RECEIVE A REDUCED DISABILITY RETIREMENT ALLOWANCE UNDER OPTION A

1 OR B UNDER SECTION 31, THE DISABILITY RETIREMENT ALLOWANCE
2 PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION SHALL NOT BE
3 LESS THAN THE ACTUARIAL EQUIVALENT AT THE TIME OF THE ELECTION OF
4 \$6,000.00 PER YEAR. A DISABILITY RETIREMENT ALLOWANCE FIRST PAY-
5 ABLE TO A DISABILITY RETIRANT UNDER THIS SECTION SHALL NOT BE
6 MORE THAN AN AMOUNT THAT WHEN ADDED TO THE STATUTORY WORKER'S
7 DISABILITY COMPENSATION BENEFITS PAYABLE TO THE DISABILITY RETIR-
8 ANT EXCEEDS THE DISABILITY RETIRANT'S FINAL COMPENSATION.

9 (5) THE RECEIPT OF A DISABILITY RETIREMENT ALLOWANCE UNDER
10 THIS SECTION IS SUBJECT TO SECTIONS 33, 34, AND 35.

11 Sec. 24. (1) ~~Subject to the provisions of sections 33 and~~
12 ~~34, upon application of a member, or his department head, or the~~
13 ~~state personnel director, a member who has been a state employee~~
14 ~~at least 10 years becomes totally and permanently incapacitated~~
15 ~~for duty as the result of causes occurring not in the performance~~
16 ~~of duty to the state, may be retired by the retirement board:~~
17 ~~Provided, The medical advisor after a medical examination of such~~
18 ~~member, shall certify that such member is mentally or physically~~
19 ~~incapacitated for the further performance of duty, and such inca-~~
20 ~~capacity is likely to be permanent and that such member should be~~
21 ~~retired.~~ A MEMBER WHO BECOMES TOTALLY INCAPACITATED FOR THE
22 STATE EMPLOYMENT THAT THE MEMBER WAS PERFORMING IMMEDIATELY
23 BEFORE TERMINATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR
24 FOR THE STATE EMPLOYMENT FOR WHICH THE MEMBER IS QUALIFIED BY
25 REASON OF TRAINING OR EXPERIENCE OR BOTH, IS ENTITLED TO RECEIVE
26 A DISABILITY RETIREMENT ALLOWANCE PURSUANT TO SECTION 25 IF THE

1 RETIREMENT BOARD DETERMINES THAT ALL OF THE FOLLOWING
2 REQUIREMENTS ARE MET:

3 (A) THE MEMBER HAS NOT MET THE AGE REQUIREMENT UNDER
4 SECTION 19(1) OR QUALIFIED FOR AN UNREDUCED RETIREMENT ALLOWANCE
5 UNDER SECTION 19(2), BUT HAS ACCRUED AT LEAST THE MINIMUM NUMBER
6 OF YEARS OF CREDITED SERVICE NEEDED TO VEST IN THE RETIREMENT
7 SYSTEM.

8 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A PER-
9 SONAL INJURY OR DISEASE.

10 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
11 LIKELY TO BE PERMANENT.

12 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
13 ITY DID NOT OCCUR IN THE PERFORMANCE OF DUTY IN THE SERVICE OF
14 THIS STATE.

15 (E) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
16 ITY WAS NOT THE RESULT OF THE WILLFUL NEGLIGENCE OF THE MEMBER.

17 (F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT
18 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S STATE EMPLOY-
19 MENT BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S PERSONAL
20 REPRESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT HEAD, OR THE
21 STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A DISABILITY
22 RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIREMENT BOARD.
23 UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT BOARD, FOR
24 GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY RETIREMENT
25 ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF THE
26 MEMBER'S STATE EMPLOYMENT BECAUSE OF THE INCAPACITY.

1 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
2 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE
3 RETIREMENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF
4 THE APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT
5 BOARD SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR
6 OTHER EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
7 EVALUATION.

8 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
9 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
10 SECTION 31(1).

11 (4) UPON ATTAINING AGE 60 YEARS, A DISABILITY RETIRANT UNDER
12 SUBSECTION (1) IS CONSIDERED RETIRED UNDER THE PROVISIONS OF SEC-
13 TION 19(1) AND SHALL RECEIVE A RETIREMENT ALLOWANCE CALCULATED
14 UNDER SECTION 20.

15 Sec. 25. (1) Upon retirement for disability ~~—~~ as provided
16 in section 24, a member shall receive a retirement allowance
17 ~~computed in accordance with~~ CALCULATED UNDER section 20(1).

18 (2) THE DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER
19 SUBSECTION (1) IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH
20 FOLLOWING THE LATER OF EITHER OF THE FOLLOWING:

21 (A) THE DATE THE APPLICATION FOR A DISABILITY RETIREMENT
22 ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD UNDER SECTION 24.

23 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
24 THE STATE PAYROLL WITH PAY.

25 (3) ~~The retirement allowance or pension provided shall not~~
26 ~~be less than \$600.00 per annum. Upon retirement, the member may~~
27 ~~elect an option provided for in section 31(1).~~ THE RECEIPT OF A

1 DISABILITY RETIREMENT ALLOWANCE UNDER THIS SECTION IS SUBJECT TO
2 SECTIONS 33, 34, AND 35.

3 Sec. 27. (1) ~~IF~~ EXCEPT AS PROVIDED IN SUBSECTIONS (3),
4 (4), AND (5), IF a member dies as a result of a personal injury
5 or disease arising out of and in the course of his or her employ-
6 ment with the state ~~, or a disability retirant who retired under~~
7 ~~section 21 dies prior to becoming age 60 and within 3 years after~~
8 ~~the member's disability retirement from the same causes for which~~
9 ~~he or she was retired, and such death or illness or injuries~~ AND
10 THE PERSONAL INJURY OR DISEASE resulting in death ~~are~~ IS found
11 by the retirement board to have been the sole and exclusive
12 result of employment with the state, the ~~applicable benefits~~
13 ~~provided in subsections (2), (3), (4), and (5) shall be paid,~~
14 ~~subject to subsection (6).~~

15 (2) ~~The accumulated contributions standing to the member's~~
16 ~~account in the employees' savings fund shall be paid to such~~
17 ~~person or persons as the member has nominated by written designa-~~
18 ~~tion duly executed and filed with the retirement board, or if~~
19 ~~there are no such designated person or persons surviving, then to~~
20 ~~the member's legal representative.~~

21 (3) ~~A retirement allowance of 1/3 of the final compensation~~
22 ~~of the deceased person shall be paid to the surviving spouse to~~
23 ~~whom the deceased person was married at the time he or she last~~
24 ~~terminated employment with the state. If a child or children~~
25 ~~under the age of 18 years also survives the deceased person, each~~
26 ~~such child shall receive an allowance of an equal share of 1/4 of~~
27 ~~the deceased person's final compensation. Upon the marriage,~~

~~1 death, or attainment of age 18 years of any such child, there
2 shall be a redistribution by the retirement board to the deceased
3 person's remaining children under age 18 years.~~

~~4 (4) If there is no surviving spouse or if the surviving
5 spouse dies before the youngest surviving child of the deceased
6 person reaches the age of 18 years, then each such child under
7 age 18 shall each receive an allowance equal to 1/4 of the
8 deceased person's final compensation, but the total so paid in
9 any year to the children of a deceased person shall not exceed
10 1/2 of his or her final compensation. If there are more than 2
11 such surviving children under age 18 years, each such child shall
12 receive an allowance of an equal share of 1/2 of the deceased
13 person's final compensation. Upon the marriage, death, or
14 attainment of age 18 years of any such child, the child's allow-
15 ance shall terminate and there shall be a redistribution by the
16 retirement board to any remaining eligible children of the
17 deceased under age 18, but a child shall not receive an allowance
18 more than 1/4 of the deceased person's final compensation.~~

~~19 (5) If there is neither a spouse nor a child under age 18
20 years surviving the deceased person, then there shall be paid to
21 each parent of the deceased person whom the retirement board
22 after investigation determines to have been actually dependent
23 upon the deceased person through absence of earning power due to
24 disability, an allowance of 1/6 of the deceased person's final
25 compensation.~~

~~26 (6) The total of the retirement allowances payable under
27 subsections (3), (4), and (5) on account of the death of a member~~

1 ~~or retirant shall not exceed \$2,400.00 per annum, nor an amount~~
2 ~~which, when added to the statutory worker's compensation benefit~~
3 ~~to which the dependents of the member or retirant are entitled,~~
4 ~~exceeds his or her final compensation.~~ SURVIVING SPOUSE SHALL
5 RECEIVE A RETIREMENT ALLOWANCE CALCULATED AS IF THE DECEASED
6 MEMBER HAD RETIRED EFFECTIVE THE DAY BEFORE THE DATE OF DEATH,
7 ELECTED OPTION A UNDER SECTION 31(1), AND NOMINATED HIS OR HER
8 SPOUSE AS RETIREMENT ALLOWANCE BENEFICIARY. THE RETIREMENT
9 ALLOWANCE SHALL BE CALCULATED BASED UPON THE AMOUNT OF THE
10 DECEASED MEMBER'S CREDITED SERVICE. HOWEVER, IF THE DECEASED
11 MEMBER DOES NOT HAVE THE MINIMUM NUMBER OF YEARS OF CREDITED
12 SERVICE NEEDED TO VEST IN THE RETIREMENT SYSTEM, THE AMOUNT OF
13 SERVICE NECESSARY TO REACH THAT AMOUNT OF CREDITED SERVICE SHALL
14 BE GRANTED.

15 (2) THE RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE
16 UNDER THIS SECTION SHALL NOT BE LESS THAN \$6,000.00 PER YEAR.
17 THE FIRST RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE
18 UNDER SUBSECTION (1) SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN
19 ADDED TO THE STATUTORY WORKER'S DISABILITY COMPENSATION BENEFITS
20 PAYABLE TO THE SURVIVING SPOUSE OF THE DECEASED MEMBER EQUALS THE
21 DECEASED MEMBER'S FINAL COMPENSATION.

22 (3) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET BUT THE
23 DECEASED MEMBER IS SURVIVED BY A SPOUSE AND A CHILD OR CHILDREN
24 UNDER 18 YEARS OF AGE, THEN THE RETIREMENT ALLOWANCE CALCULATED
25 UNDER SUBSECTIONS (1) AND (2) SHALL BE PAYABLE AS FOLLOWS:

26 (A) ONE HALF TO THE SURVIVING SPOUSE.

1 (B) ONE HALF TO THE SURVIVING CHILD OR CHILDREN UNDER 18
2 YEARS OF AGE, IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE
3 TO A SURVIVING CHILD UNDER THIS SUBSECTION SHALL TERMINATE UPON
4 THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18 YEARS OF AGE, WHICH-
5 EVER OCCURS FIRST. THAT CHILD'S SHARE OF THE TERMINATED RETIRE-
6 MENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE REMAINING CHIL-
7 DREN UNDER 18 YEARS OF AGE, IF ANY. WHEN THERE ARE NO SURVIVING
8 CHILDREN ENTITLED TO A SHARE OF THE RETIREMENT ALLOWANCE UNDER
9 THIS SUBSECTION, THE CHILDREN'S SHARE SHALL REVERT TO THE SURVIV-
10 ING SPOUSE.

11 (4) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND THE
12 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE BUT IS SURVIVED BY A
13 CHILD OR CHILDREN UNDER 18 YEARS OF AGE, THEN THE RETIREMENT
14 ALLOWANCE CALCULATED UNDER SUBSECTIONS (1) AND (2) SHALL BE PAID
15 TO THE SURVIVING CHILD OR CHILDREN IN EQUAL SHARES. THE RETIRE-
16 MENT ALLOWANCE PAYABLE TO A SURVIVING CHILD UNDER THIS SUBSECTION
17 SHALL TERMINATE UPON THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18
18 YEARS OF AGE, WHICHEVER OCCURS FIRST. THAT CHILD'S SHARE OF THE
19 TERMINATED RETIREMENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE
20 REMAINING CHILDREN UNDER 18 YEARS OF AGE, IF ANY.

21 (5) IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND THE
22 DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE OR A CHILD OR CHIL-
23 DREN UNDER 18 YEARS OF AGE BUT IS SURVIVED BY A PARENT OR PARENTS
24 WHO WERE DEPENDENT UPON THE DECEASED MEMBER FOR 50% OR MORE OF
25 SUPPORT, THEN THE RETIREMENT ALLOWANCE CALCULATED UNDER
26 SUBSECTIONS (1) AND (2) SHALL BE PAID TO THE SURVIVING PARENT OR
27 PARENTS IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE TO A

1 SURVIVING PARENT UNDER THIS SUBSECTION SHALL TERMINATE UPON THAT
2 PARENT'S DEATH.

3 (6) A RETIREMENT ALLOWANCE PAYABLE UNDER THIS SECTION TO A
4 SURVIVING SPOUSE BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
5 THAT ADDED THIS SUBSECTION SHALL NOT BE LESS THAN \$6,000.00 PER
6 YEAR. A PORTION OF A RETIREMENT ALLOWANCE PAYABLE UNDER THIS
7 SECTION TO SURVIVING CHILDREN OR PARENTS BEFORE THE EFFECTIVE
8 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL NOT
9 BE LESS THAN THAT PORTION OF A \$6,000.00 ANNUAL RETIREMENT ALLOW-
10 ANCE THAT THAT CHILD OR PARENT WAS ENTITLED TO UNDER THIS SECTION
11 BEFORE THAT DATE.

12 Sec. 33. (1) ~~(a) Once each year during the first 5- 6~~
13 ~~years following the retirement of a member on a disability~~
14 ~~retirement allowance, and at least once in every 3-year period~~
15 ~~thereafter~~ UNDER SECTION 21 OR 24, the retirement board may, and
16 upon the retirant's application shall, require ~~any~~ A disability
17 retirant ~~, who has not attained age~~ IS UNDER 60 years ~~,~~ OF
18 AGE to ~~undergo a medical examination; such examination to be~~
19 ~~made by or under the direction of the medical advisor at the~~
20 ~~place of residence of said retirant, or other place mutually~~
21 ~~agreed upon. Should any disability retirant, who has not~~
22 ~~attained age 60 years, refuse to submit to such medical examina-~~
23 ~~tion in any such period, his disability retirement allowance may~~
24 ~~be discontinued until his withdrawal of such refusal, and should~~
25 ~~such refusal continue for 1 year, all his rights in and to his~~
26 ~~disability retirement allowance may be revoked by the retirement~~
27 ~~board. If upon such medical examination of a disability~~

~~1 retirant, the medical advisor reports and his report is concurred~~
~~2 in by the retirement board, that the disability retirant is phys-~~
~~3 ically able and capable of resuming employment, he shall be~~
~~4 restored to active service with the state and his disability~~
~~5 retirement allowance shall cease.~~ SUBMIT TO A MEDICAL EVALUATION
6 DESCRIBED IN SECTION 21(2) OR A VOCATIONAL EVALUATION DESCRIBED
7 IN SECTION 35(1), OR BOTH. THE RETIREMENT BOARD SHALL MAKE REA-
8 SONABLE ACCOMMODATIONS REGARDING THE LOCATION AND METHOD OF THE
9 MEDICAL OR VOCATIONAL EVALUATION TAKING INTO CONSIDERATION THE
10 LOCATION AND HEALTH OF THE DISABILITY RETIRANT. THE RETIREMENT
11 BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PARTICIPATE IN A
12 PROGRAM OF VOCATIONAL REHABILITATION IN THE MANNER PROVIDED IN
13 SECTION 35. IF A DISABILITY RETIRANT WHO IS UNDER 60 YEARS OF
14 AGE REFUSES TO SUBMIT TO THE EVALUATION OR EVALUATIONS REQUIRED
15 BY THE RETIREMENT BOARD UNDER THIS SECTION, HIS OR HER DISABILITY
16 RETIREMENT ALLOWANCE MAY BE DISCONTINUED UNTIL THE DISABILITY
17 RETIRANT SUBMITS TO THE REQUIRED EVALUATION OR EVALUATIONS. IF
18 THE REFUSAL CONTINUES FOR 1 YEAR, ALL OF THE DISABILITY
19 RETIRANT'S RIGHTS IN AND TO A DISABILITY RETIREMENT ALLOWANCE MAY
20 BE REVOKED BY THE RETIREMENT BOARD.

21 (2) THE RETIREMENT BOARD MAY PAY FROM THE FUNDS OF THE
22 RETIREMENT SYSTEM THE COST OF PARTICIPATION BY A DISABILITY
23 RETIRANT IN A PROGRAM OF VOCATIONAL REHABILITATION OR A RETURN TO
24 WORK PROGRAM ADMINISTERED BY THIS STATE IF THE AMOUNT PAYABLE FOR
25 PARTICIPATION IN THE PROGRAM PLUS THE AMOUNT OF A DIFFERENTIAL
26 PAYMENT PAYABLE UNDER SECTION 35(5), IF ANY, IS LESS THAN THE
27 PROJECTED BENEFIT TOTAL. AS USED IN THIS SUBSECTION, "PROJECTED

1 BENEFIT TOTAL" MEANS THE DIFFERENCE BETWEEN 60 AND THE DISABILITY
 2 RETIRANT'S AGE AT HIS OR HER PROJECTED REEMPLOYMENT DATE MULTI-
 3 PLIED BY THE ANNUAL DISABILITY BENEFIT PAYABLE TO THE DISABILITY
 4 RETIRANT.

5 (3) IF THE RETIREMENT BOARD DETERMINES THAT A DISABILITY
 6 RETIRANT IS NO LONGER INCAPACITATED FOR THE STATE EMPLOYMENT THAT
 7 THE DISABILITY RETIRANT WAS PERFORMING IMMEDIATELY BEFORE TERMI-
 8 NATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR FOR THE
 9 STATE EMPLOYMENT FOR WHICH THE DISABILITY RETIRANT IS QUALIFIED
 10 BY REASON OF TRAINING OR EXPERIENCE OR BOTH, THE RETIREMENT BOARD
 11 SHALL RECOMMEND THAT THIS STATE REEMPLOY THE DISABILITY
 12 RETIRANT. THE RETIREMENT SYSTEM SHALL CONTINUE TO PAY A DISABIL-
 13 ITY RETIREMENT ALLOWANCE TO A DISABILITY RETIRANT UNTIL HE OR SHE
 14 IS REEMPLOYED, SUBJECT TO SUBSECTION (4).

15 (4) ~~(b) Should~~ IF the secretary ~~report and certify~~
 16 REPORTS AND CERTIFIES to the retirement board that ~~such~~ A dis-
 17 ability ~~beneficiary~~ RETIRANT is engaged in ~~a~~ gainful occupa-
 18 tion paying more than the difference between his OR HER disabil-
 19 ity retirement allowance and his OR HER ADJUSTED final compensa-
 20 tion, and ~~should~~ IF the retirement board ~~concur in such~~
 21 CONCURS IN THE report, then the amount of ~~his~~ THE DISABILITY
 22 retirement allowance shall be reduced to an amount ~~which~~ THAT
 23 together with the amount earned by ~~him shall equal~~ THE DISABIL-
 24 ITY RETIRANT EQUALS his OR HER ADJUSTED final compensation.
 25 ~~Should~~ IF the earnings of ~~such~~ THE disability retirant ~~be~~
 26 ~~later changed~~ CHANGE, the amount of his OR HER retirement
 27 allowance shall ~~be further modified in like manner~~ AGAIN BE

1 ADJUSTED UNDER THIS SECTION. AS USED IN THIS SUBSECTION,
2 "ADJUSTED FINAL COMPENSATION" MEANS THE DISABILITY RETIRANT'S
3 FINAL COMPENSATION PLUS A 1-STEP INCREASE AT THAT CLASSIFICATION,
4 IF ANY, WHICH AMOUNT IS THEN INCREASED BY 3% COMPOUNDED ANNUALLY
5 FOR EACH YEAR OR MAJOR PORTION OF A YEAR THAT EXPIRES AFTER THE
6 DISABILITY RETIREMENT EFFECTIVE DATE AND THE DATE OF THE CALCULA-
7 TION UNDER THIS SUBSECTION.

8 Sec. 34. A disability retirant who has been or ~~shall be~~
9 IS reinstated in active service ~~, as provided in section 33,~~
10 ~~shall from~~ UNDER SECTION 33 OR 35 AGAIN BECOMES A MEMBER BEGIN-
11 NING ON the date of ~~such~~ THE reinstatement. ~~again become a~~
12 ~~member of the retirement system.~~ Upon reinstatement of ~~such~~
13 THE disability retirant to active service, any balance ~~he may~~
14 ~~have~~ STANDING TO HIS OR HER CREDIT in the pension reserve fund
15 at the time of ~~such~~ THE reinstatement ~~to active service,~~
16 shall be transferred from the pension reserve fund to the
17 employees' savings fund and credited to his OR HER individual
18 account in the employees' savings fund. Any service ~~, on the~~
19 ~~basis of which his retirement allowance was computed at the time~~
20 ~~of his retirement,~~ CREDIT ACCRUED BY THE REINSTATED DISABILITY
21 RETIRANT BEFORE DISABILITY RETIREMENT shall be restored to full
22 force and effect, and, except in the case of retirement for
23 ~~non-duty~~ NONDUTY disability ~~as provided in~~ UNDER section 24,
24 ~~he~~ THE DISABILITY RETIRANT shall be given service credit for
25 the period of time ~~he was out of service due to such disability~~
26 A DISABILITY RETIREMENT ALLOWANCE WAS PAID.

1 SEC. 35. (1) BEFORE A FINAL DETERMINATION IS MADE THAT A
2 MEMBER IS TOTALLY INCAPACITATED FOR STATE EMPLOYMENT UNDER
3 SECTION 21 OR 24 AND THAT A DISABILITY RETIREMENT ALLOWANCE IS
4 PAYABLE UNDER SECTION 23 OR 25, THE RETIREMENT BOARD MAY REQUIRE
5 THAT A WRITTEN VOCATIONAL EVALUATION OF THE DISABILITY APPLICANT
6 BE PREPARED BY A REHABILITATION AGENCY. THE EVALUATION SHALL
7 CONTAIN ALL OF THE FOLLOWING:

8 (A) A DESCRIPTION OF THE DISABILITY APPLICANT'S VOCATIONAL
9 LIMITATIONS, IF ANY, RESULTING FROM THE PERSONAL INJURY OR DIS-
10 EASE THAT IS THE BASIS OF THE CLAIMED INCAPACITY.

11 (B) A DESCRIPTION OF THE DISABILITY APPLICANT'S POTENTIAL,
12 IF ANY, FOR VOCATIONAL REHABILITATION.

13 (C) A RECOMMENDATION REGARDING A PROGRAM OF VOCATIONAL REHA-
14 BILITATION OF THE DISABILITY APPLICANT, IF APPLICABLE.

15 (2) IF THE RETIREMENT BOARD DETERMINES THAT THE APPLICANT IS
16 OTHERWISE QUALIFIED FOR A DISABILITY RETIREMENT ALLOWANCE UNDER
17 SECTIONS 21 AND 23 OR SECTIONS 24 AND 25, BUT THAT THE POTENTIAL
18 EXISTS FOR THE VOCATIONAL REHABILITATION OF THE DISABILITY APPLI-
19 CANT FOR REASONABLE STATE EMPLOYMENT COMPATIBLE WITH THE DISABIL-
20 ITY APPLICANT'S MENTAL AND PHYSICAL CONDITION, THE DISABILITY
21 APPLICANT SHALL BE RETIRED UNDER THE APPLICABLE SECTIONS. THE
22 RETIREMENT BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PAR-
23 TICIPATE IN GOOD FAITH IN A REASONABLE PROGRAM OF VOCATIONAL
24 REHABILITATION OR A RETURN TO WORK PROGRAM ADMINISTERED BY THIS
25 STATE.

26 (3) THE AGENCY PROVIDING A PROGRAM OF VOCATIONAL
27 REHABILITATION OR RETURN TO WORK PROGRAM SHALL REPORT TO THE

1 RETIREMENT BOARD ON A PERIODIC BASIS, AS REQUIRED BY THE
2 RETIREMENT BOARD, REGARDING THE PROGRESS OF THE DISABILITY RETIR-
3 ANT WHO PARTICIPATES IN A PROGRAM OF VOCATIONAL REHABILITATION OR
4 RETURN TO WORK PROGRAM UNDER SUBSECTION (2). IF THE RETIREMENT
5 BOARD DETERMINES THAT THE DISABILITY RETIRANT IS NO LONGER INCA-
6 PACITATED FOR THE STATE EMPLOYMENT THAT HE OR SHE WAS PERFORMING
7 IMMEDIATELY BEFORE TERMINATION OF THAT STATE EMPLOYMENT BECAUSE
8 OF THE INCAPACITY OR FOR THE STATE EMPLOYMENT FOR WHICH HE OR SHE
9 IS QUALIFIED BY REASON OF TRAINING OR EXPERIENCE OR BOTH, THE
10 DISABILITY RETIRANT SHALL BE CONSIDERED REHABILITATED.

11 (4) THE RETIREMENT BOARD SHALL RECOMMEND THAT THIS STATE
12 OFFER REASONABLE STATE EMPLOYMENT TO THE DISABILITY RETIRANT WHO
13 IS CONSIDERED REHABILITATED UNDER SUBSECTION (3). THE REASONABLE
14 STATE EMPLOYMENT OFFERED TO THE REHABILITATED DISABILITY RETIRANT
15 SHALL BE COMPATIBLE WITH THE REHABILITATED DISABILITY RETIRANT'S
16 MENTAL AND PHYSICAL CONDITION.

17 (5) A REHABILITATED DISABILITY RETIRANT WHO ACCEPTS REASON-
18 ABLE STATE EMPLOYMENT UNDER SUBSECTION (4) IS NOT ENTITLED TO
19 RECEIVE A DISABILITY RETIREMENT ALLOWANCE UNDER SECTIONS 21 AND
20 23 OR SECTIONS 24 AND 25. THE RETIREMENT SYSTEM SHALL CEASE
21 PAYING THE DISABILITY RETIREMENT ALLOWANCE TO THE REHABILITATED
22 DISABILITY RETIRANT EFFECTIVE UPON THE BEGINNING DATE OF THE
23 ACCEPTED STATE EMPLOYMENT. HOWEVER, IF THE REHABILITATED DIS-
24 ABILITY RETIRANT ACCEPTS THE OFFERED STATE EMPLOYMENT, RESUMES
25 STATE EMPLOYMENT UNDER THIS SUBSECTION, AND THE COMPENSATION PAY-
26 ABLE FOR THAT STATE EMPLOYMENT IS LESS THAN THE REHABILITATED
27 DISABILITY RETIRANT'S ADJUSTED FINAL COMPENSATION, THEN THE

1 RETIREMENT SYSTEM SHALL PAY TO THE REHABILITATED DISABILITY
2 RETIRANT A DIFFERENTIAL PAYMENT EQUAL TO THE DIFFERENCE, IF ANY,
3 BETWEEN THE AMOUNT OF COMPENSATION PAYABLE FOR THE ACCEPTED STATE
4 EMPLOYMENT AND ADJUSTED FINAL COMPENSATION. HOWEVER, THE DIFFER-
5 ENTIAL PAYMENT SHALL NOT EXCEED AN AMOUNT CALCULATED UNDER SEC-
6 TION 23 OR 25, WHICHEVER APPLIES. AS USED IN THIS SUBSECTION,
7 "ADJUSTED FINAL COMPENSATION" MEANS THE DISABILITY RETIRANT'S
8 FINAL COMPENSATION PLUS A 1-STEP INCREASE AT THAT CLASSIFICATION,
9 IF ANY, WHICH AMOUNT IS THEN INCREASED BY 3% COMPOUNDED ANNUALLY
10 FOR EACH YEAR OR MAJOR PORTION OF A YEAR THAT EXPIRES AFTER THE
11 DISABILITY RETIREMENT EFFECTIVE DATE AND THE DATE OF THE CALCULA-
12 TION UNDER THIS SUBSECTION.

13 (6) IF THE RETIREMENT BOARD, WITHIN 6 MONTHS AFTER A REHA-
14 BILITATED DISABILITY RETIRANT RESUMES STATE EMPLOYMENT UNDER SUB-
15 SECTION (5), DETERMINES THAT THE REHABILITATED DISABILITY RETIR-
16 ANT CONTINUES TO BE TOTALLY INCAPACITATED FOR STATE EMPLOYMENT
17 UNDER SECTION 21 OR 24, THE RETIREMENT BOARD MAY WAIVE ALL OR A
18 PORTION OF THE APPLICATION REQUIREMENTS UNDER SECTION 21 OR 24.