

HOUSE BILL No. 4332

March 12, 2003, Introduced by Reps. Shackleton, Sheltrown, 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.