

Act No. 300
Public Acts of 2012
Approved by the Governor
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Kahn, Pavlov, Jansen and Walker

ENROLLED SENATE BILL No. 1040

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending the title and sections 5, 6, 8, 25, 28, 41, 41a, 42, 43a, 43e, 81b, 84, 91, 108, 124, and 131 (MCL 38.1305, 38.1306, 38.1308, 38.1325, 38.1328, 38.1341, 38.1341a, 38.1342, 38.1343a, 38.1343e, 38.1381b, 38.1384, 38.1391, 38.1408, 38.1424, and 38.1431), the title as amended by 1996 PA 488, section 5 as amended by 2001 PA 180, section 6 as amended by 1995 PA 272, section 8 as amended by 1997 PA 143, sections 25, 41, 42, and 91 as amended and sections 43e, 81b, 124, and 131 as added by 2010 PA 75, sections 28 and 84 as amended by 1989 PA 194, section 41a as amended by 2007 PA 15, section 43a as amended by 2007 PA 111, and section 108 as amended by 2008 PA 354, and by adding sections 43g, 59, 81d, 84b, 91a, 92b, 93, and 131a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to authorize and make appropriations for the retirement system; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

Sec. 5. (1) "Member" means a public school employee, except that member does not include any of the following:

(a) A person enrolled in a neighborhood youth corps program operated with funds from the federal office of economic opportunity or a person enrolled in a comparable youth training program designed to prevent high school dropouts and rehabilitate high school dropouts operated by an intermediate school district.

(b) A person enrolled in a transitional public employment program and employed by a reporting unit.

(c) A person employed by a reporting unit while enrolled as a full-time student in that same reporting unit.

(d) A person who elects to participate in the optional retirement program under the optional retirement act of 1967, 1967 PA 156, MCL 38.381 to 38.388.

(e) A retirant of this retirement system.

(f) A person, not regularly employed by a reporting unit, who is employed by a reporting unit through a summer youth employment program established pursuant to the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(g) A person, not regularly employed by a reporting unit, who is employed by a reporting unit to administer a program described in subdivision (f), (h), (i), (j), or (k).

(h) After September 30, 1983, a person, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established pursuant to the former job training partnership act, Public Law 97-300, 96 Stat. 1322 or beginning July 1, 2000, the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936.

(i) A person, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established pursuant to the work first program under section 57f of the social welfare act, 1939 PA 280, MCL 400.57f.

(j) A person, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259.

(k) A person, not regularly employed by a reporting unit, who is employed by a reporting unit through participation in a program established pursuant to the older American community service employment program under the older American community service employment act, title V of the older Americans act of 1965, Public Law 89-73, 42 USC 3056 to 3056i.

(l) A person, not regularly employed by a reporting unit, who is employed by a reporting unit in a temporary, intermittent, or irregular seasonal or athletic position and who is under the age of 19 years.

(m) A person, not regularly employed by a reporting unit, who is employed by a reporting unit only in a temporary position to assist in the conduct of a school election.

(n) A qualified participant who makes a valid election under section 81d to not become a member of Tier 1.

(2) "Membership service" means service performed after June 30, 1945.

(3) "Noncontributory plan" means the plan which began between July 1, 1974 and July 1, 1977, in which the reporting unit elected to discontinue withholding contributions from employees' compensation.

(4) "Noncontributory service" means credited service rendered under the noncontributory plan.

(5) "Nonteacher" means a person employed by a reporting unit who is not a teacher as defined in section 8(4).

Sec. 6. (1) "Original member" means a member employed in Michigan public schools before July 1, 1945.

(2) "Out of system public education service" means service performed in public education meeting 1 or more of the following requirements:

(a) Performed in other states in the United States or its territorial possessions.

(b) Performed at the university of Michigan, Michigan state university, Wayne state university, Grand Valley state university, Oakland university, or Saginaw Valley university.

(c) Service purchased before January 31, 1991 and performed in a juvenile training school operated by a county in this state.

(d) Service purchased before January 31, 1991 and performed in a community mental health service program operated under former 1963 PA 54 for the severely mentally retarded in day care programs, day training programs, or day care training programs that were transferred to an intermediate school district by direction of the department of education.

(e) Service purchased before January 31, 1991 and performed as an elementary or secondary teacher at a United States armed forces military base in the United States or a foreign country.

(f) Service purchased before January 31, 1991 and performed as a teacher or administrator of American nationals in overseas public elementary or secondary schools operated by the United States department of defense.

(g) Performed by an individual who first becomes employed by an institution of higher education described in section 4, 5, or 6 of article VIII of the state constitution of 1963 on or after January 1, 1996.

(3) "Prior service" means service performed before July 1, 1945.

(4) "Public local school district" means a general powers school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, regardless of previous classification, or a school district of the first class under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(5) Except as otherwise provided in this subsection, "public school academy" means a public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507; an urban high school academy established under part 6c of the revised school code, 1976 PA 451, MCL 380.521 to 380.529; a school of excellence established under part 6e of the revised school code, 1976 PA 451, MCL 380.551 to 380.561; or a strict discipline academy established under sections 1311b to 1311m of the revised school code, 1976 PA 451, MCL 380.1311b to 380.1311m. Public school academy does not include any of the following:

(a) A public school academy operated by a state public university that is not subject to the optional retirement act of 1967, 1967 PA 156, MCL 38.381 to 38.388.

(b) A public school academy corporation formed by a state public university that is not subject to the optional retirement act of 1967, 1967 PA 156, MCL 38.381 to 38.388.

(6) Except as otherwise provided in this subsection, “public school employee” means an employee of a public local school district, intermediate school district, public school academy, tax supported community or junior college, eastern Michigan university, central Michigan university, northern Michigan university, western Michigan university, Ferris state university, Michigan technological university, Lake Superior state university, or district library as defined in section 69g if the conditions in section 69g(1) are met for that employee. Service at Michigan technological university shall be creditable only if the amount of the accumulated contributions in the state employees’ retirement system created by the state employees’ retirement act, 1943 PA 240, MCL 38.1 to 38.69, for service is paid to the retirement system. Service at Ferris state university shall be creditable as prior service or membership service only if the employee was employed at Ferris state university on a full-time basis for 2 or more years after May 17, 1949. Until January 1, 1988, public school employee also includes an individual holding a Michigan teacher certificate and serving as an employee of the Michigan high school athletic association, other than a person whose effective date of employment with the Michigan high school athletic association is on or after December 31, 1986. Public school employee includes a public school employee on an approved leave of absence that does not exceed 2 years from the date the employee ceases to accumulate service credit. Public school employee does not include an individual who first becomes employed by a university described in this subsection on or after January 1, 1996, or an employee who is hired but has not yet performed services for remuneration under an express or implied contract with a reporting unit.

Sec. 8. (1) “Service” means personal service performed as a public school employee or creditable under this act.

(2) “Simple interest” means interest at 1 or more rates per annum determined by the retirement board.

(3) “State of Michigan service” means service performed as a state employee in the classified or unclassified service under the state employees’ retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(4) “Teacher” means a person employed by a reporting unit who is engaged in teaching, who is engaged in administering and supervising teaching, or who is under a teacher’s contract with a reporting unit.

(5) “Tier 1” means the retirement plan available to a member under this act.

(6) “Tier 2” means the state of Michigan 457 plan established under section 457 of the internal revenue code, 26 USC 457, for elective employee contributions and the state of Michigan 401(k) plan established under section 401(k) of the internal revenue code, 26 USC 401, for employer contributions.

(7) “Transition date” means the first day of the pay period that begins on or after December 1, 2012 for the applicable member. The retirement system shall determine a method of determining service credit, compensation, and any applicable contributions for purposes of implementing provisions of this act that refer to the transition date.

(8) “Transitional public employment program” means participation in public service employment programs in the areas of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans’ outreach, and other fields of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

Sec. 25. (1) The board shall have only the rights, authority, and discretion in the proper discharge of its duties provided in this act and former 1945 PA 136.

(2) The retirement board may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the implementation and administration of this act. The retirement board shall not promulgate rules for the establishment, implementation, administration, operation, investment, or distribution of a Tier 2 retirement plan.

(3) Beginning September 1, 2012, the retirement system shall commence a 12-month study period under this subsection. As soon as possible during the study period, the retirement system shall provide to central Michigan university, Ferris state university, Lake Superior state university, Michigan technological university, northern Michigan university, western Michigan university, and eastern Michigan university information and cooperation requested by the universities for the purpose of allowing the universities to study and prepare for the implementation of new retiree health care coverage benefit design options for members who retire from the universities. The information to be provided by the retirement system to the universities shall also include information sufficient to allow the universities to do all of the following:

(a) Review the annual cost to the retirement system over each of the past 5 years of the health care coverage benefits provided by the retirement system to the retired members of the universities, calculated on a cash disbursement method.

(b) Compare the cost to the universities under subdivision (a) with that of the aggregate cost of all reporting units during the past 5 years, calculated on a cash disbursement basis.

(c) Prepare and submit the results of the study under this subsection to the retirement system, along with any proposed recommendations on possible changes to the scope and design of the health benefits available through the retirement system to members who retire from the universities identified in this subsection. The retirement system shall submit written confirmation to the universities within 180 days that the retirement system has received the results of the study and any recommendations under this subdivision, has reviewed and responded to the study and any recommendations, and has submitted a copy of the study and any recommendations to the retirement board for a discussion of the implementation of any recommendations.

Sec. 28. (1) By April 15 of each year, the department shall furnish to the governor, the legislature, each retirement allowance recipient, and each member a summary of the fiscal transactions of the retirement system for the last completed fiscal year. The summary shall contain at least the following information from the financial and actuarial statements:

(a) A statement of assets and liabilities.

(b) A statement of investments by, and amount earned in, each category.

(c) A statement of revenues and expenditures.

(d) In addition to other disclosures required under this act that are based on expected returns on assets, a disclosure of the market-value discount rate that is used in calculating system liabilities and funded status of the system. The retirement system shall use the individual projected benefit entry age normal cost method of valuation when making the disclosure required in this subdivision.

(e) A disclosure of the funded status of the system that is based on the market value of assets with no smoothing. The retirement system shall use the individual projected benefit entry age normal cost method of valuation when making the disclosure required in this subdivision.

(f) A 5-year projection of the annual level percentage of payroll contribution rate required of reporting units under this act.

(g) Using the market-value discount rate disclosed under subdivision (d), a disclosure of the normal cost contribution rate.

(h) Other information the department or the retirement board considers necessary.

(2) The department shall furnish sufficient copies of a description of retirement benefits under this act to each reporting unit for the purpose of distribution to each of its employees as often as the department considers necessary, but not less than once every 3 years. The description shall contain the information the department considers necessary.

(3) By April 15 of each year, the department shall post on its internet website the information required under subsection (1) and shall send the information via electronic mail to each retirement allowance recipient and each member for which it has an electronic mail address.

(4) The department shall collect and maintain an electronic mail address for retirement allowance recipients and members under this act. In conjunction with the center for educational performance and information in the state budget office, the department shall develop and maintain a database of electronic mail addresses for retirement allowance recipients and members under this act. The department shall allow the department of education to access the electronic mail database developed and maintained under this subsection on an as-needed basis. The electronic mail addresses of individuals in the database under this subsection are confidential and are not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 41. (1) The annual level percentage of payroll contribution rate to finance benefits being provided and to be provided by the retirement system shall be determined by actuarial valuation pursuant to subsection (2) upon the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and an actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) Except as otherwise provided in this subsection, the contribution rate for benefits shall be computed using an individual projected benefit entry age normal cost method of valuation. Except as otherwise provided in this section, for the 1995-96 state fiscal year and for each subsequent fiscal year before the 2012-2013 state fiscal year, the contribution rate for health benefits provided under section 91 shall be computed using a cash disbursement method. Beginning in the 2012-2013 state fiscal year and for each subsequent fiscal year, if the contributions described in section 43e are determined by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted to be unconstitutional and the contributions are not deposited into the appropriate funding account referenced in section 43e, the contribution rate for health benefits provided under section 91 shall be computed using a cash

disbursement method. The contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual projected benefit entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. Except as otherwise provided under this subsection, the contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, shall be the aggregate amount of unfunded actuarial accrued liabilities divided by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation, where unfunded actuarial accrued liabilities are equal to the actuarial present value of benefits, reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. Beginning with the 2012-2013 state fiscal year and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll shall not exceed 20.96%. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year are to be paid by appropriation from the school aid fund established by section 11 of article IX of the state constitution of 1963. Except as otherwise provided in section 41a, the unfunded actuarial accrued liability contribution rate shall be based upon and applied to the combined payrolls of the employees who are members and qualified participants.

(3) Before November 1 of each year, the executive secretary of the retirement board shall certify to the director of the department the aggregate compensation estimated to be paid public school employees for the current state fiscal year.

(4) On the basis of the estimate under subsection (3), the annual actuarial valuation, and any adjustment required under subsection (6), the director of the department shall compute the sum due and payable to the retirement system and shall certify this amount to the reporting units.

(5) The reporting units shall make payment of the amount certified under subsection (4) to the director of the department in equal payroll cycle installments for unfunded actuarial accrued liability contributions and payroll cycle installments for normal cost contributions.

(6) Not later than 90 days after termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. Upon receipt of that certification, the director of the department may compute any adjustment required to the amount due to a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, shall be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit occurs pursuant to subsection (14).

(7) The director of the department may require evidence of correctness and may conduct an audit of the aggregate compensation that the director of the department considers necessary to establish its correctness.

(8) A reporting unit shall forward employee and employer social security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, 42 USC 401 to 434.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit occurs pursuant to subsection (14).

(10) Beginning on the designated date, all assets held by the retirement system shall be reassigned their fair market value, as determined by the state treasurer, as of the designated date, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before the designated date shall not be considered by the retirement system's actuaries.

(11) Except as otherwise provided in this subsection, beginning on the designated date, the actuary used by the retirement board shall assume a rate of return on investments of 8.00% per annum, as of the designated date, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on July 1, 2010, the actuary used by the retirement board shall assume a rate of return on investments of 7.00% per annum for investments associated with members who first became members on and after July 1, 2010, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on the designated date, the value of assets used shall be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after the designated date and such methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on the designated date, the actuary used by the retirement board shall use a salary increase assumption that projects annual salary increases of 4%. In addition to the 4%, the retirement board shall use an additional percentage based upon an age-related scale to reflect merit, longevity, and promotional salary increase. The actuary shall use this assumption until a change in the assumption is approved in writing by the retirement board and the director of the department.

(14) For fiscal years that begin on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the amount based on the annual level percent of payroll contribution rate pursuant to subsections (1) and (2) may be deposited into the health advance funding subaccount created by section 34.

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

(16) As used in this section, "current operating expenditures" for a public local school district includes functions 1xx, 2xx, 45x, and all object codes except 6xxx, as defined in the Michigan Public School Accounting Manual Bulletin 1022, and is equal to the total of instructional and support services expenditures, including the total general fund charges incurred in the general, special education, and vocational education funds for the benefit of the current fiscal year, whether paid or unpaid, and all expenditures of the instructional programs plus applicable supporting service costs reduced by capital outlay, debt service, community services, and outgoing transfers and other transactions. Current operating expenditures for a public local school district also include operating funds for any public school or other public educational entity first authorized or established by the public local school district on or after the effective date of the amendatory act that added this subsection.

Sec. 41a. For fiscal years that begin on or after March 28, 1996, the retirement system shall determine a separate contribution rate for a reporting unit that is a university listed in the definition of public school employee under section 6. The retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that the unfunded actuarial accrued liability shall be amortized over 40 years beginning October 1, 1996 and ending on September 30, 2036, with the payment schedule for universities being based on and applied to the combined payrolls of the universities' employees who are members and who were hired before January 1, 1996 and the universities' employees who would have been members on or after January 1, 1996, but for the enactment of 1995 PA 272. The amount of the unfunded accrued liability on which the separate contribution rate is determined shall be that amount which a reporting unit that is a university listed in the definition of public school employee under section 6 is legally responsible for and is calculated by actuarial analysis. Any reduction in the unfunded liability of the system pursuant to governmental action affecting the entire system will be allocated to all reporting units including universities as determined by the system's actuary. For the 2006-2007 state fiscal year, the contribution for unfunded actuarial accrued liability shall be equal to 4.5% of the unfunded actuarial accrued liability.

Sec. 42. (1) Beginning with the 1994-95 state fiscal year, a reporting unit shall contribute the entire amount determined under section 41 to the reserve for employer contributions and to the reserve for health benefits. The reporting unit contribution under this subsection is the exclusive obligation of the reporting unit payable out of general budget resources of the reporting unit, including funds available under local millage and other local resources and from the state school aid allocation to the reporting unit, and shall not be a separate obligation by specific reimbursement or otherwise of this state.

(2) As authorized by resolution or other enabling act of its governing body, the employer shall pick up all contributions of a member made pursuant to section 43a for all compensation paid on or after January 1, 1987 and reported to the retirement system. Although considered contributions of a member for certain purposes under this act, all contributions picked up shall be treated as paid by the employer in lieu of contributions by the employee. Contributions picked up as provided in this subsection shall be paid from the same source of funds that is used for paying compensation to the member. The employer may pick up these contributions by either a reduction to the member's cash salary, an offset against a future salary increase, or a combination of a reduction in salary and offset against a future salary increase. This subsection does not apply, and the employer shall not deduct, offset, or remit contributions, until the department receives notification from the United States internal revenue service that contributions picked up shall not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

(3) The employer shall deduct from a member's compensation the contributions for social security provided in 1951 PA 205, MCL 38.851 to 38.871. Contributions shall be made while the member remains a public school employee. Each reporting unit official shall deduct the social security contributions from the compensation of each member for each payroll period after the date the employee becomes a member. Social security contributions shall be made notwithstanding that the minimum compensation provided by law is changed. Each member is considered to have agreed to the contributions prescribed in this subsection.

(4) Each reporting unit official shall forward member contributions to the retirement system on a schedule and in a manner determined by the retirement system.

(5) Each reporting unit official shall forward the entire employer contribution required by this act to the retirement system on a schedule and in a manner determined by the retirement system.

(6) Each reporting unit official shall submit to the retirement system a report that includes the information for retirement purposes, including, but not limited to, persons employed, retirants performing services at a reporting unit who are employed by an entity other than the reporting unit or who are independent contractors, wages or amounts paid, hours, and contributions required under this act. The report shall contain the information on a pay period basis and shall be submitted to the retirement system on a schedule and in a manner determined by the retirement system. The superintendent for a reporting unit or the chief administrator for a reporting unit that does not have a superintendent shall complete an annual certification that gives authorization for the employees of the reporting unit to report the information to the retirement system.

(7) If a reporting unit fails to submit a report or contributions, or both, according to the schedule established by the retirement board, a late fee shall be paid by the reporting unit. If the remittance of contributions is late, the late fee shall include interest for each day that the remittance of contributions is late. The retirement board periodically may establish the late fee, which shall not be less than \$25.00, and interest charges, which shall not be less than 6% per annum. If a reporting unit fails to correct errors on a report before the errors are discovered by the retirement system or if such errors are intentional, the reporting unit shall pay the late fee and interest charges as described in this subsection for each day that the report is in error, unless reasonable cause is shown to the satisfaction of the retirement system.

(8) Upon written notice from the retirement board, the superintendent of public instruction and the state treasurer shall withhold payment of state funds, in part or in whole, payable from the state school aid appropriation or higher education appropriations to a reporting unit that fails to comply with this section.

Sec. 43a. (1) The contributions of a member who contributes to the member investment plan shall be deducted by the employer and remitted as employer contributions to the retirement system pursuant to section 42. A member who contributes to the member investment plan is entitled to the benefits provided in sections 43b and 43c.

(2) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1989 and who elected or elects on or before December 31, 1989 to contribute to the member investment plan shall contribute 3.9% of the member's compensation to the member investment plan.

(3) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1986 but did not perform membership service between December 31, 1986 and January 1, 1990, and who returns to membership service on or after January 1, 1990 and before July 1, 2008, shall make the contributions described in subsection (5).

(4) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall make the contributions described in subsection (5).

(5) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 4.3% of the excess over \$15,000.00

(6) Except as otherwise provided in subsection (7), a member who first became a member on or after July 1, 2008 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 6.4% of the excess over \$15,000.00

(7) Beginning on the transition date, a member described in subsections (2) to (6) who makes the election under section 59(1) and who does not make the attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the election and attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until his or her attainment date and shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section on and after his or her attainment date until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes or is considered to have made the alternative election under section 59(2)(a) shall continue to contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the alternative election under section 59(2)(b) shall not contribute any percentage of the member's annual school fiscal year earned compensation to the retirement system under this section or section 43g.

Sec. 43e. Except as otherwise provided in this section or section 91a, each member who first became a member before September 4, 2012 shall contribute 3% of the member's compensation to the appropriate funding account established under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747. The member contributions under this section shall be deducted by the employer and remitted as employer contributions in a manner that the retirement system shall determine. As used in this section, "funding account" means the appropriate irrevocable trust created in the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, for the deposit of funds and the payment of retirement health care benefits.

Sec. 43g. (1) Beginning on the transition date and ending upon the member's termination of employment or attainment date, as applicable under section 59(1), each member who made the election under section 59(1) shall contribute an amount equal to a percentage of his or her compensation to the reserve for employee contributions or to the member investment plan as set forth in subdivision (a) or (b), as applicable, to provide for the amount of retirement allowance that is calculated only on the credited service accrued and compensation for that member on or after the transition date. Subject to subsection (2), the member shall not contribute any amount under this subsection for any years of credited service accrued or compensation before the transition date. Subject to subsection (2), the amount to be contributed under this subsection is as follows:

(a) For a member who does not contribute to the member investment plan as of September 3, 2012, 4% of compensation to the reserve for employee contributions.

(b) For a member who does contribute to the member investment plan as of September 3, 2012, 7% of compensation to the member investment plan.

(2) The retirement system shall determine a method of deducting the contributions provided for in this section from the compensation of each member for each payroll and each payroll period. The contributions under subsection (1) shall not exceed the total normal cost contribution rate.

(3) The employer shall pick up the member contributions required by subsection (1) for all compensation on or after the transition date. Contributions picked up shall be treated as employer contributions in determining tax treatment under the internal revenue code. The employer shall pay these member contributions from the same source of funds that is used in paying compensation to the member.

(4) A member is entitled to the benefit of all contributions made under this section in the same manner as provided under section 29.

Sec. 59. (1) The retirement system shall permit each qualified member to make an election with the retirement system to continue to receive credit for any future service and compensation on and after the transition date, for purposes of a calculation of a retirement allowance under section 84b. As part of the election under this subsection, the retirement system shall permit the qualified member to make a designation that the contributions prescribed in section 43g shall be paid only until the member's attainment date. A qualified member who makes the election and the attainment date designation under this subsection shall make the contributions prescribed in section 43g only until the member's attainment date and shall make the contributions prescribed in section 43a on and after his or her attainment date. A qualified member who makes the election and the attainment date designation under this subsection shall continue to receive credit for any future service accrued and compensation earned after his or her attainment date for the purpose of the calculation of a retirement allowance under section 84b. A qualified member who makes the election under this subsection and who does not make the attainment date designation or rescinds the attainment date designation under this subsection shall make the contributions prescribed in section 43g until termination of employment. A qualified member who makes the election under this subsection and who does not make the attainment date designation under this subsection shall receive credit for any future service accrued and compensation earned for the purpose of the calculation of a retirement allowance under section 84b.

(2) The retirement system shall permit each qualified member to make an alternative election described in this subsection with the retirement system, if the qualified member does not make the election or the election and designation under subsection (1). A qualified member who does not make the election or the election and designation under subsection (1) and who does not make an alternative election described in this subsection is considered to have made the alternative election described in subdivision (a). A qualified member who does not make the election or the election and designation under subsection (1) shall be permitted to make 1 of the following alternative elections:

(a) To continue to receive credit for any future service and compensation on and after the transition date, for the purpose of the calculation of a retirement allowance under section 84b. A qualified member who makes or is considered to have made the alternative election in this subdivision shall continue to make the employee contributions as provided in section 43a and shall not make the employee contributions described in section 43g.

(b) To freeze all service and compensation to that member as of the day before the transition date for the purpose of the calculation of a retirement allowance under section 84b and, beginning on the transition date, to be eligible for the employer contribution to the member's Tier 2 account as provided in section 84b. Beginning on the transition date, a qualified member who makes the alternative election in this subdivision shall not make the employee contributions described in section 43a or 43g.

(3) The retirement system shall determine a method of accepting qualified member elections, designations, and alternative elections under this section. The retirement system shall accept elections, designations, and alternative elections under this section from qualified members during an election period that begins on September 4, 2012 and ends at 5 p.m. eastern daylight time on October 26, 2012. A qualified member may rescind an election, designation, or alternative election before the close of the election period. An election, designation, or alternative election made by a qualified member and not rescinded before the close of the election period shall not be rescinded.

(4) A qualified member who does not make or who rescinds the election under subsection (1) on or before the close of the election period and who makes or is considered to have made the alternative election under subsection (2)(a) is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the day before the transition date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the transition date for purposes of a calculation of a retirement allowance.

(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(1) and (2). This subdivision does not affect an individual's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(5) A qualified member who does not make or who rescinds an election under subsection (1) and who makes the alternative election under subsection (2)(b) on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the day before the transition date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the transition date for purposes of a calculation of a retirement allowance and eligibility for the employer contribution to the member's Tier 2 account.

(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(3) and (4). This subdivision does not affect an individual's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(6) A qualified member who makes the election and the attainment date designation under subsection (1) and who does not rescind the election and designation on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the member's attainment date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the day after the attainment date if he or she remains employed by an employer.

(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(5) and (6). This subdivision does not affect a person's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(7) An individual who is not a qualified member, who was a member before July 1, 2010, who is a deferred member or former nonvested member on September 3, 2012, and who is reemployed on or after September 4, 2012 shall be treated in the same manner as a member described in subsection (4) and shall become subject to section 84b for any future service and compensation.

(8) Any member who is reemployed on or after September 4, 2012 and who, while a member, made an election, designation, or alternative election or is considered to have made an alternative election under this section shall be treated as retaining that election, designation, or alternative election on his or her date of reemployment.

(9) As used in this section:

(a) "Attainment date" means that term as defined in section 84b.

(b) "Qualified member" means a member who meets all of the following requirements:

(i) He or she first became a member before July 1, 2010.

(ii) He or she has earned service credit in the 12 months ending September 3, 2012 or was on an approved professional services or military leave of absence on September 3, 2012.

Sec. 81b. (1) Notwithstanding section 81, a member may retire with a retirement allowance computed according to this section if all of the following apply:

(a) The member files a written application with the retirement board within the incentivized retirement application period stating a retirement allowance effective date that is on or after July 1, 2010 but not later than September 1, 2010. A member may withdraw a written application submitted by a member on or before June 11, 2010. A written application submitted by a member and not withdrawn on or before June 11, 2010 is irrevocable.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's combined age and length of credited service is equal to or greater than 80 years or the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction under section 84(2).

(c) The member was employed as a public school employee for the 6-month period ending May 1, 2010. A member who has worked in the 6-month period ending May 1, 2010 and is on layoff or on an approved leave of absence status from reporting unit employment is considered to have met the employment requirement of this subdivision.

(2) Upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before September 1, 2010 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of the member's final average compensation if the final average compensation is \$90,000.00 or less and the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction under section 84(2). If the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction under section 84(2) and has a final average compensation that is greater than \$90,000.00, the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00. For members eligible under this section because the member's combined age and length of credited service is equal to or greater than 80 years, upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before September 1, 2010 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of the member's final average compensation if the final average compensation is \$90,000.00 or less. For members eligible to retire under this section because the member's combined age and length of credited service is equal to or greater than 80 years whose final average compensation is greater than \$90,000.00, the retirement allowance shall be calculated so that the member receives a portion of his or her retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be calculated as equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00.

(3) Except as otherwise provided in this subsection, the superintendent for a reporting unit or the chief administrator for a reporting unit that does not have a superintendent may extend the effective date of retirement under subsection (1) of a member employed by that reporting unit to a date not later than September 1, 2011. Each reporting unit having a member who elects to retire under this section may extend the retirement effective date of 1 member under this section. Up to an additional 2,500 extensions shall be allotted to reporting units using a pro-rata methodology determined by the retirement system. The retirement system shall notify reporting units of any additional extension allotments by May 22, 2010. To make an extension under this subsection, the superintendent or chief administrator shall submit to the retirement system notification of members whose retirement dates the superintendent or chief administrator will extend along with the written concurrence of the member on or before June 15, 2010. The superintendent or chief administrator shall not request, and the retirement system shall not implement, the extension of a member that exceeds the number of extensions allotted to his or her reporting unit.

(4) For purposes of this section, "incentivized retirement application period" means the period beginning on May 19, 2010 and ending on June 11, 2010.

(5) Any additional costs to the retirement system as a result of the retirement allowance calculations under this section shall be amortized over a 10-year period.

Sec. 81d. (1) The retirement system shall permit each qualified participant who first becomes a qualified participant and first works for a reporting unit on or after September 4, 2012 to make an election to not become a member of Tier 1 and become only a qualified participant in Tier 2.

(2) The retirement system shall determine a method of accepting elections under subsection (1) and reporting units shall secure those elections during the period beginning on the date of the individual's employment and ending upon the expiration of 75 days from the individual's first payroll date. An election under subsection (1) is irrevocable.

(3) An individual who does not make an election for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) He or she is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) He or she is also a qualified participant under Tier 2.

(4) An individual who makes the election under subsection (1) on or before the close of the election period is considered to have made an election to not become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) He or she is not eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) He or she is only a qualified participant under Tier 2.

(5) The retirement system shall collect from the individual all amounts required under sections 43a and 131(2) and shall collect all required employer contributions required under Tier 1 from his or her date of employment. If an individual makes a valid election under subsection (1) to not become a member of Tier 1, the retirement system shall determine and implement a method to reconcile employer and employee contributions to be deposited to Tier 2, and any such employee contributions will be considered to be elective contributions under section 131.

Sec. 84. (1) Subject to section 84b and except as provided in subsection (2), upon the member's retirement from service as provided in section 81, a member shall receive a retirement allowance that equals the product of the member's total years, and fraction of a year, of credited service multiplied by 1.5% of the member's final average compensation. A member shall not be allowed to use more than 15 years of out of system public education service, or more out of system public education service than service performed under this act or former 1945 PA 136 unless, before July 1, 1974, the member applied for out of system public education service credit based upon payment of contributions for the service as required under section 69, or former acts, in which case the total out of system public education service credited, not to exceed 15 years, shall be used to compute the member's retirement allowance if the minimum service requirements performed under this act or former acts or as a state employee under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, are met. Credit for state of Michigan service shall be on the same basis for eligibility for retirement provided in this act as if the service were performed under this act, former 1945 PA 136, former 1941 PA 56, or former 1937 PA 184.

(2) If a member having less than 30 years credited service retires before the member's sixtieth birthday as provided in section 81, the member's retirement allowance provided in subsection (1) shall be reduced 1/2 of 1% for each month, and fraction of a month, within the period from the effective date of the member's retirement to the date of the member's sixtieth birthday, and shall continue at that same percentage after becoming 60 years of age.

(3) The reduction of 1/2 of 1% for each month and fraction of a month from the member's retirement allowance effective date to the date of the member's sixtieth birthday provided for in former 1945 PA 136, applicable to a member who retired before July 1, 1974 and before attainment of age 60, shall not apply to a member who retired before that date, at age 55 or more, having 30 or more years of credited service. The retirement allowance shall be recalculated disregarding the reduction and the person receiving the retirement allowance shall be eligible to receive an adjusted retirement allowance based on the recalculation beginning January 1, 1986, but shall not be eligible to receive the adjusted amount attributable to any month beginning before January 1, 1986.

(4) The reduction provided for in subsection (2) shall not apply to a member who retires under either section 86 or 87, or to a retirement allowance beneficiary who is granted an allowance under section 43c(c), 89, or 90.

(5) The retirement allowance of a person who satisfies the requirements of this subsection shall be recalculated based on 1.5% of final average compensation times years of credited service. The person receiving the retirement allowance shall be eligible to receive an adjusted retirement allowance based on the recalculation beginning January 1, 1986, but shall not be eligible to receive the adjusted amount attributable to any month beginning before January 1, 1986. A retirement allowance shall be recalculated under this subsection if 1 of the following applies:

(a) The retirement allowance was payable to a retirant or retirement allowance beneficiary under chapter II of former 1945 PA 136 and the retirement allowance effective date was on or after July 1, 1956 but before July 1, 1974.

(b) The retirement allowance was payable to a plan II retirant or retirement allowance beneficiary under chapter I of former 1945 PA 136 and the retirement allowance effective date was before July 1, 1974.

(6) A member retiring pursuant to section 81 who acquires at least 5 years of combined credited service under this act or under former 1945 PA 136, and who is already in receipt of a retirement allowance under chapter II of former 1945 PA 136, may elect to return to the retirement system any retirement allowance payments received, and receive a single retirement allowance computed on the combined years of service credited under this act and any former act.

Sec. 84b. (1) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member who did not make the election under section 59(1) and who made or is considered to have made the alternative election under section 59(2)(a) shall include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to that member before the transition date.

(b) Service credit that was purchased before December 1, 2012.

(c) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of November 30, 2012.

(d) Credit for years of service under sections 73 and 108(10).

(2) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member described in subsection (1) shall also include the following items of credited service, as applicable, multiplied by 1.25% of final average compensation:

(a) The years and fraction of a year of credited service accrued to that member on and after the transition date.

(b) Service credit that was purchased on and after December 1, 2012, except as provided in subsection (1)(c).

(3) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member who did not make the election under section 59(1) and who made the alternative election under section 59(2)(b) shall include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to that member before the transition date.

(b) Service credit that was purchased before December 1, 2012.

(c) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of November 30, 2012.

(d) Credit for years of service under sections 73 and 108(10).

(4) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member described in subsection (3) shall not include any year or fraction of a year of service performed by that member on and after the transition date or any service credit that is purchased by that member after December 1, 2012, except as provided in subsection (3)(c). Beginning with the first payroll date after the transition date, and ending upon the member's termination of service, the employer of a member described in subsection (3) shall contribute 4% of the member's compensation as defined in section 122(2) to the member's Tier 2 account. A member is vested in employer contributions made under this subsection according to the vesting provisions under section 132. A member shall be credited with years of service accrued under Tier 1 as of the transition date for purposes of meeting the applicable vesting requirements.

(5) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member who makes the election and attainment date designation under section 59(1) shall include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to that member on or before the attainment date.

(b) Service credit that was purchased on or before the attainment date.

(c) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of the attainment date.

(d) Credit for years of service under sections 73 and 108(10).

(6) Beginning December 1, 2012, the calculation of a retirement allowance under this act for a member described in subsection (5) shall also include the following items of credited service, as applicable, multiplied by 1.25% of final average compensation:

(a) The years and fraction of a year of credited service accrued to that member on and after the attainment date.

(b) Service credit that was purchased on and after the attainment date, except as provided in subsection (5)(c).

(7) Beginning on the transition date, a member described in subsection (1), (3), or (5) shall continue to accumulate years of service credit as necessary for the purpose of vesting in a retirement allowance and to determine when a retirement allowance may begin under this act, regardless of when the service credit was accrued, except as otherwise provided in section 59(8). A member described in subsection (1), (3), or (5) shall continue to be treated as a member for all purposes, except as otherwise provided in section 59(8) and except for the limitations on credited service and calculation of a retirement allowance as provided in subsections (1) through (6).

(8) The calculation of a retirement allowance under this act for a member who makes the election under section 59(1) but who does not make the attainment date designation under section 59(1) shall include all items of credited service accrued to that member, regardless of when the service credit was accrued, which shall be multiplied by 1.5% of final average compensation as provided in section 84.

(9) As used in this section, "attainment date" means the final day of the pay period in which the member attains 30 years of credited service.

Sec. 91. (1) Except as otherwise provided in this section, the retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in this section, beginning January 1, 2013, the retirement system shall pay 80% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsections (7) to (15), for a retirant or retirement allowance beneficiary who is enrolled in the hospital, medical-surgical, and sick care benefits plan on January 1, 2013 and who is eligible for medicare on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

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

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

(4) Until December 31, 2012, the retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in this section, beginning January 1, 2013, the retirement system shall pay 80% of the monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsections (7) to (15), for a retirant or retirement allowance beneficiary who is enrolled in the dental and vision plan on January 1, 2013 and who is 65 years of age or older on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(5) Until December 31, 2012, the retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Until December 31, 2012, payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. Except as otherwise provided in subsections (7) through (15), for a health insurance dependent who is enrolled in the hospital, medical-surgical, and sick care benefit plan on January 1, 2013 and who is eligible for medicare on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Until December 31, 2012, the retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental and vision benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Beginning January 1, 2013, any payment described in this subsection shall not exceed 80% of the actual monthly premium or membership or subscription fee. Except as otherwise provided in subsections (7) to (15), for a health insurance dependent of a retirant who is enrolled in the dental and vision plan on January 1, 2013 and who is 65 years of age or older on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for dental and vision benefits for the benefit of each health insurance dependent of the retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance

dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection and subsection (6) began October 1, 1985 for health insurance dependents who on July 10, 1985 were covered by the hospital, medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(6) The payment described in subsection (5) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retirant if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retirant as provided in section 43c(c), 89, or 90. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100% of the payments provided by this section. This subsection applies to any member who first became a member on or before June 30, 2008 and attains deferred status under section 82 after October 31, 1980.

(8) For a member or deferred member who first becomes a member after June 30, 2008 and before September 4, 2012, the retirement system shall pay up to 80% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, and vision plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member has 25 years or more of service credit under this act, and the retirant, deceased retirant, or deceased member was at least 60 years of age at the time of application for benefits under this section. If the retirant or deceased member is less than 60 years of age at the time of application for benefits under this section, the retirement system shall pay 80% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, and vision plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and the retirant's health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member has 25 or more years of service credit granted under section 68. If a retirant, deceased retirant, or deceased member described in this subsection has 10 or more but less than 25 years of service credit under this act and the retirant was at least 60 years of age at the time of application for benefits under this section, the retirement system shall pay a portion of the monthly premium or membership or subscription fee for the plans or combination of plans equal to the product of 3% and the retirant's, deceased retirant's, or deceased member's years of service for the first 10 years and 4% for each year after the first 10 years, up to 80%. This subsection does not apply to a member who receives a disability retirement allowance under section 86 or 87 or to a deceased member's retirement allowance beneficiary under section 90.

(9) The retirement system shall not pay the premiums or membership or subscription fees under subsection (8) until the retirant or retirement allowance beneficiary requests enrollment in the plans or combination of plans in writing in the manner prescribed by the retirement system. Not more than 1 year of service credit shall be counted for purposes of this subsection and subsection (8) in any school fiscal year.

(10) A member who retires under section 43b or 81 and who elects to purchase service credit on or after July 1, 2008 is not eligible for payments under this section for the hospital, medical-surgical, and sick care benefits plan, the dental plan, or vision plan, or any combination of the plans described in this section until the first date that the member would have been eligible to retire under section 43b or 81 if he or she had not purchased the service credit and had accrued a sufficient amount of service credit under section 68. A member who first becomes a member on or after July 1, 2008 shall not be eligible for health benefits under this subsection until at least the time of application under subsection (8). The retirement system shall apply a method that enables it to make the determination under this subsection.

(11) Except for a member who retires under section 86 or 87 or a member who meets the requirements under subsection (7) or (8), the retirement system shall not pay the benefits provided in subsection (1) or (4) unless the member was employed and has received a minimum total of 1/2 of a year of service credit granted pursuant to section 68 during the 2 school fiscal years immediately preceding the member's retirement allowance effective date or the member has received a minimum of 1/10 of a year of service credit granted pursuant to section 68 during each of the 5 school fiscal years immediately preceding the member's retirement allowance effective date. This subsection does not apply to a member who is unable to meet the service credit requirements of this subsection because of 1 or more periods of unpaid leaves of absence approved by the reporting unit during the period of leave of absence, as a result of a mental or physical disability supported by the member's doctor during the period of leave of absence.

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

(13) The hospital, medical-surgical, and sick care benefits plan, dental plan, and vision plan that covers retirants, retirement allowance beneficiaries, and health insurance dependents pursuant to this section shall contain a coordination of benefits provision that provides all of the following:

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

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

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

(14) Beginning January 1, 2009, upon the death of the retirant, a retirement allowance beneficiary who became a retirement allowance beneficiary under section 85(8) or (9) is not a health insurance dependent and is not entitled to health benefits under this section except as provided in this subsection. Beginning January 1, 2009, a surviving spouse selected as a retirement allowance beneficiary under section 85(8) or (9) may elect the insurance coverages provided in this section if payment for the elected coverages is the responsibility of the surviving spouse and is paid in a manner prescribed by the retirement system.

(15) This section does not apply to a retirant or a health insurance dependent of that retirant under either of the following circumstances:

(a) The individual first became a member or qualified participant on or after September 4, 2012.

(b) The member made the election to opt out of health insurance coverage or receives a separate retirement allowance under section 91a.

(16) For purposes of this section:

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

(i) Except as provided in subsection (14), the spouse of the retirant or the surviving spouse to whom the retirant or deceased member was married at the time of the retirant's or deceased member's death.

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

(iii) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code, 26 USC 152.

(iv) An unmarried child, by birth or adoption, of the retirant or deceased member who is incapable of self-sustaining employment because of mental or physical disability, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code, 26 USC 152.

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

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

(b) "Medicaid" means benefits under the federal medicaid program established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(c) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395kkk.

Sec. 91a. (1) An individual who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5) shall not receive any health insurance coverage premium from the retirement system for any benefits under section 91 or as a result of benefits provided under section 86, 87, or 89. In lieu of any of these benefits that might have been paid by the retirement system, a member's or qualified participant's employer shall make a matching contribution up to 2% of the member's or qualified participant's compensation to Tier 2 for each member who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5). A matching contribution under this subsection shall not be used as the basis for a loan from an

employee's Tier 2 account. If the department or retirement system offers a health expenditure account or similar account for the purpose of managing a member's health care funds under this section, as permitted by state or federal law, the department or retirement system shall issue a request for proposals before implementation of that health expenditure account or similar account.

(2) An individual who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5) may make a contribution up to 2% of the member's or qualified participant's compensation to a Tier 2 account. A member or qualified participant described in this subsection may make additional contributions to his or her Tier 2 account as permitted by the department and the internal revenue code.

(3) Except as otherwise provided in this subsection, a member or qualified participant is vested in contributions made to his or her Tier 2 account under subsections (1) and (2) according to the vesting provisions under section 132. A member who is eligible for the payment of health insurance coverage premiums by the retirement system as a result of benefits provided under section 90 is not vested in any employer contributions under subsection (1) and forfeits the employer contributions and earnings on those contributions.

(4) The contributions described in this section shall begin with the first payroll date after the member or qualified participant is employed or on or after the transition date for a member who makes the election under subsection (5) and end upon his or her termination of employment.

(5) Except as otherwise provided in this section, beginning September 4, 2012 and ending at 5 p.m. eastern daylight time on October 26, 2012, the retirement system shall permit each qualified member to make an election to opt out of health insurance coverage premiums that would have been paid by the retirement system under section 91 and opt into the Tier 2 account provisions of this section effective on the transition date. A qualified member who makes the election under this subsection shall cease accruing years of service credit for purposes of calculating a portion of the health insurance coverage premiums that would have been paid by the retirement system under section 91 as if that section continued to apply.

(6) A qualified member who does not make the election under subsection (5) continues to be eligible for the payment of health insurance coverage premiums by the retirement system under section 91 and is not eligible for the Tier 2 account provisions of this section. An individual who is not a qualified member, who is a former member on September 3, 2012, and who is reemployed by an employer on or after September 4, 2012 shall be treated in the same manner as a member described in this subsection who did not make the election under subsection (5).

(7) The retirement system shall calculate an amount to be credited to a Tier 2 account for each member who makes the election under subsection (5). The amount described in this subsection shall be an amount equal to the contributions made by the member under section 43e. A member who makes the election under subsection (5) shall cease making contributions under section 43e as determined by the retirement system, but no later than the first payroll date after the transition date. The amount calculated under this subsection shall be deposited as an employer contribution into the member's Tier 2 account as determined by the retirement system, but no later than the first payroll date after February 1, 2013. A member is immediately 100% vested in amounts deposited to his or her Tier 2 account under this subsection.

(8) A member or former member who does not make the election under subsection (5), who is 60 years of age or older, who does not qualify for the payment of health insurance coverage premiums by the retirement system under section 91, and who files an application with the retirement system on or after termination of employment shall receive a separate retirement allowance as calculated under this subsection. Except as otherwise provided under this subsection, the separate retirement allowance under this subsection shall be paid for 60 months and shall be equal to 1/60 of the amount equal to the contributions made by the member under section 43e. The retirement system may pay out de minimus amounts as a lump sum as determined by the retirement system and as permitted by the internal revenue code. A member receiving a separate retirement allowance under this subsection shall not subsequently receive the payment of health insurance coverage premiums by the retirement system under section 91. A member who dies before qualifying for the payment of health insurance coverage premiums by the retirement system under section 91 shall have a separate retirement allowance as provided in this subsection paid to the member's beneficiary upon application to the retirement system. A member who qualifies for the payment of health insurance coverage premiums by the retirement system under section 91 but who dies before the payment of health insurance coverage premiums by the retirement system in an amount equal to or greater than the amounts contributed under section 43e shall have a separate retirement allowance as provided in this subsection paid to the member's beneficiary following the cessation of health insurance coverage premiums paid by the retirement system in an amount equal to the difference between the health insurance coverage premiums paid by the retirement system under section 91 and contributions made by the member under section 43e. The amount of the separate retirement allowance as determined under this subsection shall be increased in a manner as determined by the retirement system by a percentage equal to 1.5% multiplied by the total number of years that member made contributions under section 43e.

(9) A member or former member who has a break in service and is reemployed retains the same election that the member made under this section before the break in service. If the member made the election under subsection (5), the member shall continue to receive the Tier 2 account contributions as provided in subsections (1) and (2). If the member did not make the election under subsection (5), the member shall continue to make the contributions as provided under section 43e and is subject to subsection (8), if applicable.

(10) In lieu of any other health insurance coverage premium that might have been paid by the retirement system under section 91, a credit to a health reimbursement account within the trust created under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, shall be made by the retirement system in the amounts and to the members or qualified participants as follows:

(a) Two thousand dollars to an individual who first became a member or qualified participant on or after September 4, 2012, who is 60 years of age or older, and who has at least 10 years of service at his or her first termination of employment.

(b) One thousand dollars to an individual who first became a member or qualified participant on or after September 4, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment.

(11) The retirement system shall determine a method to implement subsections (5) to (10), including a method for crediting the amounts in those subsections to comply with any restrictions imposed by the internal revenue code. Notwithstanding any provision of this act to the contrary, the Tier 2 plan provisions of this section shall be implemented by the department as soon as feasible but not later than January 1, 2013.

(12) Subsections (5) to (10) do not apply to a member who is eligible for the payment of health insurance coverage premiums by the retirement system as a result of benefits provided under section 90.

(13) On or before July 1, 2017, the retirement system shall provide a report to the chairs of the house and senate appropriations committees that provides the projected impact of subsection (10) as it applies to members first employed and entered upon the payroll of reporting units on or after July 1, 2017 with regard to the annual required contribution as used by the governmental accounting standards board and for purposes of the annual financial statements prepared under section 28(1).

(14) As used in this section:

(a) "Compensation" means that term as defined in section 122(2).

(b) "Qualified member" means a member who meets all of the following requirements:

(i) He or she first became a member before September 4, 2012.

(ii) He or she has earned service credit in the 12 months ending September 3, 2012 or was on an approved professional services or military leave of absence on September 3, 2012.

Sec. 92b. (1) There is appropriated for the fiscal year ending September 30, 2012, \$4,700,000.00 to the office of retirement services in the department of technology, management, and budget for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is \$4,700,000.00.

(d) The estimated completion date for the work project is September 30, 2013.

Sec. 93. (1) The director of the department, senate majority leader, and speaker of the house of representatives shall commission an independent third party at a cost of no more than \$150,000.00 to conduct a study and prepare a report analyzing the current retirement system and develop a proposed plan to ensure the long-term sustainability of the retirement system. The office of retirement services on behalf of the department shall assist with the study. Input shall be solicited from the retirement system membership constituency organizations.

(2) On or before November 15, 2012, the study required under subsection (1) shall be delivered to the senate majority leader, speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house of representatives fiscal agencies. The study shall include primary and alternative recommendations considered necessary.

(3) The study required under subsection (1) shall review the advantages and disadvantages of implementing benefit design changes and shall include, but is not limited to, a review of the adequacy of the benefits, long-term retention of employees, investment return and other risk, stranded cost implications, and the economic impact of implementing the following:

(a) Defined contribution, hybrid defined contribution, and other defined contribution plan options as opposed to defined benefit plan options.

(b) Plan design, funding methods, benefits provided, and other features originally enacted or amended in other public state school employee plans and private retirement plans covering comparable employees.

(c) Funding or not funding the annual required contribution as used by the governmental accounting standards board or other annual funding requirements to meet any unfunded liabilities of the retirement system.

(d) Amendments to the retirement system features, such as reporting unit and member contributions, vesting, service credit purchases, retirement allowance calculations, cost of living allowances, rate of investment returns, mortality rates and longevity, and other similar features.

(e) A change in the funding method of health benefits provided under section 91 from a cash disbursement method to an individual projected benefit entry age normal cost method of valuation.

(4) The study required under subsection (1) shall review and identify the normal costs and transition costs of closing to all new members and qualified participants the Tier 1 and Tier 2 plans in effect on the effective date of this section and implementing a defined contribution only plan that is identical to the defined contribution plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, and that is available to qualified participants under sections 50 to 69 of the state employees' retirement act, 1943 PA 240, MCL 38.50 to 38.69. The study shall include specific recommendations on transitioning from the Tier 1 and Tier 2 plans to a defined contribution only plan that is identical to the defined contribution plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, and that is available to qualified participants under sections 50 to 69 of the state employees' retirement act, 1943 PA 240, MCL 38.50 to 38.69.

(5) The study required under subsection (1) shall review the degree to which current operating expenditures are a stable, growing, and equitable base for charging unfunded actuarial accrued liability costs to public local school districts, as compared to alternate measures of district financial activity. The study shall include an analysis of the degree to which current unfunded actuarial accrued liabilities are the result of stranded cost factors. The study shall include options regarding the use of current operating expenditures or an alternate measure as the basis for charging unfunded actuarial accrued liability costs to public local school districts. As used in this subsection, "current operating expenditures" for a public local school district includes functions 1xx, 2xx, 45x, and all object codes except 6xxx, as defined in the "Michigan Public School Accounting Manual Bulletin 1022", and is equal to the total of instructional and support services expenditures, including the total general fund charges incurred in the general, special education, and vocational education funds for the benefit of the current fiscal year, whether paid or unpaid, and all expenditures of the instructional programs plus applicable supporting service costs reduced by capital outlay, debt service, community services, and outgoing transfers and other transactions. Current operating expenditures for a public local school district also include operating funds for any public school or other public educational entity first authorized or established by the public local school district on or after the effective date of the amendatory act that added this section.

Sec. 108. (1) This section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

(2) The retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and beginning January 1, 2010, applicable provisions of the final regulations issued by the internal revenue service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations set forth in section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost-of-living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance beneficiaries, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

(3) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and retirement allowance beneficiaries.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, shall apply to this act and be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the required minimum distribution requirements apply to the act.

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and the related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993. Beginning October 1, 2010, a nonspouse beneficiary may elect to have any portion of an amount payable under this act that is an eligible rollover distribution treated as a direct rollover that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or individual retirement annuity described in section 408(a) or (b) of the internal revenue code, 26 USC 408, that is established for the purpose of receiving a distribution on behalf of the beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity pursuant to section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 45 and 85(1)(b), (1)(c), (1)(d), and (2), the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service on or after December 12, 1994. Effective January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member shall be treated as having resumed and then terminated employment on account of death.

Sec. 124. (1) "Plan document" means the document that contains the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

(2) "Qualified participant" means an individual who is a participant of Tier 2 and who is first employed and entered upon the payroll of his or her employer on or after July 1, 2010, and who also was not employed by any employer before July 1, 2010.

(3) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 134 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 135.

(4) "State treasurer" means the treasurer of this state.

Sec. 131. (1) This section is subject to the vesting requirements of section 132.

(2) Unless a qualified participant who is also a member of Tier 1 affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant who is also a member of Tier 1 shall contribute 2% of his or her compensation to his or her Tier 2 account. The qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 2% of compensation contributed by the qualified participant under this subsection.

(3) A qualified participant may make contributions in addition to contributions made under subsection (2) to his or her Tier 2 account as permitted by the department and the internal revenue code.

(4) Upon the written determination of the director of the office of retirement services, an employee of an employer that is not a qualified participant may elect to make contributions to a Tier 2 account as permitted by the department and the internal revenue code. An employee as described in this subsection shall be treated as a qualified participant under this article for the limited purposes of his or her Tier 2 account.

(5) Upon the written determination of the director of the office of retirement services, an employer may annually elect to make additional matching contributions, including those in addition to matching contributions made under subsections (2) and (6), to an employee's Tier 2 account as permitted by the plan document and the internal revenue code. Matching contributions under this subsection shall be made in amounts equal to 50% of the contributions made by the employee not to exceed the first 4% of contributions made in whole percentages only, for any employee in addition to amounts that are already matched under this section, if any.

(6) Except as otherwise provided in section 81d, unless a qualified participant who is only a Tier 2 qualified participant due to an election made under section 81d(1) affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant shall contribute 6% of his or her compensation to his or her Tier 2 account. The qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 6% of compensation contributed by the qualified participant under this subsection.

Sec. 131a. Tier 2 accounts are subject to the following terms and conditions:

(a) On or before January 1, 2013, the retirement system shall design an automatic enrollment feature that provides that unless a qualified participant who makes contributions under this act elects to contribute a lesser amount, the qualified participant shall contribute the amount required to qualify for all eligible matching contributions under this act. The retirement system shall implement this automatic enrollment feature on or after January 1, 2013, as determined by the retirement system.

(b) Employer matching contributions do not have to be made to the same plan or account to which the elective employee contributions were contributed as the basis for the matching contributions.

(c) Elective employee contributions shall not be used as the basis for more than an equivalent amount of employer matching contributions or, in the case of matching contributions under section 131(2) and (6), 50% of the employer matching contributions.

(d) The retirement system shall design and implement a method to determine the proper allocation of employer matching contributions based on elective employee contributions as provided in this section.

Enacting section 1. Section 43d of the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1343d, is repealed.

Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

.....
Governor