

HOUSE BILL No. 5218

January 13, 2016, Introduced by Rep. Kelly and referred to the Committee on Appropriations.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 5, 81d, and 132 (MCL 38.1305, 38.1381d, and 38.1432), section 5 as amended and section 81d as added by 2012 PA 300 and section 132 as added by 2010 PA 75, and by adding section 133.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

8 (b) A person enrolled in a transitional public employment

1 program and employed by a reporting unit.

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

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

7 (e) A retirant of this retirement system.

8 (f) A person, not regularly employed by a reporting unit, who
9 is employed by a reporting unit through a summer youth employment
10 program established ~~pursuant to~~ **UNDER** the Michigan youth corps act,
11 1983 PA 69, MCL 409.221 to 409.229.

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

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

21 (i) A person, not regularly employed by a reporting unit, who
22 is employed by a reporting unit through participation in a program
23 established ~~pursuant to~~ **UNDER** the work first program under section
24 57f of the social welfare act, 1939 PA 280, MCL 400.57f.

25 (j) A person, not regularly employed by a reporting unit, who
26 is employed by a reporting unit through participation in a program
27 established ~~pursuant to~~ **UNDER** the Michigan community service corps

1 program, first established under sections 25 to 35 of 1983 PA 259.

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

8 (l) A person, not regularly employed by a reporting unit, who
9 is employed by a reporting unit in a temporary, intermittent, or
10 irregular seasonal or athletic position and who is under the age of
11 19 years.

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

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

17 **(O) A QUALIFIED PARTICIPANT WHO IS NOT A MEMBER OF TIER 1**
18 **UNDER SECTION 81D(4).**

19 (2) "Membership service" means service performed after June
20 30, 1945.

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

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

27 (5) "Nonteacher" means a person employed by a reporting unit

1 who is not a teacher as defined in section 8(4).

2 Sec. 81d. (1) The retirement system shall permit each
3 qualified participant who first becomes a qualified participant and
4 first works for a reporting unit on or after September 4, 2012 **BUT**
5 **BEFORE JULY 1, 2015** to make an election to not become a member of
6 Tier 1 and become only a qualified participant in Tier 2.

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

13 ~~——(3)——~~An individual who does not make an election **UNDER THIS**
14 **SUBSECTION** for any reason on or before the close of the election
15 period is considered to have made an election to become a member of
16 Tier 1 and is subject to all of the following as of the date of his
17 or her employment:

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

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

22 (2) ~~(4)~~—An individual who makes the election under subsection
23 (1) on or before the close of the election period is considered to
24 have made an election to not become a member of Tier 1 and is
25 subject to all of the following as of the date of his or her
26 employment:

27 (a) He or she is not eligible to accrue any service credit or

1 qualify for any retirement allowance under Tier 1 under the terms
2 as provided in section 81c.

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

4 (3) ~~(5)~~—The retirement system shall collect from ~~the~~ **AN**
5 individual **DESCRIBED IN SUBSECTION (1)** all amounts required under
6 sections 43a and 131(2) and shall collect all required employer
7 contributions required under Tier 1 from his or her date of
8 employment. If an individual makes a valid election under
9 subsection (1) to not become a member of Tier 1, the retirement
10 system shall determine and implement a method to reconcile employer
11 and employee contributions to be deposited to Tier 2, and any such
12 employee contributions will be considered to be elective
13 contributions under section 131.

14 (4) **AN INDIVIDUAL WHO FIRST BECOMES A QUALIFIED PARTICIPANT**
15 **AND FIRST WORKS FOR A REPORTING UNIT AFTER JUNE 30, 2015 IS NOT A**
16 **MEMBER OF TIER 1 AND IS ONLY A QUALIFIED PARTICIPANT IN TIER 2. AN**
17 **INDIVIDUAL DESCRIBED IN THIS SUBSECTION IS SUBJECT TO ALL OF THE**
18 **FOLLOWING AS OF THE DATE OF HIS OR HER EMPLOYMENT:**

19 (A) **HE OR SHE IS NOT ELIGIBLE TO ACCRUE ANY SERVICE CREDIT OR**
20 **QUALIFY FOR ANY RETIREMENT ALLOWANCE UNDER TIER 1 UNDER THE TERMS**
21 **AS PROVIDED IN SECTION 81C.**

22 (B) **HE OR SHE IS ONLY A QUALIFIED PARTICIPANT UNDER TIER 2.**

23 Sec. 132. A qualified participant is immediately 100% vested
24 in his or her contributions made to Tier 2. ~~A—EXCEPT AS OTHERWISE~~
25 **PROVIDED IN SECTION 133, A** qualified participant ~~shall vest~~ **VESTS**
26 in the employer contributions made on his or her behalf to Tier 2
27 according to the following schedule:

- 1 (a) ~~Upon~~ON completion of 2 years of service, 50%.
2 (b) ~~Upon~~ON completion of 3 years of service, 75%.
3 (c) ~~Upon~~ON completion of 4 years of service, 100%.

4 SEC. 133. (1) A QUALIFIED PARTICIPANT WHO IS NOT A TIER 1
5 MEMBER UNDER SECTION 81D(4) IS IMMEDIATELY VESTED IN HIS OR HER
6 CONTRIBUTIONS TO TIER 2. A QUALIFIED PARTICIPANT WHO IS NOT A TIER
7 1 MEMBER UNDER SECTION 81D(4) IS IMMEDIATELY VESTED IN EMPLOYER
8 CONTRIBUTIONS MADE ON HIS OR HER BEHALF TO TIER 2.

9 (2) A QUALIFIED PARTICIPANT WHO IS NOT A TIER 1 MEMBER UNDER
10 SECTION 81D(4) MAY PERIODICALLY ELECT TO CONTRIBUTE UP TO 5% OF HIS
11 OR HER COMPENSATION TO HIS OR HER TIER 2 ACCOUNT. THE EMPLOYER OF A
12 QUALIFIED PARTICIPANT WHO IS NOT A TIER 1 MEMBER UNDER SECTION
13 81D(4) SHALL MAKE AN ADDITIONAL CONTRIBUTION TO THE QUALIFIED
14 PARTICIPANT'S TIER 2 ACCOUNT IN AN AMOUNT EQUAL TO 80% OF THE
15 CONTRIBUTION MADE BY THE QUALIFIED PARTICIPANT UNDER THIS
16 SUBSECTION.

17 (3) A QUALIFIED PARTICIPANT MAY MAKE CONTRIBUTIONS IN ADDITION
18 TO CONTRIBUTIONS MADE UNDER THIS SECTION TO HIS OR HER TIER 2
19 ACCOUNT AS PERMITTED BY THE DEPARTMENT AND THE INTERNAL REVENUE
20 CODE.