THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979
Act 300 of 1980

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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

The People of the State of Michigan enact:

ARTICLE 1

38.1301 Short title.

Sec. 1. This act shall be known and may be cited as “the public school employees retirement act of 1979”.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1302 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 8 have the meanings ascribed to them in those sections.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1303 Definitions; A.

Sec. 3. (1) “Accumulated contributions” means 1 or more of the following:

(a) The amounts credited to a member's individual subaccount in the reserve for employee contributions plus regular interest on those amounts.

(b) The amounts credited to a member's individual subaccount in the reserve for member investment plan plus compound interest on those amounts.

(2) “Active duty” means full-time duty in the armed forces other than active duty which is exclusively for training purposes.

(3) “Actuarial cost” means an amount that shall be paid, except as otherwise specifically provided by this act, by a member to purchase additional service credit as allowed under this act. Actuarial cost shall be computed as provided in section 79.

(4) “Armed forces” means the United States army, navy, marine corps, air force, and coast guard, including the reserve components.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1303a “Compensation” explained.

Sec. 3a. (1) Except as otherwise provided in this act, “compensation” means the remuneration earned by a member for service performed as a public school employee.

(2) Compensation includes salary and wages and all of the following:

(a) Remuneration earned for all services performed as a public school employee including, but not limited to, teaching, coaching, and participation in extracurricular activities.

(b) On a current basis, investments made in a tax sheltered annuity for a public school employee as remuneration for service under this act. The remuneration shall be valued at the amount of money actually paid into the annuity.

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(c) All amounts deducted from the pay of a public school employee, including amounts deducted pursuant to the member investment plan.

(d) Longevity pay.

(e) Overtime pay for service performed outside of what is considered normal working hours for the affected employee.

(f) Pay for vacation, holiday, and sick leave while absent from work. As used in this subdivision, “sick leave” includes weekly worker's disability compensation payments received for personal injury in the employ of and while employed by a reporting unit.

(g) Items of deferred compensation, exclusive of employer contributions to the retirement system.

(h) Merit pay as established by a reporting unit for the purpose of rewarding achievement of specific performance objectives.

(3) Compensation does not include any of the following:

(a) Payments for unused sick or annual leave.

(b) Bonus payments.

(c) Payments for hospitalization insurance and life insurance premiums.

(d) Other fringe benefits paid by and from the funds of employers of public school employees.

(e) Remuneration paid for the specific purpose of increasing the final average compensation.

(f) Compensation in excess of an amount over the level of compensation reported for the preceding year except increases provided by the normal salary schedule for the current job classification. In cases where the current job classification in the reporting unit has less than 3 members, the normal salary schedule for the most nearly identical job classification in the reporting unit or in similar reporting units shall be used.

(4) The retirement board shall require a sworn affidavit from the member that final compensation does not include remuneration paid either directly or indirectly for actual or anticipated expenses.

(5) Based upon information and documentation provided by the member, the retirement board shall determine both of the following:

(a) Whether any form of remuneration paid to a member is identified in this section.

(b) Whether any form of remuneration that is not identified in this section should be considered compensation reportable to the retirement system under this section.

(6) In any case where a petitioner seeks to have remuneration included in compensation reportable to the retirement system, the petitioner shall have the burden of proof.

History: Add. 1996, Act 268, Imd. Eff. June 12, 1996.

Popular name: Act 300

38.1304 Definitions; C to M.

Sec. 4. (1) "Compound interest" means interest compounded annually on July 1 on the contributions on account as of the previous July 1 and computed at the rate of investment return determined under section 104a(1) for the last completed state fiscal year.

(2) "Contributory service" means credited service other than noncontributory service.

(3) "Deferred member" means a member who has ceased to be a public school employee and has satisfied the requirements of section 82 for a deferred vested service retirement allowance.

(4) "Department" means the department of technology, management, and budget.

(5) "Designated date" means September 30, 2006.

(6) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(7) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 1 or more of the following:

(a) An individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408.

(c) An annuity plan described in section 403(a) of the internal revenue code, 26 USC 403.

(d) A qualified trust described in section 401(a) of the internal revenue code, 26 USC 401.

(e) An annuity contract described in section 403(b) of the internal revenue code, 26 USC 403.

(f) An eligible plan under section 457(b) of the internal revenue code, 26 USC 457, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such eligible plan under section 457(b) of the internal revenue code, 26 USC 457, from this retirement system, that accepts the distributee's

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eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(g) Beginning January 1, 2008, except as otherwise provided in this subsection, "eligible retirement plan" means a Roth individual retirement account as described in section 408A of the internal revenue code, 26 USC 408A.

(9) Beginning January 1, 2007, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code, 26 USC 401.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent such portion of the distribution is paid to any of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

(*ii*) A qualified plan described in section 401(a) of the internal revenue code, 26 USC 401, or an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403, and the plan providers agree to separately account for the amounts paid, including any portion of the distribution that is includable in federal gross income, and the portion of the distribution which is not so includable.

(10) "Employee organization professional services leave" or "professional services leave" means a leave of absence that is renewed annually by the reporting unit so that a member may accept a position with a public school employee organization to which he or she belongs and which represents employees of a reporting unit in employment matters. The member shall be included in membership of the retirement system during a professional services leave if all of the conditions of section 71(5) and (6) are satisfied.

(11) "Employee organization professional services released time" or "professional services released time" means a portion of the school fiscal year during which a member is released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs. The member's compensation received or service rendered, or both, as applicable, by a member while on professional services released time shall be reportable to the retirement system if all of the conditions of section 71(5) and (6) are satisfied.

(12) "Final average compensation" means the aggregate amount of a member's compensation earned within the averaging period in which the aggregate amount of compensation was highest divided by the member's number of years, including any fraction of a year, of credited service during the averaging period. The averaging period shall be 36 consecutive calendar months if the member contributes to the member investment plan except for a member who contributes to the member investment plan and first became a member on or after July 1, 2010; otherwise, the averaging period shall be 60 consecutive calendar months. A member who contributes to the member investment plan and first became a member on or after July 1, 2010 shall also have an averaging period of 60 consecutive calendar months. If the member has less than 1 year of credited service in the averaging period, the number of consecutive calendar months in the averaging period shall be increased to the lowest number of consecutive calendar months that contains 1 year of credited service.

(13) "Health benefits" means hospital, medical-surgical, and sick care benefits and dental, vision, and hearing benefits for retirants, retirement allowance beneficiaries, and health insurance dependents provided pursuant to section 91.

(14) "Internal revenue code" means the United States internal revenue code of 1986.

(15) "Long-term care insurance" means group insurance that is authorized by the retirement system for retirants, retirement allowance beneficiaries, and health insurance dependents, as that term is defined in section 91, to cover the costs of services provided to retirants, retirement allowance beneficiaries, and health insurance dependents, from nursing homes, assisted living facilities, home health care providers, adult day care providers, and other similar service providers.

(16) "Member investment plan" means the program of member contributions described in section 43a.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1982, Act 197, Imd. Eff. July 1, 1982;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 193, Imd. Eff. Aug. 25, 1989;—Am. 1995, Act 177, Imd. Eff. Oct. 17, 1995;—Am. 1996, Act 268, Imd. Eff. June 12, 1996;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2003, Act 17, Imd. Eff. June 10, 2003;—Am. 2007, Act 15, Imd. Eff. June 6, 2007;—Am. 2008, Act 354, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

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Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1305 Definitions; M, N.

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).

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1983, Act 111, Imd. Eff. July 12, 1983;—Am. 1984, Act 166, Imd. Eff. June 28, 1984;—Am. 1984, Act 302, Imd. Eff. Dec. 21, 1984;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1987, Act 163, Imd. Eff. Nov. 5, 1987;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1998, Act 123, Imd. Eff. June 10, 1998;—Am. 2000, Act 150, Imd. Eff. June 8, 2000;—Am. 2001, Act 180, Imd. Eff. Dec. 21, 2001;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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

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declaration shall not affect the remaining part of this amendatory act."

Popular name: Act 300

38.1306 Definitions; O, P.

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 developmentally disabled 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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1987, Act 163, Imd. Eff. Nov. 5, 1987;—Am. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1993, Act 318, Eff. Dec.

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31, 1993;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1995, Act 272, Eff. Mar. 28, 1996;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2014, Act 71, Imd. Eff. Mar. 28, 2014.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1307 Definitions; R.

Sec. 7. (1) “Refund beneficiary” means 1 or more persons whom the member or former member nominates in writing and files with the retirement system for the purpose of being paid accumulated contributions in the event of the death of the member or former member. If a valid nomination is not on file, the retirement board shall pay the accumulated contributions to the legal representative of the deceased member or deceased former member, if any, or to the estate of the deceased member or deceased former member.

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

(3) Except as otherwise provided in this subsection, “reporting unit” means a public school district, intermediate school district, public school academy, tax supported community or junior college, or university, or an agency having employees on its payroll who are members of this retirement system. The reporting unit shall be the employer for purposes of this act. On and after January 1, 1996, reporting unit does not include a university, except to the extent that university has employees on its payroll who are members of this retirement system.

(4) “Retirant” means a member who retires with a retirement allowance payable from reserves of the retirement system.

(5) “Retirement allowance” means a payment for life or a temporary period provided for in this act to which a retirant, retirement allowance beneficiary, or refund beneficiary is entitled.

(6) “Retirement allowance beneficiary” means a person who is being paid or has entitlement to the payment of a retirement allowance in the event of the death of a member, deferred member, or retirant.

(7) “Retirement board” means the board provided to administer this retirement system.

(8) “Retirement system” means the Michigan public school employees' retirement system provided for in this act.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1993, Act 318, Imd. Eff. Dec. 31, 1993;—Am. 1995, Act 272, Eff. Mar. 28, 1996.

Popular name: Act 300

38.1308 Definitions; S, T.

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 February 1, 2013 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

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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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1309 Calculating member's final average compensation; effective date of section.

Sec. 9. (1) The definition of final average compensation under section 4 as that section existed prior to Act No. 91 of the Public Acts of 1985 shall be used to calculate a member's final average compensation if it produces a higher result than the amount calculated pursuant to either section 4 or section 43c.

(2) This section shall take effect July 10, 1985.

History: Add. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

ARTICLE 2

38.1321 Public school employees' retirement system; creation.

Sec. 21. A Michigan public school employees' retirement system is created for the public school employees of this state.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1322 Public school employees' retirement board; creation; appointment, qualifications, and terms of members; vacancy.

Sec. 22. (1) The Michigan public school employees' retirement board is created in the department and shall consist of the superintendent of public instruction and 11 members appointed by the governor with the advice and consent of the senate as follows:

(a) Two members who are working as classroom teachers or as other certified school personnel.

(b) One nonteacher member who is working in a noncertified educational support position or a retirant who retired from a noncertified educational support position.

(c) One member who is a school system superintendent.

(d) One member who is working in a school system in a finance or operations management position, but who is not a school system superintendent.

(e) One retirant who retired from a classroom teacher position.

(f) One retirant who retired from a finance or operations management position.

(g) One administrator or trustee of a community college, which community college is a reporting unit.

(h) Two from the general public, 1 of which shall have experience in health insurance or actuarial science and 1 of which shall have experience in institutional investments. An individual appointed under this subdivision shall not be a member, deferred member, retirant, or retirement allowance beneficiary under this act.

(i) One elected member of a reporting unit's board of control.

(2) One of the retirement board members under subsection (1) shall be a member who is an employee of a school district of the first class or a retirant who retired from a position as an employee of a school district of the first class. One of the retirant members of the retirement board shall be selected from the membership of the largest organization of retirants.

(3) The term of office of the retirement board members shall be 4 years. A vacancy of a member on the retirement board shall be filled in the same manner as the original appointment for the remainder of the unexpired term. A retirement board member shall continue to hold office until a successor is appointed and has qualified, but not to exceed an additional 4 years.

(4) The 7 members appointed and serving on the retirement board on July 1, 1997 shall have their

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respective terms extended by 2 years and shall serve for the remainder of their extended terms. As each board member's term expires under this subsection, the new appointment shall be made in accordance with subsection (1). On January 1, 1997, 2 new individuals shall be appointed as members of the retirement board in accordance with subsection (1). The initial terms of office of these 2 new members shall expire on March 30, 2001. On October 31, 1997, 2 new individuals shall be appointed as members of the retirement board in accordance with subsection (1). The initial terms of office of these 2 new members shall expire on March 30, 2000.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997.

Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1323 Retirement board; oath; conducting business at public meeting; notice of meeting; quorum; failure to attend scheduled meetings; availability of writings to public.

Sec. 23. (1) A member of the retirement board, upon appointment, shall take an oath of office, which shall be filed immediately in the office of the secretary of state.

(2) The business which the retirement board may perform shall be conducted at a public meeting of the retirement board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. A majority of the retirement board constitutes a quorum for the transaction of business at a meeting of the board. A member of the retirement board who fails to attend 3 consecutive regularly scheduled meetings of the board, without valid excuse, shall be considered as having resigned from retirement board membership, and the retirement board shall declare the member's office vacated as of the date of adoption of a proper resolution.

(3) A writing prepared, owned, used, in the possession of, or retained by the retirement board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1324 Retirement board; compensation and expenses.

Sec. 24. The per diem compensation of the retirement board and the schedule for reimbursement of expenses incurred in attending meetings of the retirement board and in performing the required services of the members shall be established annually by the legislature.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1325 Retirement board; rights, authority, and discretion; rules; limitation; study period; information to be provided to certain universities.

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.

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(b) Compare the cost to the universities cost 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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

Administrative rules: R 38.1101 et seq. of the Michigan Administrative Code.

38.1326 State treasurer as treasurer of retirement system; investment authority; fiduciary responsibility; disposition of funds.

Sec. 26. (1) This section does not apply to Tier 2.

(2) The state treasurer shall be treasurer of the retirement system and shall have investment authority, including the custodianship of the funds of the retirement system, and shall have fiduciary responsibility with regard to the investment of funds of the retirement system.

(3) The state treasurer shall deposit the funds of the retirement system in the same manner and subject to the law governing the deposit of state funds by the treasurer. Income earned by the retirement system's funds shall be credited to the respective reserves under this act that earned the income.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1327 Warrants.

Sec. 27. The retirement system shall draw its warrants upon the state treasurer, payable out of reserves of the retirement system, for the payment of retirement allowances, the refund of accumulated contributions as provided in this act, and the payment of salaries and other expenses necessary in the administration of the retirement system. The payment of retirement allowances shall be in equal monthly installments.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1328 Summary of fiscal transactions; contents; description of retirement benefits; information to be posted on internet website and sent via electronic mail; database.

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:

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(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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1329 Reserve for employee contributions; individual subaccounts; refund, payment, or transfer of accumulated contributions.

Sec. 29. The reserve for employee contributions is the account in which member contributions made under the contributory retirement plan and other member payments as provided by statute shall be accumulated. The retirement board shall provide for the maintenance of an individual subaccount for each member of the retirement system showing the amount of the member's contributions together with regular interest accumulations on the amount. The contributions refunded to a member upon the member's withdrawal from service or paid to the member's legal representative, estate, or refund beneficiary in event of the member's or former member's death shall be paid from the reserve for employee contributions. Accumulated contributions not refunded to a member or paid to the member's or former member's legal representative, estate, or refund beneficiary shall be transferred from the reserve for employee contributions to the reserve for employer contributions. The accumulated contributions of a member, upon retirement or upon death if a retirement allowance is payable, shall be transferred from the reserve for employee contributions to the reserve for retired benefit payments.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1330 Reserve for employer contributions.

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Sec. 30. The reserve for employer contributions is the account to which reporting unit payments, except payments for health benefits are credited.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994.

Popular name: Act 300

38.1331 Reserve for administrative expenses.

Sec. 31. The reserve for administrative expenses is the account from which the expenses of the administration of the retirement system, exclusive of amounts payable as retirement allowances and other benefits provided in this act, shall be paid. An amount determined necessary by the retirement board and the department to cover the expenses of administering this act shall be transferred annually from the reserve for undistributed investment income to the reserve for administrative expenses.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1332 General fund.

Sec. 32. The retirement board may establish a general fund. Revenue not clearly payable to other funds shall be deposited in the general fund. Disbursements from this fund shall be made as authorized by the retirement board.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1333 Reserve for member investment plan; remittance of member contributions; individual subaccounts; refund, payment, or transfer of accumulated contributions.

Sec. 33. The reserve for member investment plan is the account into which are remitted member contributions as provided in section 43a. The retirement board shall provide for the maintenance of an individual subaccount for each member showing the amount of the member's contributions together with compound interest accumulation on that amount. Member investment plan accumulated contributions refunded to a member upon a member's withdrawal from service or paid to the member's legal representative, estate, or refund beneficiary in the event of the member's or former member's death shall be paid from the reserve for member investment plan. Member investment plan accumulated contributions not refunded to a member or paid to the member's or former member's legal representative, estate, or refund beneficiary shall be transferred from the reserve for member investment plan to the reserve for employer contributions. The member investment plan accumulated contributions of a member, upon retirement or upon death if a retirement allowance is payable, shall be transferred from the reserve for member investment plan to the reserve for retired benefit payments.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1334 Reserve for health benefits; payments; health advance; funding subaccount; transfer to reserve for employer contributions; conditions.

Sec. 34. (1) The reserve for health benefits is the account to which payments of reporting units for health benefits are credited. Benefits payable pursuant to section 91 shall be paid from the reserve for health benefits. The assets and any earnings on the assets contained in the reserve for health benefits and the health advance funding subaccount are not to be treated as pension assets for any purpose.

(2) The health advance funding subaccount is the account to which amounts transferred pursuant to section 41 are credited. Except as otherwise provided in this section, any amounts received in the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 91 is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 91 if the actuarial accrued liability for health benefits under section 91 is at least 100% funded. For each fiscal year that begins after the first fiscal year in which the actuarial accrued liability for health benefits under section 91 is at least 100% funded by the health advance funding subaccount, the amounts may be expended or credited to fund health benefits provided under section 91 as provided in section 41(2).

(3) Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the reserve for employer contributions established in section 30 if the department does both of the following:

(a) At least 45 days before the intended transfer, submits a request to the chairs of the senate and house

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appropriations committees and, at least 15 days before the intended transfer, obtains the approval of both the senate and house appropriations committees.

(b) Ensures that the request submitted to the senate and house appropriations committees contains an actuarial valuation prepared pursuant to section 41 that 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 does not exceed the actuarial present value of benefits.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002.

Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1335 Reserve for retired benefit payments.

Sec. 35. The reserve for retired benefit payments is the account from which all retirement allowances and refunds pursuant to section 85(6) shall be paid. After receipt of each annual actuarial valuation as provided in section 41, the balance in the reserve for retired benefit payments shall be brought into balance with the actuarial present value of retirement allowances to be paid after the end of the fiscal year to retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal year, by a transfer between the reserve for employer contributions and the reserve for retired benefit payments.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1336 Reserve for undistributed investment income; pension stabilization subaccount.

Sec. 36. (1) Except as otherwise provided in this section, the reserve for undistributed investment income is the account to which all income from the investment of assets, all gifts and bequests received by the retirement system, and all other money received by the retirement system the disposition of which is not specifically provided for is credited. The retirement board shall determine the income, interest, and dividends attributable to the health advance funding subaccount created by section 34(2). The income, interest, and dividends attributable to the health advance funding subaccount shall be credited to the health advance funding subaccount. In each fiscal year, the retirement board shall transfer from the reserve for undistributed investment income all amounts necessary to credit the interest required under this act to the reserve for employee contributions, the reserve for employer contributions, the reserve for member investment plan, the reserve for retired benefit payments, and the reserve for health benefits, to fund the reserve for administrative expenses, and any supplemental payments required pursuant to section 104a.

(2) The pension stabilization subaccount is the account to which the amounts transferred pursuant to subsection (3) to the reserve for undistributed investment income are credited. Except as otherwise provided in this subsection, no amounts shall be transferred from the stabilization subaccount to any other reserve. The director of the department may transfer part or all of the pension stabilization subaccount to the reserve for employer contributions. After the department has transferred the entire balance of the pension stabilization subaccount to the reserve for employer contributions created by section 30, the pension stabilization subaccount created by this subsection shall be closed and subsection (3) shall no longer apply.

(3) Beginning on the designated date, if the actuarial valuation prepared pursuant to sections 41 and 41a 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, an amount equal to the excess shall be credited to the pension stabilization subaccount pursuant to subsection (2) and shall be debited against the reserve for employer contributions.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002.

Popular name: Act 300

ARTICLE 3

38.1341 Determining annual level percentage of payroll contribution rates; factors; unfunded actuarial accrued liability contribution rate; computation and certification of sum due and payable; payment; certification of actual aggregate compensations; adjustment; evidence

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of correctness; audit; duties of reporting unit; submission of difference occurring in certain fiscal years; interest rate; reassignment of assets; rate of investment return; basis of asset valuation; use of salary increase assumption; deposit to health advance funding subaccount; allocations from employer contributions; "university reporting unit" defined.

Sec. 41. (1) The annual level percentage of payroll contribution rates to finance benefits being provided and to be provided by the retirement system must be determined by actuarial valuation under subsection (2) on 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 must be made of the retirement system 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 must be made to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) Except as otherwise provided in section 41a, the annual contribution rates for benefits is subject to all of the following:

(a) Except as otherwise provided in this subdivision, the contribution rate for benefits must be computed using an individual projected benefit entry age normal cost method of valuation. 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 must be computed using a cash disbursement method.

(b) The contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, for reporting units must be determined as follows:

(*i*) Calculate the aggregate amount of individual projected benefit entry age normal costs.

(*ii*) Divide the result of the calculation under subparagraph (*i*) by 1% of the aggregate amount of active members' valuation compensation.

(c) The contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, must be determined as follows:

(*i*) Calculate the aggregate amount of unfunded actuarial accrued liabilities of reporting units as follows:

(A) Calculate the actuarial present value of benefits for members attributable to reporting units.

(B) Calculate the actuarial present value of future normal cost contributions of reporting units.

(C) Calculate the actuarial present value of assets on the valuation date.

(D) Add the results of sub-subparagraphs (B) and (C).

(E) Subtract from the result of the calculation under sub-subparagraph (A) the result from the calculation under sub-subparagraph (D).

(*ii*) Divide the result of the calculation under subparagraph (*i*) by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation.

(d) Beginning with the state fiscal year ending September 30, 2013 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 20.96% for a reporting unit that is not a university reporting unit. 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 this section and section 41a, the unfunded actuarial accrued liability contribution rate must be based on and applied to the combined payrolls of the employees who are members and qualified participants.

(e) Beginning with the state fiscal year ending September 30, 2016 and for each subsequent state fiscal year, the unfunded actuarial accrued liability contribution rate applied to the combined payroll, as provided in section 41a, must not exceed 25.73% for a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year for university reporting units are to be paid by appropriation under article III of the state school aid act of 1979, 1979 PA 94, MCL 388.1836 to 388.1893.

(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 pay 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.

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(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. On 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, must be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit occurs under 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, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must 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, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must 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 must be included for each year that a portion of the remaining difference is carried forward. The interest rate must 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 under subsection (14).

(10) Beginning on September 30, 2006, all assets held by the retirement system must be reassigned their fair market value, as determined by the state treasurer, as of September 30, 2006, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before September 30, 2006 may not be considered by the retirement system's actuaries.

(11) Except as otherwise provided in this subsection, beginning on September 30, 2006, the actuary used by the retirement board shall assume a rate of return on investments of 8.00% per annum, as of September 30, 2006, 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 after June 30, 2010, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on September 30, 2006, the value of assets used must be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after September 30, 2006, and the methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on September 30, 2006, 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 on 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 under 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 under 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 must be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the

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amount of the employer contributions or other eligible funds that must 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, "university reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1982, Act 197, Imd. Eff. July 1, 1982;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1992, Act 158, Imd. Eff. July 16, 1992;—Am. 1993, Act 164, Imd. Eff. Sept. 16, 1993;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1996, Act 278, Imd. Eff. June 17, 1996;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2007, Act 15, Imd. Eff. June 6, 2007;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2016, Act 136, Imd. Eff. May 26, 2016.

Constitutionality: The Michigan Supreme Court held that the failure by the state to prefund retirement health care benefits is in violation of Const 1963, art 9, § 24. However, the Michigan Supreme Court also held that it has no authority to order the governor or legislature to appropriate funds. *Musselman v Engler*, 448 Mich 503; 533 NW2d 237 (1995).

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1341a Separate contribution rate; unfunded accrued liability; "university reporting unit" defined.

Sec. 41a. (1) For fiscal years that begin after March 27, 1996, the retirement system shall determine a separate contribution rate for a university reporting unit. Subject to this subsection, the retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that the unfunded actuarial accrued liability must 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 after December 31, 1995, but for the enactment of 1995 PA 272. Beginning with the state fiscal year ending September 30, 2016 and for each subsequent fiscal year, the combined payrolls used for the payment schedule for the university reporting units must include each university reporting unit's combined payroll, as projected by the actuary based on the actuarial valuation for each following fiscal year, except that the combined payroll for each university reporting unit must not be less than the combined payroll projected for each subsequent fiscal year for each university reporting unit by the actuary based on the September 30, 2012 actuarial valuation. The amount of the unfunded accrued liability on which the separate contribution rate is determined must be that amount which a university reporting unit is legally responsible for and is calculated by actuarial analysis. Any reduction in the unfunded liability of the system under governmental action affecting the entire system will be allocated to all reporting units including universities as determined by the system's actuary. For the state fiscal year ending September 30, 2007, the contribution for unfunded actuarial accrued liability must be equal to 4.5% of the unfunded actuarial accrued liability.

(2) As used in this section, "university reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

History: Add. 1995, Act 272, Eff. Mar. 28, 1996;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 2007, Act 15, Imd. Eff. June 6, 2007;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2016, Act 136, Imd. Eff. May 26, 2016.

Compiler's note: Section 2 of Act 488 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

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38.1341b Employees as members on or after July 1, 2010; determination of separate employer contribution rate; individuals performing services for entity not participating in retirement services; conditions.

Sec. 41b. (1) Beginning July 1, 2010, the retirement system may determine a separate employer contribution rate for members who first became a member on or after July 1, 2010. Except as provided in this section, the retirement system shall determine the separate employer contribution rate in the manner prescribed in section 41.

(2) To the extent and upon approval by the internal revenue service, the retirement system for the Tier 1 plan and the plan administrator for the Tier 2 plan may also determine the extent to which some or all of the individuals performing services for an entity not participating in the retirement system that receives any funding from the state school aid fund established in section 11 of article IX of the state constitution of 1963 may participate in the Tier 1 and Tier 2 plans.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Former MCL 38.1341b, which pertained to payroll contribution rate, basis, and application, was repealed by Act 143 of 1997, Imd. Eff. Nov. 19, 1997.

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1342 Reporting unit contribution; exclusive obligation; contributions picked up by employer; deduction of social security contributions; agreement of member; forwarding certain retirement contributions; failure to submit report or contributions; late fee; withholding payment of state funds for noncompliance.

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

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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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1996, Act 268, Imd. Eff. June 12, 1996;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1343 Percentage paid for participants in optional retirement program.

Sec. 43. The percentage of aggregate annual compensation to be paid for employees who participate in the optional retirement program under the optional retirement act of 1967, Act No. 156 of the Public Acts of 1967, as amended, being sections 38.381 to 38.388 of the Michigan Compiled Laws, shall be only for the employer's share of social security.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994.

Popular name: Act 300

38.1343a Contributions of member to member investment plan; deduction and remittance as employer contributions; benefits; amount of contribution; amounts; percentage.

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:

Member's annual school fiscal year earned compensation	Amount payable to the member investment plan

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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 the 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:

Member's annual school fiscal year earned compensation	Amount payable to the member investment plan
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.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1990, Act 298, Eff. Mar. 28, 1991;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2007, Act 111, Imd. Eff. Oct. 1, 2007;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1343b Eligibility requirements; exceptions.

Sec. 43b. A member who contributes to the member investment plan shall have the eligibility requirements of section 81 except as follows:

(a) The age 55 requirement of section 81(1)(a) shall not apply.

(b) The 10 years of credited service requirement of section 81(1)(b) shall be 5 years if the member is working as a public school employee and the member received credited service in each of the 5 school fiscal years immediately preceding the retirement allowance effective date.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1343c Entitlements.

Sec. 43c. A member other than a member who first became a member on or after July 1, 2010 who contributes to the member investment plan, or the retirement allowance beneficiary of that member, shall be entitled to all of the following:

(a) A 36-month averaging period for the computation of final average compensation, as provided in section 4.

(b) An annual increase in the retirement allowance. The first increase will occur on the first October 1 that is at least 1 full year after the effective date of the retirement allowance. Subsequent annual increases will

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occur on October 1 of each subsequent year. The amount of the annual increase shall be equal to 3% of the retirement allowance that would be payable as of the date of the increase without application of this subdivision. However, if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected by the member under section 85(1).

(c) The credited service eligibility requirement applicable to the survivor benefits provided in section 89 shall be reduced as follows:

(*i*) The 15 years of credited service requirement shall be 10 years.

(*ii*) The 10 years of credited service requirement shall be 5 years.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1343d Repealed. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: The repealed section pertained to conditions for election to make contributions to member investment plan.

38.1343e Member before September 4, 2012; contribution of percentage to funding account under public employee retirement health care funding act; "funding account" defined.

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.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1343g Contribution beginning on transition date; amount; method of deducting contributions; picking up member contributions for compensation on or after transition date; benefit.

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.

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(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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1344 Separation from service; death; unclaimed retirement allowance or other money.

Sec. 44. Upon the separation from service by a member or upon the death of a member, a former member, a retirant, a retirement allowance beneficiary, or a refund beneficiary, any unclaimed retirement allowance or other money otherwise payable on account of the separation or death shall remain a part of that fund in which it is deposited until claimed by the separated member, retirement allowance beneficiary, or refund beneficiary or the estate or legal representative of a separated member, retirement allowance beneficiary, or refund beneficiary.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1345 Change or error in records; correction; adjustment in benefits.

Sec. 45. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall correct the error, and as far as practicable, shall adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, or refund beneficiary was entitled. An adjustment in benefits shall not be made for an error totaling $10.00 or less annually and the amount shall be debited or credited to the reserve for employer contributions.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1346 Benefits; exemption from taxation; subject to taxation beginning January 1, 2012; offset of retirement benefits or refunds; forfeiture of service credit.

Sec. 46. (1) Except as otherwise provided in this section, a retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act, the reserves created by this act, and the money, investments, or income of those reserves are exempt from state, county, municipal, or other local tax and are subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

(2) Beginning January 1, 2012, a retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act is subject to state tax upon distribution to the person from the various funds created by this act.

(3) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, retirant, retirement allowance beneficiary, or refund beneficiary.

(4) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's contributions standing to the member's credit in the reserve for employee contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 40, Imd. Eff. June 13, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2011, Act 42, Imd. Eff. May 25, 2011.

Popular name: Act 300

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38.1347 Employee of Michigan high school athletic association; entitlement to benefits preserved; limited membership; continued service; eligibility for retirement benefits; election; termination of employment; computation of retirement allowance.

Sec. 47. (1) An employee of the Michigan high school athletic association who is a member on December 31, 1987 shall have his or her entitlement to benefits from the retirement system preserved as those benefits exist on December 31, 1987. That employee shall retain a limited membership in the retirement system as provided in this section.

(2) The employee's continued service with the Michigan high school athletic association is service in the retirement system for the purpose of determining the employee's eligibility for retirement benefits that are dependent upon a specified period of total service or upon the attainment of a specified age while in service, or both. Notwithstanding section 81a(1)(c), the employee shall be eligible to retire under section 81a after December 31, 1987, if all the other requirements of that section are met.

(3) The employee shall be eligible to elect to receive his or her retirement allowance under section 85 if all the requirements of that section are met. The employee shall also be eligible to elect the option provided in section 85(1)(b) and nominate a retirement allowance beneficiary as specified in section 85(3) if all the other requirements of section 89 are met. If a Michigan high school athletic association employee has met all age and service requirements for a retirement allowance as of December 31, 1987, the employee is eligible for benefits under section 85 as of December 31, 1987.

(4) If the employee terminates his or her employment with the Michigan high school athletic association with a retirement allowance payable under the retirement system, the computation of the retirement allowance shall be based upon all of the following:

(a) The employee's credited service as of December 31, 1987.

(b) The employee's final average compensation before January 1, 1988, as determined under section 4, or, the average of the employee's annual compensation immediately before January 1, 1988 if the employee's total credited service is less than 5 years.

History: Add. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1359 Calculation of retirement allowance; election and attainment date designation; credit for future service accrued and compensation earned; alternative election; method of accepting elections, designations, and alternative elections; member not making or rescinding election or who makes alternative election; reemployed member; definitions.

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

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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 standard time on January 9, 2013. 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

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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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

ARTICLE 4

38.1360 Purchase of service credit; 2 years service credit required.

Sec. 60. Notwithstanding any provision of this act to the contrary, on and after July 1, 2008, a member shall not purchase service credit under this act unless the member has been granted at least 2 years of service credit under section 68.

History: Add. 2007, Act 111, Imd. Eff. Oct. 1, 2007.

Popular name: Act 300

38.1361 Employment of retirant in reporting unit.

Sec. 61. (1) Except as otherwise provided in this section, if a retirant is receiving a retirement allowance other than a disability allowance payable under this act or under former 1945 PA 136, on account of either age or years of personal service performed, or both, and becomes employed by a reporting unit, the following must occur:

(a) The retirant is not entitled to a new final average compensation or additional service credit under this retirement system unless additional service is performed equivalent to 5 or more years of service credit or, if the retirant has contributed to the member investment plan, the equivalent of 3 or more years of service credit. The retirant may elect to have the retirement allowance recomputed based on the added credit or the final average compensation resulting from the added service, or both. A retirement allowance shall not be recomputed until the retirant pays into the retirement system an amount equal to the retirant's new final average compensation multiplied by the percentage determined under section 41(2) for normal cost and unfunded actuarial accrued liabilities, not including the percentage required for the funding of health benefits, multiplied by the total service credit in the period in which the retirant's additional service was performed.

(b) The retirant's retirement allowance must be reduced by the lesser of the amount that the earnings in a calendar year exceed the amount permitted without a reduction of benefits under the social security act, chapter 531, 49 Stat 620, or 1/3 of the retirant's final average compensation. For purposes of computing allowable earnings under this subdivision, the final average compensation must be increased by 5% for each full year of retirement.

(2) The retirement system may offset retirement benefits payable under this act against amounts owed to the retirement system by a retirant or retirement allowance beneficiary.

(3) Subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is a former teacher or administrator employed in a teaching or research capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3). A university that employs a retirant under this subsection shall report that employment to the retirement system by July 1 of each year. The university shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

(b) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(4) Not later than April 1 of each year, the superintendent of public instruction shall compile a listing of critical shortage disciplines based on evidence of a shortage for each discipline. The department of education shall post the listing and the accompanying evidence on its website. If a discipline is not included in the listing of critical shortage disciplines, 2 or more contiguous reporting units may submit a written request to

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the superintendent of public instruction to add a discipline to the listing. The request must include evidence of a shortage of the discipline in those contiguous reporting units. If the superintendent of public instruction determines that there is a shortage of the discipline in those contiguous reporting units, the superintendent of public instruction shall add the discipline to the listing. A discipline added under a request under this subsection is applicable only to those contiguous reporting units. For purposes of this subsection, a reporting unit that is a public school academy is considered contiguous to any other reporting unit in which the public school academy is located.

(5) Until July 1, 2018, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has a situation, not including a situation caused by a labor dispute, that necessitates the hiring of the retirant in an area that has been identified by the superintendent of public instruction as a critical shortage discipline under subsection (4).

(b) The retirant is employed under any situation described in subdivision (a) for a period not to exceed 3 years for that retirant.

(c) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(d) The reporting unit pays 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for each retirant who becomes employed by a reporting unit under this subsection.

(6) Subsection (5) only applies for retirants who have been retired for at least 12 months before becoming employed under this section.

(7) Notwithstanding any other provision of this act to the contrary, for a retirant who retires after June 30, 2010, and following a bona fide termination, including not working in the month of the retirant's retirement effective date, and who becomes employed by a reporting unit and the retirant's amount of earnings in a calendar year exceeds 1/3 of the retirant's final average compensation, the retirant forfeits his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for the entire month of each month in which the retirant is employed at the reporting unit unless the retirant is employed as described in subsection (5), (9), (10), or (11). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. The retirement allowance and retirement system subsidy for health care benefits shall resume without recalculation on the first of the month following the month in which the retirant has terminated reporting unit employment.

(8) Notwithstanding any other provision of this act to the contrary, for a retirant who retires after June 30, 2010, who performs core services at a reporting unit as determined by the retirement system, but who is employed by an entity other than the reporting unit or is an independent contractor, the retirant forfeits his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for the entire month of each month in which the retirant is performing core services at the reporting unit, unless the retirant is employed as described in subsection (9), (10), or (12). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. The retirement allowance and retirement system subsidy for health care benefits shall resume without recalculation on the first of the month following the month in which the retirant has terminated performing core services, as described in this subsection.

(9) Until July 1, 2018, subsection (1) does not apply to a retirant who retires after June 30, 2010 and on or before September 1, 2015; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as a substitute teacher by a reporting unit, by an entity other than the reporting unit, or as an independent contractor; and whose amount of earnings attributable to employment by or at a reporting unit in a calendar year does not exceed 1/3 of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides substitute teacher services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of substitute teachers to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the substitute teacher and the total earnings paid to the substitute teacher for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit that engages substitute teachers through an entity other than a reporting unit or as independent contractors shall obtain from the substitute teacher's

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employer a list of all substitute teachers the employer supplies to that reporting unit and the total earnings paid to each substitute teacher for the reporting period. An employer other than a reporting unit that employs substitute teachers as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor.

(10) Until July 1, 2018, subsection (1) does not apply to a retirant who retires after June 30, 2010 and on or before September 1, 2015; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as an instructional coach or a school improvement facilitator by an entity other than the reporting unit or as an independent contractor; and whose amount of earnings attributable to employment at a reporting unit in a calendar year does not exceed 1/3 of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides the services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of instructional coaches or school improvement facilitators to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the instructional coach or school improvement facilitator and the total earnings paid to the coach or facilitator for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit shall obtain from the coach's or facilitator's employer a list of all instructional coaches and school improvement facilitators the employer supplies to that reporting unit and the total earnings paid to each coach or facilitator for the reporting period. An employer other than a reporting unit that employs instructional coaches or school improvement facilitators as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor. As used in this subsection, "instructional coach" and "school improvement facilitator" mean those terms as used in the listing of critical shortage disciplines developed by the superintendent of public instruction under subsection (4).

(11) Subsection (1) does not apply to a retirant who is a former teacher or administrator who retires after June 30, 2010 and on or before October 1, 2014, who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed in a teaching or research capacity or in a program-department direction capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3). A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for recomputation of his or her retirement allowance. The reporting unit at which the retirant provides the services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the employment of a retirant as described in this subsection to the retirement system by July 1 of each year. The reporting unit shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

(12) Until July 1, 2018, notwithstanding any provision of this act to the contrary, for a retirant who retires after June 30, 2010, who is employed as an independent contractor at a reporting unit for a situation described in subsection (5)(a) or is employed at a reporting unit for a situation described in subsection (5)(a) by an entity other than the reporting unit, who has been retired for at least 12 months before becoming employed under this subsection, and whose employment under this subsection does not exceed 3 years, the reporting unit at which the retirant provides services under this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1999, Act 68, Imd. Eff. June 25, 1999;—Am. 2001, Act 30, Imd. Eff. June 29, 2001;—Am. 2004, Act 5, Imd. Eff. Feb. 20, 2004;—Am. 2006, Act 158, Imd. Eff. May 26, 2006;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 464, Imd. Eff. Dec. 27, 2012;—Am. 2015, Act 219, Imd. Eff. Dec. 16, 2015.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

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38.1362 Purchasing service credit; proof of service; contribution and interest.

Sec. 62. If a member claims credit for service performed under this act or former Act No. 136 of the Public Acts of 1945, during the period the member was entitled to membership in the retirement system, but the member's employment was not reported to the retirement system and contributions were not remitted for that member, the member may purchase the credit upon presenting acceptable proof of the service and contributing to the retirement system an amount equal to the amount the member would have contributed according to the schedule governing contributions in effect at the time of that service, plus regular interest on the contributions.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1363 Noncontributory plan; applicability; duty of reporting unit.

Sec. 63. The noncontributory plan shall apply to each public school employee who is included in the membership of the retirement system. Each reporting unit shall remit the contributions as provided in section 42.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1364 Purchase of service credit.

Sec. 64. (1) If a person described in section 5(1)(d) later becomes a member of this retirement system, service credit shall not be given for employment that is excluded in that subdivision for purposes of determining a retirement allowance.

(2) If a person described in section 5(1)(b) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment that is excluded in section 5(1)(b) for purposes of determining a retirement allowance upon the payment by the person's employer under the transitional public employment program from funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, as funds permit, to the retirement system of the contributions, plus regular interest, the employer would have paid had the employment been rendered in a position covered by this act. During the person's employment in the transitional public employment program, the person's employer shall place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees that the employer determines would transfer from the transitional public employment program into positions covered by this act. If the funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, are insufficient, the remainder of the employer contributions shall be paid by the person's employer under the transitional public employment program. If a person was not employed by a reporting unit but performed services for that reporting unit under a transitional public employment program and became a member of this retirement system within 12 months after the date of termination as a participant in the transitional public employment program, service credit shall be given for that transitional public employment program service in the manner provided in this subsection. The reporting unit for which the transitional public employment program service was performed is the person's employer under the transitional public employment program for the purposes of this subsection.

(3) Before January 31, 1991, a person excluded from membership as provided by section 5(1)(a) who later becomes a member of this retirement system shall be entitled to purchase service credit for that service, as provided in subsection (6), upon presenting acceptable proof of the service for the excluded period.

(4) Before January 31, 1991, a member of the retirement system with employment excluded from membership service under section 5(1)(c) or under section 23a(1)(c) of chapter I or section 12(2)(c) of chapter II of former Act No. 136 of the Public Acts of 1945 shall be entitled to purchase service credit for that employment, as provided in subsection (6), upon presentation of documentation of the employment rendered that is verified from official reporting unit records or other acceptable documentation as determined by the retirement board. This subsection only applies after June 30, 1987 if the employment being purchased was performed while the person was enrolled as a graduate student at the reporting unit and the employment consisted of 1 or more of the following:

(a) Teaching.

(b) Research.

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(c) Academic advising.
(d) Administration.
(e) Library work.
(f) Other employment of an academic or educational nature, as determined by the board.

(5) Before January 31, 1991, a member of the retirement system with out of system public education service or with service described in section 69c(1) that was performed while the person was a full-time student, whether performed before, on, or after October 31, 1980, shall be entitled to purchase service credit for that service, as provided in subsection (6), upon presentation of documentation of the service rendered that is verified from official payroll records or other acceptable documentation as determined by the retirement board pursuant to R 38.1119 of the Michigan administrative code. This subsection only applies after June 30, 1987 if the employment being purchased was performed while the person was enrolled as a graduate student at a public college or public university and the employment consisted of 1 or more of the following:
(a) Teaching.
(b) Research.
(c) Academic advising.
(d) Administration.
(e) Library work.
(f) Other employment of an academic or educational nature, as determined by the board.

(6) Service credit shall not be given under subsection (3), (4), or (5) until the member pays into the retirement system the actuarial cost. Service credit shall not be given under subsection (3), (4), or (5) unless the service being purchased is followed by 5 years of reporting unit service credit under this act or former Act No. 136 of the Public Acts of 1945. Credit provided by subsection (3), (4), or (5) shall not be used in satisfying the minimum of 10 years of service credit required under this act for a retirement allowance.

(7) A person excluded from membership as provided by section 5(1)(f), (g), (h), (i), (j), or (k) shall not receive service credit for the employment described in those subdivisions even if the person subsequently becomes or has been a member of this retirement system.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1983, Act 111, Imd. Eff. July 12, 1983;—Am. 1984, Act 166, Imd. Eff. June 28, 1984;—Am. 1984, Act 428, Imd. Eff. Jan. 2, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1988, Act 384, Imd. Eff. Dec. 21, 1988;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1365 Written application for payment of accumulated contributions; forfeiture of prior service.

Sec. 65. (1) If a member ceases to be a public school employee before satisfying the age and service requirements for a retirement allowance as provided in section 81(1)(a) or (b) or 43b or if a member elected the optional retirement system under the optional retirement act of 1967, Act No. 156 of the Public Acts of 1967, as amended, being sections 38.381 to 38.388 of the Michigan Compiled Laws, the member upon written application shall be paid, except as otherwise provided in this act, the accumulated contributions standing to the member's credit in the reserve for employee contributions and in the reserve for member investment plan, payable before the expiration of 90 days after submitting the written application for payment on a form provided by the retirement board.

(2) Upon payment of the accumulated contributions standing to the member's credit in the reserve for employee contributions and in the reserve for member investment plan pursuant to subsection (1), the member shall forfeit the prior service and contributory membership service credited to the member, and the noncontributory membership service credited during periods when the member contributed to the member investment plan. However, other membership service acquired under the noncontributory plan shall be nonforfeitable except as provided in section 67. The refund shall be payable notwithstanding any time limit for application contained in former Act No. 184 of the Public Acts of 1937, former Act No. 56 of the Public Acts of 1941, or former Act No. 136 of the Public Acts of 1945.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1366 Cessation of membership; forfeiture of service; return to service; reinstatement of previously forfeited service.

Sec. 66. (1) Except as provided in section 65, if a member ceases to be a public school employee for any reason, except while on official leave from service with the reporting unit, the person shall cease to be a member. The person's credited contributory membership service and credited prior service, and the

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noncontributory membership service credited during periods when the member contributed to the member investment plan, shall be forfeited and no longer in effect if the person withdraws the accumulated contributions from the retirement system. If the person returns to reporting unit service, the person shall again become a member. If accumulated contributions were withdrawn and the person returns for a period of not less than 1 year of credited service, the person may pay into the retirement system, before the effective date of the person's retirement, the amount withdrawn, together with simple interest on the amount withdrawn from the reserve for employee contributions and compound interest on the amount withdrawn from the reserve for member investment plan computed in each case from the date of withdrawal to the semiannual anniversary of the date of withdrawal following the date of repayment. Upon payment in full, the member shall be allowed credit for the service upon which the refund was based, which shall reinstate the previously forfeited service. However, a member who previously withdrew the contributions and who separated from reporting unit service for 60 consecutive calendar months shall not be allowed credit for the service upon which the refund was based until the member returns to service for 2 or more years of credited service and returns the accumulated contributions previously withdrawn, together with simple interest on the amount withdrawn from the reserve for employee contributions and compound interest on the amount withdrawn from the reserve for member investment plan computed in each case from the date of withdrawal to the semiannual anniversary of the date of withdrawal following the date of repayment.

(2) Upon a member's retirement or death, the member shall cease to be a member.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1367 Credit for service in another retirement system; withdrawal of accumulated contributions; forfeiture of service or monthly allowance.

Sec. 67. A member who has met the age and service requirements to receive a retirement allowance from this retirement system as provided in section 81 may withdraw all of the accumulated contributions, if any, if the member is entitled to receive credit for all or part of the service in another retirement system. Withdrawal shall result in the forfeiture of prior service and contributory plan membership service credited to the member upon payment of the refund. A member who has met the age and service requirements to receive a monthly allowance under the noncontributory plan, or combination of contributory and noncontributory plan service, by written waiver and withdrawal of the accumulated contributions, if any, may forfeit a monthly allowance if the member is entitled to receive credit for all or part of his or her service in another retirement system. Once a retirant is in receipt of a retirement allowance from this retirement system, it shall not be forfeited.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1368 Service credit; computing terms of service.

Sec. 68. (1) The retirement board shall grant 1 year of service credit to a member who has been employed and remunerated for services performed for not less than 1,020 hours in a school fiscal year. In determining whether a member is entitled to service credit under this subsection, the retirement system shall calculate service credit using the payroll cycle reported to the retirement system by the employer of the member. If a biweekly payroll cycle is reported, the member shall not accrue more than 60 hours in a payroll cycle. If a semimonthly payroll cycle is reported, the member shall not accrue more than 72 hours in a payroll cycle. If a monthly payroll cycle is reported, the member shall not accrue more than 138 hours in a payroll cycle. If a quarterly payroll cycle is used, the member shall not accrue more than 396 hours in a payroll cycle.

(2) A part-time member or a member employed for a fraction of the school fiscal year shall receive service credit for full-time service on the basis of 60 or more hours per biweekly period and proportionate credit for less than 60 hours on the basis of 60 hours for full-time credit in the proportion which the hours employed in the school fiscal year bears to 1,020 hours.

(3) In computing terms of service, a year shall be a legal fiscal year at the time and place where the service was performed. Not more than 1 year's service shall be counted for retirement purposes in any school fiscal year.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 2003, Act 175, Imd. Eff. Aug. 22, 2003.

38.1369 Out of system public education service; condition for granting membership or prior service credit; eligibility for retirement allowance; computation of payment; limitation; refund; noncreditable service; election to purchase certain service credit.

Sec. 69. (1) As a condition for granting membership or prior service credit under this act for out of system

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public education service, a member shall pay to the retirement system an amount equal to the amount the member would have contributed pursuant to the schedule governing member contributions in effect at the time of that service had the service been performed under this act or former Act No. 136 of the Public Acts of 1945, together with regular interest from the end of the school fiscal year in which service was performed to the semiannual anniversary of the date following the payment, and shall have 5 years of reporting unit service credit under this act or former Act No. 136 of the Public Acts of 1945, following the out of system public education service.

(2) A member shall not be entitled to a retirement allowance based on out of system public education service that was performed after July 1, 1974, until the member pays into the retirement system for that service an amount equal to 5% of the member's full-time or equated full-time compensation earned in the school fiscal year before the school fiscal year in which the application to purchase and payment for the service credit is made, multiplied by the years of that service the member elects to purchase and unless that service is followed by 5 years of reporting unit service credit under this act.

(3) For the purposes of computing payment under this section, the compensation amount used shall not be less than the highest school fiscal year compensation previously earned by the member. If the compensation amount used for computing payment under this section exceeds the member's final average compensation determined at the time of retirement, the payment required under this section shall be recomputed using the member's final average compensation and a refund shall be made based upon the recomputation. Credit provided by this section shall not be used in satisfying the minimum of 10 years of service credit required under this act for a retirement allowance. A person who had employment with a community mental health service program as described in section 6(2) shall not be subject to the minimum of 10 years of service credit, if the other requirements of this section are met.

(4) A member shall not receive more than 15 years of out of system public education service. A member shall not receive more out of system public education service than service performed under this act or former Act No. 136 of the Public Acts of 1945, unless, before July 1, 1974, the member applied for out of system public education service credit based upon payment of contributions for that service credit as required under former Act No. 136 of the Public Acts of 1945. The total out of system public education service credited shall be used to compute the member's retirement allowance if the minimum service requirements performed under this act or former Act No. 136 of the Public Acts of 1945 are met.

(5) If a member who made payment for out of system public education service dies and a retirement allowance beneficiary has not been designated, or if the member withdraws from service before his or her retirement becomes effective, the payment made by the member shall be refunded to the member or to the member's refund beneficiary upon request.

(6) Out of system public education service shall not be creditable toward retirement under this act if the member is or will be receiving a retirement allowance for the same service from another retirement system.

(7) Out of system public education service shall not be creditable under this act unless similar service performed in a reporting unit would be creditable.

(8) Before January 31, 1991, a member may elect to purchase service credit as an elementary or secondary teacher at a United States armed forces military base in the United States or a foreign country upon payment to the retirement board of the actuarial cost.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 428, Imd. Eff. Jan. 2, 1985;—Am. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1369a, 38.1369b Repealed. 1989, Act 194, Eff. Jan. 31, 1991.

Compiler's note: The repealed sections pertained to purchase of service credit.

Popular name: Act 300

38.1369c Employee in nonpublic elementary or secondary educational institution or nonpublic institution of higher education, employee in foreign country at school for United States personnel or dependents, full-time teacher with job corps, teacher in trust territory, or teacher on Indian reservation; purchase of service credit; request; documentation; payment of amount equal to actuarial cost; condition to service being credited; satisfaction of minimum service credit for retirement allowance; refund; effect of pension or annuity; retirant with retirement allowance effective date on or after January 1, 1988, and on or before December 21, 1988; definitions.

Sec. 69c. (1) A member may elect to purchase service credit for service performed as an employee in a

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nonpublic elementary or secondary educational institution or a nonpublic 2- or 4-year institution of higher education in this state, in other states of the United States, or in the territorial possessions of the United States upon request and presentation of documentation of the employment rendered that is verifiable from official employment or payroll records or other acceptable documentation as determined by the retirement board, and upon payment to the retirement system of the actuarial cost.

(2) Before January 31, 1991, a member may elect to purchase service credit for service performed as an employee in a foreign country at a school for United States personnel or dependents of the United States military or United States department of state personnel; service performed as a full-time teacher with the job corps created pursuant to section 422 of part B of title IV of the job training partnership act, Public Law 97-300, 29 U.S.C. 1692; service performed as a teacher in a trust territory or former trust territory of the United States; or service performed as a teacher on an Indian reservation in this country; upon request and presentation of documentation of the employment rendered that is verifiable from official employment or payroll records or other acceptable documentation as determined by the retirement board, and upon payment to the retirement system of the actuarial cost.

(3) Service shall not be credited under this section unless the service being purchased is followed by at least 5 years of reporting unit service credit under this act or former Act No. 136 of the Public Acts of 1945. Service purchased under this section shall not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act. The total service credited under subsections (1) and (2) shall not exceed 5 years.

(4) If a member who made payment for service under this section dies and a retirement allowance beneficiary has not been designated, or if the member withdraws from service before his or her retirement becomes effective, the payment made by the member shall be refunded to the member or to the member's refund beneficiary upon request.

(5) Service shall not be credited under this section if the member is or will be receiving a pension or annuity for the same service from another retirement system.

(6) A person who became a retirant with a retirement allowance effective date on or after January 1, 1988 and on or before December 21, 1988 shall be entitled to purchase service credit for service performed as an employee in a nonpublic elementary or secondary educational institution or a nonpublic 2- or 4-year institution of higher education as provided by this section. Service credit purchased pursuant to this subsection shall be purchased before July 1, 1989, or the expiration of 6 months after December 21, 1988, whichever is later. The monthly retirement allowance of a retirant entitled to purchase service credit under this subsection shall be recomputed based upon the additional service credit. The recomputed monthly amount shall be payable beginning on the first day of the month following the month in which payment is received by the retirement system.

(7) As used in this section:

(a) “Nonpublic elementary or secondary educational institution” means an institution that offers or provides an organized course of academic study primarily oriented toward the awarding of high school diplomas. Nonpublic elementary or secondary educational institution does not include a proprietary school.

(b) “Nonpublic 2- or 4-year institution of higher education” means an institution that offers an organized course of academic study primarily oriented toward the awarding of associate, baccalaureate, master's, doctoral, or other academic degrees. Nonpublic 2- or 4-year institution of higher education does not include a proprietary school.

(c) “Proprietary school” means a school that uses a certain plan or method to teach a trade, occupation, or vocation for a consideration, reward, or promise. Proprietary school includes, but is not limited to, a private business, trade, or home study school.

History: Add. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 385, Imd. Eff. Dec. 21, 1988;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1369d, 38.1369e Repealed. 1989, Act 194, Eff. Jan. 31, 1991.

Compiler's note: The repealed sections pertained to purchase of service credit.

Popular name: Act 300

38.1369f Election to purchase not more than 5 years of service credit less years of service credit purchased under other provisions; request; payment of actuarial cost; prohibited uses of service credit; refund.

Sec. 69f. (1) A member may elect to purchase not more than 5 years of service credit less the number of years of service credit purchased under sections 6(2)(c), (d), (e), and (f), 64(3), (4), and (5), 69a, 69b, 69c(2),

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69d, 69e, 74a, 74b, 77, and 78, upon request and payment to the retirement system of the actuarial cost.

(2) Service credit purchased under this section may not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act.

(3) Service credit purchased under this section shall not be used to satisfy the service credit requirement set forth in section 81(1)(a) for a retirement allowance paid prior to age 46 as provided by section 43b(a).

(4) If a member who made payment for service under this section dies and a retirement allowance is not payable, or if the member withdraws from service and a retirement allowance is not payable, the payment made by the member shall be refunded to the member or to the member's refund beneficiary upon request.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1369g Former employees of reporting unit as public school employees; conditions; remittances required for granting of service credit; definitions.

Sec. 69g. (1) Subject to subsections (2) and (3), a member whose reporting unit service consists of library or museum service and whose employment with that reporting unit is terminated because that reporting unit becomes a participating municipality to a district library agreement, or a former employee of a reporting unit that becomes a participating municipality to a district library agreement who was a member as the result of former employment with that reporting unit, is a public school employee for purposes of this act if both of the following conditions are met:

(a) The person subsequently is employed by the district library established pursuant to that district library agreement.

(b) The district library board of that district library adopts a resolution that provides that the district library will remit to the retirement system the amount, percentages, and contributions described in subsection (2) for that person.

(2) The retirement board shall grant service credit to a member described in subsection (1) only if the district library remits to the retirement system the amount required by section 42, the percentage of aggregate annual compensation determined for current service as required by section 41, and the percentage determined for unfunded accrued service as required by section 41.

(3) The remittances described in subsection (2) are the exclusive obligation of the district library and shall not be a separate obligation by specific reimbursement or otherwise of the state.

(4) As used in this section:

(a) “District library” means a library established pursuant to section 3 of the district library establishment act, Act No. 24 of the Public Acts of 1989, being section 397.173 of the Michigan Compiled Laws.

(b) “District library agreement” means that term as used in the district library establishment act, Act No. 24 of the Public Acts of 1989, being sections 397.171 to 397.196 of the Michigan Compiled Laws.

(c) “District library board” means that term as used in the district library establishment act, Act No. 24 of the Public Acts of 1989.

(d) “Participating municipalities” means that term as used in the district library establishment act, Act No. 24 of the Public Acts of 1989.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1370 State of Michigan service; condition for granting membership or prior service credit; petition for transfer of service credit, accumulated contributions, and interest; refund.

Sec. 70. (1) As a condition for granting membership or prior service credit under this act for state of Michigan service, a member shall pay to the retirement system an amount equal to the amount the member would have contributed under the contributory plan for service performed before July 1, 1977 pursuant to the schedule governing member contributions in effect at the time of that service had the service been performed under this act or former Act No. 136 of the Public Acts of 1945, together with regular interest from the end of the school fiscal year in which the service was performed to the semiannual anniversary of the date following payment, and shall relinquish all rights to retirement under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws. A member shall not receive benefits pursuant to sections 43b and 43c for service performed on or after January 1, 1987 until the member pays the difference between the actuarial equivalent of the benefits provided by sections 43b and 43c and by the state employees' retirement act, Act No. 240 of the Public Acts of 1943.

(2) Credit for service performed as a state employee under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, as amended, shall be on the same basis for eligibility in all respects, for any form of retirement provided in this act as if the service were performed in a reporting unit under this act.

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(3) A former member who on or before July 1, 1974, was employed in the state classified or unclassified service, whose membership was transferred to the state employees' retirement system under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, as amended, and who again became a member of the retirement system created under former Act No. 136 of the Public Acts of 1945 or becomes a member of the retirement system created under this act, shall be entitled to petition the retirement system in writing for a transfer of the member's accumulated contributions, including interest, and service standing to the member's credit with the state employees' retirement system to this retirement system. Upon receipt of the member's petition, service standing to the member's credit, accumulated contributions, and interest shall be transferred from the employee's savings fund created under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, as amended, to the reserve for employee contributions of this retirement system. A person whose membership service and accumulated contributions are transferred back to this retirement system immediately shall have the transferred service credit recognized by the retirement system on the same basis as if the person continuously had been a member of the retirement system.

(4) If a member who made payment for state of Michigan service dies and a retirement allowance beneficiary has not been designated, or withdraws from service before his or her retirement becomes effective, the payment made by the member shall be refunded to the member or to the member's refund beneficiary upon request.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1371 Sabbatical leave; employee organization professional services leave or released time.

Sec. 71. (1) The retirement board shall grant service credit for the time a member is on a sabbatical leave authorized by a reporting unit, if the member returns to regular employment with the same reporting unit and acquires 1 year or more of subsequent service credit with that same reporting unit and if the member acquired 5 or more years of credited service with the reporting unit immediately before the sabbatical leave.

(2) If the sabbatical leave described in subsection (1) is granted before July 1, 1981, the reporting unit, if the reporting unit had a noncontributory plan at the time the sabbatical leave is granted, or the member, if the reporting unit has a contributory plan at the time the sabbatical leave is granted, shall pay to the system for each year of sabbatical leave credit an amount equal to 5% of the member's compensation earned in the school fiscal year immediately before the school fiscal year in which the sabbatical leave is granted, together with regular interest from the end of the school fiscal year in which the sabbatical leave was or is granted to the earlier of the following dates following the date of payment, the first day of the school fiscal year beginning after the date of payment or the first day of the seventh month of the school fiscal year in which the payment is made. If the reporting unit makes the payment required by this subsection, the reporting unit also shall pay the required interest. If the member makes the payment required by this subsection, the member also shall pay the required interest.

(3) If the sabbatical leave described in subsection (1) is granted after June 30, 1981, the member shall pay an amount equal to 5% of the member's full-time or equated full-time compensation earned in the school fiscal year immediately before the school fiscal year in which payment is made for each year of service credit the member elects to purchase. In computing payment under this subsection, the compensation amount used, except as otherwise provided in this subsection, shall not be less than the highest school fiscal year compensation the member earned from the reporting unit that granted the sabbatical leave. If the compensation amount used for computing payment under this subsection exceeds the member's final average compensation determined at the time of retirement, the payment required under this subsection shall be recomputed using the member's final average compensation and a refund shall be made based upon the recomputation.

(4) If, before October 31, 1980, either the reporting unit or the member has contributed 5% of the member's compensation for the school fiscal year in which the sabbatical leave was granted in order to purchase service credit for that sabbatical leave, a further payment for the purchase of service credit for that sabbatical leave shall not be required. If a member has paid the amount required under subsection (2) for the purchase of service credit for sabbatical leave, but later receives a refund of that amount, the member, not the reporting unit, shall repay the amount with regular interest as required by subsection (2) if the member elects to purchase service credit for the sabbatical leave.

(5) Effective October 1, 1981, the retirement board shall grant service credit for the time a member is on either an employee organization professional services leave or employee organization professional services released time authorized by a reporting unit if all of the following conditions are satisfied, as applicable:

(a) For a member who is on either a professional services leave or professional services released time that

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first began before October 1, 1996, which leave or released time is renewed annually by the reporting unit, the member is included on the reporting unit's reports required by section 42(6) and compensation, service, contribution, and other requirements are reported on the same basis as for those members of the reporting unit who were not granted an employee organization professional services leave or employee organization professional services released time.

(b) For a member who is on either a professional services leave or professional services released time, which leave or released time does not meet the requirements of subdivision (a), the member is included on the reporting unit's reports in the manner required by subdivision (a), except that compensation is reported at the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time along with the normal and customary compensation increases that would have been paid to the member by the reporting unit had the member remained in the same position held at the reporting unit immediately preceding the date the member commenced the leave or released time. However, if the member was not working a full 12-month period for the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time and is working a full 12-month period for the public school employee organization, the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the leave or released time may be increased proportionately to reflect the additional time worked for the public school employee organization. That adjusted compensation, along with the normal and customary compensation increases otherwise allowed in this subdivision, shall then be reported as required in this subdivision.

(c) For a member who is on either a professional services leave or professional services released time that first began before October 1, 1996, which leave or released time is renewed annually by the reporting unit, the reporting unit remits the amount required by section 42 and the percentage of aggregate annual compensation provided from the state school aid fund for current service, if any, the percentage determined for unfunded accrued service as required by section 41, and the employer's share of social security contributions if the reporting unit is responsible for remitting the employee's share of social security contributions.

(d) For a member who is on either a professional services leave or professional services released time, which professional services leave or professional services released time does not meet the requirements of subdivision (c), the reporting unit remits the amounts required by subdivision (c) based upon the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time along with the normal and customary compensation increases that would have been paid to the member by the reporting unit had the member remained in the same position held at the reporting unit immediately preceding the date the member commenced the leave or released time. However, if the member was not working a full 12-month period for the reporting unit immediately preceding the date the member commenced the professional services leave or professional services released time and is working a full 12-month period for the public school employee organization, the rate of compensation paid to the member by the reporting unit immediately preceding the date the member commenced the leave or released time may be increased proportionately to reflect the additional time worked for the public school employee organization. That adjusted compensation, along with the normal and customary compensation increases otherwise allowed in this subdivision, shall then be reported as required in this subdivision.

(6) The reporting unit shall be reimbursed those sums paid to the retirement board pursuant to subsection (5) by the member or the public school employee organization on a current basis. A member who has credited service as an employee of a school district of the first class, as described in part 6 of the revised school code, Act No. 451 of the Public Acts of 1976, being sections 380.401 to 380.485 of the Michigan Compiled Laws, for a leave of absence effective before October 1, 1981, shall continue to receive credit based upon the provisions of the law of this state in effect at the time the leave of absence was initially effective.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1982, Act 197, Imd. Eff. July 1, 1982;—Am. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1996, Act 268, Imd. Eff. June 12, 1996.

Popular name: Act 300

38.1372 Repealed. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Compiler's note: The repealed section pertained to return to service on termination of statutory period for payment of duty disability retirement allowance.

Popular name: Act 300

38.1373 Resumption of employment following honorable discharge or release from active duty with armed forces; service credit; limitation; accumulation of contributions to reserve

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for employee contributions at regular interest.

Sec. 73. A member of this retirement system who enters active duty with the armed forces and within 24 months after the date of the member's honorable discharge or release from active duty from the armed forces resumes employment as a public school employee under this act, former Act No. 136 of the Public Acts of 1945, former Act No. 56 of the Public Acts of 1941, or former Act No. 184 of the Public Acts of 1937, shall receive not more than 6 years of service credit, except required service extending beyond 6 years, for time spent in the armed forces credited to the member as a member of the retirement system. Credit also shall be given to a member who meets the requirements of this section for active duty service which the member rendered before becoming a member, if the member pays to the retirement system an amount determined pursuant to section 74 for the years of service rendered before becoming a member which are to be credited. The total service credited under this section shall not exceed 6 years. Service shall not be credited if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction shall not apply to a person who has acquired or will acquire retirement eligibility under the federal government for services in the reserve. During the period of the service of a member, contributions to the reserve for employee contributions standing to the member's credit as of the last payroll date preceding military service shall be accumulated at regular interest.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1374 Service credit for member not meeting requirements of MCL 38.1373; election; computation of payment; restriction; condition.

Sec. 74. (1) A member of this retirement system after May 31, 1976, who does not meet the requirements of section 73, and who enters active duty with the armed forces, may elect to receive service credit for not more than 5 years of active duty upon request and payment to the retirement system of an amount equal to 5% of the member's full-time or equated full-time compensation earned in the school fiscal year immediately before the school fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum.

(2) For the purposes of computing payment under this section, the compensation amount used shall not be less than the highest school fiscal year compensation previously earned by a member. If the compensation amount used for computing payment under this section exceeds the member's final average compensation determined at the time of retirement, the payment required under this section shall be recomputed using the member's final average compensation and a refund shall be made based upon the recomputation.

(3) Service shall not be credited if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction shall not apply to a person who has acquired or will acquire retirement eligibility under the federal government for service in the reserve.

(4) Service shall not be credited under this section until the member has accumulated 10 years of full-time or equated full-time service credit performed under this act or former acts.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1374a, 38.1374b Repealed. 1989, Act 194, Eff. Jan. 31, 1991.

Compiler's note: The repealed sections pertained to purchase of service credit.

Popular name: Act 300

38.1375 Separation from service or reduction of hours for purposes of parental leave; purchase of service credit; refund; application; "parental leave" defined.

Sec. 75. (1) A member who left or leaves service as a public school employee; who left or leaves out-of-system public education service; or a member of the state employees' retirement system under section 13 of the state employees' retirement act, 1943 PA 240, MCL 38.13, who left or leaves service as a state employee for purposes of parental leave who subsequently becomes a member of this retirement system without other intervening employment of more than 20 hours per week for each week for which service credit was claimed may purchase service credit for the time period or periods during which the person was separated from service because of parental leave if the member satisfies the requirements of this section. The member shall submit an application as described in subsection (5) and shall pay the actuarial cost to the retirement system. The total service credited under this section shall not exceed 5 years. A member requesting purchase of service credit under this section shall certify to the retirement system the purpose for which the member took leave or was separated from service as a public school employee; a person performing out-of-system

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public education service; or a member of the state employees' retirement system under section 13 of the state employees' retirement act, 1943 PA 240, MCL 38.13.

(2) Service credit purchased under this section may not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance beneficiary has not been designated, or if the member leaves reporting unit service before his or her retirement becomes effective, the payment made by the member shall be refunded upon request to the member or to the member's refund beneficiary.

(4) A member who reduces hours of employment with a reporting unit for purposes of parental leave or a person who reduces hours of out of system public education service for purposes of parental leave and who subsequently becomes a member of this retirement system may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member requesting purchase of service credit under this section shall submit an application as prescribed by the retirement system in which the member shall certify the time period claimed for parental leave and the purpose of the parental leave. If the request for purchase of service credit under this section is a result of leave taken to care for the member's child by birth or adoption, then the member also shall submit a certified copy of a birth certificate or adoption document from the appropriate court of jurisdiction.

(6) Parental leave is creditable under this act until the child, by birth or adoption, attains age 18 or is married, whichever occurs first.

(7) As used in this section, "parental leave" means either of the following:

(a) The presence of the member in the active participation or supervision in the day-to-day, ongoing care or maintenance of his or her child by birth or adoption, for which the member reduced or eliminated the number of hours worked for the state, in out-of-system public education service, or for the reporting unit in a normal work time period.

(b) A member's pregnancy that occurred while a member, whether brought to full term or not, childbirth, and recuperation, for which the member reduced or eliminated the number of hours worked for the state, in out-of-system public education service, or for the reporting unit in a normal work time period.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2006, Act 617, Eff. Jan. 1, 2009.

Popular name: Act 300

38.1376 Partial purchase of service credit.

Sec. 76. On and after the effective date of this section, a member who is otherwise entitled to purchase service credit for active duty in the armed forces under section 73 or 74, or for maternity or paternity or child rearing under section 75, may purchase such service credit in separate increments equal to 1 or more full years, or a remaining fraction of a year, if any, or both. Partial purchase of service credit under this section shall not bar future such purchases otherwise in compliance with this section and sections 73, 74, and 75, but computation of the amount of payment due shall be made separately for each purchase.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985.

Popular name: Act 300

38.1377, 38.1378 Repealed. 1989, Act 194, Eff. Jan. 31, 1991.

Compiler's note: The repealed sections pertained to purchase of service credit.

Popular name: Act 300

38.1379 Actuarial cost; recomputation.

Sec. 79. (1) Actuarial cost shall be equal to the product of subdivisions (a), (b), and (c):

(a) A percentage, determined by the retirement board and the department, which when multiplied by a member's compensation, as determined under subdivision (b), results in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. The percentage may vary because of age, credited service, or benefit coverage. An increase or decrease in the percentage under this subdivision shall not become effective before the expiration of 6 months or more after the retirement board notifies the reporting units of the increase or decrease.

(b) A member's compensation. The member's compensation shall be the member's full-time or equated full-time compensation earned in the school fiscal year immediately before the school fiscal year in which the application to purchase and payment for the service are made. The compensation amount used shall not be less than the highest compensation previously earned by the member.

(c) The number of years, including any fraction of a year, of credited service a member elects to purchase

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up to the maximum allowed.

(2) If the compensation amount used for computing payment under this section exceeds the member's final average compensation determined at the time of retirement, the payment required under this section shall be recomputed using the member's final average compensation and a refund shall be made based upon the recomputation.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1379a Recomputation of payment for purchase of service; refund.

Sec. 79a. (1) Subject to subsection (2), if the compensation amount used for computing payment for a purchase of service credit under section 64, 69, 69c, 69d, 69e, 71, 74, 74a, 74b, 75, 77, or 78 before the effective date of the amendatory act that added this section exceeded the full-time or equated full-time compensation earned in the school fiscal year used in that computation, the payment for that purchase shall be recomputed using the greater of either the full-time or equated full-time compensation amount earned for the school fiscal year in which payment was made, or the highest school fiscal year compensation previously earned by the member. A refund shall be made based upon the recomputation.

(2) A refund pursuant to this section shall be made only to a member, deferred member, or retirant who makes written application to the retirement board in a form determined by the board.

History: Add. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

ARTICLE 5

38.1381 Retirement allowance under MCL 38.1384; application; eligibility requirements.

Sec. 81. (1) Except as provided in section 81c, a member who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, upon the member's written application to the retirement system, shall be entitled to a retirement allowance provided for in section 84 if 1 of the following applies:

(a) The member is 55 years of age or older and has 30 or more years of credited service as provided under this act of which at least 15 years were served as a public school employee.

(b) The member is 60 years of age or older and has accumulated 10 or more years of credited service as a public school employee.

(c) The member is 55 years of age or older and has 15 or more years of credited service, but less than 30 years of credited service of which the last 5 consecutive years are immediately preceding the member's retirement allowance effective date.

(2) Except as provided in section 81c, for a member who contributes to the member investment plan, the eligibility requirements of subsection (1) shall be modified as provided in section 43b.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1381a Retirement allowance computed according to MCL 38.1384(1); reduction inapplicable; definitions.

Sec. 81a. (1) Notwithstanding section 81, a member may retire with a retirement allowance computed according to section 84(1) if all of the following apply:

(a) The member files a written application with the retirement board within the early retirement effective period requesting a retirement allowance effective date that is on or before July 1, 1989.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application or the last day of the early retirement effective period, whichever occurs earlier, the member's combined age and length of credited service is equal to or greater than 80 years and the member has 10 or more years of credited service.

(c) The member was working as a public school employee immediately preceding the retirement allowance effective date.

(2) The reduction provided for in section 84(2) shall not apply to a person who retires pursuant to this section.

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(3) For purposes of this section, “early retirement effective period” means the period beginning on January 1, 1986 and ending at midnight on January 1, 1989.

History: Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1988, Act 212, Imd. Eff. June 30, 1988;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1381b Retirement; eligibility requirements; computation; extension; "incentivized retirement application period" defined; amortization of additional costs.

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.

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(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.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1381c Member 60 years of age or older with 10 or more years service.

Sec. 81c. (1) A member who first becomes a member on or after July 1, 2010 who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, upon the member's written application to the retirement system, shall be entitled to a retirement allowance provided for in section 84(1) if the member is 60 years of age or older and has accumulated 10 or more years of credited service pursuant to section 68 as a public school employee.

(2) The eligibility requirements of subsection (1) shall not be modified as provided in section 43b.

(3) The reduction provided for in section 84(2) shall not apply to a person who retires pursuant to this section.

(4) Notwithstanding any other provision of this act, a member who first becomes a member on or after July 1, 2010 shall not purchase or transfer service credit under article 4 and shall not have any purchased or transferred service credit included in the calculation of a retirement allowance upon retirement.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1381d Employment on or after September 4, 2012; election to participate in Tier 2; method of accepting elections; election period; member not making election considered as member of Tier 1; collection of employer and employee contributions.

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,

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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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1382 Deferred vested service retirement allowance; entitlement; computation; application; forfeiture; payment of option to beneficiary.

Sec. 82. (1) A member who terminates reporting unit service before 60 years of age for a reason other than the member's retirement or death, who does not withdraw accumulated contributions standing to the member's credit in the reserve for employee contributions and the reserve for member investment plan, and who has or maintains in effect 10 or more years of credited service shall be entitled to a deferred vested service retirement allowance computed pursuant to section 84 based upon the last year of credited service of the member's final average compensation period. Upon or after 60 years of age, entitlement of the member's deferred vested service retirement allowance shall begin the first day of the calendar month next following the deferred member's written application filed with the retirement board on forms furnished by the board. The deferred member's entitlement to a deferred vested service retirement allowance based on prior service or contributory membership service, or both, shall be forfeited if the deferred member withdraws from the retirement system the member's accumulated contributions unless the service is reinstated as provided in section 66. A member who meets all of the qualifications of this subsection, has 30 or more years of credited service, and leaves service before the member's fifty-fifth birthday for a reason other than retirement or death shall be entitled to a deferred vested service retirement allowance at 55 years of age.

(2) If a member, before terminating reporting unit services, selects the option provided in section 85(1)(b), but dies before the effective date of the member's deferred vested service retirement allowance, the option provided in section 85(1)(b) and selected by the deferred member shall be paid to the retirement allowance beneficiary, at the time the deceased deferred member would have otherwise been eligible to begin receiving the deferred vested service retirement allowance.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1383 Date of retirement allowance; payment on cessation of eligibility for continuation of benefits.

Sec. 83. (1) Each retirement allowance shall date from the first of the month following the month in which the applicant satisfies the age and service requirements of this act and terminated reporting unit service, but not more than 12 months before the month in which the application was filed with the retirement system, if the applicant satisfies the legal requirements for the retirement allowance at the time the application is filed.

(2) A full month's retirement allowance shall be payable for the month in which a retirant or retirement allowance beneficiary ceases to be eligible for continuation of benefits. If eligibility ceases because of death, the payment shall be made to the retirement allowance beneficiary, if any, or to the deceased recipient's estate or to the legal representative of the deceased recipient.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1384 Retirement allowance; benefits; applicability of reduction; recalculation of retirement allowance; adjusted retirement allowance; election to return retirement allowance payments.

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

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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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1384b Retirement allowance for member making alternative election under section 59(2)(b); calculation; items of credited service under section 59(1); accumulation of years of service credit for purpose of vesting; calculation of retirement allowance under section 59(1) but not making attainment date designation; "attainment date" defined.

Sec. 84b. (1) Beginning February 1, 2013, 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.

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(b) Service credit that was purchased before February 1, 2013.

(c) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of February 1, 2013.

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

(2) Beginning February 1, 2013, 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 February 1, 2013, except as provided in subsection (1)(c).

(3) Beginning February 1, 2013, 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 February 1, 2013.

(c) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of January 31, 2013.

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

(4) Beginning February 1, 2013, 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 February 1, 2013, 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 February 1, 2013, 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 February 1, 2013, 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.

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History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1385 Payment options; election; change of option or beneficiary; payment to beneficiary; reversion of benefit to straight retirement allowance; term of payment; beneficiary predeceasing retirant who returns to service; effect of election of retirant's divorce from spouse designated as beneficiary; payment of difference between accumulated contributions and aggregate amount of retirement allowance payments; change of beneficiary; optional form of benefit payment; limitation; termination.

Sec. 85. (1) A retiring member or retiring deferred member who meets the requirements of section 81 or 81a or a member whom the retirement board finds to be totally and permanently disabled and eligible to receive a retirement allowance under section 86 or 87 shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election shall be in writing and filed with the retirement board at least 15 days before the effective date of the retirement allowance except as provided for a disability retirant under section 86 or 87. The amount of retirement allowance under subdivision (b), (c), or (d) shall be the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

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

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

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

(d) On and after January 1, 2000, a retirant shall be paid a reduced retirement allowance for life with the provision that upon the retirant's death, payment of 75% of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

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

(3) Except as otherwise provided in this section, the election of a payment option in subsections (1) and (2) shall not be changed on or after the effective date of the retirement allowance. Except as provided in this section, the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) shall not be changed on or after the effective date of the retirement allowance and shall be either a spouse, brother, sister, parent, or child, including an adopted child, of the member, deferred member, retiring member, or retiring deferred member entitled to make the election under this act. Another retirement allowance beneficiary shall not be selected. If a member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date, an election under subsection (1), other than an election under subsection (1)(b), (c), or (d) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse, except that this requirement may be waived by the board if the signature of a spouse cannot be obtained because of extenuating circumstances. For purposes of this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is

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married at the retirement allowance effective date. Payment to a retirement allowance beneficiary shall start the first day of the month following the retirant's death.

(4) Except as otherwise provided in subsection (8), if the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the retirant, the retirant's benefit shall revert to a straight retirement allowance including post-retirement adjustments, if any, shall be effective the first of the month following the death, and shall be paid during the remainder of the retirant's life. This subsection applies to a retirant whose effective date of retirement is after June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or October 31, 1980. This subsection also applies to a retirant whose effective date of retirement was on or before June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the straight retirement allowance beginning January 1, 1986, but the straight retirement allowance shall not be payable for any month beginning before January 1, 1986.

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

(6) If a retirant receiving a reduced retirement allowance under subsection (1)(b), (c), or (d) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under subsection (1)(b), (c), or (d), the election of a reduced retirement allowance payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689, and dated after June 27, 1991 provides that the election of a reduced retirement allowance payment option under subsection (1)(b), (c), or (d) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance payment option under subsection (1)(b), (c), or (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689. The retirement allowance shall revert to a straight retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

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

(8) A retirant who selected a retirement allowance beneficiary under subsection (1)(b), (c), or (d) may change his or her retirement allowance beneficiary if all of the following apply:

(a) The first retirement allowance beneficiary is a spouse.

(b) The first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date.

(c) The retirant marries another spouse after the retirement allowance effective date.

(d) The retirant files a written request with the retirement system to name his or her current spouse as a retirement allowance beneficiary not earlier than 180 days and not later than 1 year after the marriage of the retirant and the current spouse except that a retirant whose first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(9) A retirant who was not married on his or her retirement allowance effective date and who did not select a payment option provided in this section may select an optional form of benefit payment under subsection (1)(b), (c), or (d) and designate a retirement allowance beneficiary if all of the following apply:

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(a) The retirant marries after his or her retirement allowance effective date.

(b) The retirement allowance beneficiary is the retirant's spouse.

(c) The retirement allowance beneficiary is only designated as the retirement allowance beneficiary for that portion of the retirant's retirement allowance that is not subject to an eligible domestic relations order assigning a previous spouse a reduced benefit under section 4(b) of the eligible domestic relations order act, 1991 PA 46, MCL 38.1704.

(d) The retirant files a written request with the retirement system to select the optional form of benefit payment under subsection (1)(b), (c), or (d) and to designate his or her spouse as the retirement allowance beneficiary, not earlier than 180 days and not later than 1 year after the retirant's marriage except that a retirant who marries after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(10) The retirement allowance of the retirant who makes an election under subsection (8) or (9) shall not be greater than the actuarial equivalent of the retirement allowance as determined by the retirement board that the retirant would otherwise be entitled to under subsection (1)(a) and shall become effective the first day of the month following the filing of the written request with the retirement system.

(11) If the retirant dies no later than 12 months after the effective date of his or her election under subsection (8) or (9), the retirement allowance for the surviving spouse established under subsection (8) or (9) shall terminate 12 months after the death of the retirant.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2006, Act 617, Eff. Jan. 1, 2009.

Popular name: Act 300

38.1386 Disability allowance; requirements; extension of application time limit; computation; effective date.

Sec. 86. (1) A member whom the retirement board finds to have become totally and permanently disabled for purposes of employment by his or her reporting unit by reason of personal injury or mental or physical illness before termination of reporting unit service and employment shall receive a disability allowance if all of the following requirements are met:

(a) The member has not met age and service requirements of section 81(1)(a) or (b) or, if the member first became a member on or after July 1, 2010, the member has not met age and service requirements of section 81c(1).

(b) The member has at least 10 years of credited service in effect before termination of employment.

(c) The member or reporting unit makes written application to the retirement board not more than 12 months after the date the member terminated public school employment.

(d) The person undergoes an examination by 1 or more practicing physicians or medical officers designated by the retirement board who certify to the retirement board that the member is totally and permanently disabled for performing the duties for the member's position or similar position for which the member is qualified by reason of training, experience, or both.

(2) The retirement board may extend the application time limit provided in subsection (1) not more than 24 months for a member or deferred member who satisfies the other requirements of subsection (1), if evidence of extenuating circumstances is presented to the satisfaction of the retirement board.

(3) The member's disability retirement allowance shall be computed pursuant to section 84. The effective date of the disability retirant's allowance shall be determined pursuant to section 83.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1387 Duty disability retirement allowance; requirements; computation; effective date; service credit; adjustment.

Sec. 87. (1) A member whom the retirement board finds to have become totally and permanently disabled from any gainful employment by reason of personal injury or mental or physical illness while serving as an employee of that reporting unit shall receive a duty disability retirement allowance if all of the following requirements are met:

(a) The member has not met age and service requirements of section 81(1)(a) or (b) or, if the member first

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became a member on or after July 1, 2010, the member has not met age and service requirements of section 81c(1).

(b) The member is in receipt of weekly worker's disability compensation on account of employment by a reporting unit.

(c) The member or reporting unit makes written application to the retirement board not more than 12 months after the date the member terminated public school employment.

(d) The member undergoes an examination by 1 or more practicing physicians or medical officers designated by the retirement board who certify to the retirement board that the member is totally and permanently disabled for performing the duties for the member's position for which the member is qualified by reason of training, or experience, or both.

(2) The member's duty disability retirement allowance shall be computed pursuant to section 84. The effective date of the duty disability retirant's allowance shall be the first of the month following the month in which the member terminates employment and is in receipt of weekly worker's disability compensation. The years of service credit used in computing the retirant's duty disability retirement allowance shall not be less than 10 years. If the member has less than 5 consecutive years of credited service, the average of the member's annual compensation shall be used.

(3) Upon recovery and return to reporting unit service or upon termination of the statutory period for the payment of a disability retirant's worker's disability compensation, if any, arising on account of the retirant's reporting unit service, the retirant shall be given service credit for the period and the retirant's disability retirement allowance shall be adjusted to include the additional credit.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1388 Duty or nonduty disability retirant; medical examination; affidavit; deception; discontinuance or revocation of nonduty disability retirement allowance; return to membership; restoration of credited service; restoration of duty disability retirant to active service; cessation of allowance or rights to allowance; lump sum payment; payment on retirant's sixtieth birthday; reduction of retirement allowance; computation of allowable earnings; applicability of subsection (4).

Sec. 88. (1) The retirement board may require a duty or nonduty disability retirant to submit to a medical examination by a practicing physician or a medical officer designated by the retirement board as necessary for proof of eligibility for continuance of the disability allowance. The retirement board may require each disability retirant who is 59 years of age or less to submit a sworn affidavit during January of each year, in the form and manner prescribed by the retirement board, attesting that the retirant believes himself or herself to be totally and permanently disabled for the same reason for which the disability allowance was granted, and disclosing any significant change in physical or mental condition that occurred during the preceding 12-month period because of medical treatment. A retirant who submits information with intent to deceive may have the disability retirement allowance revoked by the retirement board.

(2) The retirement board may discontinue a nonduty disability retirement allowance if medical examination reports indicate that the retirant no longer is disabled. If a nonduty disability retirant refuses to submit to an examination, the retirant's disability retirement allowance may be discontinued until withdrawal of the refusal. If a refusal continues for 12 months, the retirant's rights to a nonduty disability retirement allowance shall be revoked by the retirement board. However, upon the retirant's sixtieth birthday the retirant shall be paid a retirement allowance based on the final average compensation, service, and benefit formula as of the effective date of the retirant's nonduty disability retirement allowance if the retirant's contributions are left on deposit. If the nonduty disability retirant returns to membership service after termination of a disability allowance, the retirant shall again become a member of the retirement system. The retirant's credited service in effect at the time of disability retirement shall be restored.

(3) If, upon examination of a duty disability retirant, the medical report indicates that the retirant no longer is disabled and is capable of resuming public school employment, the retirant shall be restored to active service with the reporting unit from which the person terminated employment and the duty disability retirement allowance shall cease. Payment of the duty disability retirement allowance shall continue until the retirant is actually returned to reporting unit service in a position for which the retirant is qualified by reason of training, or experience, or both. The retirant again shall become a member of the retirement system and the retirant's credited service in effect at the time of duty disability retirement shall be restored. If the retirant

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refuses to either submit to a medical examination or to return to reporting unit service and if either refusal continues for 12 months, the retirant's rights to a duty disability retirement shall cease. A lump sum payment shall be made of the difference between the retirant's accumulated contributions at time of retirement and the aggregate amount of the retirant's disability retirement allowance payments, unless the retirant has acquired 10 or more years of credited service before the time of his or her duty disability allowance. In that event, upon the retirant's sixtieth birthday, the retirant shall be paid a retirement allowance based upon the final average compensation, service, and benefit formula as of the effective date of the duty disability retirement allowance, if the retirant's contributions as a member are left on deposit.

(4) If a disability retirant becomes engaged in gainful employment, and if the total of the retirant's income from the employment and retirement allowance exceeds the retirant's final average compensation, the retirement allowance shall be reduced to an amount which when added to the amount earned by the retirant equals the retirant's final average compensation. For purposes of computing allowable earnings under this subsection, the final average compensation shall be increased by 2% for each 12 months elapsed after the date the retirement allowance commenced. This subsection shall not apply on or after the date the duty or nonduty disability retirant otherwise would have been eligible for an age and service retirement allowance if the retirant had not become disabled, but the retirant shall be subject to section 61.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1389 Surviving spouse; computation, payment, and termination of retirement allowance; remarriage of surviving spouse; allowance for surviving child less than 18; election of retirement allowance beneficiary; grounds for voiding election; death of member; presumption of dependency; termination of allowance; payment to refund beneficiary; member contributing to member investment plan.

Sec. 89. (1) If a member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, dies before the effective date of his or her retirement and leaves a surviving spouse to whom the deceased member was married at time of death, the surviving spouse shall receive a retirement allowance computed in the same manner as if the deceased member had retired effective the day preceding the date of the deceased member's death, elected the option set forth in subsection (3), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section. A surviving spouse of a person who was a deferred member on October 31, 1980, who becomes eligible to receive a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945, shall be eligible to receive that retirement allowance and that allowance shall not be subject to termination because of the surviving spouse's remarriage.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) A member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, may elect the option provided in section 85(1)(b) and nominate a retirement allowance beneficiary as provided in section 85(3). The election shall be in writing and filed with the retirement board in a manner and form prescribed by the retirement board. The election shall be void upon the member's retirement, termination of employment except as provided in section 82(2), divorce, the retirement allowance beneficiary's death, or upon the retirement allowance beneficiary no longer being dependent upon the member before the member's death. If a member who has an option election under section 85(1)(b) in effect dies before the effective date of his or her retirement, the member's retirement allowance beneficiary, so

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long as the beneficiary continues to be so dependent, shall receive the same retirement allowance as the retirement allowance beneficiary would have been entitled to receive under the option provided in section 85(1)(b) if the member had been regularly retired pursuant to section 81 or 82 the day preceding the date of the member's death, even though the member may not have acquired entitlement to service retirement. The surviving spouse of the deceased member shall be presumed to be 50% dependent on the deceased member for his or her own financial support. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death.

(4) If at the time a retirement allowance beneficiary's retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary are less than the accumulated contributions credited to the deceased member's account in the reserve for employee contributions at the time of the deceased member's death, the difference between the deceased member's accumulated contributions and the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary shall be paid to the deceased member's refund beneficiary.

(5) For a member who contributes to the member investment plan, the credited service eligibility requirement applicable to the survivor benefits provided in this section are subject to section 43c.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1390 Surviving spouse of deceased member receiving worker's disability compensation; computation, payment, and termination retirement allowance; remarriage of surviving spouse; allowance for surviving children less than 18; computation, payment, and termination of allowance for surviving child less than 18 or for surviving dependent parent; computation and effective date of retirement allowance beneficiary's duty death retirement allowance; use of average annual compensation; election to accept refund; payment to legal representative of deceased member's or retirant's estate.

Sec. 90. (1) If a member dies as a result of injury or illness arising out of and in the course of the member's reporting unit service for which worker's disability compensation is paid, or a duty disability retirant who is in receipt of weekly worker's disability compensation on account of the retirant's reporting unit service dies from the same causes for which the person retired within 36 months after the retirant's retirement, and in either case the death or the illness or injury resulting in death is found by the retirement board to have resulted, without the member's or retirant's willful negligence, from the performance of the member's or retirant's reporting unit service, the surviving spouse of the deceased member or retirant shall receive a retirement allowance computed in the same manner as if the member or retirant had retired for reasons of age and service effective the day preceding the date of the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each child of the deceased member or duty disability retirant who is less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the member's or retirant's death. Payments under this subsection shall cease upon marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. The allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

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(4) The retirement allowance beneficiary's duty death retirement allowance shall be computed pursuant to section 84, except that the reduction for early retirement shall not apply. The effective date of the retirement allowance beneficiary's duty death retirement allowance shall be the first of the month following the month in which the member or retirant died. The years of service credit used in computing the retirement allowance beneficiary's duty death retirement allowance shall not be less than 10 years. If the deceased member or duty disability retirant has less than 5 consecutive years of credited service, the average of the decedent's annual compensation shall be used.

(5) Instead of the duty death benefits provided in this section to an eligible retirement allowance beneficiary, the retirement allowance beneficiary, before receipt of his or her first payment, may elect to accept a refund of the deceased member or duty disability retirant's accumulated contributions.

(6) If, at the time a retirement allowance beneficiary's duty death retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary is less than the accumulated contributions credited to the deceased member's or duty disability retirant's account in the reserve for employee contributions and the reserve for member investment plan at the time of the member's or retirant's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary shall be paid to the legal representative of the deceased member's or retirant's estate.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1391 Hospital, medical-surgical, and sick care retirant benefits; dental and vision retirant benefits; retirement system premium; maximum contribution rate; health benefits coverage for dependent of retirant; coordination of benefits; definitions.

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

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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

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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.

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(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.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1981, Act 133, Imd. Eff. Oct. 7, 1981;—Am. 1982, Act 258, Imd. Eff. Sept. 30, 1982;—Am. 1983, Act 143, Imd. Eff. July 18, 1983;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 193, Imd. Eff. Aug. 25, 1989;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 85, Imd. Eff. May 13, 1998;—Am. 2004, Act 117, Imd. Eff. May 26, 2004;—Am. 2006, Act 617, Eff. Jan. 1, 2009;—Am. 2007, Act 110, Imd. Eff. Oct. 1, 2007;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Constitutionality: The Michigan Supreme Court held that the failure by the state to prefund retirement health care benefits is in violation of Const 1963, art 9, § 24. However, the Michigan Supreme Court also held that it has no authority to order the governor or legislature to appropriate funds. *Musselman v Engler*, 448 Mich 503; 533 NW2d 237 (1995).

Compiler's note: Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1391a Retiree health care insurance coverage for employees hired after September 4, 2012; matching contribution in lieu of health insurance coverage benefits; vesting provisions; election to opt out of health insurance coverage premiums; effect of not making election under subsection (5); break in service or reemployment; implementation and applicability of subsections (5) to (10); report; definitions.

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

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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 standard time on January 9, 2013, 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 March 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

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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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1392 Long-term care insurance; withholding from retirement allowance.

Sec. 92. Beginning on July 1, 2004, upon written application of a retirant, the retirement system shall withhold from the retirant's retirement allowance the entire monthly premium for voluntary long-term care insurance for the retirant, the retirement allowance beneficiary, and health insurance dependents, as that term is defined in section 91, who elect coverage in a long-term care insurance plan that is authorized by the retirement system. If the entire monthly premium for retirants, retirement allowance beneficiaries, and health insurance dependents is greater than the retirement allowance, the retirement system shall withhold the entire retirement allowance and apply it to the premium balance.

History: Add. 2003, Act 17, Imd. Eff. June 10, 2003.

Popular name: Act 300

38.1392a Administration of changes; appropriation; work project; carrying forward unencumbered or unallotted funds.

Sec. 92a. (1) There is appropriated for the fiscal year ending September 30, 2010, $4,500,000.00 to the

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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 $4,500,000.00.

(d) The estimated completion date for the work project is September 30, 2011.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1392b Appropriation; purposes; amount; completion date.

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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1393 Third-party study.

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

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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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

ARTICLE 6

38.1401 Supplemental pension.

Sec. 101. The supplemental pension paid under section 15a of chapter 1 or section 57 of chapter 2 of former Act No. 136 of the Public Acts of 1945 shall continue to be paid to a retirant or retirement allowance beneficiary. The supplemental benefit, when added to the retirement allowance of the retirant or retirement allowance beneficiary, shall provide before the election of an option or early retirement a minimum retirement allowance of $160.00 for each year of credited service on the date of retirement or death adjusted to the nearest number of even years.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1980, Act 466, Imd. Eff. Jan. 17, 1981;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

38.1402 Percentage increase to monthly retirement allowance payable after June 30, 1972; continuation.

Sec. 102. The percentage increase to the monthly retirement allowance payable after June 30, 1972, to a retirant or retirement allowance beneficiary, who was on the rolls for June, 1971, under section 174(1) of former Act No. 258 of the Public Acts of 1972, is continued as follows:

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Effective Date of Retirement	Increase
August 1, 1970, to July 1, 1971	1%
August 1, 1969, to July 1, 1970	2%
August 1, 1968, to July 1, 1969	3%
August 1, 1967, to July 1, 1968	4%
August 1, 1966, to July 1, 1967	5%
August 1, 1965, to July 1, 1966	6%
August 1, 1964, to July 1, 1965	7%
August 1, 1963, to July 1, 1964	8%
August 1, 1962, to July 1, 1963	9%
August 1, 1961, to July 1, 1962	10%
August 1, 1960, to July 1, 1961	11%
August 1, 1959, to July 1, 1960	12%
August 1, 1958, to July 1, 1959	13%
August 1, 1957, to July 1, 1958	14%
July 1, 1956, to July 1, 1957	15%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Compiler's note: Act 258 of 1972, referred to in this section, was repealed by Act 101 of 1973, Act 242 of 1974, Act 261 of 1975, Act 258 of 1976, and Act 90 of 1977.

Popular name: Act 300

38.1403 Percentage increase to monthly retirement allowance payable under former provisions; continuation.

Sec. 103. (1) The percentage increase to the monthly retirement allowance payable to a retirant or retirement allowance beneficiary under section 27d of chapter I or section 25a of chapter II of former Act No. 136 of the Public Acts of 1945, is continued as provided in this section.

(2) After June 30, 1974, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary who was on the rolls for June, 1973, is supplemented as follows:

Effective Date of Retirement	Increase
July 1, 1972, to June 30, 1973	1%
July 1, 1971, to June 30, 1972	2%
July 1, 1970, to June 30, 1971	3%
July 1, 1969, to June 30, 1970	4%
July 1, 1968, to June 30, 1969	5%
July 1, 1967, to June 30, 1968	6%
July 1, 1966, to June 30, 1967	7%
July 1, 1965, to June 30, 1966	8%
July 1, 1964, to June 30, 1965	9%
July 1, 1963, to June 30, 1964	10%
July 1, 1962, to June 30, 1963	11%
July 1, 1961, to June 30, 1962	12%
July 1, 1960, to June 30, 1961	13%
July 1, 1959, to June 30, 1960	14%
July 1, 1958, to June 30, 1959	15%
July 1, 1957, to June 30, 1958	16%
July 1, 1956, to June 30, 1957	17%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1404 Percentage increase to monthly retirement allowance payable under additional

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former provisions; continuation.

Sec. 104. (1) The percentage increase to the monthly retirement allowance payable to a retirant or retirement allowance beneficiary under either section 27f of chapter I or section 25c of chapter II of former Act No. 136 of the Public Acts of 1945, is continued as provided in this section.

(2) The monthly retirement allowance payable to a retirant or retirement allowance beneficiary after September 30, 1976, who was on the rolls for September 30, 1976, is supplemented as follows:

Effective Date of Retirement	Supplement for October 1, 1976 and 1977
July 1, 1975, to June 30, 1976	1%
July 1, 1974, to June 30, 1975	2%
July 1, 1973, to June 30, 1974	3%
July 1, 1972, to June 30, 1973	4%
July 1, 1971, to June 30, 1972	5%
July 1, 1970, to June 30, 1971	6%
July 1, 1969, to June 30, 1970	7%
July 1, 1968, to June 30, 1969	8%
Before July 1, 1968	8%

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1404a Determining rate of investment return on retirement system assets and present value of retirement allowances; calculation and reduction of distribution income; crediting distribution units to retirant or retirement allowance beneficiary; calculation and payment of distribution amount; increase in retirement allowance; computation of cumulative increase amount; supplemental payment; increase in retirement allowance effective before October 1, 1981; increase in retirement allowance effective on or before January 1, 1987.

Sec. 104a. (1) After the end of each state fiscal year, the department shall determine the rate of investment return earned on retirement system assets during the fiscal year, based upon methods established by the retirement board.

(2) At the end of each state fiscal year, the retirement system's actuary shall determine the present value of retirement allowances to be paid after the end of the fiscal year to retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal period. The assumed interest rate used in the determination shall be 8% per year, compounded annually.

(3) The distribution income at the end of each state fiscal year shall be equal to the product of the present value of retirement allowances determined in subsection (2) at the end of the previous fiscal year times the positive excess, if any, of the rate of investment return determined in subsection (1) exceeding 8%. The distribution income calculated pursuant to this subsection at the end of the fiscal years 1984-85 and 1985-86 shall be reduced by the cost of prior postretirement adjustments paid from the appropriated credit for excess interest earnings on retired life assets during the fiscal year pursuant to sections 101, 102, 103, and 104.

(4) After the end of each state fiscal year, each retirant and retirement allowance beneficiary in receipt of a retirement allowance at the end of the fiscal year, and whose effective date of retirement allowance preceded the beginning of that fiscal year, shall be credited with 1 distribution unit for each full year between the effective date of retirement and the end of the fiscal year and 1 distribution unit for each full year of service credit in force on the effective date of retirement. Distribution units shall not accumulate from 1 year to the next year.

(5) The distribution amount for an individual retirant or retirement allowance beneficiary shall be equal to the product of the distribution income determined in subsection (3) times the individual's number of distribution units determined in subsection (4) divided by the total number of distribution units for all eligible retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal year. The distribution amount for an individual retirant or retirement allowance beneficiary of a retirant or member who contributed to the member investment plan is zero.

(6) Each retirement allowance that was effective on or before January 1, 1987 shall be increased effective on the later of January 1, 1986 or the retirement allowance effective date. The amount of the increase shall be 8% of the retirement allowance that would be payable as of the date of the increase without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected by the member under section 85(1).

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(7) Until and including October 1, 1989, each retirement allowance that was effective on or before January 1, 1987 shall be increased each October 1 beginning with the later of October 1, 1986 or the first October 1 following the retirement allowance effective date. The amount of the annual increase shall be equal to 40.5% of the increase computed in subsection (6).

(8) After the end of each state fiscal year, the cumulative increase amount shall be computed for each retirant or retirement allowance beneficiary affected by subsections (6), (7), and (11). The cumulative increase amount shall be equal to the difference between the total retirement allowance paid during the state fiscal year and the retirement allowance that would have been payable without application of subsections (6), (7), and (11). The cumulative increase amount for any retirant or retirement allowance beneficiary whose effective date of retirement is after January 1, 1987 is zero.

(9) In March of each year, beginning in March, 1986, each retirant or retirement allowance beneficiary shall be paid, in a single supplemental payment, the excess, if any, of the distribution amount over the cumulative increase amount for the previous state fiscal year. If a retirant dies before receipt of a supplemental payment, the supplemental payment shall be made to the retirant's retirement allowance beneficiary, if any. If both the retirant and the retirement allowance beneficiary die before receipt of a supplemental payment, no payment shall be made.

(10) Each retirement allowance that was effective before October 1, 1981 shall be increased effective January 1, 1990. The amount of the increase shall be a percentage of the retirement allowance that is payable as of January 1, 1990 without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected under section 85(1). The percentage is as follows:

Effective date of retirement	Percentage
October 1, 1980 to September 30, 1981	1%
October 1, 1979 to September 30, 1980	2%
October 1, 1978 to September 30, 1979	3%
October 1, 1977 to September 30, 1978	4%
October 1, 1976 to September 30, 1977	5%
October 1, 1975 to September 30, 1976	6%
October 1, 1974 to September 30, 1975	7%
October 1, 1973 to September 30, 1974	8%
October 1, 1972 to September 30, 1973	9%
October 1, 1971 to September 30, 1972	10%
October 1, 1970 to September 30, 1971	11%
October 1, 1969 to September 30, 1970	12%
October 1, 1968 to September 30, 1969	13%
October 1, 1967 to September 30, 1968	14%
October 1, 1966 to September 30, 1967	15%
October 1, 1965 to September 30, 1966	16%
October 1, 1964 to September 30, 1965	17%
October 1, 1963 to September 30, 1964	18%
October 1, 1962 to September 30, 1963	19%
October 1, 1961 to September 30, 1962	20%
October 1, 1960 to September 30, 1961	21%
Before October 1, 1960	22%

(11) Each retirement allowance that was effective on or before January 1, 1987 shall be increased each October 1 beginning October 1, 1990. The amount of the annual increase shall be equal to 3% of the retirement allowance that would be payable without application of this subsection, except that if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected under section 85(1).

History: Add. 1982, Act 253, Imd. Eff. Sept. 30, 1982;—Am. 1983, Act 6, Imd. Eff. Mar. 14, 1983;—Am. 1984, Act 129, Imd. Eff. June 1, 1984;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1985, Act 218, Imd. Eff. Jan. 10, 1986;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1998, Act 213, Eff. Mar. 23, 1999.

Popular name: Act 300

38.1405 Violation; penalty.

Sec. 105. A person who, with intent to deceive, makes a false statement in a report or record required under this retirement system, or who, with intent to deceive, violates this act or a rule promulgated under this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both.

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History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

Administrative rules: R 38.1101 et seq. of the Michigan Administrative Code.

38.1406 Saving clause.

Sec. 106. All proceedings pending and all rights and liabilities existing, acquired, or incurred under former Act No. 136 of the Public Acts of 1945 at the time this act takes effect are saved. Those proceedings shall be consummated pursuant to the law in effect when the proceedings were commenced. Those rights and liabilities shall be preserved pursuant to the law in effect on the day immediately preceding the effective date of this act. To the extent that either the kinds of benefits available under the applicable chapter of former Act No. 136 of the Public Acts of 1945 as in effect on the day immediately preceding the effective date of this act or the manner of calculating those benefits under former Act No. 136 of the Public Acts of 1945 results in a greater benefit of any kind than would otherwise be available under this act or include a benefit not otherwise available under this act, the determinations of those kinds of benefits available and the manner of calculating those benefits shall be made pursuant to former Act No. 136 of the Public Acts of 1945 for those members who participated in the retirement system as set forth in former Act No. 136 of the Public Acts of 1945 before the effective date of this act.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Compiler's note: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

Popular name: Act 300

38.1407 Repeal of MCL 38.201 to 38.366.

Sec. 107. Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.366 of the Compiled Laws of 1970, is repealed.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980.

Popular name: Act 300

38.1408 Administration of retirement system as qualified pension plan created in trust under internal revenue code; requirements and benefit limitations; qualified military service.

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

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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.

History: Add. 1991, Act 107, Imd. Eff. Oct. 8, 1991;—Am. 1995, Act 177, Imd. Eff. Oct. 17, 1995;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2008, Act 354, Imd. Eff. Dec. 23, 2008;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1409-38.1412 Repealed. 1997, Act 143, Imd. Eff. Nov. 19, 1997.

Compiler's note: The repealed sections pertained to election to terminate membership in Tier 1 and election to participate in Tier 2.

Popular name: Act 300

ARTICLE 7

38.1420 Tier 2 plan; implementation.

Sec. 120. Notwithstanding any other provision of this act, the Tier 2 plan under this article will be implemented by the department as soon as administratively feasible but not later than January 1, 2011.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1421 Words and phrases in sections 122 to 124; date for implementation of Tier 2 plan.

Sec. 121. (1) For the purposes of this article, the words and phrases defined in sections 122 to 124 have the

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meanings ascribed to them in those sections.

(2) Notwithstanding any other provision of this act, the Tier 2 plan under this article shall be implemented by the department as soon as administratively feasible but not later than January 1, 2011.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1422 "Accumulated balance" and "compensation" defined.

Sec. 122. (1) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

(2) "Compensation" means the remuneration paid a participant on account of the participant's services rendered to his or her employer equal to the sum of the following:

(a) A participant's W-2 earnings for services performed for the employer.

(b) Any amount contributed or deferred at the election of the participant which is excluded from gross income under section 125, 132(f)(4), 401(k), 403(b), or 457 of the internal revenue code, 26 USC 125, 132, 401, 403, and 457.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1423 "Employer" and "former qualified participant" defined.

Sec. 123. (1) "Employer" means a reporting unit.

(2) "Former qualified participant" means an individual who was a qualified participant and who terminates the employment upon which his or her participation is based for any reason.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1424 "Plan document," "qualified participant," "refund beneficiary," and "state treasurer" defined.

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.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1425 Tier 2; department as fiduciary and trustee; appointment of advisory board; provisions and procedures; personnel and other services; adoption and compliance.

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Sec. 125. (1) The department shall administer Tier 2 and shall be the fiduciary and trustee of Tier 2. The department may appoint an advisory board to assist the department in carrying out its duties as fiduciary and trustee. The department and the state treasurer shall comply with Executive Reorganization Order No. 1999-5, MCL 38.2721, in the administration of Tier 2.

(2) The department shall determine the provisions and procedures of Tier 2 and the plan document in conformity with this act and the internal revenue code.

(3) The department has the exclusive authority and responsibility to employ or contract with personnel and for services that the department determines necessary for the proper administration of and investment of assets of Tier 2, including, but not limited to, managerial, professional, legal, clerical, technical, and administrative personnel or services.

(4) Each employer shall be deemed to have adopted and shall comply with the provisions and procedures of Tier 2 and the plan document.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1426 Request for hearing; conduct under administrative procedures act of 1969.

Sec. 126. (1) A qualified participant, former qualified participant, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. Upon written request, the department shall provide for a hearing that shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. An individual may be represented by counsel or other authorized agent at a hearing conducted under this section.

(2) Chapters 2, 3, and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.224 to 24.264 and 24.291 to 24.292, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1427 Investment; direction by qualified participant, former qualified participant, and refund beneficiary; applicability of limitations.

Sec. 127. Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual's accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the department. The limitations on the percentage of total assets for investments provided in the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m, do not apply to Tier 2.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1428 Tier 2; administrative expenses.

Sec. 128. The administrative expenses of Tier 2 shall be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the department.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1429 Participation in other public sector retirement benefits plan; "public sector employer" defined.

Sec. 129. A qualified participant shall not participate in any other public sector retirement benefits plan for

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simultaneous service rendered to the same public sector employer. Except as otherwise provided in this act or by the department, this section does not prohibit a qualified participant from participating in a retirement plan established by this state or other public sector employer under the internal revenue code. For the purposes of this section, "public sector employer" includes, but is not limited to, a reporting unit.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1431 Tier 2 account; contributions; additional contribution; additional matching contributions by employer.

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.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1431a Tier 2 accounts; terms and conditions.

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

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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.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"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."

Popular name: Act 300

38.1432 Vesting.

Sec. 132. A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

(a) Upon completion of 2 years of service, 50%.

(b) Upon completion of 3 years of service, 75%.

(c) Upon completion of 4 years of service, 100%.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1434 Refund beneficiary.

Sec. 134. A qualified participant or former qualified participant may nominate 1 or more individuals as a refund beneficiary by filing written notice of nomination with the department. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's spouse if the signature of the participant's spouse is required by the plan document. However, the department may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1435 Tier 2; eligibility to receive distribution; effect of death of qualified participant; methods of distribution.

Sec. 135. (1) A qualified participant is eligible to receive distribution of his or her accumulated balance in Tier 2 upon becoming a former qualified participant.

(2) Upon the death of a qualified participant or former qualified participant, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the department, the department, in a lump sum distribution, shall distribute the accumulated balance in accordance with the plan document.

(3) A former qualified participant or refund beneficiary may elect 1 or a combination of several of the following methods of distribution of the accumulated balance:

(a) A lump sum distribution to the recipient.

(b) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.

(c) Periodic distributions, as authorized by the department.

(d) No current distribution, in which case the accumulated balance shall remain in Tier 2 until the former qualified participant or refund beneficiary elects a method or methods of distribution under subdivisions (a) to (c), to the extent allowed by federal law.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act

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in its entirety."

Popular name: Act 300

38.1437 Exemption from state, county, municipal, or local tax; right to setoff to recover overpayments.

Sec. 137. (1) Distributions from employer contributions made pursuant to section 131(2) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 131(2) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax. Distributions from employer contributions made pursuant to section 131(2) and earnings on those employer contributions and distributions from employee contributions made pursuant to section 131(2) and earnings on those employee contributions are subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

(2) The department has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The department shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

History: Add. 2010, Act 75, Imd. Eff. May 19, 2010.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides: "Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Popular name: Act 300

38.1451-38.1467 Repealed. 1997, Act 143, Imd. Eff. Nov. 19, 1997.

Compiler's note: The repealed sections pertained to termination of membership on Tier 1 and contributions to Tier 2 account.

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