

as of the effective date of this chapter has the right, by contract or statute, to submit any unresolved disputes to the procedures set forth in 1969 PA 312, MCL 423.231 to 423.247, shall continue to have that right, or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the authority. Employees who elect to transfer shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her post-transfer service with the authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but the post-transfer service with the authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsections (3) and (4). An employee who elects to transfer to the authority may, upon return to employment with the local government within 1 year from the approval date, do so without loss of seniority unless contrary to a collective bargaining agreement. Notwithstanding any other provision of this section, a political appointee, other than a member of the board appointed under section 111, at an airport previously operated by the local government from which operational authority has been transferred to an authority shall not be placed in a worse position in regards to terms and conditions of employment until December 31 of the year in which the authority is created.

(3) If a local government employee described in this section elects to transfer to an authority or if a person is hired by the authority as a new employee after the date on which the authority assumes operational jurisdiction over an airport, the employee shall remain or become a participant in the local government retirement system until the authority has established its own retirement system or pension plan. During this period the employee remains or is a participant in the local government system, the employee's post-transfer service with the authority during this period and his or her post-transfer compensation from the authority during this period shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If a local government employee described in this section elects to transfer to the authority, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the authority. By electing to remain a participant in the local government system, the employee's post-transfer service with the authority and his or her post-transfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions which, from time to time, apply to employees of the local government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local retirement system, the authority shall, on a timely basis, contribute the following amounts, as applicable, to the trustees of that retirement system:

(a) An amount determined by the local government system's actuary toward amortization of unfunded actuarial accrued liabilities which, as of the transfer date, are reasonably allocated to that employee on the local government system's records.

(b) An amount determined by the local government system's actuary sufficient to fund the liability for all of that employee's retirement and other benefits under the system on a current basis, as those liabilities are accrued on and after the transfer date.

(c) An amount determined by the local government system's actuary equal to all actuarial losses net of actuarial gains, costs, and administrative expenses of the system which are reasonably allocated to the employee.

(d) An amount equal to the percentage of compensation that the local government would have contributed for the employee had he or she remained in the employ of the local government.

(e) An amount corresponding to what the local government would have contributed toward retiree health coverage for the employee. However, the authority shall succeed to all rights of the local government to modify, amend, replace, suspend, or discontinue the retiree health coverage being provided to the persons who retire from authority employment.

259.120 Sources of revenue.

Sec. 120. (1) An authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. However, an authority shall not levy a tax or impose a special assessment. The sources of revenue available to the authority may include, but are not limited to, fees, rents, or other charges the authority may fix, regulate, and collect for the airport facilities under the control of and services furnished by the authority, including fees, rentals, and charges fixed in connection with agreements entered into under section 116. The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(2) To the extent practicable, an authority shall endeavor to maximize the revenues generated from enterprises located at the airport consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(3) The authority may make application for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from any state, federal, county, or municipal government or agency or from any other source, public or private, including financial assistance for purposes of planning, constructing, improving, and operating the airport, for providing security at the airport, and for providing ground access to the airport.

259.121 Other publicly owned airports; transfer of operational jurisdiction.

Sec. 121. The authority may accept the transfer of operational jurisdiction of other publicly owned airports that hold an airport operating certificate issued by the FAA under part 139 of chapter 14 of the code of federal regulations, within and without the local government. In accepting a transfer, the authority may assume no financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at the airport being transferred. If a governmental entity transfers operational jurisdiction over an airport to an authority under this section, the authority shall not sell or transfer any property of the governmental entity without the consent of the governmental entity that provided the transfer of operational jurisdiction under this section. An authority that operates a qualified airport shall not operate an airport that is located in a city having a population of more than 750,000.

259.122 Issuance of bonds by authority.

Sec. 122. For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred pursuant to this chapter or is acquired by the authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.139.

259.123 Borrowing money and issuing municipal securities.

Sec. 123. The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

259.124 Bonds or other evidence of indebtedness; tax exemption.

Sec. 124. All bonds or other evidences of indebtedness issued by an authority under this chapter, and the interest thereon, are free and exempt from all taxation within the state, except for transfer and franchise taxes.

259.125 Legislative body of local government; actions.

Sec. 125. (1) The legislative body of any local government that owns an airport over which the operational jurisdiction has been transferred to an authority is hereby authorized, with the consent of the authority, to take 1 or more of the following actions:

(a) Pledge its full faith and credit behind any obligation or evidence of indebtedness of the authority.

(b) Advance funds to the authority for working capital and other purposes of the authority on terms and conditions agreed to by the authority and the local government consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(c) Appropriate and grant funds to the authority in furtherance of its purposes.

(d) Grant and convey to the authority real or personal property of any kind or nature, or any interest in real or personal property, for the carrying out of the authorized purposes of the authority.

(2) A pledge made pursuant to this section shall be at the discretion of the legislative body of the local government and may be subject to an agreement providing for terms and conditions of the pledge and for repayment of any amount paid pursuant to the pledge as the authority and the local government may determine necessary and advisable consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(3) Any agreement by an authority to repay an advance made pursuant to this section, and any obligation incurred by the authority under that agreement, shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

259.125a Interest rate exchange or agreement.

Sec. 125a. (1) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of obligations or other evidences of indebtedness or in connection with its then outstanding obligations or other evidences of indebtedness.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(3) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the obligation or evidence of indebtedness in connection with the agreement.

259.125b Contract between authority and bond holder; provisions.

Sec. 125b. (1) Notwithstanding any other provisions of this chapter or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government with respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by an authority pursuant to this chapter shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability, and shall have their provisions enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this chapter are payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government, and do not constitute a full faith and credit obligation of the authority.

(3) Nothing in this chapter or in any other law shall be held to relieve an authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding as of the effective date of the transfer of the operational jurisdiction over the airport to the authority.

(4) An authority shall not take any action to impair the rights or remedies of the holders of the bonds or other obligations of the local government that owns the airport that were lawfully issued prior to the transfer of operational jurisdiction of the airport to the authority.

(5) Upon the transfer of operational jurisdiction over the airport to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been assumed by the authority pursuant to section 117 shall perform all of their duties and obligations and provide all notices related to those obligations as if the authority were the issuer of the obligations. These trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority pursuant to section 117 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

259.125c Severability.

Sec. 125c. If any portion of this chapter or the application of this chapter to any person or circumstances is found to be invalid by a court, that invalidity shall not affect the remaining portions or applications of this chapter, which can be given effect without the invalid portion or application, as long as the remaining portions are not determined by the court to be inoperable; and to this end, this chapter is declared to be severable.

Repeal of §§ 125.2521 to 125.2546.

Enacting section 1. The international tradeport development authority act, 1994 PA 325, MCL 125.2521 to 125.2546, is repealed.

This act is ordered to take immediate effect.

Approved March 26, 2002.

Filed with Secretary of State March 26, 2002.

[No. 91]**(HB 5216)**

AN ACT to amend 1954 PA 116, entitled “An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act,” by amending sections 2, 33, 770, 770a, 771, 773, 794a, 795, and 971 (MCL 168.2, 168.33, 168.770, 168.770a, 168.771, 168.773, 168.794a, 168.795, and 168.971), section 2 as amended by 1999 PA 216, section 33 as amended by 1996 PA 583, section 794a as amended by 1995 PA 261, section 795 as amended by 2001 PA 269, and section 971 as amended by 1976 PA 66, and by adding section 37; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

168.2 Definitions.

Sec. 2. As used in this act:

(a) “Business day” or “secular day” means a day that is not a Saturday, Sunday, or legal holiday.

(b) “Election” means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.

(c) “Name that was formally changed” means a name changed by a proceeding under chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3, or former 1915 PA 314, or through a similar, statutorily sanctioned procedure under the law of another state or country.

(d) “Uniform voting system” means the voting system that is used at all elections in every election precinct throughout the state.

168.33 Training schools on conducting elections in accordance with election laws; conduct; cost.

Sec. 33. (1) The director of elections shall conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with respect to

the conducting of elections in accordance with the election laws. Included in this training shall be instruction on the uniform voting system. In case any county clerk shall fail to conduct in his or her county a training school for election boards within the county, the director of elections shall conduct such training school, the cost of the training school to be charged as an obligation of the county.

(2) The director of elections shall train all county, city, and township clerks who are involved in the training of precinct inspectors. The training shall include team training and monitoring of their performance as trainers.

(3) The director of elections shall conduct all precinct inspector training in counties where the clerk has not been accredited to conduct the training schools.

168.37 Uniform voting system; advisory committee; selection; notice of selection; schedule for acquisition and implementation; repetition of process; appropriation required; repeal of section.

Sec. 37. (1) The secretary of state shall select a uniform voting system under the provisions of this section. The secretary of state shall convene an advisory committee on the selection of the uniform voting system, whose membership represents county, city, and township election officials and other relevant organizations. In addition, the speaker and minority leader of the house of representatives and the majority and minority leaders of the senate may each appoint 1 advisory committee member.

(2) The secretary of state may conduct tests of a voting system in order to select the uniform voting system. The secretary of state shall not consider a voting system for selection as the uniform voting system unless the voting system is approved and certified as provided in section 795a. At the secretary of state's request, the board of state canvassers shall perform the approval and certification review, as provided in section 795a, of a voting system that the secretary of state wants to consider for selection as the uniform voting system.

(3) When the uniform voting system is selected or at an earlier time that the secretary of state considers advisable, the secretary of state shall notify each county, city, village, township, and school district about the selection or impending selection of the uniform voting system. A governmental unit that is notified under this subsection shall not purchase or enter into a contract to purchase a voting system other than the uniform voting system after receipt of the notice.

(4) After selection of the uniform voting system, the secretary of state shall establish a schedule for acquisition and implementation of the uniform voting system throughout the state. The secretary of state may devise a schedule that institutes the uniform voting system over several election cycles. The secretary of state shall widely publicize the schedule and changes to the schedule. If, however, a jurisdiction has acquired a new voting system within 8 years before the jurisdiction receives notice from the secretary of state under subsection (3), that jurisdiction shall not be required to acquire and use the uniform voting system until the expiration of 10 years after the date of the original purchase of the equipment.

(5) If, after selection of the uniform voting system, the secretary of state determines that the uniform voting system no longer serves the welfare of the voters or has become out of date in regards to voting system technology, the secretary of state may repeat the process for selecting the uniform voting system authorized under this section.

(6) This section does not apply until money is appropriated for the purpose of selecting, acquiring, and implementing the uniform voting system. If federal money becomes available for the purposes described in this section, the secretary of state shall, and the

legislature intends to, take the steps necessary to qualify for and appropriate that money for the purposes described in this section.

(7) If an appropriation of money for the purposes described in this section is not signed into law before January 1, 2006, this section is repealed on January 1, 2006.

168.770 Voting machines authorized; contracts between governing bodies as to use.

Sec. 770. (1) Unless the secretary of state implements the uniform voting system in a precinct, at all elections held in this state, ballots or votes may be cast, registered, recorded, and counted by means of voting machines, as provided in this chapter.

(2) The governing body of a governmental unit in this state may contract with the governing body of another governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

168.770a Voting device; authorization of use by secretary of state; petition; rules as to election procedures.

Sec. 770a. Until the secretary of state implements the uniform voting system, the secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules promulgated shall be consistent with the election law.

168.771 Voting machines; purchase.

Sec. 771. Until notified by the secretary of state under section 37, a county board of commissioners, the legislative body of an incorporated city or village, or the township board of a township in the state of Michigan may, by a majority vote, authorize, purchase, and order the use of a thoroughly tested or reliable voting machine in 1 or more voting precincts within the county, city, village, or township until otherwise ordered by the officers adopting the same.

168.773 Voting machines or uniform voting system; maintenance; custody.

Sec. 773. (1) A county board of commissioners, the legislative body of a city or village, or the township board of a township adopting a voting machine or implementing the uniform voting system shall, as soon as practicable, provide for each election district a voting machine or uniform voting system in complete working order. The county, city, township, or village clerk shall keep the voting machine or voting system in repair and shall have the custody of the machine or system. The clerk has custody of the furniture and equipment of the polling place when not in use at an election.

(2) If it is impracticable to supply each and every election district with a voting machine at any election following the adoption, as many may be supplied as it is practicable to procure, and the voting machines may be used in the election district or districts within the county, city, village, or township as the officers adopting them may determine. More than 1 voting machine may be provided and used in an election precinct.

168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for

an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question located at each polling place and shall be programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(l) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls.

168.971 Election to fill vacancy; time; review team.

Sec. 971. (1) If the recall was successful, the officer with whom the recall petition was filed shall, within 5 days after receiving the certification, submit to the county election scheduling committee a proposed date for a special election to be held within 60 days for the filling of the vacancy. If any primary or election is to be held in that electoral district within 4 months after the certification and at a time as will permit preparation for the election by election officials as provided by law, the election to fill the vacancy shall be held concurrently with that primary or election. The same provisions made in section 964 for calling and conducting of the recall election govern in the calling and conducting of the election to fill the vacancy created, except as otherwise provided in this section.

(2) If a petition is filed under section 959, the officer with whom the petition is filed shall not submit a proposed date to the county election scheduling committee, but shall call the special election subject to the same time limitations set out in this section.

(3) If the governor appoints a review team under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, to perform the functions prescribed in that act relative to a city, township, or village and an elected official of the city, township, or village was the subject of a successful recall, the officer with whom the recall petition was filed does not have the authority to propose a date for a special election. If the review team described in this subsection is appointed after the officer submits a proposed special election date or the county election scheduling committee schedules the special election as required by subsection (1), but before the election is held, the officer's or county election scheduling committee's action becomes void when the review team is appointed. Within 5 days after the review team described in this subsection reports its findings to the governor as required by section 14 of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1214, the review team shall submit to the county election scheduling committee a proposed date for the special election. A special election scheduled under this subsection is subject to all of the other provisions of subsection (1).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5335 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 26, 2002.

Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5335, referred to in enacting section 1, was filed with the Secretary of State April 9, 2002, and became P.A. 2002, No. 163, Imd. Eff. Apr. 9, 2002.

[No. 92]

(HB 5674)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 512, 524, 527, 535, 549b, 549e, 550a, 821, 821a, 822, 8143, 8144, 8146, 8147, 8148, 8152, and 8176 (MCL 600.512, 600.524, 600.527, 600.535, 600.549b, 600.549e, 600.550a, 600.821, 600.821a, 600.822, 600.8143, 600.8144, 600.8146, 600.8147, 600.8148, 600.8152, and 600.8176), sections 535, 550a, and 8147 as amended by 1990 PA 54, section 549e as added by 1980 PA 129, section 821 as amended by 1998 PA 298, section 821a as added by 1998 PA 100, section 822 as amended by 1998 PA 313, section 8152 as amended by 2000 PA 38, and section 8176 as amended by 1994 PA 138, and by adding section 810a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.512 Eleventh judicial circuit.

Sec. 512. The eleventh judicial circuit consists of the counties of Alger, Luce, and Schoolcraft and has 1 judge. Beginning April 1, 2003, the eleventh judicial circuit court consists of the counties of Alger, Luce, Mackinac, and schoolcraft and has 1 judge.

600.524 Twenty-third judicial circuit.

Sec. 524. The twenty-third judicial circuit consists of the counties of Iosco and Oscoda and has 1 judge. Beginning April 1, 2003, the twenty-third judicial circuit consists of the counties of Alcona, Arenac, Iosco, and Oscoda and has 2 judges. The additional judgeship in this circuit shall be filled by the incumbent circuit judge of the thirty-fourth circuit residing in Arenac county with a term ending January 1, 2009, who shall serve as a judge of the twenty-third circuit for the balance of the term to which he or she was elected or appointed. For purposes of the November 2008 general election only, the term of the candidate for circuit judge in this circuit who receives the highest number of votes shall be 8 years, and the term of the candidate receiving the second highest number of votes shall be 6 years.

600.527 Twenty-sixth judicial circuit.

Sec. 527. The twenty-sixth judicial circuit consists of the counties of Alpena, Alcona, Montmorency, and Presque Isle and has 2 judges. Beginning April 1, 2003, the twenty-sixth judicial circuit consists of the counties of Alpena and Montmorency. This circuit shall have 1 judge beginning on the earlier of the following dates:

- (a) The date on which a vacancy occurs in the office of circuit judge for this judicial circuit.
- (b) Twelve noon, January 1, 2005.

600.535 Thirty-fourth judicial circuit.

Sec. 535. The thirty-fourth judicial circuit consists of the counties of Arenac, Ogemaw, and Roscommon and has 2 judges. Beginning April 1, 2003, the thirty-fourth judicial circuit consists of the counties of Ogemaw and Roscommon and has 1 judge.

600.549b Fiftieth judicial circuit.

Sec. 549b. The fiftieth judicial circuit consists of the counties of Chippewa and Mackinac and has 1 judge. Beginning April 1, 2003, the fiftieth judicial circuit consists of the county of Chippewa and has 1 judge.

600.549e Fifty-third judicial circuit.

Sec. 549e. The fifty-third judicial circuit consists of the county of Cheboygan and has 1 judge. Beginning April 1, 2003, the fifty-third judicial circuit consists of the counties of Cheboygan and Presque Isle and has 1 judge.

600.550a New judicial circuit and 1 or more circuit judgeships; creation; approval by county; resolution; filing; notice to elections division; effect of approval; state's obligation; election; first term; approval of county board of commissioners not required.

Sec. 550a. (1) If a new judicial circuit is proposed by law, that new circuit shall not be created and any circuit judgeship proposed for the circuit shall not be authorized or filled by election unless each county in the proposed circuit, by resolution adopted by the county board of commissioners, approves the creation of the new circuit and each judgeship proposed for the circuit and unless the clerk of each county adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary immediately following the effective date of the amendatory act permitting the creation of the new circuit. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial circuit and circuit judgeship authorized pursuant to this subsection.

(2) By proposing a new judicial circuit and 1 or more circuit judgeships for the circuit, the legislature is not creating that circuit or any judgeship in the circuit. If a county, acting through its board of commissioners, approves the creation of a new circuit and 1 or more circuit judgeships proposed by law for that circuit, that approval constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements which may result from the creation of the new circuit and each judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) Each circuit judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each circuit judgeship shall be 6 years, unless the law permitting the creation of the new circuit and 1 or more judgeships provides for a term of a different length.

(4) The reformation of the eleventh, twenty-third, twenty-sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits pursuant to the 2002 amendatory act that added this subsection does not require the approval of the county board of commissioners under this section or section 550.

600.810a Arenac, Kalkaska, and Crawford counties; power, authority, and title of probate judges.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, and Crawford have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

600.821 Probate judges; practice of law; annual salary; county contribution and reimbursement; additional salary; increase in salary.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (6), an annual salary provided in this section:

(a) A probate judge of a county that is not part of a proposed probate court district described in section 807.

(b) The probate judge in each probate court district in which a majority of the electors voting on the question in each county of probate court district has approved or approves creation of the district.

(c) A probate judge in a county having a population of 15,000 or more according to the 1990 federal decennial census, if the county is not part of a probate court district created pursuant to law.

(d) A probate judge described in section 810a.

(2) Each probate judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and \$45,724.00.

(b) An additional salary of \$45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of \$45,724.00 from the county, or from the counties comprising a probate court district, and does not

receive less than or more than \$45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. Beginning January 1, 1997, the state shall annually reimburse the county or counties \$6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(4) The salary provided in this section is full compensation for all services performed by a probate judge, except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(5) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(6) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase is retroactive to January 1 of that year.

600.821a Probate judges' federal social security and medicare taxes; reimbursement to counties.

Sec. 821a. In addition to the reimbursement under section 821(2)(b) to a county or to counties for amounts paid for probate judges' salaries, the state shall reimburse the county or counties for amounts paid as the employer's share for probate judges' federal social security and medicare taxes.

600.822 Probate judge; annual salary based on population; payment; increase or decrease in salary; representing party in contested proceeding; additional salary; total annual salary; state salary standardization payment.

Sec. 822. (1) A probate judge not described in section 821 shall receive an annual salary of \$20,000.00. Six thousand dollars of the minimum annual salary provided by this subsection shall be paid by the county and the balance of the minimum annual salary shall be paid by the state as a grant to the county. The county shall, in turn, pay that amount to the probate judge.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which the probate judge has been elected or appointed. This salary is in full compensation for all services performed by the person as probate judge, except as otherwise provided by law. A probate judge whose annual salary is provided in subsection (1) shall not represent a party in a contested proceeding in the probate court of this state.

(3) In addition to the salary provided in subsection (1), a probate judge may receive from the county in which he or she regularly holds court an additional salary of not more than \$43,000.00, as determined by the county board of commissioners. The additional salary may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county.

(4) The total annual salary of a probate judge, including the salary provided in subsection (1) and any additional salary granted by the county under subsection (3), shall not exceed \$63,000.00.

(5) From funds appropriated to the judiciary, the state shall pay to a county described in subsection (1) a state salary standardization payment of \$5,750.00 for each probate judge and an additional payment of \$6,000.00 for each probate judge to offset the portion of minimum annual salary paid by the county.

600.8143 Seventy-eighth district.

Sec. 8143. The seventy-eighth district consists of the counties of Newaygo and Lake, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-eighth district consists of the counties of Newaygo and Oceana, is a district of the first class, and has 1 judge.

600.8144 Seventy-ninth district.

Sec. 8144. The seventy-ninth district consists of the counties of Oceana and Mason, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-ninth district consists of the counties of Lake and Mason, is a district of the first class, and has 1 judge.

600.8146 Eighty-first district.

Sec. 8146. The eighty-first district consists of the counties of Iosco and Arenac, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-first district consists of the counties of Alcona, Arenac, Iosco, and Oscoda, is a district of the first class, and has 1 judge.

600.8147 Eighty-second district.

Sec. 8147. The eighty-second district consists of the counties of Alcona, Oscoda, and Ogemaw, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-second district consists of the county of Ogemaw, is a district of the first class, and has 1 judge.

600.8148 Eighty-third district.

Sec. 8148. The eighty-third district consists of the counties of Roscommon and Crawford, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-third district consists of the county of Roscommon, is a district of the first class, and has 1 judge.

600.8152 Eighty-seventh district.

Sec. 8152. The eighty-seventh district consists of the counties of Kalkaska and Otsego, is a district of the first class, and has 1 judge. Effective April 1, 2003, the eighty-seventh district consists of the counties of Crawford, Kalkaska, and Otsego, is a district of the first class, and has 1 judge.

600.8176 Creation of new district and judgeship; conditions; notification of elections division; resolution; exercise of option; obligation of state; election and term of judgeship; approval of district control unit not required.

Sec. 8176. (1) If a new district is proposed by law, that new district shall not be created and any district judgeship proposed for the district shall not be authorized or filled by election unless each district control unit in the proposed district, by resolution adopted by the governing body of the district control unit, approves the creation of the new district and each judgeship proposed for the district and unless the clerk of each district control unit adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial district and district judgeship authorized pursuant to this subsection.

(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district.

(3) By proposing a new district and 1 or more district judgeships for the district, the legislature is not creating that district or any judgeship in the district. If a district control unit, acting through its governing body, approves the creation of a new district and 1 or more district judgeships proposed by law for that district, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the district control unit of all expenses and capital improvements which may result from the creation of the new district and each judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(4) Each district judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each district judgeship shall be 6 years, unless the law permitting the creation of the new district and 1 or more judgeships provides for a term of a different length.

(5) The reformation of the seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-third, and eighty-seventh judicial districts pursuant to the 2002 amendatory act that added this subsection does not require the approval of the district control unit under this section or section 8175.

Repeal of § 600.9948.

Enacting section 1. Section 9948 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9948, is repealed.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

[No. 93]**(HB 5732)**

AN ACT to amend 1943 PA 240, entitled “An act to provide for a state employees’ retirement system; to create a state employees’ retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; and to prescribe penalties and provide remedies,” by amending sections 1b, 1d, 5, 11, 13, 17j, 19, 20, 20d, 21, 24, 31, 33, 38, 46, 48, 49, and 52 (MCL 38.1b, 38.1d, 38.5, 38.11, 38.13, 38.17j, 38.19, 38.20, 38.20d, 38.21, 38.24, 38.31, 38.33, 38.38, 38.46, 38.48, 38.49, and 38.52), section 1b as amended by 1996 PA 33, sections 1d and 49 as added by 1995 PA 176, sections 11 and 13 as amended and section 52 as added by 1996 PA 487, sections 17j, 19, and 31 as amended by 1998 PA 205, section 20 as amended by 1996 PA 521, section 20d as amended by 1996 PA 532, section 38 as amended by 1996 PA 279, and section 48 as added by 1990 PA 110, and by adding sections 17n, 19g, and 19h.

The People of the State of Michigan enact:

38.1b Definitions; B, C.

Sec. 1b. (1) “Beneficiary” or “disability beneficiary” means a person other than a retirant who receives a retirement allowance, pension, or other benefit provided by this act.

(2) “Compensation” means the remuneration paid a member on account of the member’s services rendered to this state. If a member’s remuneration is not paid totally in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission. Compensation does not include any of the following:

(a) Remuneration paid in lieu of accumulated sick leave.

(b) Remuneration for services rendered after October 1, 1981, payable at retirement or termination under voluntary or involuntary pay reduction plan B, in excess of the amount the member would have received had the member been compensated for those services at the rate of pay in effect at the time those services were performed.

(c) Payment for accrued annual leave at separation in excess of 240 hours.

(d) Remuneration received by an employee of the department formerly known as the department of mental health resulting from severance pay received because of the deinstitutionalization of the department formerly known as the department of mental health resident population.

(e) Remuneration received as a bonus by investment managers of the department of treasury under the treasury incentive bonus plan first approved by the civil service commission on February 11, 1988, pursuant to section 5 of article XI of the state constitution of 1963.

(f) Remuneration received as a bonus or merit payment by assistant attorneys general in the department of attorney general under the merit pay plan approved by the civil service commission on January 19, 1990, pursuant to section 5 of article XI of the state constitution of 1963.

(3) “Conservation officer” means an employee of the department of natural resources, or its predecessor or successor agency, who has sworn to the prescribed oath of office and who is designated as a peace officer under section 1606 of part 16 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606, and section 1 of 1986 PA 109, MCL 300.21.

(4) “Credited service” means the sum of the prior service and membership service credited to a member’s service account.

38.1d Definitions; E.

Sec. 1d. (1) Beginning January 1, 2002, except as otherwise provided in this subsection, “eligible retirement plan” means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, a qualified trust described in section 401(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state, an agency or instrumentality of a state, or an agency or instrumentality of a political subdivision of a state, so long as amounts transferred into eligible retirement plans from this retirement system are separately accounted for by the plan provider that accepts the distributee’s eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(2) Beginning January 1, 2002, “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.

(d) Except as otherwise provided in this subdivision, the portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities. If a portion of a distribution that is not included in federal gross income is paid to an individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code or a qualified defined contribution plan described in section 401(a) or 403(a) of the internal revenue code, and the plan providers agree to separately account for amounts paid, including any portion of the distribution that is includable in gross income, then the portion of the distribution that is not includable in federal gross income is an eligible rollover distribution.

(3) “Employee” means a person who may become eligible for membership under this act, as provided in section 13, if the person’s compensation is paid in whole or in part by this state.

(4) “Employer” or “state” means this state.

38.5 Retirement board; oath; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.

Sec. 5. (a) Each member of the retirement board, created by this act, upon election or appointment, shall take an oath of office which shall be immediately filed in the office of

the secretary of state. A majority of the retirement board shall constitute a quorum for the transaction of business at a meeting of the board.

(b) The business which the retirement board may perform shall be conducted at a public meeting of the retirement board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(c) The members of the retirement board shall serve without compensation, but shall not suffer a loss because of absence from regular employment, and shall be reimbursed for all actual necessary expense incurred in performance of duties in accordance with the statutes of this state. Notwithstanding this section, the retired state employee member shall receive the per diem compensation established annually by the legislature for the performance of official duties by attendance at regularly scheduled meetings.

38.11 Employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund; creation; health advance funding subaccount; description of funds as reference to accounting records of retirement system.

Sec. 11. (1) There is created the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund.

(2) The employees' savings fund is the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account for each member that shows the amount of the member's contributions together with interest on those contributions. The accumulated contributions of a member returned to the member upon his or her withdrawal from service, or paid to the member's estate or designated beneficiary in the event of the member's death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member or the member's legal representative as provided in this act within 5 years after the member's separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon the member's retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

(3) The employer's accumulation fund is the fund in which shall be accumulated the reserves derived from money provided by this state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by this state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon the member's death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the member's retirement or death and the member's accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement or death shall be transferred from the employer's accumulation fund to the pension reserve fund. If, in any year, the pension reserve fund is insufficient to cover the reserves for retirement allowances and other benefits being paid from the fund, the amount or amounts of the insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

(4) The annuity reserve fund is the fund from which shall be paid all annuities, or benefits in lieu of annuities, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

(5) The pension reserve fund is the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. For a disability retiree returned to active service with this state, his or her pension reserve, computed as of the date of return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion that this reserve, as of the date of his or her retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts transferred to the employees' savings fund under this section shall be credited to the member's individual account in the fund.

(6) An income fund is created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of the fund as evidenced by a resolution of the retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (2), (3), (4), (5), and (8), and the amount allowed under this subsection shall be due and payable to each of these funds and shall be annually credited to the funds by the retirement board and paid from the income fund. However, interest on contributions from members within a calendar year shall begin on the first day of the next calendar year, and shall be credited at the end of the calendar year. Except as provided in this subsection, income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement system shall determine the share of income, interest, and dividends attributable to the balance in the health advance funding subaccount created under subsection (9) and the share of income, interest, and dividends attributable to the health advance funding subaccount balance shall be paid into the health advance funding subaccount. The retirement board is authorized to accept gifts and bequests. Any funds that come into the possession of the retirement system as a gift or bequest, or any funds that may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other money the disposition of which is not otherwise provided for in this act shall be credited to the income fund.

(7) The expense fund is the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate the funds necessary to defray and cover the expenses of administering this act.

(8) The health insurance reserve fund is the fund into which appropriations made by the legislature, subscriber co-payments, and payments by the retirement system under section 68 for health, dental, and vision insurance premiums are paid. Health, dental, and vision insurance premiums payable pursuant to sections 20d and 68 shall be paid from the health insurance reserve fund. The assets and any earnings on the assets contained in the health insurance reserve fund and the health advance funding subaccount described in subsection (9) are not to be treated as pension assets for any purpose.

(9) The health advance funding subaccount is the account to which amounts transferred pursuant to sections 20d, 38(6), and 52 are credited. 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 20d is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 20d if the actuarial accrued liability for health benefits under section 20d is at least 100% funded. For each fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount, amounts received in the health advance funding subaccount and accumulated earnings on those amounts may be expended or credited to fund health benefits under section 20d as provided in section 38(3). Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the employer's accumulation fund created under this section 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 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 38 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.

(10) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

38.13 Membership in retirement system.

Sec. 13. (1) Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service. All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, shall become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service shall not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement system the amount the employee's contributions would have been had the employee become a member immediately upon employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of employment by this state to the date of payment. A person who draws compensation as a state employee of a political subdivision of this state is eligible for the benefits provided by this act to the extent of the person's compensation paid by this state. An individual who meets the requirements of section 44a is a member of the retirement system.

(2) Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council is excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed

by an elected or appointed official during the time the official elects not to participate shall not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate shall be refunded all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) Except as provided in section 19g, an individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

(4) A person who is hired in state classified or unclassified service after June 30, 1974, who is first employed and entered upon the payroll before March 31, 1997, and who possesses a Michigan teaching certificate shall be a member of this retirement system. After June 30, 1974, but before March 31, 1997, a person who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the person's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16. On and after March 31, 1997, an individual described in this subsection who returns to state service shall make an irrevocable election to remain in Tier 1 or to become a qualified participant of Tier 2 in the manner prescribed in section 50.

(5) A person, not regularly employed by this state, who is employed through participation in 1 or more of the following programs, shall not be a member of the retirement system and shall not receive service credit for the employment:

(a) A program authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

(b) A summer youth employment program established pursuant to the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(c) A program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(d) A program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of Act No. 259 of the Public Acts of 1983.

(e) A program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of Act No. 259 of the Public Acts of 1983.

(6) A person, not regularly employed by this state, who is employed to administer a program described in subsection (5) shall not be a member of the retirement system and shall not receive service credit for the employment.

(7) If a person described in subsection (5)(a) 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 which is excluded in subsection (5) for purposes of determining a retirement allowance upon the payment by the person's employer under subsection (5) from funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, 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 determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(8) For purposes of section 19g, a former member shall be considered a member and shall be considered to have satisfied the requirements of section 19g(1)(c) and (2)(c) if the former member was employed by the department formerly known as the department of mental health on January 1, 1996 and went on layoff status before January 1, 1997.

38.17j Purchase of combined total of more than 10 years prohibited; purchase of service credit in separate increments; future purchases not barred; refund; actuarial cost.

Sec. 17j. (1) On and after June 23, 1987, a member who is otherwise entitled to purchase service credit under section 17g, 17h, 17i, 17k, 17l, 17m, or 17n shall not purchase a combined total of more than 10 years of service credit under those sections.

(2) On and after June 23, 1987, a member who under section 17c, 17g, 17h, 17i, 17k, 17l, 17m, 17n, or 18(2) is otherwise entitled to purchase service credit may purchase the 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 does not bar future purchases otherwise in compliance with this section and the provisions of this act authorizing the purchase, but computation of the amount of payment due shall be made separately for each purchase.

(3) If a member who made payment under this section dies and a retirement allowance is not payable or if the member leaves service with this state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the board, or if a person is not designated, then to the member's legal representative or estate.

(4) Actuarial cost shall be equal to the product of subdivisions (a), (b), and (c), as follows:

(a) A percentage, determined by the retirement board and the department, that 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 members 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 fiscal year immediately before the 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 up to the maximum allowed.

38.17n City employee; transfer or purchase of service credit.

Sec. 17n. (1) A member may transfer or purchase service credit earned when the member was an employee of a city with a population over 750,000 if all of the following apply:

(a) The member became a member on September 1, 1981.

(b) The member was employed by a city with a population over 750,000 on August 31, 1981.

(c) The pension system of the city with a population over 750,000, the city with a population over 750,000, or the member agrees to contribute the actuarial cost of the service credit transferred or purchased to the retirement system.

(2) Upon payment of the actuarial cost of the service credit purchased, the retirement system shall credit the member with the service.

38.19 Retirement upon written application to retirement board; retirement without reduction in retirement allowance; definitions; layoff status because agency or inpatient facility designated for closure; conditions; certification; application; funding additional costs; employees of state accident fund, Michigan biologic products institute, or liquor control commission.

Sec. 19. (1) A member who is 60 years of age or older and has 10 or more years of credited service or a member who is 60 years of age or older and has 5 or more years of credited service as provided in section 20(4) or (5) may retire upon written application to the retirement board, stating a date on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(2) A member who is 55 years of age or older, but less than 60 years of age, and has 15 or more years of credited service, may retire upon written application to the retirement board stating a date on which he or she desires to retire. Upon retirement he or she shall receive a retirement allowance computed according to section 20(1). Except as otherwise provided in this act, the retirement allowance of a member who has less than 30 years of credited service shall be reduced by an amount that is 0.5% of the retirement allowance multiplied by the number of months the person's age at retirement is under 60 years. 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 this subsection does not apply to a member who retired before July 1, 1974 and before attainment of age 60, with 30 or more years of credited service. The retirement allowance of a retirant or beneficiary of a retirant who retired before that date shall be recalculated disregarding the reduction, and the person receiving the retirement allowance is eligible to receive an adjusted retirement allowance based on the recalculation beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this

subsection shall be paid by January 1, 1988. The retirement allowance of a retirant who dies before January 1, 1988, and who has not nominated a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(3) Notwithstanding any other provision of this section, effective April 1, 1988, a member may retire with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), if all of the following apply:

(a) The member files a written application with the retirement board stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which the member desires to retire, and which is within the early retirement effective period.

(b) The member was employed by the state for the 6-month period immediately preceding the member's retirement allowance effective date. This subdivision does not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.

(c) 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 and the member is 50 years of age or older.

(d) For purposes of this subsection, "early retirement effective period" means 1 of the following:

(i) Except as provided in subparagraph (ii), the period beginning on April 1, 1988 and ending on April 1, 1989.

(ii) For a member employed by a hospital or facility owned or operated by the department formerly known as the department of mental health that is in the process of being closed by the department formerly known as the department of mental health, the period beginning on April 1, 1988 and ending on October 1, 1989.

(4) As used in subsections (5) to (9):

(a) "Agency of the department" means 1 of the following:

(i) Southwest Michigan community living services.

(ii) Wayne community living services.

(b) "Department inpatient facility" means 1 of the following:

(i) A developmental disability center that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient care and treatment services to persons with developmental disabilities.

(ii) A psychiatric hospital that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient diagnostic and therapeutic services to persons who are mentally ill.

(5) Notwithstanding any other provision of this section, a member who is an employee of an agency of the department or a department inpatient facility and is on layoff status because the agency or inpatient facility has been designated by the state officer formerly known as the director of mental health for closure on or after October 1, 1989, may retire as provided in subsection (7) or (8), as applicable, with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), upon satisfaction of any 1 of the following conditions:

(a) The member is 51 years of age or older and has 25 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(b) The member is at least 56 years of age and has 10 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(c) The member has 25 or more years of credited service, regardless of age, as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(6) When a department inpatient facility or agency is designated for closure on or after October 1, 1989, the state officer formerly known as the director of mental health shall certify in writing to the state legislature and the retirement board, not less than 240 days before the designated official date of closure, which facility or agency is to be closed and the designated official date of closure.

(7) Except as provided in subsection (8), a member who is eligible to receive a retirement allowance under subsection (5) may retire effective on the date that an agency of the department or a department inpatient facility designated for closure as provided in subsection (5) actually closes, upon written application to the retirement board not less than 30 or more than 180 days before the designated official date of closure. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(8) A member who is on layoff status, is not working for the state, and becomes eligible to receive a retirement allowance under subsection (5) and who was an employee of an agency of the department or a department inpatient facility that has been designated for closure as provided in subsection (5) and that actually closes on or after October 1, 1989, may retire upon written application to the retirement board, stating a date upon which he or she wishes to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(9) Any additional accrued actuarial cost and costs for health insurance resulting from the implementation of subsection (5) shall be funded from appropriations to the department formerly known as the department of mental health for this purpose.

(10) A member who is an employee of the state accident fund on the date of transfer to a permitted transferee as that term is defined by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of transfer. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(11) A member who is an employee of the Michigan biologic products institute on the date the institute is conveyed pursuant to the Michigan biologic products institute transfer act, 1996 PA 522, MCL 333.26331 to 333.26340, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of the conveyance. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(12) A member who is an employee of the liquor control commission created by section 209 of the Michigan liquor control code of 1998, 1998 PA 5, MCL 436.1209, whose employment is terminated due to the privatization of the distribution of spirits within this

state is effectuated pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date the privatization is effectuated. The member may retire under this subsection upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1), without regard to the reduction required by subsection (2). The cost of benefits paid under this section shall be paid out of the revolving fund created under section 221 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1221.

38.19g Member meeting certain requirements on or before November 1, 2002; computation of retirement allowance; payment of accumulated sick leave or annual leave; extension of effective date; participant in Tier 2.

Sec. 19g. (1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member meets 1 or more of the following:

(i) The member's combined age and length of credited service is equal to or greater than 80 years.

(ii) The member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is within the classified state civil service, is an employee of the judicial branch, or is an individual not described in subsection (2)(b).

(c) Except as provided in section 13(8), the member was employed by this state for the 6-month period ending on the effective date of his or her retirement or was an employee of the state judicial council on September 30, 1996 as described in section 44a. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) Except as may be provided otherwise in subsection (5), the member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later. A written application submitted by a member and not withdrawn on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later, is irrevocable.

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member's combined age and length of credited service is equal to

or greater than 80 years or the member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is an employee of the legislature, is an employee of the office of governor, or is an unclassified employee within the executive branch.

(c) Except as provided in section 13(8), the member was employed by this state or the legislature for the 6-month period ending on the effective date of his or her retirement. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) The member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002. A written application submitted by a member and not withdrawn on or before May 15, 2002 is irrevocable. This subdivision is subject to subsection (5).

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on or after October 1, 2002. Payments received under this subsection may not be used to purchase service credit under this act. These payments for accumulated sick leave are to be paid from funds appropriated to the appointing authority and not from funds of the retirement system. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(4) Any amount that a member retiring under this section is entitled to receive in a lump sum at retirement on account of accumulated annual leave shall be paid on or after October 1, 2002. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(5) The director of a principal department may request that the effective date of retirement under subsection (1) of a member employed by that department be extended to a date not later than February 1, 2004. To make a request under this subsection, the director shall submit a written request and the written concurrence of the member to the office of the state employer and the state budget office on or before May 31, 2002. Upon receipt of the written request and concurrence, the office of the state employer and the state budget office may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) to a date not later than February 1, 2004. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, director or chair of the legislative retirement system for a member who is an employee of the legislative retirement system, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative

council, and upon written concurrence of the member, the effective date of retirement for that member under subsection (2) may be extended to a date not later than February 1, 2004. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member under subsection (1) may be extended to a date not later than February 1, 2004. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement services of all extensions approved on or before May 31, 2002.

(6) Upon his or her retirement as provided in this section, a member who did not make an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(7) Upon his or her retirement as provided in this section, a former member who made an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1/4% of his or her final average compensation. Except for the calculation provided in this subsection, the former member's retirement allowance is subject to section 20. The former member's retirement allowance is not subject to reduction pursuant to section 19(2).

(8) For purposes of this section, an individual who elected to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 13, shall be considered a member of Tier 1 for the limited purpose of receiving a retirement allowance calculated under this section and paid by the retirement system.

38.19h Payments not tax exempt and subject to certain operations of law.

Sec. 19h. Payments made after September 30, 1991, under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

38.20 Computation of retirement allowance; right to elect option; retirement before age 65; death of retirant; separation from service; department of mental health employee termination; recalculation of retirement allowance; payment of retirement allowance; eligibility of state accident fund or Michigan biologic products institute employees to health care benefits and certain rights, privileges, and benefits.

Sec. 20. (1) Upon his or her retirement, as provided for in section 19, 19a, 19b, 19c, or 19d, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. The member's retirement allowance is subject to subsection (3). Upon his or her retirement, the member may elect an option provided for in section 31(1).

(2) Pursuant to rules promulgated by the retirement board, a member who retires before becoming 65 years of age may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable up to his or her attainment of 65 years of age and a reduced retirement allowance payable after his or her attainment of 65 years of age. His or her increased retirement allowance payable up to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount. In addition, upon retirement the member may elect an option provided for in section 31(1).

(3) If a retirant dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the retirant's accumulated contributions credited to the retirant in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of retirement allowance received by him or her shall be paid to the person or persons that he or she nominated by written designation executed and filed with the retirement board. If the person or persons do not survive the retirant, then the difference, if any, shall be paid to the retirant's legal representative or estate. Benefits shall not be paid under this subsection on account of the death of the retirant if he or she elected an option provided for in section 31(1).

(4) If a member has 10 or more years of credited service, or has 5 or more years of credited service as an elected officer or in a position in the executive branch or the legislative branch excepted or exempt from the classified state civil service as provided in section 5 of article XI of the state constitution of 1963, and is separated from the service of the state for a reason other than retirement or death, he or she shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a retirement allowance provided for in this section. If a former employee of the state accident fund who had 5 or more years of service as an employee of the state accident fund returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service before receiving a retirement allowance under this act. If a former employee of the Michigan biologic products institute who is eligible to and has elected to purchase additional credited service pursuant to section 17(2) returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service, without regard to the additional credited service purchased pursuant to section 17(2) but including any credited service authorized under section 16, before receiving a retirement allowance under this act. If the member withdraws all or part of his or her accumulated contributions, he or she ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon his or her written application to the retirement board as provided in section 19(1). If a member elects an option as provided under section 31(4), but dies before the effective date of his or her retirement, the option elected by the member shall be carried out, and the beneficiary of the member is entitled to all advantages due under that option.

(5) A person who is a member after January 1, 1981, who has at least 5 years of credited service, and whose employment with the department formerly known as the department of mental health is terminated by reason of reduction in force related to deinstitutionalization that may or may not result in facility closure, shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a service retirement allowance as provided in this subsection. As used in this subsection, "deinstitutionalization" means planned reduction of state center or hospital beds through placement of individuals from the hospital or facility, or through limiting admissions to centers and hospitals, or both. If a member withdraws all or part of the member's

accumulated contributions, the member ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon written application to the retirement board. The application shall specify a date on which the member desires to retire. Upon retirement, the member shall receive a retirement allowance equal to the number of years and fraction of a year of credited state service multiplied by 1-1/2% of the member's final average compensation. Upon retirement, the member may elect an option provided in section 31(1). If the member elects an option provided for in section 31(4), but dies before the effective date of retirement, the option elected by the member shall be carried out, and a beneficiary of the member is entitled to all advantages due under the option.

(6) A retirant or the beneficiary of a retirant who retired before July 1, 1974 shall have his or her retirement allowance recalculated based on the retirant's number of years and fraction of a year of credited service multiplied by 1.5% of his or her final average compensation. The retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988 and shall be the basis on which future adjustments to the allowance, including the supplement provided by section 20h, are calculated. The retirement allowance of a retirant who dies before January 1, 1988, and who did not nominate a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(7) Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance is payable for the month in which a retirement allowance ceases.

(8) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer authorized by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

(9) An employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance authorized by the Michigan biologic products institute transfer act and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

38.20d Hospitalization, medical, dental, and vision coverage insurance premium; computation and allocation of cost savings; payment by retirement board; "retirant" defined.

Sec. 20d. (1) On and after July 1, 1974, hospitalization and medical coverage insurance premium payable by any retirant or his or her beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11. The amount payable shall be in the same proportion of premium payable by the state of Michigan for the classified employees occupying positions in the state civil service. The hospitalization and medical insurance premium payable shall be paid from appropriations made for this purpose to the health insurance reserve fund sufficient to cover the premium payment needed to be made.

(2) Effective January 1, 1988, 90% of the premium payable by a retirant or the retirant's beneficiary and his or her dependents for dental coverage or vision coverage, or both, under any group plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11.

(3) The department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund premiums payable pursuant to section 68 had 1996 PA 487 not been implemented. The total amount of the cost savings, if any, shall be allocated to the health advance funding subaccount created under section 11(9).

(4) On and after March 31, 1997, the retirement system shall also pay health insurance premiums described in this section in the manner prescribed in section 68.

(5) For purposes of this section, "retirant" includes a person who retires under section 306 or 410 of the Michigan military act, 1967 PA 150, MCL 32.706 and 32.810.

38.21 Duty disability retirement.

Sec. 21. (1) Except as may be provided otherwise in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease shall be retired, if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's employment.

(b) The retirement board finds that the member's personal injury or disease is the natural and proximate result of the member's performance of duty.

(c) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the member should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

38.24 Non-duty disability retirement.

Sec. 24. (1) Except as may otherwise be provided in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the member's performance of duty may be retired if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's state employment.

(b) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the member should be retired.

(c) The member has been a state employee for at least 10 years.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

38.31 Election of regular retirement allowance or reduced retirement allowance; payment options; designation of beneficiary; effect of beneficiary's death or divorce; request by nonduty disability retiree to change elections; death of member before effective date of retirement.

Sec. 31. (1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in this act, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retiree and a retirement allowance beneficiary, pursuant to 1 of the following payment options:

(a) Option A. Upon the retiree's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retiree's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(c) Option C. On and after January 1, 2000, upon the retiree's death, 3/4 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsections (3) and (8), the election of a payment option under subsection (1) shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retiree or member.

(3) If the retirement allowance beneficiary named under a payment option under subsection (1) predeceases the retiree, the retiree's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retiree whose effective date of retirement was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retiree who on January 1, 1986 is receiving a reduced retirement allowance because the retiree designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retiree is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration duly executed and filed with the retirement board elect option A, provided for in subsection (1)(a), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. If the beneficiary's death or divorce from the member occurs before the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B or C as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies before the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

(5) If a member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance.

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retirant who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retirant and the retirant's spouse pursuant to the provisions of a payment option as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retirant had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retirant shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the month in which the retirant makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retirant was married on the effective date of his or her disability retirement allowance and on the date the retirant makes the election pursuant to this subsection.

(7) If a member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit, or on and after the date he or she becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, and who does not have an election of option A in force as provided in subsection (4), dies before the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid pursuant to section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death. If the other requirements of this subsection 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 that 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.

(8) If a retirant receiving a reduced retirement allowance under a payment option under subsection (1) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under the option, the election of the 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 and dated after June 27, 1991 provides that the election of the payment option under subsection (1) 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 payment option under subsection (1) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a regular 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. The retirement allowance shall revert to a regular 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.

38.33 Disability retirant under age 60; medical examination required; reduction of retirement allowance on account of gainful employment.

Sec. 33. (a) The retirement board may, and upon the retirant's application shall, require any disability retirant who has not attained age 60 years to undergo a medical examination. The retirement board shall not require a disability retirant to undergo more

than 1 medical examination in any calendar year. The examination is to be made by or under the direction of the medical advisor at the retirant's place of residence or other place mutually agreed upon. Should any disability retirant who has not attained age 60 years refuse to submit to the medical examination, his or her disability retirement allowance may be discontinued until his or her withdrawal of the refusal. If the refusal continues for 1 year, all rights in and to his or her disability retirement allowance may be revoked by the retirement board. If upon the medical examination of a disability retirant, the medical advisor reports and his or her report is concurred in by the retirement board, that the disability retirant is physically able and capable of resuming employment, he or she shall be restored to active service with the state and his or her disability retirement allowance shall cease.

(b) If the secretary reports and certifies to the retirement board that a disability beneficiary is engaged in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her final compensation, and if the retirement board concurs in the report, then the amount of his or her retirement allowance shall be reduced to an amount which together with the amount earned by him or her shall equal his or her final compensation. Should the earnings of the disability retirant be later changed, the amount of his or her retirement allowance shall be further modified in like manner.

38.38 Annual level percent of payroll contribution rate; determination; basis; report; computation; amortization of unfunded actuarial accrued liability; annual appropriation to retirement system; transfer of funds; certification; difference between actual state contributions and product of computation rates times aggregate compensations paid; submitting difference between estimated and actual aggregate compensation and estimated and actual contribution rate to legislature for appropriation; interest; deposit to health advance funding subaccount.

Sec. 38. (1) The annual level percent of payroll contribution rate to finance the benefits provided under this act shall be determined by actuarial valuation pursuant to subsections (2) and (3), upon the basis of the risk assumptions adopted by the retirement board with approval of the department of management and budget, and in consultation with the investment counsel and the actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. The actuary shall report to the legislature by April 15 of each year on the actuarial condition of the retirement system as of the end of the previous fiscal year and on the projections of state contributions for the next fiscal year. The actuary shall certify in the report that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used fall within the range of reasonable and prudent assumptions and cost estimates. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The contribution rate for monthly benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using a terminal funding method of actuarial valuation.

(3) Except as otherwise provided in this subsection, the contribution rate for benefits other than those provided for in subsection (2) shall be computed using an individual projected benefit entry age normal cost method of valuation. For the 1995-96 state fiscal

year and for each subsequent fiscal year in which the actuarial accrued liability for health benefits is less than 100% funded, the contribution rate for benefits provided under section 20d shall be computed using a cash disbursement method. Beginning in the fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount created under section 11(9), and continuing for each subsequent fiscal year, the contribution rate for health benefits provided under section 20d shall be computed using an individual projected benefit entry age normal cost method of valuation. The contribution rate for service that may be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The unfunded actuarial accrued liability shall be equal to the actuarial present value of benefits reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. The unfunded actuarial accrued liability shall be amortized in accordance with generally accepted governmental accounting standards over a period equal to or less than 40 years.

(4) The legislature annually shall appropriate to the retirement system the amount determined pursuant to subsections (2) and (3). The state treasurer shall transfer monthly to the retirement system an amount equal to the product of the contribution rates determined in subsections (2) and (3) times the aggregate amount of active member compensation paid during that month. Not later than 60 days after the termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department of management and budget the actual aggregate compensations paid to active members during the preceding state fiscal year. Upon receipt of that certification, the director of the department of management and budget shall compute the difference, if any, between actual state contributions received during the preceding state fiscal year and the product of the contribution rates determined in subsections (2) and (3) times the aggregate compensations paid to active members during the preceding state fiscal year. Except as otherwise provided in subsection (5), the difference, if any, shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(5) 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 contribution rate described in subsection (4), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(6) For each fiscal year that begins on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section for each fiscal year 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 annual level percent of payroll contribution rate as determined

pursuant to subsections (1), (2), and (3) may be deposited into the health advance funding subaccount created under section 11(9).

(7) 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, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

38.46 Retirement or separation from employment of supplemental member with supplemental early retirement allowance; conditions; determination of eligibility.

Sec. 46. (1) A supplemental member may retire with a supplemental early retirement allowance provided in section 47 upon satisfaction of each of the following conditions:

- (a) He or she is age 51 years or older but less than age 62 years.
- (b) He or she has 25 or more years of covered service.
- (c) His or her last 3 years of credited service are covered service.
- (d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(2) A supplemental member may be separated from employment in a covered position the first day of the calendar month following the month in which he or she attains age 56 years. A supplemental member separated under this subsection may retire with a supplemental early retirement allowance provided in section 47 if he or she satisfies each of the following conditions:

- (a) He or she has not attained age 62 years.
- (b) He or she has 10 or more years of covered service.
- (c) His or her last 3 years of credited service are covered service.
- (d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(3) The state personnel director shall determine all questions on eligibility for supplemental early retirement benefits within the meaning of sections 45 to 47.

38.48 Conservation officers.

Sec. 48. (1) A member who is a conservation officer may retire under this section if all of the following requirements are met:

- (a) The member is a conservation officer on April 1, 1991.
- (b) The member has 25 or more years of credited service, of which 20 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(2) A member who is a conservation officer may retire under this section if the member has 25 or more years of credited service, of which 23 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(3) A member may retire under subsection (1) or (2) upon written application to the retirement board stating a date upon which he or she desires to retire. Beginning on the

retirement allowance effective date, he or she shall receive a retirement allowance equal to 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer. The formula for calculating a member's retirement allowance under this subsection shall never exceed the formula for calculating a retirement allowance under section 24 of the state police retirement act of 1986, 1986 PA 182, MCL 38.1624.

(4) A member who is a conservation officer may retire under this section if all of the following requirements are met:

(a) The member is a conservation officer on April 1, 1991.

(b) The member is 50 years of age or older.

(c) The member has 10 years of credited service as a conservation officer and the last 2 years of credited service are as a conservation officer.

(5) A member may retire under subsection (4) upon written application to the retirement board, on or after April 1, 1991, but not later than April 1, 1992, stating a date on which he or she desires to retire. The retirement allowance effective date shall be on or after May 1, 1991 but not later than July 1, 1992. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance equal to 2% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer times the number of years, including any fraction of a year, of service credited to the member under this act. However, a retirement allowance payable under this subsection shall not exceed 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer.

(6) Before the effective date of the retirement allowance, a member who is a conservation officer and who retires under this section shall elect to receive his or her retirement allowance under a form of payment as provided in section 31(1).

(7) Pursuant to rules promulgated by the retirement board, a member who retires under this section before becoming 65 years old may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to age 65 and a reduced retirement allowance payable after becoming 65 years old. The retirant's increased retirement allowance payable to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount.

(8) If a member who retires under this section dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the accumulated contributions standing to the retirant's account in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of the retirement allowance received by him or her shall be paid to the person or persons that the retirant has nominated by written designation duly executed and filed with the retirement board, or, if there is no such designated person or persons surviving, then to the retirant's legal representative or estate.

(9) The director of the department of natural resources, or his or her designee, shall certify to the retirement board that a member who applies to retire under this section is a conservation officer.

(10) This section does not prohibit a member who is a conservation officer and who does not meet the requirements of this section from qualifying for a retirement allowance under any other provision of this act.

38.49 Administration of retirement system as qualified pension plan under internal revenue code; requirements and benefit limitations.

Sec. 49. (1) This section is enacted pursuant to section 401(a) of the internal revenue code 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 and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of \$90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of \$90,000.00 in subsection (2) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than \$75,000.00 at age 55, the limitation at age 55 is \$75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of \$75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the \$90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) 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, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(7) 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.

(8) 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.

(9) If the retirement system is terminated, the interest of the members, vested former 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 and related internal revenue service regulations applicable to governmental plans.

(10) 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.

(11) For purposes of determining actuarial equivalent retirement allowances under sections 31(1)(a) and (b) and 20(2), the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

(13) 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, 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.

(14) 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. This subsection applies to all qualified military service on or after December 12, 1994.

38.52 Calculation of accrued cost savings for each fiscal year.

Sec. 52. After consulting the retirement system's actuary, the department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund this retirement system had 1996 PA 487 not been implemented. For each fiscal year in which a deposit under section 38(6) does not occur, the department may deposit all or part of the cost savings calculated pursuant to this section into the health advance funding subaccount created under section 11(9) by reducing the normal cost and unfunded actuarial accrued liability contribution rates as calculated pursuant to section 38, and increasing the contribution rate for benefits provided under section 20d by the same amount. However, the normal cost and unfunded accrued actuarial liability rates shall not be reduced to an amount less than zero.

Provisions as curative; intent of legislature.

Enacting section 1. The provisions of section 19h of the state employees' retirement act, 1943 PA 240, as added by this amendatory act, are curative and intended to correct any misinterpretation of legislative intent in the Michigan court of appeals decisions in Stone v. State of Michigan, Department of Treasury, docket no. 217485, and in Liken v. State of Michigan, Department of Treasury, docket no. 222588. This legislation expresses the original intent of the legislature that payments under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) of the state employees' retirement act, 1943 PA 240, MCL 38.19b, 38.19c, 38.19d, 38.19e, and 38.19f were not made by the retirement system and were not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1) of the state employees' retirement act, 1943 PA 240, MCL 38.40, are not exempt from taxation, are subject to executions, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5109 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5109, referred to in enacting section 2, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 99, Imd. Eff. Mar. 27, 2002.

[No. 94]**(HB 5110)**

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 4, 34, 36, 41, 43a, 46, 85, and 108 (MCL 38.1304, 38.1334, 38.1336, 38.1341, 38.1343a, 38.1346, 38.1385, and 38.1408), sections 4, 34, 36, and 41 as amended by 1997 PA 143, section 43a as amended by 1990 PA 298, section 46 as amended by 1991 PA 47, and sections 85 and 108 as amended by 1998 PA 213.

The People of the State of Michigan enact:

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 management and budget.

(5) "Designated date" means September 30, 1997.

(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 an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue

code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code 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 from this retirement system, that accepts the distributee's 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.

(9) Beginning January 1, 2002, "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.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of a distribution that is not includable in federal gross income is paid to either of the following:

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

(ii) A qualified defined contribution plan as described in section 401(a) or 403(a) of the internal revenue code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution which is not includable in gross income.

(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; otherwise, the averaging period shall be 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) “Member investment plan” means the program of member contributions described in section 43a.

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 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.

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.

38.1341 Determining annual level percentage of payroll contribution rate; computation; certification of estimated aggregate compensations; computation and certification of sum due and payable; payment; certification of actual aggregate compensations; adjustment; evidence 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.

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

(2) The contribution rate for benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using a terminal funding method of valuation. Except as otherwise provided in this subsection, the contribution rate for other benefits shall be computed using an individual projected benefit entry age normal cost method of valuation. Except as otherwise provided in this section, for the 1995-96 state fiscal year and for each subsequent fiscal year, the contribution rate for health benefits provided under section 91 shall be computed using a cash disbursement method. For each fiscal year after the 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 created under section 34(2), the contribution rate for health benefits provided under section 91 shall be computed using an individual projected benefit

entry age normal cost method of valuation. The contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual projected benefit entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, shall be the aggregate amount of unfunded actuarial accrued liabilities divided by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation, where unfunded actuarial accrued liabilities are equal to the actuarial present value of benefits, reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date.

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

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

(5) The reporting units shall make payment of the amount certified under subsection (4) to the director of the department in 12 equal monthly installments.

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

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

(8) A reporting unit shall forward employee and employer social security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 401 to 405, 406 to 418, 420 to 423, 424a to 426-1, and 427 to 433.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for

each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit occurs pursuant to subsection (14).

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

(11) Beginning on the designated date, the actuary used by the retirement board shall assume a rate of return on investments of 8.00% per annum, as of the designated date, which rate may only be changed with the approval of the retirement board and the director of the department.

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

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

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

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

38.1343a Contributions of member to member investment plan; deduction and remittance as employer contributions; benefits; amount of contribution; election to make contributions; method and timing of payment; deposit of contributions; applicability of subsection (8); applicability of §§ 38.1343a, 38.1343b, and 38.1343c.

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) Until December 31, 1989, 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 4% of the member's compensation to the member investment plan and beginning January 1, 1990 shall contribute 3.9% of the member's compensation to the member investment plan.

(3) On or before January 1, 1993, a member who first became a member on or before December 31, 1989, except as otherwise provided in subsection (4), and who did not elect to make contributions to the member investment plan, may irrevocably elect to make the contributions described in subsection (2). In addition to making the contributions required under subsection (2), a member who elects to make contributions to the member investment plan under this subsection shall make a contribution of 4% of the compensation received on or after January 1, 1987 to December 31, 1989, and 3.9% of the compensation received on or after January 1, 1990 to the date of the election, plus an amount equal to the compound interest that would have accumulated on those contributions as described in section 33, plus an amount equal to the net actuarial cost of the additional benefits attributable to service credited before January 1, 1987, as determined by the retirement board. The method and timing of payment by a member under this subsection shall be determined by the retirement board. The contributions made under this subsection shall be deposited into the reserve for employee contributions.

(4) Except as otherwise provided in subsection (8), 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 shall make the contributions described in subsection (7).

(5) Except as otherwise provided in subsection (8), a member who first became a member on or after January 1, 1990 shall make the contributions described in subsection (7).

(6) A member who first became a member on or after January 1, 1987 but before January 1, 1990 shall have 30 days from his or her first date of employment to irrevocably elect to make the contributions described in subsection (2).

(7) Except as otherwise provided in subsection (8), a member who first became a member on or after January 1, 1990 shall contribute the following amounts to the member investment plan:

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

(8) This section and sections 43b and 43c shall not apply until the department receives notification from the United States internal revenue service that contributions under this section picked up by the employer pursuant to section 42 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.

38.1346 Benefits; exemption from taxation; offset of retirement benefits or refunds; forfeiture of service credit.

Sec. 46. (1) 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 subject to the public employee retirement benefit protection act.

(2) 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.

(3) 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.

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.

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 subsection (5), 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 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) 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 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. 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.

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 and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed \$10,000.00 per year for a retirant who has 15 or more years of credited service at retirement.

(3) Employer-financed benefits provided by the retirement system under this act shall not exceed the limitation under subsection (2) unless application of this subsection results in a higher limitation. The higher limitation of this subsection applies to employer-financed benefits provided by the retirement system and, for purposes of section 415(b) of the internal revenue code, applies to aggregated benefits received from all qualified pension plans administered by the department of management and budget, office of retirement systems. Employer-financed benefits provided by the retirement system shall not exceed the lesser of the following:

(a) One of the following amounts that is applicable to the member:

(i) If a member retires at age 62 or older, \$90,000.00 or the adjusted amount described in subsection (4) per year.