

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5112

A bill to amend 1992 PA 234, entitled "An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts, by amending the title and sections 105, 213, 214, 216, 217, 304, 305, 308, 401a, 405, 506, 508, 604, 714, and 720 (MCL 38.2105, 38.2213, 38.2214, 38.2216, 38.2217, 38.2304, 38.2305, 38.2308, 38.2401a, 38.2405, 38.2506, 38.2508, 38.2604, 38.2664, and 38.2670), sections 105 and 604 as amended by 1995 PA 193, section 214 as amended and section 720 as added by 1996 PA 523, section 217 as amended by 1998 PA 99, and sections 401a, 506, 508, and 714 as amended by 1999 PA 215.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

2

1

TITLE

2

An act to establish a judges retirement system; to provide

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for the administration and maintenance of the retirement system;

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to create a retirement board; to prescribe the powers and duties

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of the retirement board; to establish certain reserves for the

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retirement system; to establish certain funds; to prescribe the

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powers and duties of certain state departments and certain state

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and local officials and employees; TO PROVIDE FOR CERTAIN

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DISQUALIFICATIONS; to prescribe penalties and provide remedies;

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and to repeal ~~certain~~ acts and parts of acts.

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Sec. 105. (1) ~~Except~~ BEGINNING JANUARY 1, 2002, EXCEPT as

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otherwise provided in this subsection, "eligible retirement plan"

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means an individual retirement account described in section

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408(a) of the internal revenue code, an individual retirement

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annuity described in section 408(b) of the internal revenue code,

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an annuity plan described in section 403(a) of the internal reve-

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nue code, ~~or~~ a qualified trust described in section 401(a) of

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the internal revenue code, AN ANNUITY CONTRACT DESCRIBED IN

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SECTION 403(b) OF THE INTERNAL REVENUE CODE, OR AN ELIGIBLE PLAN

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UNDER SECTION 457(b) OF THE INTERNAL REVENUE CODE THAT IS MAIN-

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TAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR AN AGENCY

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OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE

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AND THAT SEPARATELY ACCOUNTS FOR AMOUNTS TRANSFERRED INTO SUCH

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ELIGIBLE PLAN UNDER SECTION 457(b) OF THE INTERNAL REVENUE CODE

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FROM THIS RETIREMENT SYSTEM, that accepts the distributee's eli-

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gible rollover distribution. However, in the case of an eligible

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rollover distribution to a surviving spouse ON OR BEFORE

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

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1 DECEMBER 31, 2001, an eligible retirement plan means an
2 individual retirement account or an individual retirement annuity
3 described above.

4 (2) ~~"Eligible"~~ BEGINNING JANUARY 1, 2002, "ELIGIBLE roll-
5 over distribution" means a distribution of all or any portion of
6 the balance to the credit of the distributee. Eligible rollover
7 distribution does not include any of the following:

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

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

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

15 (d) The portion of any distribution that is not includable
16 in federal gross income, determined without regard to the exclu-
17 sion for net unrealized appreciation with respect to employer
18 securities, ~~—~~ EXCEPT TO THE EXTENT THAT SUCH PORTION IS PAID TO
19 EITHER OF THE FOLLOWING:

20 (i) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
21 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

22 (ii) A QUALIFIED DEFINED CONTRIBUTION PLAN DESCRIBED IN
23 SECTION 401(a) OR 403(a) OF THE INTERNAL REVENUE CODE THAT AGREES
24 TO SEPARATELY ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING SEPA-
25 RATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS
26 INCLUDABLE IN GROSS INCOME AND THE PORTION OF SUCH DISTRIBUTION
27 THAT IS NOT INCLUDABLE IN GROSS INCOME.

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

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1 (3) "Executive secretary" means the executive secretary of
2 the retirement system as provided in section 205.

3 (4) Except as otherwise provided in this subsection, "final
4 compensation" means the annual rate of compensation for the cal-
5 endar year of retirement. For a member who retires on January 1,
6 final compensation means the annual rate of compensation for the
7 calendar year immediately preceding the date of retirement.
8 Final compensation does not include an amount that exceeds the
9 maximum salary set forth for that particular member or vested
10 former member in the revised judicature act, if applicable. For
11 a member who is a judge and who performs judicial duties for a
12 limited period or a specific assignment as authorized by the
13 supreme court pursuant to section 23 of article VI of the state
14 constitution of 1963, final compensation means the annual rate of
15 compensation the member was being paid at the termination of his
16 or her tenure in office as an elected judge.

17 (5) "Former elected official" means a member who held a
18 state elective office before membership in this retirement
19 system, the former judges retirement system, or the former pro-
20 bate judges retirement system.

21 (6) "Former judges retirement system" means the state of
22 Michigan judges' retirement system created by former ~~Act No. 198~~
23 ~~of the Public Acts of 1951~~ 1951 PA 198.

24 (7) "Former probate judges retirement system" means the
25 state of Michigan probate judges retirement system created by
26 former ~~Act No. 165 of the Public Acts of 1954~~ 1954 PA 165.

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

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1 Sec. 213. (1) The reserve for investment income is
2 created. The state treasurer shall credit to the reserve for
3 investment income all interest, dividends, and other income from
4 the investment of retirement system assets EXCEPT FOR THOSE OF
5 THE RESERVE FOR HEALTH BENEFITS CREATED UNDER SECTION 214. The
6 retirement system shall credit to the reserve for investment
7 income all gifts and bequests to the retirement system; all for-
8 feited contributions received pursuant to section 210; a surplus
9 in any reserve created by this act EXCEPT FOR THOSE OF THE
10 RESERVE FOR HEALTH BENEFITS CREATED UNDER SECTION 214; and all
11 other money for which there is no specific disposition provided.

12 (2) Except as otherwise provided in this subsection, the
13 retirement system shall annually credit interest on the preceding
14 year balances in the reserve for member contributions, reserve
15 for employer contributions, ~~the reserve for health benefits,~~
16 and the reserve for retirement benefits. However, the retirement
17 system shall begin to calculate interest on member contributions
18 made within a calendar year on the first day of the calendar year
19 following the contribution and shall credit the interest on
20 member contributions at the end of the calendar year. The
21 retirement system shall charge the reserve for investment income
22 the interest credited to the reserves under this subsection.

23 (3) The retirement system shall pay the expenses for the
24 administration of the retirement system, exclusive of amounts
25 payable as retirement allowances and other benefits provided in
26 this act, from the reserve for investment income.

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 13 and 20

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1 Sec. 214. The reserve for health benefits is created. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] The retirement system shall deposit into the reserve for
5 health benefits the member contributions for health benefits
6 required by section 305(1)(a), AMOUNTS TRANSFERRED PURSUANT TO
7 SECTION 217(1), AND ACCUMULATED EARNINGS ON THESE AMOUNTS AND
8 CONTRIBUTIONS. The retirement system shall disburse from the
9 reserve for health benefits the premiums for hospital and
10 medical-surgical and sick care benefits as required by sections
11 509 and 719.

12 Sec. 216. ~~The [REDACTED]~~ THE
13 retirement system shall comply with the reciprocal retirement
14 act, ~~Act No. 88 of the Public Acts of 1961, being sections~~
15 ~~38.1101 to 38.1106~~ 1961 PA 88, MCL 38.1101 TO 38.1106, if a res-
16 olution electing to come under the provisions of ~~Act No. 88 of~~
17 ~~the Public Acts of 1961~~ THE RECIPROCAL RETIREMENT ACT, 1961
18 PA 88, MCL 38.1101 TO 38.1106, is in effect.

19 Sec. 217. (1) A court fee fund is created in the state
20 treasury. The state treasurer shall deposit into the court fee
21 fund all money received from the executive secretary pursuant to
22 section 304(4). The state treasurer shall, IF FUNDS REMAIN IN
23 THE COURT FEE FUND AFTER THE TRANSFER DESCRIBED IN
24 SUBSECTION (3), transmit A PORTION OF the money in the court fee
25 fund, not exceeding \$2,200,000.00 in any fiscal year, to the
26 court equity fund created by section 151b of the revised
27 judicature act of 1961, 1961 PA 236, MCL 600.151b. If the court

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

7

1 fee fund exceeds \$2,200,000.00 in any fiscal year and
2 \$2,200,000.00 is transmitted to the court equity fund, an amount
3 may be appropriated from the court fee fund for operational
4 expenses of trial courts. Operational expenses may include the
5 payment of salaries of trial court judges other than judges of
6 the district court. Any money remaining in the court fee fund at
7 the end of the fiscal year shall remain in the court fee fund and
8 shall not revert to the general fund.

9 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF THE
10 RETIREMENT BOARD ESTABLISHES AN ARRANGEMENT AND FUND DESCRIBED IN
11 SECTION 6 OF THE PUBLIC EMPLOYEE RETIREMENT BENEFIT PRESERVATION
12 ACT, THE BENEFITS THAT ARE REQUIRED TO BE PAID FROM THAT FUND
13 SHALL, TO THE EXTENT PERMITTED BY APPLICABLE LAW, BE PAID FROM A
14 PORTION OF THE MONEY IN THE COURT FEE FUND AND ANY EARNINGS ON
15 THOSE AMOUNTS OR OTHER ELIGIBLE FUNDS. THE RETIREMENT BOARD
16 SHALL DETERMINE THE AMOUNT OF THE EMPLOYER CONTRIBUTIONS OR OTHER
17 ELIGIBLE FUNDS THAT SHALL BE ALLOCATED TO THAT FUND AND DEPOSIT
18 THAT AMOUNT IN THAT FUND.

19 (3) THE STATE TREASURER SHALL, IF FUNDS REMAIN IN THE COURT
20 FEE FUND AFTER THE TRANSFER DESCRIBED IN SUBSECTION (2), TRANSMIT
21 A PORTION OF THE MONEY IN THE COURT FEE FUND AND ANY EARNINGS ON
22 THOSE AMOUNTS TO THE RESERVE FOR HEALTH BENEFITS CREATED BY
23 SECTION 214 TO PAY EXPECTED HEALTH CARE COSTS FOR THE SUBSEQUENT
24 FISCAL YEAR THAT ARE NOT COVERED AS A RESULT OF EMPLOYEE CONTRI-
25 BUTIONS UNDER SECTIONS 305(1) AND 714(6), AND TO PAY, IN AN
26 AMOUNT NOT TO EXCEED \$100,000.00 IN EACH FISCAL YEAR, ANY HEALTH

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

8

1 CARE COSTS NOT PAID FROM THE RESERVE FOR HEALTH BENEFITS SINCE
2 FISCAL YEAR 1996-1997.

3 (4) ~~(2)~~ This section applies unless the department
4 receives notification from the United States internal revenue
5 service that this section will cause the retirement system to be
6 disqualified for tax purposes under the internal revenue code.

7 Sec. 304. (1) Except as provided in subsection (4), the
8 retirement system shall transmit all court fees received by the
9 executive secretary and all late fees and interest payments
10 received under this section to the state treasurer for deposit in
11 the reserve for employer contributions WHERE THESE ASSETS AND
12 EARNINGS ON THESE ASSETS SHALL BE TREATED AS PENSION ASSETS.

13 (2) The retirement board may periodically establish a late
14 fee and interest rate for all court fees that are not submitted
15 to the executive secretary as prescribed in subsection (3). The
16 retirement board shall establish a late fee of \$50.00 or more and
17 an interest rate of 12% or more per year for a late transmittal
18 of court fees.

19 (3) If the county treasurer, clerk of the circuit court, or
20 clerk of the district court fails to transmit to the executive
21 secretary all court fees by the twentieth day of the month fol-
22 lowing the month in which they are collected under the revised
23 judicature act, the retirement system shall assess a late fee for
24 each late transmittal and an interest payment for each day the
25 transmittal is late. Upon written notice from the executive sec-
26 retary to the director of the supreme court finance office, the
27 state treasurer shall withhold payment of the amount due under

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

9

1 this section for late court fees, late fees, and interest
2 payments from the salary standardization payment payable to a
3 county or district control unit that fails to make timely court
4 fee transmittals as required by this section.

5 (4) When the retirement system determines that the amount of
6 court fees deposited into the reserve for employer contributions
7 under subsection (1) equals the amount needed in addition to
8 other publicly financed contributions to sustain the required
9 level of publicly financed contributions, based upon the most
10 recent actuarial valuation available at the beginning of the
11 applicable fiscal year, the executive secretary shall transmit to
12 the state treasurer the remainder of the court fees received
13 during the fiscal year for deposit into the court fee fund cre-
14 ated by section 217 WHERE THESE ASSETS AND ANY EARNINGS ON THESE
15 ASSETS SHALL NOT BE TREATED AS PENSION ASSETS FOR ANY PURPOSE.
16 This subsection applies unless the department receives notifica-
17 tion from the United States internal revenue service that this
18 subsection will cause the retirement system to be disqualified
19 for tax purposes under the internal revenue code.

20 Sec. 305. (1) Each member, upon taking office and so long
21 as he or she remains in office, shall make contributions to the
22 retirement system according to the applicable plan member classi-
23 fication as follows:

24 (a) A plan 1 member or a plan 2 member shall contribute 5%
25 of the member's compensation. From this contribution, the
26 retirement system shall deposit an amount equal to ~~1.5%~~ 2.0% of
27 the member's compensation into the reserve for health benefits

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

10

1 for hospital and medical-surgical and sick care benefits as
2 provided in section 509.

3 (b) A plan 3a member, a plan 3b member, or a plan 5 member
4 shall contribute 3.5% of the member's compensation.

5 (c) A plan 3c member, a plan 4 member, a plan 6 member, or a
6 plan 7 member shall contribute 7% of the member's compensation.
7 However, a plan 6 member shall not contribute more than \$980.00
8 annually.

9 (2) The retirement board shall determine the manner in which
10 member contributions are paid. Except as otherwise provided in
11 this section, the retirement system shall credit member contribu-
12 tions when received to the reserve for member contributions.

13 (3) Upon written notice from the executive secretary to the
14 state court administrator, the state treasurer shall withhold
15 payment of the amount due from the salary standardization payment
16 payable to a county or district control unit for member contribu-
17 tions that are not received by the retirement system within 60
18 days after the due date.

19 Sec. 308. ~~(1) The right of a person to a retirement allow-~~
20 ~~ance, to the return of accumulated contributions, to the retire-~~
21 ~~ment allowance itself, to an optional benefit, to any other right~~
22 ~~accrued or accruing to any member or beneficiary under this act,~~
23 ~~and to the money belonging to the retirement system is unassigna-~~
24 ~~ble and is not subject to execution, garnishment, attachment, the~~
25 ~~operation of bankruptcy or insolvency law, or any other process~~
26 ~~of law, except as otherwise provided in this act.~~

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

11

1 ~~(2) The right of a member, vested former member, or a~~
2 ~~retirant to a retirement allowance, to a deferred vested service~~
3 ~~retirement allowance, to the return of accumulated contributions,~~
4 ~~to the retirement allowance itself, to any optional benefit, or~~
5 ~~to any other benefit under this act is subject to award by a~~
6 ~~court pursuant to section 18 of chapter 84 of the Revised~~
7 ~~Statutes of 1846, being section 552.18 of the Michigan Compiled~~
8 ~~Laws, and to any other order of a court pertaining to alimony or~~
9 ~~child support. The right of a member, vested former member, or a~~
10 ~~retirant to a retirement allowance, to a deferred vested service~~
11 ~~retirement allowance, to the return of accumulated contributions,~~
12 ~~to the retirement allowance itself, to any optional benefit, or~~
13 ~~to any other benefit under this act is subject to an eligible~~
14 ~~domestic relations order under the eligible domestic relations~~
15 ~~order act, Act No. 46 of the Public Acts of 1991, being~~
16 ~~sections 38.1701 to 38.1711 of the Michigan Compiled Laws.~~

17 ~~(3) If an award or order described in subsection (2)~~
18 ~~requires the retirement system to withhold payment of a retire=~~
19 ~~ment allowance, deferred vested service retirement allowance,~~
20 ~~accumulated contributions, or other benefit from the person to~~
21 ~~whom it is due or requires the retirement system to make payment~~
22 ~~or requires the person to request that the retirement system make~~
23 ~~payment of a retirement allowance, deferred vested service~~
24 ~~retirement allowance, accumulated contributions, or other bene=~~
25 ~~fit, for the purpose of meeting the person's obligations to a~~
26 ~~spouse, former spouse, or child, as provided in subsection (2),~~
27 ~~the withholding or payment provisions of the award or order is~~

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

12

1 ~~effective only against those amounts as they become payable to~~
2 ~~the person receiving a retirement allowance unless otherwise pro-~~
3 ~~vided in an eligible domestic relations order under Act No. 46 of~~
4 ~~the Public Acts of 1991. The limitation contained in this sub-~~
5 ~~section does not apply to the accumulated contributions of a~~
6 ~~person who has terminated employment and who is not a vested~~
7 ~~former member.~~

8 (1) ~~-(4)-~~ The retirement system may offset retirement bene-
9 fits or refunds payable under this act against amounts owed to
10 the retirement system by a member, vested former member, retir-
11 ant, retirement allowance beneficiary, or refund beneficiary.

12 (2) ~~-(5)-~~ If the retirement system is required by the fed-
13 eral government pursuant to a court order to transmit a part of a
14 member's accumulated contributions to a federal agency, the serv-
15 ice credit that is covered by the payment shall be forfeited in
16 the same manner as if the employee had requested and been paid a
17 refund of the member's most recent contributions.

18 (3) THE RIGHT OF A PERSON TO A RETIREMENT ALLOWANCE, TO THE
19 RETURN OF ACCUMULATED CONTRIBUTIONS, TO AN OPTIONAL BENEFIT, TO
20 ANY OTHER RIGHT ACCRUED OR ACCRUING TO A MEMBER OR BENEFICIARY
21 UNDER THIS ACT, AND TO THE MONEY BELONGING TO THE RETIREMENT
22 SYSTEM IS SUBJECT TO THE PUBLIC EMPLOYEE RETIREMENT BENEFIT PRO-
23 TECTION ACT.

24 Sec. 401a. (1) Notwithstanding section 401, an individual
25 described in this subsection is not a member of the Tier 1
26 retirement plan:

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

13

1 (a) An individual who first becomes a judge or state
2 official on or after March 31, 1997.

3 (b) ~~An~~ [REDACTED] AN individual
4 who elects to terminate membership under section 701 or 701a and
5 who, but for that election, would otherwise be eligible for mem-
6 bership in Tier 1 pursuant to section 401.

7 (2) An individual who first becomes a judge or state offi-
8 cial on or after March 31, 1997 is eligible to be a qualified
9 participant in Tier 2 subject to article VII.

10 Sec. 405. (1) Except as otherwise provided in this act, if
11 a person ceases to be a member before satisfying the age and
12 service requirements for a retirement allowance under section 501
13 OR 501B, the retirement system shall pay to the person his or her
14 accumulated contributions upon request.

15 (2) If a member dies and a retirement allowance is not or
16 will not become payable on account of the member's death, the
17 retirement system shall pay the deceased member's accumulated
18 contributions at the time of death to the refund beneficiary. If
19 a refund beneficiary is not nominated or the refund beneficiary
20 fails to survive the deceased member, the retirement system shall
21 pay the deceased member's accumulated contributions to the
22 deceased member's estate or legal representative.

23 (3) If a retirant and his or her option A beneficiary,
24 option B beneficiary, or spouse, if applicable, dies before an
25 aggregate amount of retirement allowance equal to the deceased
26 retirant's accumulated contributions at the time of retirement
27 has been paid, the retirement system shall pay the difference

HB 5112, As Passed Senate, March 21, 2002

1 between the deceased retirant's accumulated contributions and the
2 aggregate amount of retirement allowance paid to the deceased
3 retirant's refund beneficiary. If a refund beneficiary is not
4 nominated or the refund beneficiary fails to survive the retirant
5 and his or her option A beneficiary, option B beneficiary, or
6 spouse, the retirement system shall pay the difference to the
7 estate or legal representative of the last to die of the retirant
8 or his or her option A beneficiary, option B beneficiary, or
9 spouse.

10 (4) A judge or state official who becomes a member under
11 section 401(1)(a) may nominate a refund beneficiary in the mem-
12 bership form under section 401 or a member, vested former member,
13 or retirant may nominate a refund beneficiary in a nominating
14 form furnished by the retirement system. A member, vested former
15 member, or retirant shall file the nominating form with the
16 retirement system, which form is not valid until received by the
17 retirement system. The member or retirant may nominate a differ-
18 ent refund beneficiary by delivering a new nominating form to the
19 retirement system. The retirement system shall disregard the
20 nomination of a refund beneficiary in the membership form and all
21 nominating forms previously filed by a member or retirant upon
22 receipt of a more recent nominating form under this subsection.

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

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23 Sec. 506. (1) Upon application for retirement under this
24 act, a member or vested former member who meets the requirements
25 of section 501 may elect to receive a retirement allowance as a
26 straight life retirement allowance or as an optional retirement
27 allowance under 1 of the payment options provided in this

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

23

1 section. The member or vested former member shall file a written
2 election with the retirement system before the effective date of
3 the retirement allowance. If a member or vested former member
4 fails to file a written election under this subsection, the
5 member or vested former member is considered to have elected the
6 straight life retirement allowance under section 503. The member
7 or vested former member shall designate in the written election a
8 retirement allowance beneficiary that shall be either the spouse,
9 brother, sister, parent, or child, including an adopted child, of
10 the member or vested former member. The amount of retirement
11 allowance under options A and B are the actuarial equivalent of
12 the amount of the straight life retirement allowance calculated
13 under section 503 . The options
14 are as follows:

15 (a) Option A. The retirement system shall pay an optional
16 retirement allowance to the retirant for life with the provision
17 that upon the retirant's death, payment of the optional retire-
18 ment allowance is continued throughout the lifetime of the
19 retirement allowance beneficiary whom the member or vested former
20 member designated in writing and filed with the retirement system
21 at the time of election of the option.

22 (b) Option B. The retirement system shall pay an optional
23 retirement allowance for life to the retirant with the provision
24 that upon the retirant's death, payment of 1/2 of the optional
25 retirement allowance is continued throughout the lifetime of the
26 retirement allowance beneficiary whom the member or vested former

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

24

1 member designated in writing and filed with the retirement system
2 at the time of election of the option.

3 (2) Except as otherwise provided in this section, a retirant
4 shall not change the election of a payment option or the designa-
5 tion of a retirement allowance beneficiary under subsection (1)
6 after the retirement allowance effective date. If a retirant who
7 elected a payment option under subsection (1)(a) or (b) dies, the
8 retirement system shall pay the optional retirement allowance to
9 the option A beneficiary or option B beneficiary effective the
10 first day of the month following the retirant's death. If the
11 option A or option B beneficiary designated under this section is
12 the surviving spouse of the deceased retirant, the surviving
13 spouse may elect to receive a retirement allowance as provided in
14 section 508 in lieu of the survivor portion of the optional form
15 of payment elected by the retirant under this section.

16 (3) If the option A beneficiary or option B beneficiary pre-
17 deceases the retirant, the retirant's benefit reverts to a
18 straight life retirement allowance and the retirement system
19 shall begin payment of the straight life retirement allowance to
20 the retirant effective the first day of the month following the
21 option A or option B beneficiary's death.

22 (4) The retirement system shall provide each member or
23 vested former member who applies for retirement a written expla-
24 nation of the optional forms of payment under this section before
25 the member or vested former member retires.

26 (5) If a retirant receiving an optional retirement allowance
27 under this section is divorced from the spouse who had been

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

25

1 designated the option A or option B beneficiary, the retirement
2 system shall consider the election of the optional form of pay-
3 ment option under this section void if the judgment of divorce or
4 award or order of the court, or an amended judgment of divorce or
5 award or order of the court, described in ~~section 308~~ THE
6 PUBLIC EMPLOYEE RETIREMENT BENEFIT PROTECTION ACT and dated after
7 June 27, 1991 provides that the election of the optional form of
8 payment option under this section is to be considered void by the
9 retirement system and the retirant provides a certified copy of
10 the judgment of divorce or award or order of the court, or an
11 amended judgment of divorce or award or order of the court, to
12 the retirement system. If the election of an optional form of
13 payment under this section is considered void by the retirement
14 system under this subsection, the retirant's retirement allowance
15 shall revert to a straight life retirement allowance, including
16 postretirement adjustments, if any, subject to an award or order
17 of the court as described in ~~section 308~~ THE PUBLIC EMPLOYEE
18 RETIREMENT BENEFIT PROTECTION ACT. The retirement allowance
19 shall revert to a straight life retirement allowance under this
20 subsection effective the first of the month after the date the
21 retirement system receives a certified copy of the judgment of
22 divorce or award or order of the court. This subsection does not
23 supersede a judgment of divorce or award or order of the court in
24 effect on June 27, 1991. This subsection does not require the
25 retirement system to distribute or pay retirement assets on
26 behalf of a retirant in an amount that exceeds the actuarially

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

26

1 determined amount that would otherwise become payable if a
2 judgment of divorce had not been rendered.

3 (6) A member who continues active employment on or after the
4 date he or she acquires 8 years of credited service or who
5 becomes eligible for a retirement allowance as a vested former
6 member under section 501, whichever occurs first, may file a
7 written election with the retirement system to elect option A as
8 provided in subsection (1)(a). The member or vested former
9 member shall nominate a retirement allowance beneficiary in the
10 written election in the same manner as if the member or vested
11 former member were then retiring from service. If the
12 beneficiary's death or divorce from the member or vested former
13 member occurs before the effective date of the member's or vested
14 former member's retirement, the member's or vested former
15 member's election of option A and nomination of retirement allow-
16 ance beneficiary is automatically revoked and the member or
17 vested former member may again elect option A and nominate a
18 retirement allowance beneficiary at any time before the effective
19 date of retirement. If a member or vested former member who has
20 made an election and nominated a retirement allowance beneficiary
21 as provided in this subsection dies before the effective date of
22 his or her retirement, then the retirement allowance beneficiary
23 shall receive the retirement allowance that he or she would have
24 been entitled to receive under option A if the member or vested
25 former member had been retired on the date of the member's or
26 vested former member's death. Except as otherwise provided by
27 subsection (7), if a member or vested former member who has made

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

27

1 an election under this subsection subsequently retires under this
2 act, his or her election of option A takes effect at the time of
3 retirement. The member or vested former member, before the
4 effective date of retirement, but not after the effective date of
5 retirement, may revoke his or her previous election of option A
6 and elect to receive his or her retirement allowance as a
7 straight life retirement allowance or under option B as provided
8 for in subsection (1). This subsection does not apply on and
9 after the date the settlement agreement in the case of Michigan
10 judges assn v Treasurer of the State of Michigan, case
11 no. 98-DT-72771-CV (Ed Mi), becomes of no further force or
12 effect, is rendered null and void, or is otherwise terminated.

13 (7) If a member, vested former member, retiring member, or
14 retiring vested former member is married on the effective date of
15 the retirement allowance, an election under this section, other
16 than an election of a payment option under subsection (1) naming
17 the spouse as retirement allowance beneficiary, shall not be
18 effective unless the election is signed by the spouse. However,
19 this requirement may be waived by the retirement board if the
20 signature of a spouse cannot be obtained because of extenuating
21 circumstances. As used in this subsection, "spouse" means the
22 person to whom the member, vested former member, retiring member,
23 or retiring vested former member is married on the effective date
24 of the retirement allowance.

25 Sec. 508. (1) If a member who has 8 or more years of cred-
26 ited service dies while in office or if a vested former member

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

28

1 dies before retirement, the retirement system shall pay the
2 following retirement allowance as applicable:

3 (a) If a member with 8 or more years of credited service
4 dies while in office, or if a vested former member dies before
5 retirement, and the member has an election of option A in force
6 as provided in section 506(6), then the retirement allowance ben-
7 eficiary shall receive the retirement allowance that he or she
8 would have been entitled to receive under option A if the member
9 or vested former member had been retired on the date of the
10 member's or vested former member's death.

11 (b) If a member with 8 or more years of credited service
12 dies while in office, or if a vested former member dies before
13 retirement, and the member or vested former member does not have
14 an election of option A in force as provided in section 506(6),
15 and leaves a surviving spouse, the spouse shall receive a retire-
16 ment allowance computed in the same manner as if the member had
17 retired effective the day before the date of his or her death,
18 elected option A, and nominated the spouse as retirement allow-
19 ance beneficiary.

20 (2) If the deceased vested former member had met the service
21 requirements of section 501(1)(d), the surviving spouse may elect
22 to receive a permanently reduced retirement allowance equal to
23 the amount the deceased vested former member would have received
24 as reduced by section 501(1)(d).

25 (3) If a retirant dies, the retirement system shall pay the
26 following retirement allowance as applicable:

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

29

1 (a) If the retirant elected a straight life retirement
2 allowance under section 506, the surviving spouse shall receive
3 1/2 the amount of the retirement allowance computed under section
4 503 , based upon the deceased member's
5 final compensation and credited service.

6 (b) If the retirant elected an optional retirement allowance
7 under section 506, the retirement allowance beneficiary shall
8 receive a retirement allowance as provided under
9 section 506(1)(a) or (b).

10 (4) If the deceased member, vested former member, or retir-
11 ant does not leave a surviving spouse or if the surviving spouse
12 dies after the member's, vested former member's, or retirant's
13 death, the retirement system shall pay to each of the member's,
14 vested former member's, or retirant's unmarried children under
15 the age of 19 years a retirement allowance equal to an equal
16 share of the amount of the retirement allowance payable to a sur-
17 viving spouse under subsection (1)(b) or subsection (3)(a).

18 (5) The retirement system shall begin payment of a retire-
19 ment allowance under this section to a surviving beneficiary of a
20 deceased member or retirant under this section on the first day
21 of the month following the month in which the member or retirant
22 dies. The retirement system shall begin payment of a retirement
23 allowance to a surviving beneficiary of a deceased vested former
24 member on the first day of the month following the month in which
25 the vested former member otherwise would have been eligible to
26 begin receiving benefits under section 501. The retirement

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

30

1 system shall terminate payment of a retirement allowance to a
2 surviving beneficiary upon the surviving beneficiary's death.

3 (6) The retirement system shall begin payment of a retire-
4 ment allowance to a child of a deceased member or retirant under
5 this section on the first day of the month following the month in
6 which the member or retirant dies without a surviving spouse or
7 the first day of the month following the month in which the sur-
8 viving spouse dies, whichever is later. The retirement system
9 shall begin payment of a retirement allowance to a child of a
10 deceased vested former member under this section on the first day
11 of the month following the month in which the vested former
12 member dies, the first day of the month following the month in
13 which the vested former member could have retired under
14 section 501 if there is no surviving spouse, or the first day of
15 the month following the month in which the surviving spouse of
16 the vested former member dies, whichever is later. The retire-
17 ment system shall terminate payment of a retirement allowance to
18 a child upon his or her adoption, marriage, becoming 19 years
19 old, or death, whichever occurs first. However, the retirement
20 system shall continue payment of a retirement allowance to a
21 child who is attending school full-time during the period of
22 full-time school attendance, but in no case beyond the child
23 becoming 25 years old. Upon termination of a child's retirement
24 allowance under this subsection, the retirement system shall
25 divide that portion of the retirement allowance into equal shares
26 and add it to the retirement allowance being paid to the
27 remaining eligible children, if any, effective the first day of

HB 5112, As Passed Senate, March 21, 2002

1 the month following termination of payment to the ineligible
2 child.

3 (7) The retirement system shall not pay a retirement allow-
4 ance under this section if an optional retirement allowance is
5 being paid or will become payable to an option A beneficiary or
6 option B beneficiary under section 506 or if a refund of accumu-
7 lated contributions is paid under section 405.

8 (8) The surviving spouse of a deceased member may elect a
9 refund of accumulated contributions in lieu of a retirement
10 allowance under this section. The surviving spouse of a deceased
11 retirant may elect to be paid a retirement allowance under this
12 section in lieu of the survivor portion of the optional form of
13 payment elected by the retirant under section 506.

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112 as amended March 21, 2002

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HB 5112, As Passed Senate, March 21, 2002

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24 Sec. 604. (1) This section is enacted pursuant to
25 section 401(a) of the internal revenue code that imposes certain
26 administrative requirements and benefit limitations for qualified
27 governmental plans. This state intends that the retirement

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

36

1 system be a qualified pension plan created in trust under section
2 401 of the internal revenue code and that the trust be an exempt
3 organization under section 501 of the internal revenue code. The
4 department shall administer the retirement system to fulfill this
5 intent.

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

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

16 (4) If a member retires before age 62, the amount of
17 \$90,000.00 in subsection (2) is actuarially reduced to reflect
18 payment before age 62. The retirement system shall use an inter-
19 est rate of 5% per year compounded annually to calculate the
20 actuarial reduction in this subsection. If this subsection
21 produces a limitation of less than \$75,000.00 at age 55, the lim-
22 itation at age 55 is \$75,000.00 and the limitations for ages
23 under age 55 shall be calculated from a limitation of \$75,000.00
24 at age 55.

25 (5) Section 415(d) of the internal revenue code requires the
26 commissioner of internal revenue to adjust the \$90,000.00
27 limitation in subsection (2) to reflect cost of living increases,

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

37

1 beginning with calendar year 1988. This subsection shall be
2 administered using the limitations applicable to each calendar
3 year as adjusted by the commissioner of internal revenue under
4 section 415(d) of the internal revenue code. The retirement
5 system shall adjust the benefits subject to the limitation each
6 year to conform with the adjusted limitation.

7 (6) The assets of the retirement system shall be held in
8 trust and invested for the sole purpose of meeting the legitimate
9 obligations of the retirement system and shall not be used for
10 any other purpose. The assets shall not be used for or diverted
11 to a purpose other than for the exclusive benefit of the members,
12 vested former members, retirants, and retirement allowance bene-
13 ficiaries before satisfaction of all retirement system
14 liabilities.

15 (7) The retirement system shall return post-tax member con-
16 tributions made by a member and received by the retirement system
17 to a member upon retirement, pursuant to internal revenue service
18 regulations and approved internal revenue service exclusion ratio
19 tables.

20 (8) The required beginning date for retirement allowances
21 and other distributions shall not be later than April 1 of the
22 calendar year following the calendar year in which the employee
23 attains age 70-1/2 or April 1 of the calendar year following the
24 calendar year in which the employee retires.

25 (9) If the retirement system is terminated, the interest of
26 the members, vested former members, retirants, and retirement
27 allowance beneficiaries in the retirement system is

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

38

1 nonforfeitable to the extent funded as described in section
2 411(d)(3) of the internal revenue code and related internal reve-
3 nue service regulations applicable to governmental plans.

4 (10) Notwithstanding any other provision of this act to the
5 contrary that would limit a distributee's election under this
6 act, a distributee may elect, at the time and in the manner pre-
7 scribed by the retirement board, to have any portion of an eligi-
8 ble rollover distribution paid directly to an eligible retirement
9 plan specified by the distributee in a direct rollover. This
10 subsection applies to distributions made on or after January 1,
11 1993.

12 (11) For purposes of determining actuarial equivalent
13 retirement allowances under sections 506(1)(a) and (b) and 602,
14 the actuarially assumed interest rate shall be 8% with utiliza-
15 tion of the 1983 group annuity and mortality table.

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

23 (13) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE
24 COMPENSATION OF A MEMBER OF THE RETIREMENT SYSTEM SHALL BE TAKEN
25 INTO ACCOUNT FOR ANY YEAR UNDER THE RETIREMENT SYSTEM ONLY TO THE
26 EXTENT THAT IT DOES NOT EXCEED THE COMPENSATION LIMIT ESTABLISHED
27 IN SECTION 401(a)(17) OF THE INTERNAL REVENUE CODE, AS ADJUSTED

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

39

1 BY THE COMMISSIONER OF INTERNAL REVENUE. THIS SUBSECTION APPLIES
2 TO ANY PERSON WHO FIRST BECOMES A MEMBER OF THE RETIREMENT SYSTEM
3 ON OR AFTER OCTOBER 1, 1996.

4 (14) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, CON-
5 TRIBUTIONS, BENEFITS, AND SERVICE CREDIT WITH RESPECT TO QUALI-
6 FIED MILITARY SERVICE WILL BE PROVIDED UNDER THE RETIREMENT
7 SYSTEM IN ACCORDANCE WITH SECTION 414(u) OF THE INTERNAL REVENUE
8 CODE. THIS SUBSECTION APPLIES TO ALL QUALIFIED MILITARY SERVICE
9 ON OR AFTER DECEMBER 12, 1994.

10 Sec. 714. (1) This section is subject to the vesting
11 requirements of section 715.

12 (2) A qualified participant's employer shall contribute to
13 the qualified participant's account in Tier 2 an amount equal to
14 4% of the qualified participant's salary.

15 (3) A qualified participant may periodically elect to con-
16 tribute up to 3% of his or her salary to his or her Tier 2
17 account. The qualified participant's employer shall make an
18 additional contribution to the qualified participant's Tier 2
19 account in an amount equal to the contribution made by the quali-
20 fied participant under this subsection.

21 (4) A qualified participant may make contributions in addi-
22 tion to contributions made under subsection (3) to his or her
23 Tier 2 account as permitted by the state treasurer and the inter-
24 nal revenue code. The qualified participant's employer shall not
25 match contributions made by the qualified participant under this
26 subsection.

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

40

1 (5) A qualified participant who makes a written election
2 under section 701a may elect to contribute up to 6% of his or her
3 salary to his or her Tier 2 account. In lieu of employer contri-
4 butions under subsection (3), the qualified participant's
5 employer shall make an additional contribution to the qualified
6 participant's Tier 2 account in an amount equal to the contribu-
7 tion made by the qualified participant under this subsection.
8 This subsection applies for a period as determined by the depart-
9 ment that equals the time in which a Tier 1 member was not able
10 to make contributions to the Tier 2 plan because of the temporary
11 restraining order issued in the case of Michigan judges assn v
12 Treasurer of the state of Michigan, case no. 98-DT-72771-CV (Ed
13 Mi).

14 (6) BEGINNING JANUARY 1, 2002, EACH QUALIFIED PARTICIPANT
15 WHO IS A PLAN 1 MEMBER OR A PLAN 2 MEMBER, UPON TAKING OFFICE AND
16 SO LONG AS HE OR SHE REMAINS IN OFFICE, SHALL CONTRIBUTE 2.0% OF
17 THE QUALIFIED PARTICIPANT'S COMPENSATION TO THE RETIREMENT
18 SYSTEM. THE RETIREMENT SYSTEM SHALL DEPOSIT THE CONTRIBUTION
19 UNDER THIS SUBSECTION INTO THE RESERVE FOR HEALTH BENEFITS FOR
20 HOSPITAL AND MEDICAL-SURGICAL AND SICK CARE BENEFITS AS PROVIDED
21 IN SECTION 719.

22 Sec. 720. (1) Distributions from employer contributions
23 made pursuant to section 714(2) and (3) and earnings on those
24 employer contributions, and distributions from employee contribu-
25 tions made pursuant to section 714(3) and earnings on those
26 employee contributions, are exempt from any state, county,
27 municipal, or other local tax. ~~—, and shall not be subject to~~

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

41

1 ~~execution, garnishment, attachment, the operation of bankruptcy~~
2 ~~or insolvency laws, or other process of law, and shall be unas-~~
3 ~~signable except as otherwise provided in this act.~~

4 ~~(2) The right of a qualified participant or a former quali-~~
5 ~~fied participant, or his or her beneficiaries, to a distribution~~
6 ~~described in subsection (1) is subject to forfeiture pursuant to~~
7 ~~the public employee retirement benefits forfeiture act, Act~~
8 ~~No. 350 of the Public Acts of 1994, being sections 38.2701 to~~
9 ~~38.2705 of the Michigan Compiled Laws.~~

10 ~~(3) The right of a qualified participant or former qualified~~
11 ~~participant to a distribution described in subsection (1) is~~
12 ~~subject to an award by a court pursuant to section 18 of chapter~~
13 ~~84 of the Revised Statutes of 1846, being section 552.18 of the~~
14 ~~Michigan Compiled Laws; an eligible domestic relations order~~
15 ~~under the eligible domestic relations order act, Act No. 46 of~~
16 ~~the Public Acts of 1991, being sections 38.1701 to 38.1711 of the~~
17 ~~Michigan Compiled Laws; and to any other domestic relations order~~
18 ~~of a court pertaining to alimony or child support.~~

19 ~~(4) If an award or order described in subsection (3)~~
20 ~~requires Tier 2 to withhold payment of a distribution described~~
21 ~~in subsection (1) or requires Tier 2 to make payment or requires~~
22 ~~the individual to request that Tier 2 make payment of a distribu-~~
23 ~~tion described in subsection (1), for the purpose of meeting the~~
24 ~~individual's obligations to a spouse, former spouse, or child, as~~
25 ~~provided in subsection (3), the withholding or payment provisions~~
26 ~~of the award or order are effective only against such amounts as~~
27 ~~they become due and payable to the individual receiving the~~

HB 5112, As Passed Senate, March 21, 2002

House Bill No. 5112

42

1 ~~distribution, unless otherwise provided in an eligible domestic~~
2 ~~relations order under the eligible domestic relations order act,~~
3 ~~Act No. 46 of the Public Acts of 1991. The limitation contained~~
4 ~~in this subsection does not apply to the accumulated employee~~
5 ~~contributions of a former qualified participant who has termi-~~
6 ~~nated employment before acquiring a vested status in Tier 2 pur-~~
7 ~~suant to this act.~~

8 (2) ~~-(5)-~~ The state treasurer has the right of setoff to
9 recover overpayments made under this act and to satisfy any
10 claims arising from embezzlement or fraud committed by a quali-
11 fied participant, former qualified participant, refund beneficia-
12 ry, or other person who has a claim to a distribution or any
13 other benefit from Tier 2.

14 (3) ~~-(6)-~~ The state treasurer shall correct errors in the
15 records and actions in Tier 2 under this act, and shall seek to
16 recover overpayments and shall make up underpayments.

17 Enacting section 1. This amendatory act does not take
18 effect unless House Bill No. 5108 of the 91st Legislature is
19 enacted into law.