

**SUBSTITUTE FOR
SENATE BILL NO. 1227**

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 4, 6, 7, 8, 25, 26, 41, 42, 43a, 43b, 43c, 61, 81, 86, and 87 (MCL 38.1304, 38.1306, 38.1307, 38.1308, 38.1325, 38.1326, 38.1341, 38.1342, 38.1343a, 38.1343b, 38.1343c, 38.1361, 38.1381, 38.1386, and 38.1387), section 4 as amended by 2008 PA 354, sections 6 and 7 as amended by 1995 PA 272, sections 8, 25, and 26 as amended by 1997 PA 143, section 41 as amended by 2007 PA 15, section 42 as amended by 1996 PA 268, section 43a as amended by 2007 PA 111, sections 43b and 81 as amended by 1989 PA 194, section 43c as amended by 1998 PA 213, and section 61 as amended by 2006 PA 158, and by adding sections 41b, 43e, 43f, and 81c and article 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

11 (4) "Department" means the department of **TECHNOLOGY**,
12 management, and budget.

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

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

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

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

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

27 (b) An individual retirement annuity described in section

1 408(b) of the internal revenue code, 26 USC 408.

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

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

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

8 (f) An eligible plan under section 457(b) of the internal
9 revenue code, 26 USC 457, which is maintained by a state,
10 political subdivision of a state, or an agency or instrumentality
11 of a state or political subdivision of a state and which agrees
12 to separately account for amounts transferred into such eligible
13 plan under section 457(b) of the internal revenue code, 26 USC
14 457, from this retirement system, that accepts the distributee's
15 eligible rollover distribution. However, in the case of an
16 eligible rollover distribution to a surviving spouse, an eligible
17 retirement plan means an individual retirement account or an
18 individual retirement annuity described above.

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

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

27 (a) A distribution made for the life or life expectancy of

1 the distributee or the joint lives or joint life expectancies of
2 the distributee and the distributee's designated beneficiary.

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

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

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

11 (i) An individual retirement account or annuity described in
12 section 408(a) or 408(b) of the internal revenue code, 26 USC
13 408.

14 (ii) A qualified plan described in section 401(a) of the
15 internal revenue code, 26 USC 401, or an annuity contract
16 described in section 403(b) of the internal revenue code, 26 USC
17 403, and the plan providers agree to separately account for the
18 amounts paid, including any portion of the distribution that is
19 includable in federal gross income, and the portion of the
20 distribution which is not so includable.

21 (10) "Employee organization professional services leave" or
22 "professional services leave" means a leave of absence that is
23 renewed annually by the reporting unit so that a member may
24 accept a position with a public school employee organization to
25 which he or she belongs and which represents employees of a
26 reporting unit in employment matters. The member shall be
27 included in membership of the retirement system during a

1 professional services leave if all of the conditions of section
2 71(5) and (6) are satisfied.

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

13 (12) "Final average compensation" means the aggregate amount
14 of a member's compensation earned within the averaging period in
15 which the aggregate amount of compensation was highest divided by
16 the member's number of years, including any fraction of a year,
17 of credited service during the averaging period. The averaging
18 period shall be 36 consecutive calendar months if the member
19 contributes to the member investment plan **EXCEPT FOR A MEMBER**
20 **DESCRIBED IN SECTION 43A(7) WHOSE AVERAGING PERIOD SHALL BE 108**
21 **CONSECUTIVE CALENDAR MONTHS**; otherwise, the averaging period
22 shall be 60 consecutive calendar months. If the member has less
23 than 1 year of credited service in the averaging period, the
24 number of consecutive calendar months in the averaging period
25 shall be increased to the lowest number of consecutive calendar
26 months that contains 1 year of credited service.

27 (13) "Health benefits" means hospital, medical-surgical, and

1 sick care benefits and dental, vision, and hearing benefits for
2 retirants, retirement allowance beneficiaries, and health
3 insurance dependents provided pursuant to section 91.

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

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

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

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

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

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

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

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

1 (d) Service purchased before January 31, 1991 and performed
2 in a community mental health service program operated under
3 former Act No. 54 of the Public Acts of 1963 **1963 PA 54** for the
4 severely mentally retarded in day care programs, day training
5 programs, or day care training programs that were transferred to
6 an intermediate school district by direction of the department of
7 education.

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

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

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

19 (3) "Prior service" means service performed before July 1,
20 1945.

21 (4) Except as otherwise provided in this subsection, "public
22 school academy" means a public school academy established under
23 part 6a or **FORMER PART** 6b of the ~~school code of 1976, Act No. 451~~
24 ~~of the Public Acts of 1976, being sections 380.501 to 380.507 and~~
25 ~~380.511 to 380.518 of the Michigan Compiled Laws~~ **REVISED SCHOOL**
26 **CODE, 1976 PA 451, MCL 380.501 TO 380.507 AND FORMER MCL 380.511**
27 **TO 380.518**. Public school academy does not include any of the

1 following:

2 (a) A public school academy operated by a state public
3 university that is not subject to the optional retirement act of
4 1967, ~~Act No. 156 of the Public Acts of 1967, being sections~~
5 ~~38.381 to 38.388 of the Michigan Compiled Laws 1967 PA 156, MCL~~
6 **38.381 TO 38.388.**

7 (b) A public school academy corporation formed by a state
8 public university that is not subject to ~~Act No. 156 of the~~
9 ~~Public Acts of 1967~~ **THE OPTIONAL RETIREMENT ACT OF 1967, 1967 PA**
10 **156, MCL 38.381 TO 38.388.**

11 (5) Except as otherwise provided in this subsection, "public
12 school employee" means an employee of a public local school
13 district, intermediate school district, public school academy,
14 tax supported community or junior college, eastern Michigan
15 university, central Michigan university, northern Michigan
16 university, western Michigan university, Ferris state university,
17 Michigan technological university, Lake Superior state
18 university, or district library as defined in section 69g if the
19 conditions in section 69g(1) are met for that employee. Service
20 at Michigan technological university shall be creditable only if
21 the amount of the accumulated contributions in the state
22 employees' retirement system created by the state employees'
23 retirement act, ~~Act No. 240 of the Public Acts of 1943, being~~
24 ~~sections 38.1 to 38.48 of the Michigan Compiled Laws 1943 PA 240,~~
25 **MCL 38.1 TO 38.69**, for service is paid to the retirement system.
26 Service at Ferris state university shall be creditable as prior
27 service or membership service only if the employee was employed

1 at Ferris state university on a full-time basis for 2 or more
2 years after May 17, 1949. Until January 1, 1988, public school
3 employee also includes a person holding a Michigan teacher
4 certificate and serving as an employee of the Michigan high
5 school athletic association, other than a person whose effective
6 date of employment with the Michigan high school athletic
7 association is on or after December 31, 1986. Public school
8 employee includes a public school employee on an approved leave
9 of absence. Public school employee does not include a person who
10 first becomes employed by a university described in this
11 subsection on or after January 1, 1996.

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

21 (2) "Regular interest" means interest at 1 or more rates per
22 annum determined by the retirement board and compounded annually.
23 **THE REGULAR INTEREST FOR AMOUNTS ON DEPOSIT ON BEHALF OF MEMBERS**
24 **AS DESCRIBED IN SECTION 43A(7) SHALL NOT BE LESS THAN 0% AND**
25 **SHALL NOT BE MORE THAN 7% PER ANNUM DETERMINED BY THE RETIREMENT**
26 **BOARD AND COMPOUNDED ANNUALLY. THE REGULAR INTEREST FOR AMOUNTS**
27 **ON DEPOSIT IN THE RESERVE FOR EMPLOYEE CONTRIBUTIONS AS PROVIDED**

1 IN SECTION 43E SHALL BE DETERMINED AND CREDITED IN THE SAME
2 MANNER AS THE INTEREST ON AMOUNTS IN THE RESERVE FOR THE MEMBER
3 INVESTMENT PLAN UNDER SECTION 33.

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

13 (4) "Retirant" means a member who retires with a retirement
14 allowance payable from reserves of the retirement system.

15 (5) "Retirement allowance" means a payment for life or a
16 temporary period provided for in this act to which a retirant,
17 retirement allowance beneficiary, or refund beneficiary is
18 entitled.

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

23 (7) "Retirement board" means the board provided to
24 administer this retirement system.

25 (8) "Retirement system" means the Michigan public school
26 employees' retirement system provided for in this act.

27 Sec. 8. (1) "Service" means personal service performed as a

1 public school employee or creditable under this act.

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

4 (3) "State of Michigan service" means service performed as a
5 state employee in the classified or unclassified service under
6 the state employees' retirement act, 1943 PA 240, MCL 38.1 to
7 38.69.

8 (4) "Teacher" means a person employed by a reporting unit
9 who is engaged in teaching, who is engaged in administering and
10 supervising teaching, or who is under a teacher's contract with a
11 reporting unit.

12 (5) **"TIER 1" MEANS THE RETIREMENT PLAN AVAILABLE TO A MEMBER**
13 **UNDER THIS ACT.**

14 (6) **"TIER 2" MEANS THE STATE OF MICHIGAN DEFERRED**
15 **COMPENSATION PLAN I UNDER SECTION 457 OF THE INTERNAL REVENUE**
16 **CODE, OR ANOTHER RETIREMENT PLAN ESTABLISHED PURSUANT TO THE**
17 **INTERNAL REVENUE CODE THAT IS AVAILABLE TO QUALIFIED PARTICIPANTS**
18 **UNDER ARTICLE 7.**

19 (7) ~~(5)~~—"Transitional public employment program" means
20 participation in public service employment programs in the areas
21 of environmental quality, health care, education, public safety,
22 crime prevention and control, prison rehabilitation,
23 transportation, recreation, maintenance of parks, streets, and
24 other public facilities, solid waste removal, pollution control,
25 housing and neighborhood improvements, rural development,
26 conservation, beautification, veterans' outreach, and other
27 fields of human betterment and community improvement as part of a

1 program of comprehensive manpower services authorized,
2 undertaken, and financed under the comprehensive employment and
3 training act of 1973, former Public Law 93-203, 87 Stat. 839.

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

7 (2) The retirement board may promulgate rules pursuant to
8 the administrative procedures act of 1969, 1969 PA 306, MCL
9 24.201 to 24.328, for the implementation and administration of
10 this act. **THE RETIREMENT BOARD SHALL NOT PROMULGATE RULES FOR THE**
11 **ESTABLISHMENT, IMPLEMENTATION, ADMINISTRATION, OPERATION,**
12 **INVESTMENT, OR DISTRIBUTION OF A TIER 2 RETIREMENT PLAN.**

13 Sec. 26. (1) **THIS SECTION DOES NOT APPLY TO TIER 2.**

14 (2) ~~(1)~~—The state treasurer shall be treasurer of the
15 retirement system and shall have investment authority, including
16 the custodianship of the funds of the retirement system, and
17 shall have fiduciary responsibility with regard to the investment
18 of funds of the retirement system.

19 (3) ~~(2)~~—The state treasurer shall deposit the funds of the
20 retirement system in the same manner and subject to the law
21 governing the deposit of state funds by the treasurer. Income
22 earned by the retirement system's funds shall be credited to the
23 respective reserves under this act that earned the income.

24 Sec. 41. (1) The annual level percentage of payroll
25 contribution rate to finance benefits being provided and to be
26 provided by the retirement system shall be determined by
27 actuarial valuation pursuant to subsection (2) upon the basis of

1 the risk assumptions that the retirement board and the department
2 adopt after consultation with the state treasurer and an actuary.
3 An annual actuarial valuation shall be made of the retirement
4 system in order to determine the actuarial condition of the
5 retirement system and the required contribution to the retirement
6 system. An annual actuarial gain-loss experience study of the
7 retirement system shall be made in order to determine the
8 financial effect of variations of actual retirement system
9 experience from projected experience.

10 (2) ~~The contribution rate for benefits payable in the event~~
11 ~~of the death of a member before retirement or the disability of a~~
12 ~~member shall be computed using a terminal funding method of~~
13 ~~valuation.~~ Except as otherwise provided in this subsection, the
14 contribution rate for ~~other~~ benefits shall be computed using an
15 individual projected benefit entry age normal cost method of
16 valuation. Except as otherwise provided in this section, for the
17 1995-96 state fiscal year and for each subsequent fiscal year,
18 the contribution rate for health benefits provided under section
19 91 shall be computed using a cash disbursement method. **FOR THE**
20 **STATE FISCAL YEAR THAT BEGINS OCTOBER 1, 2010 ONLY, THE**
21 **CONTRIBUTION RATE UNDER THIS SECTION SHALL BE NO GREATER THAN**
22 **17.08%.** For each fiscal year after the fiscal year in which the
23 actuarial accrued liability for health benefits under section 91
24 is at least 100% funded by the health advance funding subaccount
25 created under section 34(2), the contribution rate for health
26 benefits provided under section 91 shall be computed using an
27 individual projected benefit entry age normal cost method of

1 valuation. The contribution rate for service likely to be
2 rendered in the current year, the normal cost contribution rate,
3 shall be equal to the aggregate amount of individual projected
4 benefit entry age normal costs divided by 1% of the aggregate
5 amount of active members' valuation compensation. Except as
6 otherwise provided under this subsection, the contribution rate
7 for unfunded service rendered before the valuation date, the
8 unfunded actuarial accrued liability contribution rate, shall be
9 the aggregate amount of unfunded actuarial accrued liabilities
10 divided by 1% of the actuarial present value over a period not to
11 exceed 50 years of projected valuation compensation, where
12 unfunded actuarial accrued liabilities are equal to the actuarial
13 present value of benefits, reduced by the actuarial present value
14 of future normal cost contributions and the actuarial value of
15 assets on the valuation date. ~~For the 2006-2007 state fiscal~~
16 ~~year, the contribution rate for unfunded service rendered before~~
17 ~~the valuation date shall be equal to 4.5% of the aggregate amount~~
18 ~~of unfunded actuarial accrued liabilities divided by 1% of the~~
19 ~~actuarial valuation annual compensation.~~

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

24 (4) On the basis of the estimate under subsection (3), the
25 annual actuarial valuation, and any adjustment required under
26 subsection (6), the director of the department shall compute the
27 sum due and payable to the retirement system and shall certify

1 this amount to the reporting units.

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

5 (6) Not later than 90 days after termination of each state
6 fiscal year, the executive secretary of the retirement board
7 shall certify to the director of the department and each
8 reporting unit the actual aggregate compensation paid to public
9 school employees during the preceding state fiscal year. Upon
10 receipt of that certification, the director of the department
11 shall compute any adjustment required to the amount due to a
12 difference between the estimated and the actual aggregate
13 compensation and the estimated and the actual actuarial employer
14 contribution rate. The difference, if any, shall be paid as
15 provided in subsection (9). This subsection does not apply in a
16 fiscal year in which a deposit occurs pursuant to subsection
17 (14).

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

22 (8) A reporting unit shall forward employee and employer
23 social security contributions and reports as required by the
24 federal old-age, survivors, disability, and hospital insurance
25 provisions of title II of the social security act, chapter 531,
26 49 Stat. 620, 42 USC 401 to 405, 406 to 418, 420 to 423, 424a to
27 426-1, and 427 to 433.

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

27 (10) Beginning on the designated date, all assets held by

1 the retirement system shall be reassigned their fair market
2 value, as determined by the state treasurer, as of the designated
3 date, and in calculating any unfunded actuarial accrued
4 liabilities, any market gains or losses incurred before the
5 designated date shall not be considered by the retirement
6 system's actuaries.

7 (11) ~~Beginning~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
8 **SUBSECTION, BEGINNING** on the designated date, the actuary used by
9 the retirement board shall assume a rate of return on investments
10 of 8.00% per annum, as of the designated date, which rate may
11 only be changed with the approval of the retirement board and the
12 director of the department. **BEGINNING ON JULY 1, 2010, THE**
13 **ACTUARY USED BY THE RETIREMENT BOARD SHALL ASSUME A RATE OF**
14 **RETURN ON INVESTMENTS OF 7.00% PER ANNUM FOR INVESTMENTS**
15 **ASSOCIATED WITH MEMBERS AS DESCRIBED IN SECTION 43A(7), WHICH**
16 **RATE MAY ONLY BE CHANGED WITH THE APPROVAL OF THE RETIREMENT**
17 **BOARD AND THE DIRECTOR OF THE DEPARTMENT.**

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

24 (13) Beginning on the designated date, the actuary used by
25 the retirement board shall use a salary increase assumption that
26 projects annual salary increases of 4%. In addition to the 4%,
27 the retirement board shall use an additional percentage based

1 upon an age-related scale to reflect merit, longevity, and
2 promotional salary increase. The actuary shall use this
3 assumption until a change in the assumption is approved in
4 writing by the retirement board and the director of the
5 department.

6 (14) For fiscal years that begin on or after October 1,
7 2001, if the actuarial valuation prepared pursuant to this
8 section demonstrates that as of the beginning of a fiscal year,
9 and after all credits and transfers required by this act for the
10 previous fiscal year have been made, the sum of the actuarial
11 value of assets and the actuarial present value of future normal
12 cost contributions exceeds the actuarial present value of
13 benefits, the amount based on the annual level percent of payroll
14 contribution rate pursuant to subsections (1) and (2) may be
15 deposited into the health advance funding subaccount created by
16 section 34.

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

1 SEC. 41B. BEGINNING JULY 1, 2010, THE RETIREMENT SYSTEM MAY
2 DETERMINE A SEPARATE EMPLOYER CONTRIBUTION RATE FOR MEMBERS WHO
3 ARE DESCRIBED IN SECTION 43A(7). EXCEPT AS PROVIDED IN THIS
4 SECTION, THE RETIREMENT SYSTEM SHALL DETERMINE THE SEPARATE
5 EMPLOYER CONTRIBUTION RATE IN THE MANNER PRESCRIBED IN SECTION
6 41.

7 Sec. 42. (1) Beginning with the 1994-95 state fiscal year, a
8 reporting unit shall contribute the entire percentage, determined
9 under section 41(2), of the aggregate annual compensation of all
10 employees who are members under the noncontributory plan as
11 provided by section 63 to the reserve for employer contributions
12 and to the reserve for health benefits. The reporting unit
13 contribution under this subsection is the exclusive obligation of
14 the reporting unit payable out of general budget resources of the
15 reporting unit, including funds available under local millage and
16 other local resources and from the state school aid allocation to
17 the reporting unit, and shall not be a separate obligation by
18 specific reimbursement or otherwise of this state.

19 (2) As authorized by resolution or other enabling act of its
20 governing body, the employer shall pick up all contributions of a
21 member made pursuant to ~~section~~**SECTIONS 43a AND 43E** for all
22 compensation paid on or after January 1, 1987 and reported to the
23 retirement system. Although considered contributions of a member
24 for certain purposes under this act, all contributions picked up
25 shall be treated as paid by the employer in lieu of contributions
26 by the employee. Contributions picked up as provided in this
27 subsection shall be paid from the same source of funds that is

1 used for paying compensation to the member. The employer may pick
2 up these contributions by either a reduction to the member's cash
3 salary, an offset against a future salary increase, or a
4 combination of a reduction in salary and offset against a future
5 salary increase. This subsection does not apply, and the employer
6 shall not deduct, offset, or remit contributions, until the
7 department receives notification from the United States internal
8 revenue service that contributions picked up shall not be
9 included as gross income of the member until they are distributed
10 or made available to the member, retirant, retirement allowance
11 beneficiary, or refund beneficiary.

12 (3) The employer shall deduct from a member's compensation
13 the contributions for social security provided in ~~Act No. 205 of~~
14 ~~the Public Acts of 1951, being sections 38.851 to 38.871 of the~~
15 ~~Michigan Compiled Laws 1951 PA 205, MCL 38.851 TO 38.871.~~

16 Contributions shall be made while the member remains a public
17 school employee. Each reporting unit official shall deduct the
18 social security contributions from the compensation of each
19 member for each payroll period after the date the employee
20 becomes a member. Social security contributions shall be made
21 notwithstanding that the minimum compensation provided by law is
22 changed. Each member is considered to have agreed to the
23 contributions prescribed in this subsection.

24 (4) Each reporting unit official shall forward member
25 ~~investment plan contributions to the retirement system monthly.~~
26 **ON A SCHEDULE AND IN A MANNER DETERMINED BY THE RETIREMENT**
27 **SYSTEM.**

1 (5) Each reporting unit official shall forward the entire
2 employer contribution required by this act to the retirement
3 system ~~monthly.~~ **ON A SCHEDULE AND IN A MANNER DETERMINED BY THE**
4 **RETIREMENT SYSTEM.**

5 (6) ~~By January 11, April 11, July 11, and October 11 of each~~
6 ~~year, each reporting unit official shall file with the executive~~
7 ~~secretary of the retirement board a quarterly affidavit for the~~
8 ~~preceding 3 months. The affidavit shall certify the aggregate~~
9 ~~compensation that is reportable to the retirement system under~~
10 ~~section 3a, sources of contributions, wages paid from federal~~
11 ~~funds, and contributions required by law. Not later than July 11~~
12 ~~of each year, a report shall be filed with the executive~~
13 ~~secretary of the retirement board, which shall list the persons~~
14 ~~employed, together with other information, including salary,~~
15 ~~service, and contributions, required for retirement reporting~~
16 ~~purposes.~~ **EACH REPORTING UNIT OFFICIAL SHALL SUBMIT TO THE**
17 **RETIREMENT SYSTEM A REPORT THAT INCLUDES THE INFORMATION REQUIRED**
18 **BY THE RETIREMENT SYSTEM FOR RETIREMENT PURPOSES, INCLUDING, BUT**
19 **NOT LIMITED TO, PERSONS EMPLOYED, RETIRANTS WORKING AT A**
20 **REPORTING UNIT WHO ARE EMPLOYED BY AN ENTITY OTHER THAN THE**
21 **REPORTING UNIT, WAGES OR AMOUNTS PAID, HOURS, AND CONTRIBUTIONS**
22 **REQUIRED UNDER THIS ACT. THE REPORT SHALL CONTAIN THE INFORMATION**
23 **ON A PAY PERIOD BASIS AND SHALL BE SUBMITTED TO THE RETIREMENT**
24 **SYSTEM NO LATER THAN THE LAST DAY OF THE SUBSEQUENT PAY PERIOD.**
25 **THE SUPERINTENDENT FOR A REPORTING UNIT OR THE CHIEF**
26 **ADMINISTRATOR FOR A REPORTING UNIT THAT DOES NOT HAVE A**
27 **SUPERINTENDENT SHALL COMPLETE AN ANNUAL CERTIFICATION THAT GIVES**

1 **AUTHORIZATION FOR THE EMPLOYEES OF THE REPORTING UNIT TO REPORT**
2 **THE INFORMATION TO THE RETIREMENT SYSTEM.**

3 (7) If a reporting unit fails to submit a report or
4 contributions, or both, according to the schedule established by
5 the retirement board, a late fee shall be paid by the reporting
6 unit. If the remittance of contributions is late, the late fee
7 shall include interest for each day that the remittance of
8 contributions is late. The retirement board periodically may
9 establish the late fee, which shall not be less than \$25.00, and
10 interest charges, which shall not be less than 6% per annum. **IF A**
11 **REPORTING UNIT FAILS TO CORRECT ERRORS ON A REPORT BEFORE THE**
12 **ERRORS ARE DISCOVERED BY THE RETIREMENT SYSTEM OR IF SUCH ERRORS**
13 **ARE INTENTIONAL, THE REPORTING UNIT SHALL PAY THE LATE FEE AND**
14 **INTEREST CHARGES AS DESCRIBED IN THIS SUBSECTION FOR EACH DAY**
15 **THAT THE REPORT IS IN ERROR, UNLESS REASONABLE CAUSE IS SHOWN TO**
16 **THE SATISFACTION OF THE RETIREMENT SYSTEM.**

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

23 Sec. 43a. (1) The contributions of a member who contributes
24 to the member investment plan shall be deducted by the employer
25 and remitted as employer contributions to the retirement system
26 pursuant to section 42. A member **OTHER THAN A MEMBER DESCRIBED IN**
27 **SUBSECTION (7)** who contributes to the member investment plan is

1 entitled to the benefits provided in sections 43b and 43c.

2 (2) Until December 31, 1989, a member who first became a
3 member on or before December 31, 1989, and who elected or elects
4 on or before December 31, 1989 to contribute to the member
5 investment plan shall contribute 4% of the member's compensation
6 to the member investment plan and beginning January 1, 1990 shall
7 contribute 3.9% of the member's compensation to the member
8 investment plan **UNTIL THE MEMBER'S FIRST PAY DATE ON OR AFTER**
9 **JULY 1, 2010. BEGINNING WITH THE MEMBER'S FIRST PAY DATE ON OR**
10 **AFTER JULY 1, 2010, A MEMBER AS DESCRIBED IN THIS SUBSECTION**
11 **SHALL CONTRIBUTE 6.9% OF THE MEMBER'S COMPENSATION TO THE MEMBER**
12 **INVESTMENT PLAN.**

13 (3) On or before January 1, 1993, a member who first became
14 a member on or before December 31, 1989, except as otherwise
15 provided in subsection (4), and who did not elect to make
16 contributions to the member investment plan, may irrevocably
17 elect to make the contributions described in subsection (2). In
18 addition to making the contributions required under subsection
19 (2), a member who elects to make contributions to the member
20 investment plan under this subsection shall make a contribution
21 of 4% of the compensation received on or after January 1, 1987 to
22 December 31, 1989, and 3.9% of the compensation received on or
23 after January 1, 1990 to the date of the election, plus an amount
24 equal to the compound interest that would have accumulated on
25 those contributions as described in section 33, plus an amount
26 equal to the net actuarial cost of the additional benefits
27 attributable to service credited before January 1, 1987, as

1 determined by the retirement board. The method and timing of
2 payment by a member under this subsection shall be determined by
3 the retirement board. The contributions made under this
4 subsection shall be deposited into the reserve for employee
5 contributions.

6 (4) A member who first became a member on or before December
7 31, 1986 but did not perform membership service between December
8 31, 1986 and January 1, 1990, and who returns to membership
9 service on or after January 1, 1990 and before ~~July 1, 2008~~ **JULY**
10 **1, 2010** shall make the contributions described in subsection ~~(7)~~
11 **(5)**.

12 ~~———— (5) A member who first became a member on or after January~~
13 ~~1, 1990 and before July 1, 2008 shall make the contributions~~
14 ~~described in subsection (7).~~

15 ~~———— (6) A member who first became a member on or after January~~
16 ~~1, 1987 but before January 1, 1990 shall have 30 days from his or~~
17 ~~her first date of employment to irrevocably elect to make the~~
18 ~~contributions described in subsection (2).~~

19 (5) ~~(7)~~ A member who first became a member on or after
20 January 1, 1990 and before ~~July 1, 2008~~ **JULY 1, 2010** shall
21 contribute the following amounts to the member investment plan
22 **BEGINNING ON THE MEMBER'S FIRST PAY DATE ON OR AFTER JULY 1,**
23 **2010:**

24 <u>Member's annual school fiscal</u>	<u>Amount payable to the member</u>
25 <u>year earned compensation</u>	<u>investment plan</u>

1	Not over \$5,000.00	3% of member's compensation
2	Over \$5,000.00 but not over	\$150.00, plus 3.6% of the
3	\$15,000.00	excess over \$5,000.00
4	Over \$15,000.00	\$510.00, plus 4.3% 7.3% of the
5		excess over \$15,000.00

6 (6) ~~(8)~~—A member who first became a member on or after July
7 1, 2008 shall contribute the following amounts **UNTIL THE MEMBER'S**
8 **FIRST PAY DATE BEGINNING AFTER JULY 1, 2010** to the member
9 investment plan:

10	<u>Member's annual school</u>	<u>Amount payable to the member</u>
11	<u>fiscal year earned compensation</u>	<u>investment plan</u>
12	Not over \$5,000.00	3% of member's compensation
13	Over \$5,000.00 but not over	\$150.00, plus 3.6% of excess
14	\$15,000.00	over \$5,000.00
15	Over \$15,000.00	\$510.00, plus 6.4% of the
16		excess over \$15,000.00

17 (7) A MEMBER WHO FIRST BECAME A MEMBER ON OR AFTER JULY 1,
18 2010 SHALL CONTRIBUTE THE FOLLOWING AMOUNTS TO THE MEMBER
19 INVESTMENT PLAN:

20	<u>MEMBER'S ANNUAL SCHOOL</u>	<u>AMOUNT PAYABLE TO THE MEMBER</u>
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<u>1 FISCAL YEAR EARNED COMPENSATION</u>	<u>INVESTMENT PLAN</u>
2 NOT OVER \$5,000.00	3% OF MEMBER'S COMPENSATION
3 OVER \$5,000.00 BUT NOT OVER	\$150.00, PLUS 3.6% OF EXCESS
4 \$15,000.00	OVER \$5,000.00
5 OVER \$15,000.00	\$510.00, PLUS 7.3% OF THE
6	EXCESS OVER \$15,000.00

7 (8) A MEMBER WHO FIRST BECAME A MEMBER ON OR AFTER JANUARY
8 1, 1990 AND BEFORE JULY 1, 2008 SHALL CONTRIBUTE THE FOLLOWING
9 AMOUNTS TO THE MEMBER INVESTMENT PLAN UNTIL THE MEMBER'S FIRST
10 PAY DATE ON OR AFTER JULY 1, 2010:

<u>11 MEMBER'S ANNUAL SCHOOL</u>	<u>AMOUNT PAYABLE TO THE MEMBER</u>
<u>12 FISCAL YEAR EARNED COMPENSATION</u>	<u>INVESTMENT PLAN</u>
13 NOT OVER \$5,000.00	3% OF MEMBER'S COMPENSATION
14 OVER \$5,000.00 BUT NOT OVER	\$150.00, PLUS 3.6% OF EXCESS
15 \$15,000.00	OVER \$5,000.00
16 OVER \$15,000.00	\$510.00, PLUS 4.3% OF THE
17	EXCESS OVER \$15,000.00

18 Sec. 43b. A member **OTHER THAN A MEMBER DESCRIBED IN SECTION**
19 **43A(7)** who contributes to the member investment plan shall have
20 the eligibility requirements of section 81 except as follows:

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

1 apply.

2 (b) The 10 years of credited service requirement of section
3 81(1)(b) shall be 5 years if the member is working as a public
4 school employee and the member received credited service in each
5 of the 5 school fiscal years immediately preceding the retirement
6 allowance effective date.

7 Sec. 43c. A member **OTHER THAN A MEMBER DESCRIBED IN SECTION**
8 **43A(7)** who contributes to the member investment plan, or the
9 retirement allowance beneficiary of that member, shall be
10 entitled to all of the following:

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

13 (b) An annual increase in the retirement allowance. The
14 first increase will occur on the first October 1 that is at least
15 1 full year after the effective date of the retirement allowance.
16 Subsequent annual increases will occur on October 1 of each
17 subsequent year. The amount of the annual increase shall be equal
18 to 3% of the retirement allowance that would be payable as of the
19 date of the increase without application of this subdivision.
20 However, if the retirement allowance is being paid under section
21 85(2), the increase shall be based on the retirement allowance
22 that would have been paid under the payment option selected by
23 the member under section 85(1).

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

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

1 years.

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

4 SEC. 43E. ANY MEMBER WHO IS NOT REQUIRED TO CONTRIBUTE TO
5 THE MEMBER INVESTMENT PLAN UNDER SECTION 43A SHALL CONTRIBUTE 3%
6 OF THE MEMBER'S COMPENSATION TO THE RESERVE FOR EMPLOYEE
7 CONTRIBUTIONS. THE MEMBER CONTRIBUTIONS SHALL BE DEDUCTED BY THE
8 EMPLOYER AND REMITTED AS EMPLOYER CONTRIBUTIONS TO THE RETIREMENT
9 SYSTEM PURSUANT TO SECTION 42.

10 SEC. 43F. ANY ADDITIONAL MEMBER CONTRIBUTIONS AS A RESULT OF
11 THE AMENDATORY ACT THAT ADDED THIS SECTION, INCLUDING THOSE SET
12 FORTH IN SECTIONS 43A AND 43E, SHALL BE USED TO FUND BENEFITS FOR
13 SERVICE CREDIT EARNED BEGINNING ON AND AFTER JULY 1, 2010 AND
14 SHALL NOT BE USED TO FUND ANY UNFUNDED LIABILITY FOR ANY ACCRUED
15 FINANCIAL BENEFITS THAT HAVE BEEN EARNED BY MEMBERS BEFORE JULY
16 1, 2010. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
17 MEMBER SHALL ACCRUE SERVICE CREDIT FOR EACH YEAR OF SERVICE FOR
18 WHICH PAYMENT OF THE ADDITIONAL MEMBER CONTRIBUTIONS HAVE BEEN
19 PAID, BUT SHALL FORFEIT ANY SERVICE CREDIT IF THE PAYMENTS ARE
20 NOT INITIALLY MADE OR IF THE PAYMENTS ARE SUBSEQUENTLY REFUNDED
21 TO THE MEMBER.

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

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

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

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

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

3 (a) The retirant is a former teacher or administrator
4 employed in a teaching or research capacity by a university that
5 is considered a reporting unit for the limited purpose described
6 in section 7(3).

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

11 (c) A university that employs a retirant pursuant to this
12 subsection shall report such employment to the retirement system
13 by July 1 of each year. The report to be filed shall include the
14 name of the retirant, the capacity in which the retirant is
15 employed, and the total annual compensation paid to the retirant.

16 (4) Until July 1, 2011, subsection (1) does not apply to a
17 retirant if all of the following circumstances exist:

18 (a) The retirant is employed by a reporting unit that has an
19 approved emergency situation, not including a situation caused by
20 a labor dispute, that necessitates the hiring of a retirant in
21 the capacity of a teacher, principal, stationary engineer,
22 administrator, or other category as determined by the
23 superintendent of public instruction to prevent depriving
24 students of an education. The chief executive officer or
25 superintendent of the school district shall include with the
26 written notification documentation showing that more than 8% of
27 all classes in the district during the 1998-99 school year are

1 taught by full-time substitute teachers who are not certificated
2 in the subjects or grade levels which they teach. Within 30 days
3 after receipt of the notification and documentation under this
4 subdivision, the department of education shall notify the chief
5 executive officer or superintendent and the retirement system of
6 its approval or disapproval of the emergency situation. If
7 disapproved by the department of education, this subsection does
8 not apply.

9 (b) The retirant is employed under an emergency situation
10 described in subdivision (a) for a period not to exceed 6 years.

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

15 (5) ~~On or before July 1, 1999, the~~ **THE** state superintendent
16 of public instruction shall compile a listing of critical
17 shortage disciplines. This listing shall be updated annually.

18 (6) Until July 1, 2011, subsection (1) does not apply to a
19 retirant if all of the following circumstances exist:

20 (a) The retirant is employed by a reporting unit that has a
21 situation, not including a situation caused by a labor dispute,
22 that necessitates the hiring of a retirant in an area that has
23 been identified by the state superintendent of public instruction
24 as a critical shortage discipline pursuant to subsection (5).

25 (b) The retirant is employed under a situation described in
26 subdivision (a) for a period not to exceed 6 years.

27 (c) The retirant is not eligible to use any service or

1 compensation attributable to the employment described in
2 subdivision (a) for a recomputation of his or her retirement
3 allowance.

4 (7) ~~The provisions of subsections (4) and~~ **SUBSECTION (6)**
5 shall only apply for retirants who have been retired for at least
6 12 months before becoming employed under this section.

7 **(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A**
8 **RETIRANT WHO WORKS AT A REPORTING UNIT BUT WHO IS EMPLOYED BY AN**
9 **ENTITY OTHER THAN A REPORTING UNIT SHALL REIMBURSE THE RETIREMENT**
10 **SYSTEM AN AMOUNT EQUAL TO THE AMOUNT OF WAGES EARNED BY THE**
11 **RETIRANT WHILE WORKING AT A REPORTING UNIT MULTIPLIED BY THE**
12 **CONTRIBUTION RATE FOR HEALTH BENEFITS DETERMINED UNDER SECTION**
13 **41(2). THE AMOUNTS REQUIRED UNDER THIS SUBSECTION SHALL BE**
14 **DEDUCTED BY, AND PAID TO, THE RETIREMENT SYSTEM FROM THE**
15 **RETIRANT'S MONTHLY RETIREMENT ALLOWANCE UNDER THIS ACT.**

16 Sec. 81. (1) ~~A~~ **EXCEPT AS PROVIDED IN SECTION 81C, A** member
17 who no longer is working as a public school employee or in any
18 other capacity for which service credit performed in this state
19 is allowed under this act, upon the member's written application
20 to the retirement system, shall be entitled to a retirement
21 allowance provided for in section 84 if 1 of the following
22 applies:

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

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

1 school employee.

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

7 (2) ~~For~~ EXCEPT AS PROVIDED IN SECTION 81C, FOR a member who
8 contributes to the member investment plan, the eligibility
9 requirements of subsection (1) shall be modified as provided in
10 section 43b.

11 SEC. 81C. (1) A MEMBER DESCRIBED IN SECTION 43A(7) WHO NO
12 LONGER IS WORKING AS A PUBLIC SCHOOL EMPLOYEE OR IN ANY OTHER
13 CAPACITY FOR WHICH SERVICE CREDIT PERFORMED IN THIS STATE IS
14 ALLOWED UNDER THIS ACT, UPON THE MEMBER'S WRITTEN APPLICATION TO
15 THE RETIREMENT SYSTEM, SHALL BE ENTITLED TO A RETIREMENT
16 ALLOWANCE PROVIDED FOR IN SECTION 84(1) IF THE MEMBER IS 60 YEARS
17 OF AGE OR OLDER AND HAS ACCUMULATED 10 OR MORE YEARS OF CREDITED
18 SERVICE PURSUANT TO SECTION 68 AS A PUBLIC SCHOOL EMPLOYEE.

19 (2) THE ELIGIBILITY REQUIREMENTS OF SUBSECTION (1) SHALL NOT
20 BE MODIFIED AS PROVIDED IN SECTION 43B.

21 (3) THE REDUCTION PROVIDED FOR IN SECTION 84(2) SHALL NOT
22 APPLY TO A PERSON WHO RETIRES PURSUANT TO THIS SECTION.

23 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
24 MEMBER DESCRIBED IN SECTION 43A(7) SHALL NOT PURCHASE OR TRANSFER
25 SERVICE CREDIT UNDER ARTICLE 4 AND SHALL NOT HAVE ANY PURCHASED
26 OR TRANSFERRED SERVICE CREDIT INCLUDED IN THE CALCULATION OF A
27 RETIREMENT ALLOWANCE UPON RETIREMENT.

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

7 (a) The member has not met age and service requirements of
8 section ~~81(a)~~ **81(1) (A)** or (b) **OR, IF THE MEMBER IS DESCRIBED IN**
9 **SECTION 43A(7), THE MEMBER HAS NOT MET AGE AND SERVICE**
10 **REQUIREMENTS OF SECTION 81C(1).**

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

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

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

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

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

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

11 (a) The member has not met age and service requirements of
12 section ~~81(a)~~81(1) (A) or (b) **OR, IF THE MEMBER IS DESCRIBED IN**
13 **SECTION 43A(7), THE MEMBER HAS NOT MET AGE AND SERVICE**
14 **REQUIREMENTS OF SECTION 81C(1).**

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

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

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

26 (2) The member's duty disability retirement allowance shall
27 be computed pursuant to section 84. The effective date of the

1 duty disability retirant's allowance shall be the first of the
2 month following the month in which the member terminates
3 employment and is in receipt of weekly worker's disability
4 compensation. The years of service credit used in computing the
5 retirant's duty disability retirement allowance shall not be less
6 than 10 years. If the member has less than 5 consecutive years of
7 credited service, the average of the member's annual compensation
8 shall be used.

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

16 ARTICLE 7

17 SEC. 121. FOR THE PURPOSES OF THIS ARTICLE, THE WORDS AND
18 PHRASES DEFINED IN SECTIONS 122 TO 124 HAVE THE MEANINGS ASCRIBED
19 TO THEM IN THOSE SECTIONS.

20 SEC. 122. (1) "ACCUMULATED BALANCE" MEANS THE TOTAL BALANCE
21 IN A QUALIFIED PARTICIPANT'S, FORMER QUALIFIED PARTICIPANT'S, OR
22 REFUND BENEFICIARY'S INDIVIDUAL ACCOUNT IN TIER 2.

23 (2) "COMPENSATION" MEANS THE REMUNERATION PAID A PARTICIPANT
24 ON ACCOUNT OF THE PARTICIPANT'S SERVICES RENDERED TO HIS OR HER
25 EMPLOYER EQUAL TO THE SUM OF THE FOLLOWING:

26 (A) A PARTICIPANT'S W-2 EARNINGS FOR SERVICES PERFORMED FOR
27 THE EMPLOYER.

1 (B) ANY AMOUNT CONTRIBUTED OR DEFERRED AT THE ELECTION OF
2 THE PARTICIPANT WHICH IS EXCLUDED FROM GROSS INCOME UNDER SECTION
3 125, 132(F)(4), 401(K), 403(B), OR 457 OF THE INTERNAL REVENUE
4 CODE, 26 USC 125, 132, 401, 403, AND 457.

5 SEC. 123. (1) "EMPLOYER" MEANS A REPORTING UNIT.

6 (2) "FORMER QUALIFIED PARTICIPANT" MEANS AN INDIVIDUAL WHO
7 WAS A QUALIFIED PARTICIPANT AND WHO TERMINATES THE EMPLOYMENT
8 UPON WHICH HIS OR HER PARTICIPATION IS BASED FOR ANY REASON.

9 SEC. 124. (1) "PLAN DOCUMENT" MEANS THE DOCUMENT THAT
10 CONTAINS THE PROVISIONS AND PROCEDURES OF TIER 2 IN CONFORMITY
11 WITH THIS ACT AND THE INTERNAL REVENUE CODE.

12 (2) "QUALIFIED PARTICIPANT" MEANS AN INDIVIDUAL WHO IS A
13 PARTICIPANT OF TIER 2 AND WHO IS FIRST EMPLOYED AND ENTERED UPON
14 THE PAYROLL OF HIS OR HER EMPLOYER ON OR AFTER JULY 1, 2010, AND
15 WHO ALSO QUALIFIES TO BE A MEMBER OF TIER 1 AS DESCRIBED IN
16 SECTION 43A(7).

17 (3) "REFUND BENEFICIARY" MEANS AN INDIVIDUAL NOMINATED BY A
18 QUALIFIED PARTICIPANT OR A FORMER QUALIFIED PARTICIPANT UNDER
19 SECTION 134 TO RECEIVE A DISTRIBUTION OF THE PARTICIPANT'S
20 ACCUMULATED BALANCE IN THE MANNER PRESCRIBED IN SECTION 135.

21 (4) "STATE TREASURER" MEANS THE TREASURER OF THIS STATE.

22 SEC. 125. (1) THE DEPARTMENT SHALL ADMINISTER TIER 2 AND
23 SHALL BE THE FIDUCIARY AND TRUSTEE OF TIER 2. THE DEPARTMENT MAY
24 APPOINT AN ADVISORY BOARD TO ASSIST THE DEPARTMENT IN CARRYING
25 OUT ITS DUTIES AS FIDUCIARY AND TRUSTEE. THE DEPARTMENT AND THE
26 STATE TREASURER SHALL COMPLY WITH EXECUTIVE REORGANIZATION ORDER
27 NO. 1995-5, MCL 38.2721, IN THE ADMINISTRATION OF TIER 2.

1 (2) THE DEPARTMENT SHALL DETERMINE THE PROVISIONS AND
2 PROCEDURES OF TIER 2 AND THE PLAN DOCUMENT IN CONFORMITY WITH
3 THIS ACT AND THE INTERNAL REVENUE CODE.

4 (3) THE DEPARTMENT HAS THE EXCLUSIVE AUTHORITY AND
5 RESPONSIBILITY TO EMPLOY OR CONTRACT WITH PERSONNEL AND FOR
6 SERVICES THAT THE DEPARTMENT DETERMINES NECESSARY FOR THE PROPER
7 ADMINISTRATION OF AND INVESTMENT OF ASSETS OF TIER 2, INCLUDING,
8 BUT NOT LIMITED TO, MANAGERIAL, PROFESSIONAL, LEGAL, CLERICAL,
9 TECHNICAL, AND ADMINISTRATIVE PERSONNEL OR SERVICES.

10 (4) EACH EMPLOYER SHALL BE DEEMED TO HAVE ADOPTED AND SHALL
11 COMPLY WITH THE PROVISIONS AND PROCEDURES OF TIER 2 AND THE PLAN
12 DOCUMENT.

13 SEC. 126. (1) A QUALIFIED PARTICIPANT, FORMER QUALIFIED
14 PARTICIPANT, OR REFUND BENEFICIARY MAY REQUEST A HEARING ON A
15 CLAIM INVOLVING HIS OR HER RIGHTS UNDER TIER 2. UPON WRITTEN
16 REQUEST, THE DEPARTMENT SHALL PROVIDE FOR A HEARING THAT SHALL BE
17 CONDUCTED PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES
18 ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287. AN INDIVIDUAL MAY
19 BE REPRESENTED BY COUNSEL OR OTHER AUTHORIZED AGENT AT A HEARING
20 CONDUCTED UNDER THIS SECTION.

21 (2) CHAPTERS 2, 3, AND 5 OF THE ADMINISTRATIVE PROCEDURES
22 ACT OF 1969, 1969 PA 306, MCL 24.224 TO 24.264 AND 24.291 TO
23 24.292, DO NOT APPLY TO THE ESTABLISHMENT, IMPLEMENTATION,
24 ADMINISTRATION, OPERATION, INVESTMENT, OR DISTRIBUTION OF TIER 2.

25 SEC. 127. EACH QUALIFIED PARTICIPANT, FORMER QUALIFIED
26 PARTICIPANT, AND REFUND BENEFICIARY SHALL DIRECT THE INVESTMENT
27 OF THE INDIVIDUAL'S ACCUMULATED EMPLOYER AND EMPLOYEE

1 CONTRIBUTIONS AND EARNINGS TO 1 OR MORE INVESTMENT CHOICES WITHIN
2 AVAILABLE CATEGORIES OF INVESTMENT PROVIDED BY THE DEPARTMENT.
3 THE LIMITATIONS ON THE PERCENTAGE OF TOTAL ASSETS FOR INVESTMENTS
4 PROVIDED IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT,
5 1965 PA 314, MCL 38.1132 TO 38.1140M, DO NOT APPLY TO TIER 2.

6 SEC. 128. THE ADMINISTRATIVE EXPENSES OF TIER 2 SHALL BE
7 PAID BY THE QUALIFIED PARTICIPANTS, FORMER QUALIFIED
8 PARTICIPANTS, AND REFUND BENEFICIARIES WHO HAVE NOT CLOSED THEIR
9 ACCOUNTS IN A MANNER DETERMINED BY THE DEPARTMENT.

10 SEC. 129. A QUALIFIED PARTICIPANT SHALL NOT PARTICIPATE IN
11 ANY OTHER PUBLIC SECTOR RETIREMENT BENEFITS PLAN FOR SIMULTANEOUS
12 SERVICE RENDERED TO THE SAME PUBLIC SECTOR EMPLOYER. EXCEPT AS
13 OTHERWISE PROVIDED IN THIS ACT OR BY THE DEPARTMENT, THIS SECTION
14 DOES NOT PROHIBIT A QUALIFIED PARTICIPANT FROM PARTICIPATING IN A
15 RETIREMENT PLAN ESTABLISHED BY THIS STATE OR OTHER PUBLIC SECTOR
16 EMPLOYER UNDER THE INTERNAL REVENUE CODE. FOR THE PURPOSES OF
17 THIS SECTION, "PUBLIC SECTOR EMPLOYER" INCLUDES, BUT IS NOT
18 LIMITED TO, A REPORTING UNIT.

19 SEC. 131. (1) THIS SECTION IS SUBJECT TO THE VESTING
20 REQUIREMENTS OF SECTION 132.

21 (2) UNLESS THE QUALIFIED PARTICIPANT AS DESCRIBED IN SECTION
22 124(2) AFFIRMATIVELY ELECTS NOT TO CONTRIBUTE OR ELECTS TO
23 CONTRIBUTE A LESSER AMOUNT, THE QUALIFIED PARTICIPANT SHALL
24 CONTRIBUTE 2% OF HIS OR HER COMPENSATION TO HIS OR HER TIER 2
25 ACCOUNT. THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL MAKE A
26 CONTRIBUTION TO THE QUALIFIED PARTICIPANT'S TIER 2 ACCOUNT IN AN
27 AMOUNT EQUAL TO 50% OF THE FIRST 2% OF COMPENSATION CONTRIBUTION

1 MADE BY THE QUALIFIED PARTICIPANT UNDER THIS SUBSECTION.

2 (3) A QUALIFIED PARTICIPANT AS DESCRIBED IN SECTION 124(2)
3 MAY MAKE CONTRIBUTIONS TO HIS OR HER TIER 2 ACCOUNT AS PERMITTED
4 BY THE DEPARTMENT AND THE INTERNAL REVENUE CODE. THE QUALIFIED
5 PARTICIPANT'S EMPLOYER SHALL NOT MATCH CONTRIBUTIONS MADE BY THE
6 QUALIFIED PARTICIPANT UNDER THIS SUBSECTION.

7 (4) UPON THE WRITTEN DETERMINATION OF THE DIRECTOR OF THE
8 OFFICE OF RETIREMENT SERVICES, AN EMPLOYEE OF AN EMPLOYER THAT IS
9 NOT A QUALIFIED PARTICIPANT AS DESCRIBED IN SECTION 124(2) MAY
10 ELECT TO MAKE CONTRIBUTIONS TO A TIER 2 ACCOUNT AS PERMITTED BY
11 THE DEPARTMENT AND THE INTERNAL REVENUE CODE. THE EMPLOYER SHALL
12 NOT MATCH CONTRIBUTIONS MADE BY THE EMPLOYEE UNDER THIS
13 SUBSECTION. AN EMPLOYEE AS DESCRIBED IN THIS SUBSECTION SHALL BE
14 TREATED AS A QUALIFIED PARTICIPANT UNDER THIS ARTICLE FOR THE
15 LIMITED PURPOSES OF HIS OR HER TIER 2 ACCOUNT.

16 SEC. 132. A QUALIFIED PARTICIPANT IS IMMEDIATELY 100% VESTED
17 IN HIS OR HER CONTRIBUTIONS MADE TO TIER 2. A QUALIFIED
18 PARTICIPANT SHALL VEST IN THE EMPLOYER CONTRIBUTIONS MADE ON HIS
19 OR HER BEHALF TO TIER 2 ACCORDING TO THE FOLLOWING SCHEDULE:

20 (A) UPON COMPLETION OF 2 YEARS OF SERVICE, 50%.

21 (B) UPON COMPLETION OF 3 YEARS OF SERVICE, 75%.

22 (C) UPON COMPLETION OF 4 YEARS OF SERVICE, 100%.

23 SEC. 134. A QUALIFIED PARTICIPANT OR FORMER QUALIFIED
24 PARTICIPANT MAY NOMINATE 1 OR MORE INDIVIDUALS AS A REFUND
25 BENEFICIARY BY FILING WRITTEN NOTICE OF NOMINATION WITH THE
26 DEPARTMENT. IF THE QUALIFIED PARTICIPANT OR FORMER QUALIFIED
27 PARTICIPANT IS MARRIED AT THE TIME OF THE NOMINATION AND THE

1 PARTICIPANT'S SPOUSE IS NOT THE REFUND BENEFICIARY FOR 100% OF
2 THE ACCOUNT, THE NOMINATION IS NOT EFFECTIVE UNLESS THE
3 NOMINATION IS SIGNED BY THE PARTICIPANT'S SPOUSE IF THE SIGNATURE
4 OF THE PARTICIPANT'S SPOUSE IS REQUIRED BY THE PLAN DOCUMENT.
5 HOWEVER, THE DEPARTMENT MAY WAIVE THIS REQUIREMENT IF THE
6 SPOUSE'S SIGNATURE CANNOT BE OBTAINED BECAUSE OF EXTENUATING
7 CIRCUMSTANCES.

8 SEC. 135. (1) A QUALIFIED PARTICIPANT IS ELIGIBLE TO RECEIVE
9 DISTRIBUTION OF HIS OR HER ACCUMULATED BALANCE IN TIER 2 UPON
10 BECOMING A FORMER QUALIFIED PARTICIPANT.

11 (2) UPON THE DEATH OF A QUALIFIED PARTICIPANT OR FORMER
12 QUALIFIED PARTICIPANT, THE ACCUMULATED BALANCE OF THAT DECEASED
13 PARTICIPANT IS CONSIDERED TO BELONG TO THE REFUND BENEFICIARY, IF
14 ANY, OF THAT DECEASED PARTICIPANT. IF A VALID NOMINATION OF
15 REFUND BENEFICIARY IS NOT ON FILE WITH THE DEPARTMENT, THE
16 DEPARTMENT, IN A LUMP SUM DISTRIBUTION, SHALL DISTRIBUTE THE
17 ACCUMULATED BALANCE TO THE LEGAL REPRESENTATIVE, IF ANY, OF THE
18 DECEASED PARTICIPANT OR, IF THERE IS NO LEGAL REPRESENTATIVE, TO
19 THE DECEASED PARTICIPANT'S ESTATE IN ACCORDANCE WITH THE PLAN
20 DOCUMENT.

21 (3) A FORMER QUALIFIED PARTICIPANT OR REFUND BENEFICIARY MAY
22 ELECT 1 OR A COMBINATION OF SEVERAL OF THE FOLLOWING METHODS OF
23 DISTRIBUTION OF THE ACCUMULATED BALANCE:

24 (A) A LUMP SUM DISTRIBUTION TO THE RECIPIENT.

25 (B) A LUMP SUM DIRECT ROLLOVER TO ANOTHER QUALIFIED PLAN, TO
26 THE EXTENT ALLOWED BY FEDERAL LAW.

27 (C) PERIODIC DISTRIBUTIONS, AS AUTHORIZED BY THE DEPARTMENT.

1 (D) NO CURRENT DISTRIBUTION, IN WHICH CASE THE ACCUMULATED
2 BALANCE SHALL REMAIN IN TIER 2 UNTIL THE FORMER QUALIFIED
3 PARTICIPANT OR REFUND BENEFICIARY ELECTS A METHOD OR METHODS OF
4 DISTRIBUTION UNDER SUBDIVISIONS (A) TO (C), TO THE EXTENT ALLOWED
5 BY FEDERAL LAW.

6 SEC. 136A. (1) THERE IS APPROPRIATED FOR THE FISCAL YEAR
7 ENDING SEPTEMBER 30, 2010, \$2,000,000.00 TO THE OFFICE OF
8 RETIREMENT SERVICES IN THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT,
9 AND BUDGET FOR ADMINISTRATION OF THE CHANGES UNDER THE AMENDATORY
10 ACT THAT ADDED THIS SECTION.

11 (2) THE APPROPRIATION AUTHORIZED IN SUBSECTION (1) IS A WORK
12 PROJECT APPROPRIATION AND ANY UNENCUMBERED OR UNALLOTTED FUNDS
13 ARE CARRIED FORWARD INTO THE FOLLOWING FISCAL YEAR. THE FOLLOWING
14 IS IN COMPLIANCE WITH SECTION 451A(1) OF THE MANAGEMENT AND
15 BUDGET ACT, 1984 PA 431, MCL 18.1451A:

16 (A) THE PURPOSE OF THE PROJECT IS TO ADMINISTER CHANGES
17 UNDER THE AMENDATORY ACT THAT ADDED THIS SECTION.

18 (B) THE WORK PROJECT WILL BE ACCOMPLISHED THROUGH A PLAN
19 UTILIZING INTERAGENCY AGREEMENTS, EMPLOYEES, AND CONTRACTS.

20 (C) THE TOTAL ESTIMATED COMPLETION COST OF THE WORK PROJECT
21 IS \$2,000,000.00.

22 (D) THE ESTIMATED COMPLETION DATE FOR THE WORK PROJECT IS
23 SEPTEMBER 30, 2011.

24 SEC. 137. (1) THE DEPARTMENT HAS THE RIGHT OF SETOFF TO
25 RECOVER OVERPAYMENTS MADE UNDER THIS ACT AND TO SATISFY ANY
26 CLAIMS ARISING FROM EMBEZZLEMENT OR FRAUD COMMITTED BY A
27 QUALIFIED PARTICIPANT, FORMER QUALIFIED PARTICIPANT, REFUND

1 BENEFICIARY, OR OTHER PERSON WHO HAS A CLAIM TO A DISTRIBUTION OR
2 ANY OTHER BENEFIT FROM TIER 2.

3 (2) THE DEPARTMENT SHALL CORRECT ERRORS IN THE RECORDS AND
4 ACTIONS IN TIER 2 UNDER THIS ACT, AND SHALL SEEK TO RECOVER
5 OVERPAYMENTS AND SHALL MAKE UP UNDERPAYMENTS.

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