

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4964

A bill to amend 1965 PA 314, entitled
"Public employee retirement system investment act,"
(MCL 38.1132 to 38.1141) by amending the title, as amended by 1988
PA 343, and by adding section 19b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8
9

TITLE

An act to authorize the investment of assets of public
employee retirement systems or plans **AND THE CONTRIBUTIONS MADE BY**
EMPLOYEES TO RETIREMENT SYSTEMS OR PLANS created and established by
the state or any political subdivision; to provide for the payment
of certain costs and investment expenses; to authorize investment
in variable rate interest loans; **TO LIMIT EMPLOYER AND PLAN**
OFFICIAL LIABILITY FOR CERTAIN INVESTMENT DECISIONS; to define and
limit the investments which may be made by an investment fiduciary

1 with the assets of a public employee retirement system; and to
2 prescribe the powers and duties of investment fiduciaries and
3 certain state departments and officers.

4 SEC. 19B. (1) A PUBLIC EMPLOYER MAY DEDUCT FROM THE
5 COMPENSATION OF AN EMPLOYEE AN AMOUNT FOR CONTRIBUTION TO AN
6 INDIVIDUAL ACCOUNT FOR THE EMPLOYEE'S BENEFIT IN A PLAN MAINTAINED
7 UNDER SECTION 125, 401(K), 403(B), 408, 408A, OR 457 OF THE
8 INTERNAL REVENUE CODE OF 1986, 26 USC 125, 401, 403, 408, 408A, AND
9 457. A PUBLIC EMPLOYER MAY PROVIDE FOR AUTOMATIC ENROLLMENT OF AN
10 EMPLOYEE IN A PLAN DESCRIBED IN THIS SUBSECTION.

11 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
12 PUBLIC EMPLOYER SHALL GIVE WRITTEN NOTICE TO A PARTICIPATING
13 EMPLOYEE OF ANY AUTOMATIC ENROLLMENT AT LEAST 14 DAYS BEFORE THE
14 INITIAL DEDUCTION IS MADE. THE PUBLIC EMPLOYER SHALL INCLUDE IN THE
15 NOTICE A DESCRIPTION OF THE BENEFIT THE CONTRIBUTION PROVIDES AND
16 THE RIGHT OF THE PARTICIPATING EMPLOYEE TO CANCEL THE CONTRIBUTION
17 BY INSTRUCTION TO THE EMPLOYER, INCLUDING THE PROCEDURE FOR GIVING
18 THE INSTRUCTION. THIS SUBSECTION DOES NOT APPLY TO A PUBLIC
19 EMPLOYER FOR THE PURPOSES OF A PARTICIPATING EMPLOYEE'S
20 PARTICIPATION IN A PLAN ESTABLISHED UNDER SECTION 1 OF 1976 PA 306,
21 MCL 38.1151, THAT PROVIDES FOR AUTOMATIC CONTRIBUTIONS AS PROVIDED
22 UNDER THE INTERNAL REVENUE CODE OF 1986.

23 (3) A PUBLIC EMPLOYER OR PLAN OFFICIAL MAY PROVIDE INVESTMENT
24 ALTERNATIVES FOR PARTICIPATING EMPLOYEES, INCLUDING 1 OR MORE
25 DEFAULT INVESTMENT ALTERNATIVES, FOR ANY CONTRIBUTIONS MADE TO A
26 PLAN DESCRIBED IN SUBSECTION (1). A PUBLIC EMPLOYER OR PLAN
27 OFFICIAL IS NOT LIABLE FOR THE ACTUAL DECISIONS MADE BY THE

1 EMPLOYEE WITH REGARD TO THE INVESTMENT OF ANY CONTRIBUTION UNDER
2 THE PLAN OR FOR THE DECISIONS MADE BY THE PUBLIC EMPLOYER OR PLAN
3 OFFICIAL ON BEHALF OF A PARTICIPATING EMPLOYEE WITH REGARD TO THE
4 DEFAULT INVESTMENT OF ANY CONTRIBUTIONS MADE FOR THAT EMPLOYEE TO
5 THE PLAN IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

6 (A) THE PLAN ALLOWS THE PARTICIPATING EMPLOYEE AT LEAST
7 QUARTERLY OPPORTUNITIES TO SELECT INVESTMENTS FOR ANY CONTRIBUTIONS
8 MADE FOR THAT EMPLOYEE BETWEEN INVESTMENT ALTERNATIVES AVAILABLE
9 UNDER THE PLAN.

10 (B) FOR ANY TYPE OF DEFAULT INVESTMENT OF ANY CONTRIBUTIONS
11 FOR AN EMPLOYEE, THE DEFAULT INVESTMENT IS COMPARABLE TO THE TYPES
12 OF INVESTMENT ALTERNATIVES IDENTIFIED BY THE UNITED STATES
13 DEPARTMENT OF LABOR AS QUALIFIED DEFAULT INVESTMENT ALTERNATIVES.

14 (C) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE OF THE DEFAULT
15 INVESTMENT DECISIONS THAT WILL BE MADE IN THE ABSENCE OF
16 PARTICIPATING EMPLOYEE DIRECTION.

17 (D) THE PARTICIPATING EMPLOYEE IS GIVEN A DESCRIPTION OF ALL
18 THE INVESTMENT ALTERNATIVES AVAILABLE FOR THE PARTICIPATING
19 EMPLOYEE.

20 (E) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE AT LEAST
21 ANNUALLY OF ALL OF THE FOLLOWING:

22 (i) THE ACTUAL DEFAULT INVESTMENTS MADE BY THE PUBLIC EMPLOYER
23 ON BEHALF OF THE PARTICIPATING EMPLOYEE.

24 (ii) THE RIGHT OF A PARTICIPATING EMPLOYEE TO CANCEL HIS OR HER
25 CONTINUED PARTICIPATION IN THE PLAN.

26 (4) THIS SECTION DOES NOT ALTER ANY EXISTING RESPONSIBILITY OF
27 A PUBLIC EMPLOYER OR OTHER PLAN OFFICIAL FOR THE SELECTION OF

1 INVESTMENT ALTERNATIVES AVAILABLE FOR PARTICIPATING EMPLOYEES.

2 (5) AS USED IN THIS SECTION:

3 (A) "AUTOMATIC ENROLLMENT" MEANS A PLAN PROVISION UNDER WHICH
4 THE EMPLOYEE WILL HAVE A SPECIFIED CONTRIBUTION MADE TO A PLAN
5 DESCRIBED IN SUBSECTION (1) EQUAL TO A COMPENSATION REDUCTION THAT
6 WILL BE MADE FOR THE EMPLOYEE UNLESS THE EMPLOYEE AFFIRMATIVELY
7 ELECTS NO COMPENSATION REDUCTION CONTRIBUTIONS OR A COMPENSATION
8 REDUCTION CONTRIBUTION IN ANOTHER AMOUNT.

9 (B) "PUBLIC EMPLOYER" MEANS THIS STATE OR AN AGENCY OF THIS
10 STATE, A CITY, COUNTY, VILLAGE, TOWNSHIP, SCHOOL DISTRICT, OR
11 INTERMEDIATE SCHOOL DISTRICT, OR AN INSTITUTION OF HIGHER
12 EDUCATION.