

# HOUSE BILL No. 4964

September 10, 2013, Introduced by Rep. Walsh and referred to the Committee on Financial Liability Reform.

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:**

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TITLE

An act to authorize the investment of assets of public employee retirement systems or plans **AND THE ASSETS OF EMPLOYEES CONTRIBUTED 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 LIABILITY FOR CERTAIN INVESTMENT DECISIONS;** to define and limit the

1 investments which may be made by an investment fiduciary with the  
2 assets of a public employee retirement system; and to prescribe the  
3 powers and duties of investment fiduciaries and certain state  
4 departments and officers.

5       SEC. 19B. (1) A PUBLIC EMPLOYER MAY DEDUCT FROM THE  
6 COMPENSATION OF AN EMPLOYEE AN AMOUNT FOR A CONTRIBUTION TO AN  
7 INDIVIDUAL ACCOUNT FOR EACH EMPLOYEE'S BENEFIT IN A PLAN MAINTAINED  
8 UNDER SECTION 125, 401(K), 403(B), 408, 408A, OR 457 OF THE  
9 INTERNAL REVENUE CODE OF 1986, 26 USC 125, 401, 403, 408, 408A, AND  
10 457. THE PUBLIC EMPLOYER SHALL GIVE WRITTEN NOTICE TO A  
11 PARTICIPATING EMPLOYEE OF THE CONTRIBUTION BEFORE THE INITIAL  
12 DEDUCTION IS MADE. THE PUBLIC EMPLOYER SHALL INCLUDE IN THE NOTICE  
13 A DESCRIPTION OF THE BENEFIT THE CONTRIBUTION PROVIDES AND THE  
14 RIGHT OF THE PARTICIPATING EMPLOYEE TO OPT OUT OF THE CONTRIBUTION  
15 BY INSTRUCTION TO THE EMPLOYER, INCLUDING THE PROCEDURE FOR GIVING  
16 THE INSTRUCTION.

17       (2) A PUBLIC EMPLOYER MAY PROVIDE FOR AUTOMATIC ENROLLMENT OF  
18 AN EMPLOYEE IN A PLAN DESCRIBED IN SUBSECTION (1). AN EMPLOYER WHO  
19 PROVIDES AUTOMATIC ENROLLMENT OF AN EMPLOYEE IN A PLAN AS PROVIDED  
20 IN THIS SUBSECTION OR OTHER PLAN OFFICIAL IS NOT LIABLE FOR THE  
21 ACTUAL DECISIONS MADE BY THE PUBLIC EMPLOYER OR OTHER PLAN OFFICIAL  
22 ON BEHALF OF A PARTICIPATING EMPLOYEE WITH REGARD TO THE DEFAULT  
23 INVESTMENT OF CONTRIBUTIONS MADE FOR THAT EMPLOYEE TO THE PLAN IF  
24 ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

25       (A) THE PLAN ALLOWS THE PARTICIPATING EMPLOYEE AT LEAST  
26 QUARTERLY OPPORTUNITIES TO SELECT INVESTMENTS FOR THE EMPLOYEE'S  
27 CONTRIBUTIONS BETWEEN INVESTMENT ALTERNATIVES AVAILABLE UNDER THE

1 PLAN.

2 (B) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE OF THE  
3 INVESTMENT DECISIONS THAT WILL BE MADE IN THE ABSENCE OF  
4 PARTICIPATING EMPLOYEE DIRECTION.

5 (C) THE PARTICIPATING EMPLOYEE IS GIVEN A DESCRIPTION OF ALL  
6 THE INVESTMENT ALTERNATIVES AVAILABLE FOR THE PARTICIPATING  
7 EMPLOYEE TO CHANGE INVESTMENTS.

8 (D) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE AT LEAST  
9 ANNUALLY OF THE ACTUAL DEFAULT INVESTMENTS MADE BY THE PUBLIC  
10 EMPLOYER ON BEHALF OF THE PARTICIPATING EMPLOYEE.

11 (3) THIS SECTION DOES NOT ALTER ANY EXISTING RESPONSIBILITY OF  
12 A PUBLIC EMPLOYER OR OTHER PLAN OFFICIAL FOR THE SELECTION OF  
13 INVESTMENT FUNDS FOR PARTICIPATING EMPLOYEES.

14 (4) AS USED IN THIS SECTION:

15 (A) "AUTOMATIC ENROLLMENT" MEANS A PLAN PROVISION UNDER WHICH  
16 THE EMPLOYEE WILL HAVE A SPECIFIED CONTRIBUTION MADE TO A PLAN  
17 DESCRIBED IN SUBSECTION (1) EQUAL TO A COMPENSATION REDUCTION THAT  
18 WILL BE MADE FOR THE EMPLOYEE UNLESS THE EMPLOYEE AFFIRMATIVELY  
19 ELECTS NO COMPENSATION REDUCTION CONTRIBUTIONS OR A COMPENSATION  
20 REDUCTION CONTRIBUTION IN ANOTHER AMOUNT.

21 (B) "PUBLIC EMPLOYER" MEANS THIS STATE OR AN AGENCY OF THIS  
22 STATE, A CITY, COUNTY, VILLAGE, TOWNSHIP, SCHOOL DISTRICT, OR  
23 INTERMEDIATE SCHOOL DISTRICT, OR AN INSTITUTION OF HIGHER  
24 EDUCATION.