

SENATE BILL No. 401

May 23, 2017, Introduced by Senator PAVLOV and referred to the Committee on Education.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 5, 41, 81d, 127, and 131 (MCL 38.1305, 38.1341, 38.1381d, 38.1427, and 38.1431), sections 5 and 131 as amended and section 81d as added by 2012 PA 300, section 41 as amended by 2016 PA 136, and section 127 as added by 2010 PA 75, and by adding sections 21a and 133.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) "Member" means a public school employee, except
2 that member does not include any of the following:

3 (a) ~~A person~~ **AN INDIVIDUAL** enrolled in a neighborhood youth
4 corps program operated with funds from the federal office of
5 economic opportunity or ~~a person~~ **AN INDIVIDUAL** enrolled in a

1 comparable youth training program designed to prevent high school
2 dropouts and rehabilitate high school dropouts operated by an
3 intermediate school district.

4 (b) ~~A person~~**AN INDIVIDUAL** enrolled in a transitional public
5 employment program and employed by a reporting unit.

6 (c) ~~A person~~**AN INDIVIDUAL** employed by a reporting unit while
7 enrolled as a full-time student in that same reporting unit.

8 (d) ~~A person~~**AN INDIVIDUAL** who elects to participate in the
9 optional retirement program under the optional retirement act of
10 1967, 1967 PA 156, MCL 38.381 to 38.388.

11 (e) A retirant of this retirement system.

12 (f) ~~A person~~**AN INDIVIDUAL**, not regularly employed by a
13 reporting unit, who is employed by a reporting unit through a
14 summer youth employment program established ~~pursuant to~~**UNDER** the
15 Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

16 (g) ~~A person~~**AN INDIVIDUAL**, not regularly employed by a
17 reporting unit, who is employed by a reporting unit to administer a
18 program described in subdivision (f), (h), (i), (j), or (k).

19 (h) After September 30, 1983, ~~a person~~**AN INDIVIDUAL**, not
20 regularly employed by a reporting unit, who is employed by a
21 reporting unit through participation in a program established
22 ~~pursuant to~~**UNDER** the former job training partnership act, Public
23 Law 97-300, 96 ~~Stat.~~**STAT** 1322 or beginning July 1, 2000, the
24 workforce investment act of 1998, Public Law 105-220, 112 ~~Stat.~~
25 **STAT** 936.

26 (i) ~~A person~~**AN INDIVIDUAL**, not regularly employed by a
27 reporting unit, who is employed by a reporting unit through

1 participation in a program established ~~pursuant to~~ **UNDER** the work
2 ~~first~~ **PATH** program under section 57f of the social welfare act,
3 1939 PA 280, MCL 400.57f.

4 (j) ~~A person,~~ **AN INDIVIDUAL**, not regularly employed by a
5 reporting unit, who is employed by a reporting unit through
6 participation in a program established ~~pursuant to~~ **UNDER** the
7 Michigan community service corps program, first established under
8 sections 25 to 35 of 1983 PA 259.

9 (k) ~~A person,~~ **AN INDIVIDUAL**, not regularly employed by a
10 reporting unit, who is employed by a reporting unit through
11 participation in a program established ~~pursuant to~~ **UNDER** the older
12 American community service employment program under the older
13 American community service employment act, title V of the older
14 Americans act of 1965, Public Law 89-73, 42 USC 3056 to
15 ~~3056i.~~ **3056P**.

16 (l) ~~A person,~~ **AN INDIVIDUAL**, not regularly employed by a
17 reporting unit, who is employed by a reporting unit in a temporary,
18 intermittent, or irregular seasonal or athletic position and who is
19 under the age of 19 years.

20 (m) ~~A person,~~ **AN INDIVIDUAL**, not regularly employed by a
21 reporting unit, who is employed by a reporting unit only in a
22 temporary position to assist in the conduct of a school election.

23 (n) A qualified participant who makes a valid election under
24 section ~~81d~~ **81D(1)** to not become a member of Tier 1.

25 **(O) A QUALIFIED PARTICIPANT WHO IS NOT A MEMBER OF TIER 1**
26 **UNDER SECTION 81D(4).**

27 (2) "Membership service" means service performed after June

1 30, 1945.

2 (3) "Noncontributory plan" means the plan which began between
3 July 1, 1974 and July 1, 1977, in which the reporting unit elected
4 to discontinue withholding contributions from employees'
5 compensation.

6 (4) "Noncontributory service" means credited service rendered
7 under the noncontributory plan.

8 (5) "Nonteacher" means ~~a person~~ **AN INDIVIDUAL** employed by a
9 reporting unit who is not a teacher as defined in section ~~8(4)~~ **8**.

10 **SEC. 21A. AS PROVIDED UNDER SECTION 24 OF ARTICLE IX OF THE**
11 **STATE CONSTITUTION OF 1963, ACCRUED FINANCIAL BENEFITS OF THE**
12 **PENSION PLAN AND RETIREMENT SYSTEM CREATED UNDER THIS ACT ARE A**
13 **CONTRACTUAL OBLIGATION OF THIS STATE THAT SHALL NOT BE DIMINISHED**
14 **OR IMPAIRED.**

15 Sec. 41. (1) The annual level percentage of payroll
16 contribution rates to finance benefits being provided and to be
17 provided by the retirement system must be determined by actuarial
18 valuation under subsection (2) on the basis of the risk assumptions
19 that the retirement board and the department adopt after
20 consultation with the state treasurer and an actuary. An annual
21 actuarial valuation must be made of the retirement system to
22 determine the actuarial condition of the retirement system and the
23 required contribution to the retirement system. An annual actuarial
24 gain-loss experience study of the retirement system must be made to
25 determine the financial effect of variations of actual retirement
26 system experience from projected experience.

27 (2) Except as otherwise provided in section 41a, the annual

1 contribution rates for benefits is subject to all of the following:

2 (a) Except as otherwise provided in this subdivision, the
3 contribution rate for benefits must be computed using an individual
4 projected benefit entry age normal cost method of valuation. If the
5 contributions described in section 43e are determined by a final
6 order of a court of competent jurisdiction for which all rights of
7 appeal have been exhausted to be unconstitutional and the
8 contributions are not deposited into the appropriate funding
9 account referenced in section 43e, the contribution rate for health
10 benefits provided under section 91 must be computed using a cash
11 disbursement method.

12 (b) ~~The~~ **SUBJECT TO SUBDIVISION (C), THE** contribution rate for
13 service likely to be rendered in the current year, the normal cost
14 contribution rate, for reporting units must be determined as
15 follows:

16 (i) Calculate the aggregate amount of individual projected
17 benefit entry age normal costs.

18 (ii) Divide the result of the calculation under subparagraph
19 (i) by 1% of the aggregate amount of active members' valuation
20 compensation.

21 **(C) BEGINNING WITH THE STATE FISCAL YEAR ENDING SEPTEMBER 30,**
22 **2019 AND FOR EACH SUBSEQUENT FISCAL YEAR, THE NORMAL COST**
23 **CONTRIBUTION RATE MUST NOT BE LESS THAN THE NORMAL COST**
24 **CONTRIBUTION RATE IN THE IMMEDIATELY PRECEDING STATE FISCAL YEAR.**

25 (D) ~~(e) The~~ **SUBJECT TO THE SUBDIVISION (E), THE** contribution
26 rate for unfunded service rendered before the valuation date, the
27 unfunded actuarial accrued liability contribution rate, must be

1 determined as follows:

2 (i) Calculate the aggregate amount of unfunded actuarial
3 accrued liabilities of reporting units as follows:

4 (A) Calculate the actuarial present value of benefits for
5 members attributable to reporting units.

6 (B) Calculate the actuarial present value of future normal
7 cost contributions of reporting units.

8 (C) Calculate the actuarial present value of assets on the
9 valuation date.

10 (D) Add the results of sub-subparagraphs (B) and (C).

11 (E) Subtract from the result of the calculation under sub-
12 subparagraph (A) the result from the calculation under sub-
13 subparagraph (D).

14 (ii) ~~Divide~~ **SUBJECT TO SUBDIVISIONS (H) AND (I), DIVIDE** the
15 result of the calculation under subparagraph (i) by 1% of the
16 actuarial present value over a period not to exceed 50 years of
17 projected valuation compensation.

18 **(E) BEGINNING WITH THE STATE FISCAL YEAR ENDING SEPTEMBER 30,**
19 **2019 AND FOR EACH SUBSEQUENT FISCAL YEAR UNTIL THE UNFUNDED**
20 **ACTUARIAL ACCRUED LIABILITY IS PAID OFF, THE UNFUNDED ACTUARIAL**
21 **ACCRUED LIABILITY CONTRIBUTION RATE MUST NOT BE LESS THAN THE**
22 **UNFUNDED ACTUARIAL ACCRUED LIABILITY CONTRIBUTION RATE IN THE**
23 **IMMEDIATELY PRECEDING STATE FISCAL YEAR.**

24 **(F) ~~(d)~~**—Beginning with the state fiscal year ending September
25 30, 2013 and for each subsequent fiscal year, the unfunded
26 actuarial accrued liability contribution rate applied to payroll
27 must not exceed 20.96% for a reporting unit that is not a

1 university reporting unit. Any additional unfunded actuarial
2 accrued liability contributions as determined under this section
3 for each fiscal year are to be paid by appropriation from the **STATE**
4 school aid fund established by section 11 of article IX of the
5 state constitution of 1963. Except as otherwise provided in this
6 section and section 41a, the unfunded actuarial accrued liability
7 contribution rate must **BE DETERMINED USING A LEVEL PERCENTAGE OF**
8 **PAYROLL AMORTIZATION METHOD AND MUST** be based on and applied to the
9 combined payrolls of the employees who are members ~~and~~**OR** qualified
10 participants, **OR BOTH**.

11 (G) ~~(e)~~ Beginning with the state fiscal year ending September
12 30, 2016 and for each subsequent state fiscal year, the unfunded
13 actuarial accrued liability contribution rate applied to the
14 combined payroll, as provided in section 41a, must not exceed
15 25.73% for a university reporting unit. Any additional unfunded
16 actuarial accrued liability contributions as determined under this
17 section for each fiscal year for university reporting units are to
18 be paid by appropriation under article III of the state school aid
19 act of 1979, 1979 PA 94, MCL 388.1836 to ~~388.1893~~**388.1891**.

20 (H) **SUBJECT TO SUBDIVISION (I), FOR A REPORTING UNIT THAT IS**
21 **NOT A UNIVERSITY REPORTING UNIT, THE UNFUNDED ACTUARIAL ACCRUED**
22 **LIABILITY MUST BE AMORTIZED OVER 21 YEARS BEGINNING OCTOBER 1, 2017**
23 **AND ENDING ON SEPTEMBER 30, 2038.**

24 (I) **FOR A REPORTING UNIT THAT IS NOT A UNIVERSITY REPORTING**
25 **UNIT, ANY INCREASE IN THE UNFUNDED ACTUARIAL ACCRUED LIABILITY AS A**
26 **RESULT OF A CHANGE TO A RATE OF RETURN DESCRIBED IN SUBSECTION (11)**
27 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION**

1 133 MUST BE AMORTIZED OVER A PERIOD OF NOT MORE THAN 40 YEARS
2 ENDING NO LATER THAN SEPTEMBER 30, 2057.

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

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

12 (5) The reporting units shall pay the amount certified under
13 subsection (4) to the director of the department in equal payroll
14 cycle installments for unfunded actuarial accrued liability
15 contributions and payroll cycle installments for normal cost
16 contributions.

17 (6) Not later than 90 days after termination of each state
18 fiscal year, the executive secretary of the retirement board shall
19 certify to the director of the department and each reporting unit
20 the actual aggregate compensation paid to public school employees
21 during the preceding state fiscal year. On receipt of that
22 certification, the director of the department may compute any
23 adjustment required to the amount due to a difference between the
24 estimated and the actual aggregate compensation and the estimated
25 and the actual actuarial employer contribution rate. The
26 difference, if any, must be paid as provided in subsection (9).
27 This subsection does not apply in a fiscal year in which a deposit

1 occurs under subsection (14).

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

6 (8) A reporting unit shall forward employee and employer
7 social security contributions and reports as required by the
8 federal old-age, survivors, disability, and hospital insurance
9 provisions of title II of the social security act, 42 USC 401 to
10 434.

11 (9) For an employer of an employee of a local public school
12 district or an intermediate school district, for differences
13 occurring in fiscal years beginning on or after October 1, 1993, a
14 minimum of 20% of the difference between the estimated and the
15 actual aggregate compensation and the estimated and the actual
16 actuarial employer contribution rate described in subsection (6),
17 if any, must be paid by that employer in the next succeeding state
18 fiscal year and a minimum of 25% of the remaining difference must
19 be paid by that employer in each of the following 4 state fiscal
20 years, or until 100% of the remaining difference is submitted,
21 whichever first occurs. For an employer of other public school
22 employees, for differences occurring in fiscal years beginning on
23 or after October 1, 1991, a minimum of 20% of the difference
24 between the estimated and the actual aggregate compensation and the
25 estimated and the actual actuarial employer contribution rate
26 described in subsection (6), if any, must be paid by that employer
27 in the next succeeding state fiscal year and a minimum of 25% of

1 the remaining difference must be paid by that employer in each of
2 the following 4 state fiscal years, or until 100% of the remaining
3 difference is submitted, whichever first occurs. In addition,
4 interest must be included for each year that a portion of the
5 remaining difference is carried forward. The interest rate must
6 equal the actuarially assumed rate of investment return for the
7 state fiscal year in which payment is made. This subsection does
8 not apply in a fiscal year in which a deposit occurs under
9 subsection (14).

10 (10) Beginning on September 30, 2006, all assets held by the
11 retirement system must be reassigned their fair market value, as
12 determined by the state treasurer, as of September 30, 2006, and in
13 calculating any unfunded actuarial accrued liabilities, any market
14 gains or losses incurred before September 30, 2006 may not be
15 considered by the retirement system's actuaries.

16 (11) Except as otherwise provided in this subsection,
17 beginning on September 30, 2006, the actuary used by the retirement
18 board shall assume a rate of return on investments of ~~8.00%~~ 8% per
19 annum, as of September 30, 2006, which rate may only be changed
20 with the approval of the retirement board and the director of the
21 department. Beginning on July 1, 2010, the actuary used by the
22 retirement board shall assume a rate of return on investments of
23 ~~7.00%~~ 7% per annum for investments associated with members who
24 first became members after June 30, 2010, which rate may only be
25 changed with the approval of the retirement board and the director
26 of the department.

27 (12) Beginning on September 30, 2006, the value of assets used

1 must be based on a method that spreads over a 5-year period the
2 difference between actual and expected return occurring in each
3 year after September 30, 2006, and the methodology may only be
4 changed with the approval of the retirement board and the director
5 of the department.

6 (13) Beginning on September 30, 2006, the actuary used by the
7 retirement board shall use a salary increase assumption that
8 projects annual salary increases of 4%. In addition to the 4%, the
9 retirement board shall use an additional percentage based on an
10 age-related scale to reflect merit, longevity, and promotional
11 salary increase. The actuary shall use this assumption until a
12 change in the assumption is approved in writing by the retirement
13 board and the director of the department.

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

24 (15) Notwithstanding any other provision of this act, if the
25 retirement board establishes an arrangement and fund as described
26 in section 6 of the public employee retirement benefit protection
27 act, 2002 PA 100, MCL 38.1686, the benefits that are required to be

1 paid from that fund must be paid from a portion of the employer
2 contributions described in this section or other eligible funds.
3 The retirement board shall determine the amount of the employer
4 contributions or other eligible funds that must be allocated to
5 that fund and deposit that amount in that fund before it deposits
6 any remaining employer contributions or other eligible funds in the
7 pension fund.

8 (16) BY APRIL 1, 2020 AND EVERY 4 YEARS AFTER THAT DATE, THE
9 OFFICE OF RETIREMENT SERVICES ON BEHALF OF THE DEPARTMENT AND THE
10 STATE TREASURER SHALL COLLABORATE TO SUBMIT A REPORT TO THE SENATE
11 MAJORITY LEADER, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
12 SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEES, AND
13 THE SENATE AND HOUSE FISCAL AGENCIES. A REPORT REQUIRED UNDER THIS
14 SUBSECTION MUST INCLUDE AT LEAST ALL OF THE FOLLOWING:

15 (A) FORECASTED RATE OF RETURN ON INVESTMENTS AT ALL OF THE
16 FOLLOWING PROBABILITY LEVELS:

17 (i) 5%.

18 (ii) 25%.

19 (iii) 75%.

20 (iv) 95%.

21 (B) THE ACTUAL RATE OF RETURN ON INVESTMENTS FOR 10-, 15-, AND
22 20-YEAR TIME INTERVALS.

23 (C) MORTALITY ASSUMPTIONS.

24 (D) RETIREMENT AGE ASSUMPTIONS.

25 (E) PAYROLL GROWTH ASSUMPTIONS.

26 (F) ANY OTHER ASSUMPTIONS THAT HAVE A MATERIAL IMPACT ON THE
27 FINANCIAL STATUS OF THE RETIREMENT SYSTEM.

1 (17) ~~(16)~~As used in this section, "university reporting unit"
2 means a reporting unit that is a university listed in the
3 definition of public school employee under section 6.

4 Sec. 81d. (1) The retirement system shall permit each
5 qualified participant who first becomes a qualified participant and
6 first works for a reporting unit on or after September 4, 2012 **BUT**
7 **BEFORE OCTOBER 1, 2017** to make an election to not become a member
8 of Tier 1 and become only a qualified participant in Tier 2.

9 ~~—(2)—~~The retirement system shall determine a method of
10 accepting elections under **THIS** subsection ~~(1)~~and reporting units
11 shall secure those elections during the period beginning on the
12 date of the individual's employment and ending upon the expiration
13 of 75 days from the individual's first payroll date. An election
14 under **THIS** subsection ~~(1)~~is irrevocable.

15 ~~—(3)—~~An individual who does not make an election **UNDER THIS**
16 **SUBSECTION** for any reason on or before the close of the election
17 period is considered to have made an election to become a member of
18 Tier 1 and is subject to all of the following as of the date of his
19 or her employment:

20 (a) He or she is eligible to accrue any service credit or
21 qualify for any retirement allowance under Tier 1 under the terms
22 as provided in section 81c.

23 (b) He or she is also a qualified participant under Tier 2.

24 (2) ~~(4)~~An individual who makes the election under subsection
25 (1) on or before the close of the election period is considered to
26 have made an election to not become a member of Tier 1 and is
27 subject to all of the following as of the date of his or her

1 employment:

2 (a) He or she is not eligible to accrue any service credit or
3 qualify for any retirement allowance under Tier 1 under the terms
4 as provided in section 81c.

5 (b) He or she is only a qualified participant under Tier 2.

6 **(3) ~~(5)~~—**The retirement system shall collect from ~~the~~**AN**
7 individual **DESCRIBED IN SUBSECTION (1)** all amounts required under
8 sections 43a and 131(2) and shall collect all required employer
9 contributions required under Tier 1 from his or her date of
10 employment. If an individual makes a valid election under
11 subsection (1) to not become a member of Tier 1, the retirement
12 system shall determine and implement a method to reconcile employer
13 and employee contributions to be deposited to Tier 2, and any such
14 employee contributions will be considered to be elective
15 contributions under section 131.

16 **(4) AN INDIVIDUAL WHO FIRST BECOMES A QUALIFIED PARTICIPANT**
17 **AND FIRST WORKS FOR A REPORTING UNIT AFTER SEPTEMBER 30, 2017 IS**
18 **NOT A MEMBER OF TIER 1 AND IS ONLY A QUALIFIED PARTICIPANT IN TIER**
19 **2. AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION IS SUBJECT TO ALL OF**
20 **THE FOLLOWING AS OF THE DATE OF HIS OR HER EMPLOYMENT:**

21 **(A) HE OR SHE IS NOT ELIGIBLE TO ACCRUE ANY SERVICE CREDIT OR**
22 **QUALIFY FOR ANY RETIREMENT ALLOWANCE UNDER TIER 1 UNDER THE TERMS**
23 **AS PROVIDED IN SECTION 81C.**

24 **(B) HE OR SHE IS ONLY A QUALIFIED PARTICIPANT UNDER TIER 2.**

25 Sec. 127. (1) Each qualified participant, former qualified
26 participant, and refund beneficiary shall direct the investment of
27 the individual's accumulated employer and employee contributions

1 and earnings to 1 or more investment choices within available
2 categories of investment provided by the department. The
3 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~~, **38.1141**, do not apply to Tier
6 2.

7 (2) IN ADDITION TO THE CATEGORIES OF INVESTMENT PROVIDED BY
8 THE DEPARTMENT UNDER SUBSECTION (1), THE RETIREMENT SYSTEM SHALL
9 OFFER A QUALIFIED PARTICIPANT A MENU OF LIFETIME ANNUITY OPTIONS,
10 EITHER FIXED OR VARIABLE OR A COMBINATION OF BOTH. ANNUITY OPTIONS
11 OFFERED UNDER THIS SUBSECTION MAY INCLUDE BOTH NOMINAL AND
12 INFLATION PROTECTED OPTIONS.

13 Sec. 131. (1) This section is subject to the vesting
14 requirements of section 132.

15 (2) Unless a qualified participant who is also a member of
16 Tier 1 affirmatively elects not to contribute or elects to
17 contribute a lesser amount, the qualified participant who is also a
18 member of Tier 1 shall contribute 2% of his or her compensation to
19 his or her Tier 2 account. The qualified participant's employer
20 shall make a contribution to the qualified participant's Tier 2
21 account in an amount equal to 50% of the first 2% of compensation
22 contributed by the qualified participant under this subsection.

23 (3) A qualified participant may make contributions in addition
24 to contributions made under subsection (2) to his or her Tier 2
25 account as permitted by the department and the internal revenue
26 code.

27 (4) Upon the written determination of the director of the

1 office of retirement services, an employee of an employer that is
2 not a qualified participant may elect to make contributions to a
3 Tier 2 account as permitted by the department and the internal
4 revenue code. An employee as described in this subsection ~~shall be~~
5 **IS** treated as a qualified participant under this article for the
6 limited purposes of his or her Tier 2 account.

7 (5) ~~Upon~~ **SUBJECT TO SUBSECTION (7), ON** the written
8 determination of the director of the office of retirement services,
9 an employer may annually elect to make additional matching
10 contributions, including those in addition to matching
11 contributions made under subsections (2) and (6), to an employee's
12 Tier 2 account as permitted by the plan document and the internal
13 revenue code. ~~Matching~~ **SUBJECT TO SUBSECTION (7), MATCHING**
14 contributions under this subsection ~~shall~~ **MUST** be made in amounts
15 equal to 50% of the contributions made by the employee not to
16 exceed the first 4% of contributions made in whole percentages
17 only, for any employee in addition to amounts that are already
18 matched under this section, if any.

19 (6) ~~Except~~ **SUBJECT TO SUBSECTION (7), EXCEPT** as otherwise
20 provided in section 81d, unless a qualified participant who is only
21 a Tier 2 qualified participant due to an election made under
22 section 81d(1) affirmatively elects not to contribute or elects to
23 contribute a lesser amount, the qualified participant shall
24 contribute 6% of his or her compensation to his or her Tier 2
25 account. ~~The~~ **SUBJECT TO SUBSECTION (7), THE** qualified participant's
26 employer shall make a contribution to the qualified participant's
27 Tier 2 account in an amount equal to 50% of the first 6% of

1 compensation contributed by the qualified participant under this
2 subsection.

3 (7) BEGINNING THE FIRST DAY OF THE PAY PERIOD THAT BEGINS
4 AFTER SEPTEMBER 30, 2017, FOR A QUALIFIED PARTICIPANT WHO IS ONLY A
5 TIER 2 QUALIFIED PARTICIPANT DUE TO AN ELECTION UNDER SECTION
6 81D(1), ALL OF THE FOLLOWING APPLY:

7 (A) THIS SECTION DOES NOT APPLY TO THE QUALIFIED PARTICIPANT.

8 (B) THE QUALIFIED PARTICIPANT IS SUBJECT TO SECTION 133.

9 SEC. 133. (1) THIS SECTION IS SUBJECT TO THE VESTING
10 REQUIREMENTS OF SECTION 132.

11 (2) FOR A QUALIFIED PARTICIPANT WHO IS ONLY A TIER 2 QUALIFIED
12 PARTICIPANT UNDER SECTION 81D(4), OR BEGINNING THE FIRST DAY OF THE
13 PAY PERIOD THAT BEGINS AFTER SEPTEMBER 30, 2017 FOR A QUALIFIED
14 PARTICIPANT WHO IS ONLY A TIER 2 QUALIFIED PARTICIPANT DUE TO AN
15 ELECTION UNDER SECTION 81D(1), ALL OF THE FOLLOWING APPLY:

16 (A) THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL CONTRIBUTE TO
17 THE QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 AN AMOUNT EQUAL TO 4%
18 OF THE QUALIFIED PARTICIPANT'S COMPENSATION.

19 (B) THE QUALIFIED PARTICIPANT MAY PERIODICALLY ELECT TO
20 CONTRIBUTE UP TO 3% OF HIS OR HER COMPENSATION TO HIS OR HER TIER 2
21 ACCOUNT. THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL MAKE AN
22 ADDITIONAL CONTRIBUTION TO THE QUALIFIED PARTICIPANT'S TIER 2
23 ACCOUNT IN AN AMOUNT EQUAL TO THE CONTRIBUTION MADE BY THE
24 QUALIFIED PARTICIPANT UNDER THIS SUBDIVISION. ANY CONTRIBUTIONS
25 MADE BY AN EMPLOYER UNDER THIS SUBDIVISION SHALL BE PAID BY
26 APPROPRIATION FROM THE STATE SCHOOL AID FUND ESTABLISHED BY SECTION
27 11 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963.

1 (C) THE QUALIFIED PARTICIPANT MAY MAKE CONTRIBUTIONS IN
2 ADDITION TO CONTRIBUTIONS MADE UNDER SUBDIVISION (B) TO HIS OR HER
3 TIER 2 ACCOUNT AS PERMITTED BY THE STATE TREASURER AND THE INTERNAL
4 REVENUE CODE. THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL NOT MATCH
5 CONTRIBUTIONS MADE BY THE QUALIFIED PARTICIPANT UNDER THIS
6 SUBDIVISION.