

# SENATE BILL NO. 792

February 13, 2020, Introduced by Senator BARRETT and referred to the Committee on Appropriations.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending sections 301 and 604 (MCL 38.2301 and 38.2604), section 604 as amended by 2018 PA 335, and by adding sections 509a and 714a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 301. (1) The retirement system shall direct the actuary  
**2** to do all of the following:

1 (a) Determine the annual level percent of payroll contribution  
2 rate to finance the benefits provided under this act by actuarial  
3 valuation ~~pursuant to~~ **under** subsections (2) and (3), and ~~upon~~ **on**  
4 the basis of the risk assumptions that the retirement board and the  
5 department adopt after consultation with the state treasurer and  
6 the actuary.

7 (b) Make an annual actuarial valuation of the retirement  
8 system ~~in order~~ to determine the actuarial condition of the  
9 retirement system and the required contribution to the retirement  
10 system.

11 (c) Make an annual actuarial gain-loss experience study of the  
12 retirement system ~~in order~~ to determine the financial effect of  
13 variations of actual retirement system experience from projected  
14 experience.

15 (2) The actuary shall compute the contribution rate for  
16 monthly benefits payable in the event of death of a member before  
17 retirement or the disability of a member using ~~a terminal funding~~  
18 **an individual projected benefit entry age normal cost** method of  
19 actuarial valuation.

20 (3) The actuary shall compute the contribution rate for  
21 benefits other than those described in subsection (2) using an  
22 individual projected benefit entry age normal actuarial cost  
23 method. The contribution rate for service that may be rendered in  
24 the current year, known as the normal cost contribution rate, is  
25 equal to the aggregate amount of individual entry age normal costs  
26 divided by 1% of the aggregate amount of active members' valuation  
27 compensation. ~~The contribution rate for unfunded service rendered~~  
28 ~~on or before the last day of the fiscal year, known as the unfunded~~  
29 ~~actuarial accrued liability contribution rate, is equal to the~~

1 ~~aggregate amount of unfunded actuarial accrued liabilities divided~~  
2 ~~by 1% of the actuarial present value over a period not to exceed 40~~  
3 ~~years of projected benefit compensation, where unfunded actuarial~~  
4 ~~accrued liabilities are equal to the actuarial present value of~~  
5 ~~benefits reduced by the actuarial present value of future normal~~  
6 ~~costs and the actuarial value of assets on the last day of the~~  
7 ~~fiscal year.~~ Beginning with the September 30, 2019 valuation, the  
8 contribution rate for health benefits provided under sections 509  
9 and 719 must be computed using an individual projected benefit  
10 entry age normal cost method of valuation. The unfunded actuarial  
11 accrued liability must be equal to the actuarial present value of  
12 benefits reduced by the actuarial present value of future normal  
13 cost contributions and the actuarial value of assets on the  
14 valuation date. Except as otherwise provided in this subsection,  
15 the unfunded actuarial accrued liability must be amortized in  
16 accordance with generally accepted governmental accounting  
17 standards over a period equal to or less than 25 years, with the  
18 payment schedule for the employer being based on and applied to the  
19 combined payrolls of the employees who are Plan 1 members and Plan  
20 2 members.

21       Sec. 509a. (1) For a member or qualified participant who is  
22 not a Plan 1 member or Plan 2 member and is not eligible for any  
23 future health insurance coverage premium from the retirement  
24 system, a member's or qualified participant's employer shall make a  
25 matching contribution up to 2% of the member's or qualified  
26 participant's compensation to Tier 2. A matching contribution under  
27 this subsection may not be used as the basis for a loan from that  
28 member or qualified participant's Tier 2 account.

29       (2) A member or qualified participant as described in

1 subsection (1) may make a contribution up to 2% of the member's or  
2 qualified participant's compensation to a Tier 2 account. A member  
3 or qualified participant who makes a contribution under this  
4 subsection may make additional contributions to his or her Tier 2  
5 account as permitted by the department and the internal revenue  
6 code.

7 (3) A member or qualified participant is vested in  
8 contributions made to his or her Tier 2 account under subsections  
9 (1) and (2) according to the vesting provisions under section 715.

10 (4) The contributions described in this section must begin  
11 with the first payroll date after the member or qualified  
12 participant is employed or after October 1, 2020, whichever is  
13 later, and end on his or her termination of employment.

14 (5) As used in this section, "employer" means that term as  
15 defined in section 705.

16 Sec. 604. (1) This section is enacted under section 401(a) of  
17 the internal revenue code, 26 USC 401, which imposes certain  
18 administrative requirements and benefit limitations for qualified  
19 governmental plans. This state intends that the retirement system  
20 be a qualified pension plan created in trust under section 401 of  
21 the internal revenue code, 26 USC 401, and that the trust be an  
22 organization exempt from taxation under section 501 of the internal  
23 revenue code, 26 USC 501. The department shall administer the  
24 retirement system to fulfill the intent of this subsection.

25 (2) The retirement system ~~shall~~**must** be administered in  
26 compliance with the provisions of section 415 of the internal  
27 revenue code, 26 USC 415, and regulations under that section that  
28 are applicable to governmental plans and, beginning January 1,  
29 2010, applicable provisions of the final regulations issued by the

1 Internal Revenue Service on April 5, 2007. Employer-financed  
2 benefits provided by the retirement system under this act must not  
3 exceed the applicable limitations set forth in section 415 of the  
4 internal revenue code, 26 USC 415, as adjusted by the commissioner  
5 of internal revenue under section 415(d) of the internal revenue  
6 code, 26 USC 415, to reflect cost-of-living increases, and the  
7 retirement system shall adjust the benefits, including benefits  
8 payable to retirants and retirement allowance beneficiaries,  
9 subject to the limitation each calendar year to conform with the  
10 adjusted limitation. For purposes of section 415(b) of the internal  
11 revenue code, 26 USC 415, the applicable limitation applies to  
12 aggregated benefits received from all qualified pension plans for  
13 which the office of retirement services coordinates administration  
14 of that limitation. If there is a conflict between this section and  
15 another section of this act, this section prevails.

16 (3) The assets of the retirement system must be held in trust  
17 and invested for the sole purpose of meeting the legitimate  
18 obligations of the retirement system and must not be used for any  
19 other purpose. The assets must not be used for or diverted to a  
20 purpose other than for the exclusive benefit of the members, vested  
21 former members, retirants, and retirement allowance beneficiaries  
22 before satisfaction of all retirement system liabilities.

23 (4) The retirement system shall return post-tax member  
24 contributions made by a member and received by the retirement  
25 system to a member on retirement, under Internal Revenue Service  
26 regulations and approved Internal Revenue Service exclusion ratio  
27 tables.

28 (5) The required beginning date for retirement allowances and  
29 other distributions must not be later than April 1 of the calendar

1 year following the calendar year in which the employee attains age  
2 70-1/2 or April 1 of the calendar year following the calendar year  
3 in which the employee retires. The required minimum distribution  
4 requirements imposed by section 401(a)(9) of the internal revenue  
5 code, 26 USC 401, apply to this act and must be administered in  
6 accordance with a reasonable and good faith interpretation of the  
7 required minimum distribution requirements for all years in which  
8 the required minimum distribution requirements apply to this act.

9 (6) If the retirement system is terminated, the interest of  
10 the members, vested former members, retirants, and retirement  
11 allowance beneficiaries in the retirement system is nonforfeitable  
12 to the extent funded as described in section 411(d)(3) of the  
13 internal revenue code, 26 USC 411, and related Internal Revenue  
14 Service regulations applicable to governmental plans.

15 (7) Notwithstanding any other provision of this act to the  
16 contrary that would limit a distributee's election under this act,  
17 a distributee may elect, at the time and in the manner prescribed  
18 by the retirement board, to have any portion of an eligible  
19 rollover distribution paid directly to an eligible retirement plan  
20 specified by the distributee in a direct rollover. This subsection  
21 applies to distributions made after December 31, 1992. **Beginning**  
22 **October 1, 2010, a nonspouse beneficiary may elect to have any**  
23 **portion of an amount payable under this act that is an eligible**  
24 **rollover distribution treated as a direct rollover that will be**  
25 **paid in a direct trustee-to-trustee transfer to an individual**  
26 **retirement account or individual retirement annuity described in**  
27 **section 408(a) or (b) of the internal revenue code, 26 USC 408,**  
28 **that is established for the purpose of receiving a distribution on**  
29 **behalf of the beneficiary and that will be treated as an inherited**

1 **individual retirement account or individual retirement annuity**  
2 **pursuant to section 402(c)(11) of the internal revenue code, 26 USC**  
3 **402.**

4 (8) For purposes of determining actuarial equivalent  
5 retirement allowances under sections 506(1)(a) and (b) and 602, the  
6 actuarially assumed interest rate must be determined by the  
7 director of the department and the retirement board in consultation  
8 with the actuary using the mortality tables adopted by the  
9 department and the retirement board.

10 (9) Notwithstanding any other provision of this act, the  
11 compensation of a member of the retirement system must be taken  
12 into account for any year under the retirement system only to the  
13 extent that it does not exceed the compensation limit established  
14 in section 401(a)(17) of the internal revenue code, 26 USC 401, as  
15 adjusted by the commissioner of internal revenue. This subsection  
16 applies to an individual who first becomes a member of the  
17 retirement system after September 30, 1996.

18 (10) Notwithstanding any other provision of this act,  
19 contributions, benefits, and service credit with respect to  
20 qualified military service will be provided under the retirement  
21 system in accordance with section 414(u) of the internal revenue  
22 code, 26 USC 414. This subsection applies to all qualified military  
23 service after December 11, 1994. Beginning on January 1, 2007, in  
24 accordance with section 401(a)(37) of the internal revenue code, 26  
25 USC 401, if a member dies while performing qualified military  
26 service, for purposes of determining any death benefits payable  
27 under this act, the member is treated as having resumed and then  
28 terminated employment on account of death.

29 **Sec. 714a. Tier 2 and tax-deferred accounts are subject to the**

1 following terms and conditions:

2 (a) Before April 2, 2020, the retirement system shall design  
3 an automatic enrollment feature that provides that unless a  
4 qualified participant who makes contributions under section 714(3)  
5 or who makes a contribution under section 509a(2) elects to  
6 contribute a lesser amount, the qualified participant shall  
7 contribute the amount required to qualify for all eligible matching  
8 contributions under this act. The retirement system shall implement  
9 this automatic enrollment feature as soon as administratively  
10 feasible, but no later than 12 months after the enactment of the  
11 amendatory act that added this section.

12 (b) In addition to elective employee contributions to Tier 2  
13 or a tax-deferred account, this state may use elective employee  
14 contributions to the state 457 deferred compensation plan as a  
15 basis for making employer matching contributions to Tier 2 or a  
16 tax-deferred account.

17 (c) Employer matching contributions do not have to be made to  
18 the same plan or account to which the elective employee  
19 contributions were contributed as the basis for the matching  
20 contributions.

21 (d) Elective employee contributions may not be used as the  
22 basis for more than an equivalent amount of employer matching  
23 contributions.

24 (e) The retirement system shall design and implement a method  
25 to determine the proper allocation of employer matching  
26 contributions based on elective employee contributions as provided  
27 in this section.