Legislative Analysis

HOUSE FISCAL AGENCY

MICHIGAN PUBLIC SCHOOL EMPLOYEES RETIREMENT SYSTEM ANNUITY OPTIONS

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House Bill 4188 as enrolled
Sponsor: Rep. Thomas A. Albert
House Committee: Appropriations
Senate Committee: Appropriations
Complete to 2-2-23

(Vetoed by the Governor 12-22-22)

SUMMARY:

House Bill 4188 would amend the Public School Employees Retirement Act to provide annuity options for employees and retirees in the defined contribution (DC, 401(k)-style) retirement plans provided through the Michigan Public School Employees' Retirement System (MPSERS).

The bill would revise the requirements related to annuity options that were added to the act by 2017 PA 92.[1] The bill would require that the annuity options allow DC participants, while they are employed, to purchase an annuity provided by an annuity provider selected as described below. The options would *have to* allow a DC participant, while employed, to purchase a fixed rate annuity and an annuity with a guaranteed lifetime option and *could* allow a DC participant, while employed, to purchase a variable rate annuity.

The bill would require the State of Michigan Investment Board[2] to select two or more annuity providers through a competitive proposal process and contract with two or more annuity providers to provide the annuity options. To be selected by the investment board, an annuity provider would have to meet all of the following:

- The provider and its subsidiaries and affiliates have the appropriate financial strength and stability. To determine this, the investment board would obtain written representation from the provider of all of the following:
  - That the provider is an insurer duly authorized to transact insurance in this state.
  - That all of the following apply to the provider for each of the immediately preceding seven years:
    - The provider has a current certificate of authority from its home state insurance commissioner.
    - The provider has filed audited financial statements in accordance with its home state laws under applicable statutory accounting principles.
    - The provider maintains statutorily required reserves in each state where it operates.
    - The provider is not operating under an order of supervision, rehabilitation, or liquidation.
  - That the provider undergoes a financial examination every five years as required by the insurance commissioner and under the law in its home state.

[1] https://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0401-A84AD1A8.pdf
[2] The State of Michigan Investment Board was created in the Department of Treasury under ERO 2018-5: http://legislature.mi.gov/documents/2017-2018/executiveorder/pdf/2018-EO-10.pdf

    - That the provider will notify the retirement system of any change in circumstances regarding the above requirements.
    - That the provider meets at least two of the following:
        - Has a claims-paying ability rating of at least "A2" insurer financial strength rating from Moody's rating services.
        - Has a claims-paying ability rating of at least "A" insurer financial strength rating from Standard & Poor's rating services.
        - Has a claims-paying ability rating of at least "A" insurer financial strength rating from Fitch rating services.
        - Has a claims-paying ability rating of at least "A" insurer financial strength rating from AM Best rating services.
- The provider is able to provide contracted rights and benefits to a DC participant.
- The costs, including fees and commissions, of the annuity options in relation to the benefits and product features are reasonable.
- The administrative services provided under the annuity option are appropriate, which would have to include at least periodic reports to the investment board about the number of annuitants, the types of annuities provided, and any other information the investment board requires.
- The provider is experienced in paying lifetime retirement income through annuities offered to public employee DC retirement plans.
- The provider offers annuity options that meet all of the following conditions:
    - The annuity options are suitable for DC participants, whether employed, retired, or beneficiaries.
    - The contract terms and income benefits are clearly stated and based on reasonable assumptions.
    - The annuity options offer a range of lifetime income options.
    - For a variable annuity, the annuity offers a fixed account option along with its variable account options.
- The provider is able to offer objective and participant-specific education and tools that help participants understand appropriate use as a long-term retirement savings vehicle.

The Office of Retirement Services (ORS) in the Department of Technology, Management, and Budget would have to verify the information in the required provider report and publish the report on its website.

If, after the competitive process, the investment board determines that selecting more than one provider would not be in the interest of the participants or that only one provider meets the conditions described above, the investment board could select and contract with only one annuity provider. In this case, the investment board would have to notify the Speaker and Minority Leader of the House and the Senate Majority and Minority Leaders as to the reasons for selecting only one provider within 30 days after selecting and contracting with an annuity provider.

If, after the competitive process, the investment board determines that no annuity provider meets the conditions described above, the investment board would not select an annuity provider. The ORS would have to issue a new competitive proposal process, as described above, within 60 days after the investment board's determination.

The bill would take effect 120 days after being enacted. It is tie-barred to HB 4733, which means that it could not take effect unless HB 4733 were also enacted.

MCL 38.1427

FISCAL IMPACT:

The bill would create additional administrative and oversight responsibilities for the Department of Treasury and ORS, which independently would likely be absorbed within current staffing levels, but along with other added responsibilities could require additional staff. Any funds required to accommodate costs that exceeded current appropriation levels would need to be appropriated by the legislature.

The bill would have no fiscal impact on the retirement system itself.

***Vetoed 12-22-22*:**

The bill was among several that Governor Whitmer said she vetoed because they "were rushed through a lame duck session and need closer examination."

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.