

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Reps. Sabo and Marino

ENROLLED HOUSE BILL No. 4733

AN ACT to amend 1943 PA 240, entitled “An act to provide for a state employees’ retirement system; to create a state employees’ retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies,” by amending section 58 (MCL 38.58), as added by 1996 PA 487.

The People of the State of Michigan enact:

Sec. 58. (1) Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual’s accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the investment board. The limitations on the percentage of total assets for investments provided in the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

(2) In addition to the categories of investments provided by the investment board under subsection (1), the retirement system shall offer access to 1 or more fixed annuity options and may offer access to 1 or more variable annuity options provided by an annuity provider selected under this subsection. While a qualified participant is employed by the employer, the annuity options offered under this subsection must allow a qualified participant the ability to purchase a fixed rate annuity and an annuity with a guaranteed lifetime income option, and may allow a qualified participant the ability to purchase a variable rate annuity. Subject to subsections (4) and (6), the investment board shall select 2 or more annuity providers based on a competitive proposal process. Subject to subsections (4) and (6), the investment board shall contract with 2 or more annuity providers to provide the annuity options under this subsection. Subject to subsection (6), the investment board shall select and contract with an annuity provider that meets all of the following conditions, as determined by the investment board:

(a) The annuity provider and its subsidiaries and affiliates have the appropriate financial strength and stability. In determining the financial strength and stability under this subdivision, the investment board shall obtain written representation from the annuity provider of all of the following:

(i) That the annuity provider is an authorized insurer as that term is defined in section 108 of the insurance code of 1956, 1956 PA 218, MCL 500.108.

(ii) That all of the following apply to the annuity provider, at the time of selection and for each of the immediately preceding 7 years:

(A) The annuity provider operates under a certificate of authority from the insurance commissioner of its domiciliary state that has not been revoked or suspended.

(B) The annuity provider has filed audited financial statements in accordance with the laws of its domiciliary state under applicable statutory accounting principles.

(C) The annuity provider maintains and has maintained reserves that satisfy the statutory requirements of each state where the annuity provider does business.

(D) The annuity provider is not operating under an order of rehabilitation or liquidation.

(iii) That the annuity provider undergoes, at least every 5 years, a financial examination, within the meaning of the law of its domiciliary state, by the insurance commissioner of the domiciliary state or representative, designee, or other party approved by the insurance commissioner of the domiciliary state.

(iv) That the annuity provider will notify the retirement system of any change in circumstances occurring after the representations made in subparagraphs (i), (ii), and (iii) that would preclude the annuity provider from making the representations at the time the annuity provider issues the annuity.

(v) That the annuity provider meets at least 2 of the following conditions:

(A) The annuity provider has a claims-paying ability rating of no less than "A2" insurer financial strength rating from Moody's rating services.

(B) The annuity provider has a claims-paying ability rating of no less than "A" insurer financial strength rating from Standard & Poor's rating services.

(C) The annuity provider has a claims-paying ability rating of no less than "A" insurer financial strength rating from Fitch rating services.

(D) The annuity provider has a claims-paying ability rating of no less than "A" insurer financial strength rating from AM Best rating services.

(b) The annuity provider is able to provide contracted rights and benefits to a qualified participant.

(c) The costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity option are reasonable.

(d) The administrative services to be provided under the annuity option are appropriate. At a minimum, the administrative services must include periodic reports to the investment board about all of the following:

(i) The number of annuitants.

(ii) The types of annuities provided.

(iii) Any other information that the investment board may require.

(e) The annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.

(f) The annuity provider offers annuity options that meet all of the following conditions:

(i) The annuity options are suitable for qualified participants, former qualified participants, and refund beneficiaries.

(ii) The contract terms and income benefits are clearly stated, based on reasonable assumptions.

(iii) The annuity options offer a range of lifetime income options.

(iv) If the annuity is a variable annuity, the annuity offers a fixed account option along with its variable options.

(g) The annuity provider is able to offer objective and participant-specific education and tools that help participants understand the appropriate use of annuities as a long-term retirement savings vehicle.

(3) The office of retirement services shall verify the information in a report submitted under subsection (2)(d). A report submitted under subsection (2)(d) must be published on the office of retirement services' website.

(4) After the competitive proposal process under subsection (2) is complete, the investment board may select and contract with only 1 annuity provider to provide annuity options to qualified participants under subsection (2) if either of the following applies:

(a) The investment board determines that selecting more than 1 annuity provider is not in the interests of qualified participants.

(b) Only 1 annuity provider meets the conditions under subsection (2).

(5) If the investment board selects only 1 annuity provider to provide annuity options under subsection (2) as provided in subsection (4), the investment board shall notify the speaker of the house of representatives, the minority leader of the house of representatives, the senate majority leader, and the senate minority leader within 30 days after selecting and contracting with an annuity provider of the reasons for selecting only 1 annuity provider.

(6) If after the competitive proposal process under subsection (2) is complete the investment board determines that no annuity provider meets the conditions under subsection (2), both of the following apply:

(a) The investment board shall not select an annuity provider under subsection (2).

(b) The office of retirement services shall issue a new competitive proposal process under subsection (2) within 60 days after the investment board makes its determination described in this subsection.

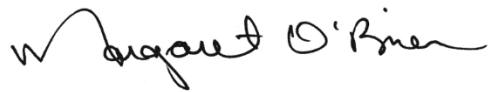
(7) As used in this section, "investment board" means the state of Michigan investment board within the department of treasury created under Executive Reorganization Order No. 2018-5, MCL 38.1176.

Enacting section 1. This amendatory act takes effect 120 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4188 of the 101st Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor