

HOUSE BILL NO. 4733

April 29, 2021, Introduced by Reps. Sabo and Marino and referred to the Committee on Appropriations.

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 58 (MCL 38.58), as added by 1996 PA 487.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 58. **(1)** Each qualified participant, former qualified
2 participant, and refund beneficiary shall direct the investment of
3 the individual's accumulated employer and employee contributions
4 and earnings to 1 or more investment choices within available
5 categories of investment provided by the ~~state treasurer.~~

1 **investment board.** The limitations on the percentage of total assets
 2 for investments provided in ~~Act No. 314 of the Public Acts of 1965,~~
 3 ~~being sections 38.1132 to 38.1140i of the Michigan Compiled Laws,~~
 4 **the public employee retirement system investment act, 1965 PA 314,**
 5 **MCL 38.1132 to 38.1141,** do not apply to Tier 2.

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

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

29 (i) That the annuity provider is an authorized insurer as that

1 term is defined in section 108 of the insurance code of 1956, 1956
2 PA 218, MCL 500.108.

3 (ii) That all of the following apply to the annuity provider,
4 at the time of selection and for each of the immediately preceding
5 7 years:

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

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

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

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

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

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

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

29 (A) The annuity provider has a claims-paying ability rating of

1 no less than "A2" insurer financial strength rating from Moody's
2 rating services.

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

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

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

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

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

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

21 (i) The number of annuitants.

22 (ii) The types of annuities provided.

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) If the investment board selects only 1 annuity provider to
28 provide annuity options under subsection (2) as provided in
29 subsection (4), the investment board shall notify the speaker of

1 the house of representatives, the minority leader of the house of
2 representatives, the senate majority leader, and the senate
3 minority leader within 30 days after selecting and contracting with
4 an annuity provider of the reasons for selecting only 1 annuity
5 provider.

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

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

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

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

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

22 Enacting section 2. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 4734 (request no.
24 00516'21 *) of the 101st Legislature is enacted into law.