Act No. 220
Public Acts of 2022
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STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022

Introduced by Rep. Albert

ENROLLED HOUSE BILL No. 6357

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to authorize and make appropriations for the retirement system; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 41 (MCL 38.1341), as amended by 2018 PA 512.

The People of the State of Michigan enact:

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

(2) Except as otherwise provided in sections 41a and 41b, the annual contribution rates for benefits are subject to all of the following:

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

(b) Subject to subdivision (c), the contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, for reporting units must be determined as follows:

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

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

(c) Except for the employee portion of the normal cost contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year, the normal cost contribution rate must not be less than the normal cost contribution rate in the immediately preceding state fiscal year.

(d) Subject to subdivision (e), the contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, must be determined as follows:

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

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

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

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

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

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

(*ii*) Subject to subsection (18), divide the result of the calculation under subparagraph (*i*) by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation.

(e) Except for the employee portion of the unfunded actuarial accrued liability contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year until the state fiscal year ending September 30, 2021, the unfunded actuarial accrued liability contribution rate must not be less than the unfunded actuarial accrued liability contribution rate in the preceding state fiscal year. Except as otherwise provided in this subdivision, beginning with the state fiscal year ending September 30, 2022, and for each subsequent fiscal year until the unfunded actuarial accrued liability is fully paid, the unfunded actuarial accrued liability contribution amount due and payable must not be less than the unfunded actuarial accrued liability contribution amount due and payable in the preceding state fiscal year. The following applies to a reporting unit that is a university reporting unit:

(*i*) For the state fiscal year ending September 30, 2023 only, the unfunded actuarial accrued liability contribution due and payable must be equal to the actuarially determined contribution. The contribution described in this subparagraph must reflect the appropriation made under section 236h of the state school aid act of 1979, 1979 PA 94, MCL 388.1836h, as amended by 2022 PA 144.

(*ii*) Beginning with the state fiscal year ending September 30, 2024, and for each subsequent fiscal year until the unfunded actuarial accrued liability is fully paid, the unfunded actuarial accrued liability contribution amount due and payable must continue to reflect the appropriation made under section 236h of the state school aid act of 1979, 1979 PA 94, MCL 388.1836h, as amended by 2022 PA 144.

(f) Beginning with the state fiscal year ending September 30, 2013 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 20.96% for a reporting unit that is not a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year are to be paid by appropriation from the state school aid fund established by section 11 of article IX of the state constitution of 1963. Except as otherwise provided in this section and sections 41a and 41b, the unfunded actuarial accrued liability contribution rate must be based on and applied to the combined payrolls of the employees who are members or qualified participants, or both.

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

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

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

(5) Except as provided in section 41b, the reporting units shall pay the amount certified under subsection (4) to the director of the department in equal payroll cycle installments for unfunded actuarial accrued liability contributions and payroll cycle installments for normal cost contributions.

(6) Not later than 90 days after the end of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. On receipt of that certification, the director of the department may compute any adjustment required to the amount because of a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, must be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit is made under subsection (14).

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

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

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of any difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6) must be paid by that employer in the next state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of any difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6) must be paid by that employer in the next state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest must be included for each year that a portion of the remaining difference is carried forward. The interest rate must equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit is made under subsection (14).

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

(11) Except as otherwise provided in this subsection, beginning on September 30, 2006, the actuary used by the retirement board shall assume a rate of return on investments of 8% per annum, as of September 30, 2006, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on July 1, 2010, the actuary used by the retirement board shall assume a rate of return on investments of 7% per annum for investments associated with members who first became members after June 30, 2010, and before February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on February 1, 2018, the actuary used by the retirement board shall assume a rate of return on investments of 6% per annum for investments associated with members who first became a member on or after February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on September 30, 2006, the value of assets used must be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after September 30, 2006, and the methodology may only be changed with the approval of the retirement board and the director of the department.

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

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

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund must be paid from a portion of the employer contributions described in this section or other eligible money. The retirement board shall determine the amount of the employer contributions or other eligible money that must be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible money in the pension fund.

(16) The retirement board and the department shall conduct and review an experience investigation study and adopt risk assumptions on which actuarial valuations are to be based after consultation with the actuary and the state treasurer. The experience investigation study must be completed and risk assumptions must be periodically reviewed at least once every 5 years.

(17) Every April 1 following the periodic review of risk assumptions under subsection (16), the office of retirement services on behalf of the department and the state treasurer shall collaborate to submit a report to the senate majority leader, the speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house fiscal agencies. A report required under this subsection must be published on the office of retirement services' website and include at least all of the following:

(a) Forecasted rate of return on investments at all of the following probability levels:

(*i*) 5%.

(*ii*) 25%.

(*iii*) 50%.

(*iv*) 75%.

(*v*) 95%.

(b) The actual rate of return on investments for 10-, 15-, and 20-year intervals.

(c) Mortality assumptions.

(d) Retirement age assumptions.

(e) Payroll growth assumptions.

(f) Any other assumptions that have a material impact on the financial status of the retirement system.

(18) Except as otherwise provided in this subsection, for members who first became members before February 1, 2018, for the state fiscal year ending September 30, 2023, the pension and retiree health care payroll growth assumption rate for a reporting unit that is not a university reporting unit must be 1.75%. Except as otherwise provided in this subsection, for members who first became members before February 1, 2018, beginning with the state fiscal year ending September 30, 2024, and for each subsequent state fiscal year until the pension and retiree health care payroll growth assumption rate for a reporting unit that is not a university reporting unit is zero, the payroll growth assumption rate for a reporting unit that is not a university reporting unit must be reduced by 50 basis points. Beginning with the state fiscal year ending September 30, 2025 and for each subsequent state fiscal year until the rate described in this subsection is zero, if the pension and retiree health care unfunded actuarial accrued liability contribution amount directly attributable to the 50 basis points reduction under this subsection for the fiscal year is 7% or more of the pension and retiree health care unfunded actuarial accrued liability contribution amount in the preceding state fiscal year, the office of retirement services may reduce the rate described in this subsection by 25 basis points in that current fiscal year instead of the 50 basis point reduction described in this subsection. Beginning with the fiscal year ending September 30, 2022 and for each subsequent state fiscal year until the rate described in this subsection is zero, the office of retirement services and the retirement board may agree to reduce the rate described in this subsection by any number of additional basis points.

(19) As used in this section, "university reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved____

Governor