

**MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT**  
**Act 261 of 1957**

AN ACT for the creation, maintenance, and administration of a legislative members' and presiding officers' retirement system within the legislature; to provide retirement allowances to the participants of the retirement system, and survivors' allowances and other benefits to their beneficiaries upon death; to exempt those allowances and benefits from certain taxes and legal processes; to establish certain funds in connection with the retirement system; to authorize and make appropriations for the retirement system; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; and to prescribe penalties and provide remedies.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

*The People of the State of Michigan enact:*

**38.1001 Retirement system; creation.**

Sec. 1. A retirement system to establish a means of providing retirement allowances, survivors' allowances, and other benefits for members and their survivors and other beneficiaries, is created.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

**38.1002 Michigan legislative retirement system; name.**

Sec. 2. The retirement system created by section 1 shall be known as the "Michigan legislative retirement system" and all affairs and business of the system shall be transacted in such name.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1003 Construction of terms.**

Sec. 3. For the purposes of this act the words specified in any section or sections shall have the meanings set forth in such section or sections, unless different meanings are plainly indicated by their context.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1004 "Retirement system" defined.**

Sec. 4. "Retirement system" means the Michigan legislative retirement system.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

**38.1005 Board; definition.**

Sec. 5. "Board" means the board of trustees of the system.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1006 "Member" defined.**

Sec. 6. (1) Except as otherwise provided in subsection (2), "member" means any of the following:

- (a) A legislator of this state.
  - (b) The secretary of the senate who served not less than 6 months before January 1, 1979, and for not less than 3 months after January 1, 1979.
  - (c) The clerk of the house who served not less than 6 months before January 1, 1979, and for not less than 3 months after January 1, 1979.
  - (d) The lieutenant governor.
- (2) Member does not include any of the following:
- (a) An individual who elects not to participate in the retirement system under section 18.
  - (b) An individual who first becomes a legislator or lieutenant governor on or after March 31, 1997.
  - (c) An individual who elects to terminate membership under section 61 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 18.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1979, Act 52, Imd. Eff. July 7, 1979;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1981, Act 185, Imd. Eff. Dec. 23, 1981;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1007 Repealed. 1981, Act 123, Imd. Eff. July 23, 1981.**

**Compiler's note:** The repealed section pertained to definitions.

### **38.1007a "Direct rollover" and "distributee" defined.**

Sec. 7a. (1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(2) "Distributee" includes a member or deferred vested member. Distributee also includes the member's or deferred vested member's surviving spouse or the member's or deferred vested member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

**History:** Add. 1995, Act 175, Imd. Eff. Oct. 17, 1995.

### **38.1008 Repealed. 1981, Act 123, Imd. Eff. July 23, 1981.**

**Compiler's note:** The repealed section pertained to definitions.

### **38.1008a Definitions.**

Sec. 8a. (1) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 1 or more of the following:

(a) An individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408.

(c) An annuity plan described in section 403(a) of the internal revenue code, 26 USC 403.

(d) A qualified trust described in section 401(a) of the internal revenue code, 26 USC 401.

(e) An annuity contract described in section 403(b) of the internal revenue code, 26 USC 403.

(f) An eligible plan under section 457(b) of the internal revenue code, 26 USC 457, that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into the eligible plan under section 457(b) of the internal revenue code, 26 USC 457, from this retirement system, that accepts the distributee's eligible rollover distribution.

(g) Beginning January 1, 2008, a Roth individual retirement account as described in section 408A of the internal revenue code, 26 USC 408A, subject to the rules that apply to rollovers from a traditional individual retirement account to a Roth individual retirement account.

(2) Beginning January 1, 2007, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent such portion of the distribution is paid to either of the following:

(i) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

(ii) A qualified plan described in section 401(a) of the internal revenue code, 26 USC 401, or an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403, and the plan providers agree to separately account for the amounts paid, including any portion of the distribution that is includable in federal gross income, and the portion of the distribution which is not so includable.

(3) "Internal revenue code" means the United States internal revenue code of 1986.

**History:** Add. 1995, Act 175, Imd. Eff. Oct. 17, 1995;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002;—Am. 2008, Act 355, Imd. Eff. Dec. 23, 2008.

### **38.1009 "Salary" defined.**

Sec. 9. (1) "Salary" means the compensation, common to all legislators, exclusive of travel allowance, paid by the state for 1 year of service as a legislator. A member shall contribute to the retirement system based on the percentage applied to that salary.

(2) For purposes of section 23, salary also includes an additional 2% through December 30, 1986, and 4% beginning December 31, 1986, compounded annually and added for each year or portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year. This subsection only applies to a member who first becomes a member on or before January 1, 1995, and whose service terminates on or after December 1, 1978.

(3) For purposes of section 23, for a member who left service before December 1, 1978, salary also includes an additional 2% for each year beginning January 1, 1979 through December 30, 1986 and 4%

beginning December 31, 1986, compounded annually and added for each year or portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year.

(4) For purposes of section 23, salary also includes an amount equal to the greatest amount of additional compensation received in 1 calendar year as a result of being in a leadership position, divided by 5, and then multiplied by the number of years or portion of a year, not to exceed 8, in which the member was in a leadership position and received additional compensation. Before a member who first becomes a member on or before January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 9% of the total additional compensation received. Before a member who first becomes a member after January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 7% of the total additional compensation received.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1988, Act 512, Imd. Eff. Dec. 29, 1988;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1010 Repealed. 1981, Act 123, Imd. Eff. July 23, 1981.**

**Compiler's note:** The repealed section defined "military service."

### **38.1011 "Service" defined; election to receive military service credit; effect of membership in retirement system.**

Sec. 11. (1) "Service" means the period beginning on January 1 of the year in which the member took office or on the date of the oath of office in the case of a special election, and ending on December 31 of the term to which the member was elected; on the date of termination of service; or the date of death in office, whichever occurs first. Legislative service used to qualify for and receive a retirement allowance under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, shall not be credited as service for the purpose of this act. A member who qualifies under section 6(b) or (c) may choose to have service credited under this act if the service would otherwise have qualified as service under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, or if the service was to the state before 1943.

(2) A member who has satisfied the requirements of section 23(1)(a) and who was drafted, enlisted, inducted, or commissioned into active duty with the armed forces of the United States government may elect to receive service credit for not more than 2 years of active duty upon proof of the service having been rendered and upon request and payment to the retirement system of an amount equal to 5% of the member's salary for the calendar year in which payment is made multiplied by the years including any fraction of a year of service that the member elects to purchase up to the maximum. A deferred vested member or retirant who has satisfied the requirements of section 23(1)(a) and who was drafted, enlisted, inducted, or commissioned into active duty with the armed forces of the United States may elect to receive service credit for not more than 2 years of active duty upon proof of the service having been rendered. A deferred vested member or retirant who is electing military service credit under this subsection shall pay an amount equal to 5% of the salary of a member who is serving at the time payment is made multiplied by the number of years including any fraction of a year of service for which the deferred vested member elects to receive credit. Service shall not be credited under this subsection if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction shall not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve.

(3) Membership in the retirement system created under this act shall not disqualify an employee of a political subdivision of this state from membership in a pension or retirement system established in the political subdivision of this state by reason of the compensation the employee receives from the political subdivision. Membership in the retirement system created under this act shall not affect the benefits to which a member, deferred vested member, retirant, or beneficiary may be entitled under the retirement system established in the political subdivision.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1958, Act 53, Eff. Sept. 13, 1958;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1979, Act 52, Imd. Eff. July 7, 1979;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1981, Act 185, Imd. Eff. Dec. 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1988, Act 512, Imd. Eff. Dec. 29, 1988;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1012 "Retirement allowance" defined.**

Sec. 12. "Retirement allowance" means a series of equal monthly payments payable at the end of each

calendar month to a person while he or she is a retirant. The first payment shall be prorated for any fraction of a month from the date of retirement to the end of the first month, but a deduction from the regular monthly payment shall not be made for any fraction of a month remaining at the time of the retirant's death.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987.

### **38.1013 “Retirant” defined.**

Sec. 13. “Retirant” means a person receiving an annual retirement allowance from the retirement system.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

### **38.1013a “Survivor,” “eligible child,” and “surviving spouse” defined.**

Sec. 13a. (1) “Survivor” means the eligible surviving spouse or eligible child or children of a member, deferred vested member, or retirant.

(2) “Eligible child” means an unmarried child of a member, deferred vested member, or retirant who is:

(a) Under 18 years of age.

(b) Over 18 years of age with a mental or physical disability that precludes engaging in any gainful occupation.

(c) Over 18 years of age and regularly attending high school or an accredited institution of higher learning until becoming 25 years of age or no longer regularly attending school, whichever first occurs.

(3) “Surviving spouse” means the person to whom a member, deferred vested member, or retirant is legally married at the time of his or her death.

**History:** Add. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1998, Act 78, Imd. Eff. May 4, 1998;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1014 “Refund beneficiary” defined.**

Sec. 14. “Refund beneficiary” means the 1 or more persons named by a member, deferred vested member, or retirant in writing and filed in the office of the retirement system to receive any refund of a member, deferred vested member, or retirant's contributions upon his or her death if a survivor's retirement allowance is not payable under this act. In the absence of a valid beneficiary designation, refund payment shall be made to the executor or personal representative of the deceased for the benefit of the estate.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1015 Actuarial tables; definition.**

Sec. 15. “Actuarial tables” means such tables as are from time to time adopted by the board for computing allowances based upon the experience of the system as recommended by the actuary.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971.

### **38.1016 Prescribed rate of interest; definition.**

Sec. 16. “Prescribed rate of interest” means such rate or rates as shall from time to time be prescribed by the board.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1968, Act 99, Imd. Eff. June 7, 1968.

### **38.1017 “Fiscal year” defined.**

Sec. 17. “Fiscal year” means the fiscal year of the state as described in section 1 of Act No. 116 of the Public Acts of 1887, as amended, being section 21.91 of the Michigan Compiled Laws.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1979, Act 52, Imd. Eff. July 7, 1979.

### **38.1017a “Deferred vested member” defined.**

Sec. 17a. “Deferred vested member” means a member who left the legislature having satisfied the requirements of section 23(1)(a), but without having attained 55 years of age.

**History:** Add. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1981, Act 185, Imd. Eff. Dec. 23, 1981.

### **38.1017b “Leadership position” defined.**

Sec. 17b. “Leadership position” means a position held by a member of the legislature who, in addition to salary common to all legislators, receives supplemental salary attributable to holding that position as determined by the state officers compensation commission under section 12 of article IV of the state constitution of 1963 and 1968 PA 357, MCL 15.211 to 15.218.

**History:** Add. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1017c “Legislator” defined.**

Sec. 17c. “Legislator” means a person duly elected and serving in the Michigan house of representatives or the Michigan senate.

**History:** Add. 1981, Act 123, Imd. Eff. July 23, 1981.

### **38.1017d “Tier 1” and “Tier 2” defined.**

Sec. 17d. (1) “Tier 1” means the retirement plan available under this act to a member who first became a legislator or lieutenant governor before March 31, 1997 and who does not elect to become a qualified participant of Tier 2.

(2) “Tier 2” means the retirement plan established pursuant to the internal revenue code that is available to qualified participants under sections 61 to 80.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1018 Legislator or lieutenant governor; membership in retirement system; notice of election not to participate; refund of contributions; effect of notice; rescission of notice; contributions and interest; eligibility on or after March 31, 1997.**

Sec. 18. (1) Except as otherwise provided in section 23b, a person who first becomes a legislator or lieutenant governor before March 31, 1997 shall become a member in and be subject to the Tier 1 retirement system beginning upon the date the person becomes a legislator or lieutenant governor, unless within 90 days after that date the person has filed with the board a written notice of election not to participate in the retirement system. A notice not to participate in the retirement system filed within the 90-day period may be withdrawn within the 90-day period. A refund of all contributions made during the 90-day period shall be made to a legislator or lieutenant governor who elects not to participate in the retirement system.

(2) After the expiration of the 90-day period, a person electing not to participate in the retirement system shall be ineligible to participate in and to receive benefits from the retirement system. A person who files with the board before January 30, 1972, a written notice of election not to participate in the retirement system, and who is still a legislator or lieutenant governor, may become a member in and be subject to the retirement system upon filing with the board before January 1, 1979, a written rescission of his or her notice of election not to participate in the retirement system. The person then shall become a member and shall be subject to this act. Upon making a contribution to the retirement system of an amount equal to the contributions the person would have made as a member from September 27, 1957, or the date the person became a legislator or lieutenant governor, if after September 27, 1957, to the date the person became a member, with interest on the amount at the rate of 6% per annum compounded annually until paid, the person shall be entitled to receive credit for service as a member before the date of the rescission of the waiver, on, before, and after January 1, 1957, the same as the person would have received if the person had never executed the written notice of election not to participate in the retirement system. The accrued contributions shall be made in full before the expiration of the term for which the member is currently elected or not later than December 1, 1980, whichever is later, otherwise credit for service before the date of participation shall not be granted.

(3) An individual who first becomes a legislator or lieutenant governor on or after March 31, 1997, is eligible to be a qualified participant in Tier 2 subject to sections 61 to 80.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1961, Act 167, Eff. Sept. 8, 1961;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1019 Repealed. 1981, Act 123, Imd. Eff. July 23, 1981.**

**Compiler's note:** The repealed section subjected participants to survivors' retirement allowances.

### **38.1020 Members' retirement fund; creation; purpose; computing retirement reserves for retirement allowances; financing; state's appropriations for current service, accrued service, and retirement allowances; allocation of employer contributions.**

Sec. 20. (1) The members' retirement fund is created. The fund shall accumulate reserves for the payment of retirement allowances to retired members and deferred vested members as provided in this act. Upon the basis of mortality and other experience tables, and the prescribed rate of interest, as the board shall adopt, the actuary shall compute annually the amount of retirement reserves for retirement allowances being paid to retirants and covering service rendered and to be rendered by members. It is the intention of this act that the retirement reserves shall be financed by other revenues to the fund and that annual appropriations shall be determined pursuant to subsections (2), (3), and (4).

(2) The state's appropriation for current service shall be an amount that, if paid annually during the future service of members, will be sufficient to provide the reserves at the time of the members' retirement, after allowing for the net contributions to the members' savings fund to be made by the members, for the future service portions of the retirement allowances to which the members might become entitled.

(3) The state's appropriation for members' accrued service shall be an amount that if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the accrued service portions of the retirement allowances to which the members may become entitled.

(4) The state's appropriation for retirement allowances being paid from the members' retirement fund shall be an amount that if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

(5) 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 preservation act, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** In subsection (5), the reference to "public employee retirement benefit preservation act" evidently should read "public employee retirement benefit protection act" (MCL 38.1681 et seq.).

### **38.1021 Members' savings fund; creation; purpose; contributions; rate; additional contributions; payroll deductions; transfer of contributions upon retirement or death.**

Sec. 21. (1) The members' savings fund is created in the retirement system. The retirement system shall accumulate in the members' savings fund the contributions made by members toward the financing of their retirement allowances, shall make transfers of those contributions from the members' savings fund to the members' retirement fund, and shall make refunds of contributions from the members' savings fund as provided in this act. Except as otherwise provided in this subsection, a member who first becomes a member on or before January 1, 1995, shall make contributions to the members' savings fund of 7% of each payment of salary received by the member for service as a member, but not for a period exceeding 20 years. Except as otherwise provided in this subsection, a member who first becomes a member after January 1, 1995, shall make contributions to the members' savings fund of 5% of each payment of salary received by the member for services as a member. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(2) During the period beginning on January 1, 1999 and ending on December 31, 2000, a member who first became a member after December 1, 1994 and on or before January 1, 1995, shall make additional member contributions to the members' savings fund of 4% of each payment of salary received by the member for services as a member.

(3) The member contributions required by this section shall be made by payroll deductions. Each member is considered to consent and agree to the payroll deductions as a condition of membership in the retirement system.

(4) Upon the retirement of a member, his or her accumulated contributions shall be transferred to the members' retirement fund. Upon the death of a member, if a survivor's retirement allowance becomes payable on account of the member's death, his or her accumulated contributions shall be transferred to the survivors' retirement fund.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1021a Member contributions picked up by state.**

Sec. 21a. The state shall pick up the member contributions required by sections 21, 22, 22c, and 50a for all compensation earned after December 31, 1986. Contributions picked up shall be treated as employer contributions in determining tax treatment under the internal revenue code. The state shall pay these member contributions from the same source of funds that is used in paying compensation to the member. The state may pick up these contributions by a reduction in the cash salary of the member. Member contributions picked up shall be treated for all other purposes in the same manner and to the same extent as member contributions made before the date picked up.

**History:** Add. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1022 Survivors' retirement fund; creation; purpose; contributions; rate; payroll deductions; computing retirement reserves for retirement allowances; financing; state's appropriations for survivors' retirement allowances.**

Sec. 22. (1) The survivors' retirement fund is created in the retirement system. The retirement system shall accumulate in the survivors' retirement fund reserves for the payment of retirement allowances to survivors. The retirement system shall pay the survivor retirement allowances from the survivors' retirement fund. Except as otherwise provided in this subsection, each member shall make contributions to the survivors' retirement fund of 0.5% of each payment of salary received that is attributable to service performed on and after January 1, 1995. A member shall not make contributions to the survivors' retirement fund for more than 20 years. The contributions shall be made by payroll deductions and each member is considered to consent and agree to the deductions as a condition of membership in the retirement system. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(2) The board shall adopt mortality and other experience tables and the prescribed rate of interest. Upon the basis of those tables and the interest rate, the actuary shall compute annually the retirement reserves for retirement allowances being paid survivors, and to be paid survivors upon the deaths of members, deferred vested members, and retirants, as provided in this act. It is the intention of this act that the retirement reserves shall be financed by appropriations made by this state, determined pursuant to subsections (3), (4), and (5).

(3) The state's appropriation for survivors' retirement allowances to be paid upon the death of members, deferred vested members, and retirants shall be an amount that will provide the net reserves, after allowing for members' contributions to the survivors' retirement fund and transfers to be made to the fund from the members' savings fund, or other available funds for retirement allowances to be paid to survivors of members, deferred vested members, and retirants who will probably die during the next ensuing fiscal year.

(4) The state's appropriation for survivors' retirement allowances to be paid upon the death of retirants shall be an amount determined pursuant to the financing methods provided for in section 20(2) and (3).

(5) The state's appropriation for survivors' retirement allowances being paid from the survivors' retirement fund shall be an amount that if paid annually over a period of years to be determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1968, Act 229, Eff. July 1, 1968;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1022a Income fund; creation; purpose; interest, dividends, and other income; expenses.**

Sec. 22a. (1) An income fund is created in the retirement system. The retirement system shall credit to the income fund all interest, dividends, and other income from the investment of retirement system assets and all other money for which there is no specific disposition provided in this act.

(2) The retirement board annually shall credit regular interest on the preceding year balances in the members' retirement fund, members' savings fund, survivors' retirement fund, grants and insurance revolving fund, and the health insurance fund. The retirement board shall charge to the income fund the interest credited to the funds under this subsection.

(3) The retirement system shall pay the expenses for the administration of the retirement system, exclusive of amounts payable as retirement allowances and other benefits provided in this act, from the income fund.

**History:** Add. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1022b Prorating and allocating annual appropriations to retirement system.**

Sec. 22b. Annual appropriations of the state made pursuant to this act shall be prorated and allocated to the

retirement system not less than quarterly. Payment of the amount allocated for each quarter shall be made not later than the forty-fifth day following the beginning of the quarter.

**History:** Add. 1987, Act 58, Imd. Eff. June 23, 1987.

**38.1022c Health insurance fund; creation; disposition; disbursement; contributions; payroll deductions; nonrefundable.**

Sec. 22c. (1) The health insurance fund is created in the retirement system. The retirement system shall deposit into the health insurance fund the member contributions for health benefits required by this section, subscriber co-payments, payments under section 79, regular interest from the income fund, and state appropriations. The retirement system shall disburse from the health insurance fund the premiums or portion of the premiums for dental, hospital, and medical coverage insurance as required by sections 50b and 79.

(2) Except as otherwise provided in this subsection, a member shall make contributions to the health insurance fund of 1% of each payment of salary received that is attributable to service performed on and after January 1, 1995. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 on or before January 1, 1995 shall make contributions to the health insurance fund of 9% of each payment of salary received by the member for service as a member. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 after January 1, 1995 shall make contributions to the health insurance fund of 7% of each payment of salary received by the member for service as a member. The increased contributions required under this subsection by the amendatory act that added section 36a will continue unless suspended by the board under section 36a. The contributions shall be made by payroll deductions and each member is considered to consent to the deductions as a condition of membership in the retirement system.

(3) Except as otherwise provided by this act, membership contributions to the health insurance fund are not refundable.

**History:** Add. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1023 Requirements for entitlement to retirement allowance; right to allowance; amount; recalculation of retirement allowance; election to defer receipt of retirement allowance; computation of retirement allowance; longevity allowance.**

Sec. 23. (1) A member or deferred vested member who meets the following requirements shall be entitled to a retirement allowance:

(a) The member or deferred vested member qualifies under 1 of the following:

(i) Has not less than 8 years of service.

(ii) Has not less than 6 years of service, and has been elected, qualified, and seated not less than 4 times for full or partial terms if a member of the house or not less than 2 times if a member of the senate elected after November 7, 1966, or has not less than 6 years of service and has been elected, qualified, and seated not less than 2 times for full or partial terms as a member of the house and not less than 1 time as a member of the senate elected after November 7, 1966.

(iii) Effective January 1, 1987, has not less than 5 years of service and has been elected, qualified, and seated for a full or partial term not less than 3 times if a member of the house or not less than 2 times if a member of the senate, or not less than 1 time as a member of the house and not less than 1 time as a member of the senate.

(b) The member or deferred vested member has attained 55 years of age.

(c) The member or deferred vested member has filed with the board a written application for a retirement allowance that states the years of service, the highest salary received during the member's or deferred vested member's service before application, and the date the member or deferred vested member desires to be retired, which date shall be not more than 90 days after the execution and filing of the application.

(2) A member shall not be entitled to receive a retirement allowance provided for in this section or section 23d while serving as a legislator or lieutenant governor. Each person receiving benefits under this act consents and agrees as a condition of receiving the benefits that benefits of any nature shall not be paid while the person is a legislator or lieutenant governor.

(3) A deferred vested member who left service after December 31, 1974, and before January 1, 1979, and who becomes a retirant shall be entitled to an annual retirement allowance of 30% of the salary stated in the application for the first 8 years of service plus 3.75% for each of the next 8 years of service. A fraction of a

year of service in excess of 8 years shall be prorated. If the retirant has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 30% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 60% of the salary stated in the application.

(4) A member who retired after December 31, 1978 and before January 1, 1987, or a deferred vested member who left service after December 31, 1978 and before January 1, 1987, and becomes a retirant, shall be entitled to an annual retirement allowance of 32% of the salary stated in his or her application for the first 8 years of service plus 4% for each of the next 8 years of service. A fraction of a year of service in excess of 8 years shall be prorated. If the member or deferred vested member has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 32% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application.

(5) A member who first becomes a member on or before January 1, 1995 and who retires after December 31, 1986, or a deferred vested member who first becomes a member on or before January 1, 1995, who leaves service after December 31, 1986, and who becomes a retirant, shall be entitled to an annual retirement allowance of 20% of the salary stated in his or her application for the first 5 years of service plus 4% for each of the next 11 years of service. A fraction of a year of service in excess of 5 years shall be prorated. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application. Effective January 1, 1987, however, a member who first becomes a member on or before January 1, 1995 and who has 16 or more years of service shall also be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 16 years but, except as otherwise provided in this subsection, not to exceed 20 years. Except as provided in this subsection and section 23c, the retirement allowance of a member entitled to a longevity allowance under this subsection shall not exceed 68% of the salary stated in the application. Beginning January 1, 1989, a member who first becomes a member on or before January 1, 1995, who has 20 or more years of service, and who meets the age and service requirements or service requirements to be eligible to receive a retirement allowance under this act shall be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 20 years.

(6) A member who first becomes a member on or after January 2, 1995 and who becomes a retirant under this act is entitled to an annual retirement allowance equal to the product of the following:

- (a) The salary stated in his or her application.
- (b) Years and fraction of a year of service.
- (c) Three percent.

(7) A retirant who elects to purchase military service credit pursuant to section 11(2) shall have his or her retirement allowance recalculated to include the military service credit purchased pursuant to that section. The first payment of the recalculated retirement allowance shall be made effective with the first check after the recalculation is made.

(8) The retirement allowance of a retirant who, on January 1, 1987, satisfied the conditions required by section 9(3) shall have his or her retirement allowance recalculated to reflect the increase in salary for those years permitted by section 9(3) before the member became a retirant.

(9) Within 30 days after becoming 55 years of age, a deferred vested member may elect to defer receipt of the retirement allowance to which the member is entitled under this act to a date certain, not to exceed 70-1/2 years of age. Except as otherwise provided in this subsection, at the date the member designates to begin receipt of his or her retirement allowance, the member's retirement allowance shall be actuarially recomputed to reflect the member's age and life expectancy at initial receipt of the deferred retirement allowance. Upon request of the deferred vested member who elects to begin receiving his or her retirement allowance, the retirement board may pay to the member a lump sum payment of an amount equal to the sum of the retirement allowance that was deferred pursuant to this subsection. The retirement board shall not actuarially recompute the member's retirement allowance upon payment of a lump sum under this subsection. If a deferred vested member has elected to defer receipt of his or her retirement allowance under section 23(9)(a) and subsequently dies before retirement, 100% of his or her deferred benefit shall be paid in accordance with a beneficiary designation that the member shall have filed with the board.

(10) Notwithstanding subsection (1), a member or deferred vested member may retire with a retirement allowance computed according to the applicable provisions of this section if all of the following apply:

- (a) The member or deferred vested member files a written application with the retirement board stating a

date, not less than 30 nor more than 90 days after the execution and filing of the application, on which the member or deferred vested member desires to retire.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's or deferred vested member's combined age and length of credited service is equal to or greater than 70 years and the member or deferred vested member is 50 years of age or older.

(11) A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance if the retirant or deferred vested member has more than 16 years of service. The longevity allowance is 1.0% of the former member's salary stated in the application for each year of service beyond 16 years but, except as otherwise provided in this subsection, not to exceed 20. A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance of 1.0% of the former member's salary stated in the application for each year of service beyond 20 years that was served after the member met the age and service requirements or service requirements to be eligible to receive a retirement allowance under this act. The retirement allowance of a retirant who satisfies the conditions under this subsection shall have his or her retirement allowance recalculated to reflect the longevity allowance for those years permitted by this subsection effective January 1, 1987 or the date of retirement, whichever is later. The application of the longevity allowance to the retirant's retirement allowance under this subsection shall be applied before the provisions of section 23c are applied to that retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 68% of the salary stated in the application.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1979, Act 52, Imd. Eff. July 7, 1979;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1988, Act 512, Imd. Eff. Dec. 29, 1988;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1023a Repealed. 1974, Act 215, Eff. Dec. 31, 1974.**

**Compiler's note:** The repealed section pertained to retirement upon attaining age 55.

### **38.1023b Retirant or deferred vested member again becoming legislator or lieutenant governor; election to again become member; notice; conditions; nonpayment of retirement allowance; declining to again become member; exception.**

Sec. 23b. (1) Notwithstanding section 18 and except as otherwise provided in subsection (4), if a retirant or a deferred vested member again becomes a legislator or lieutenant governor, the retirant or deferred vested member shall not again become a member unless within 30 days from the date of the beginning of the subsequent service he or she files with the board a written notice of election to again become a member and complies with this section. After the expiration of the 30-day period, a retirant or deferred vested member who again becomes a legislator or lieutenant governor who does not elect to again become a member is barred from again becoming a member during that term of office. During the 30-day period, the retirement allowance shall not be paid, but the contributions required by this act shall be deducted. The contributions shall be refunded if the legislator or lieutenant governor does not elect to again become a member.

(2) If the retirant or deferred vested member elects to again become a member, the subsequent membership in the retirement system shall be subject to the following conditions in addition to any other condition required of a member by this act:

(a) During the subsequent period of service as a legislator or lieutenant governor, payment of the retirement allowance shall not be made or accrued.

(b) The member shall repay to the retirement system all money received from the retirement system with interest at the rate of 6% per annum compounded annually before the expiration of 180 days of the term for which the member currently is elected. Failure to make the repayment within 180 days shall void the election to become a member.

(c) All prior applications for retirement shall be abrogated.

(d) The member's service credit shall be recalculated.

(3) If a retirant or deferred vested member again becomes a legislator or lieutenant governor and declines to again become a member, he or she shall not be entitled to a retirement allowance and payment of his or her retirement allowance shall not be made or accrued during his or her subsequent service. Upon termination of his or her subsequent service, payment of the retirement allowance shall be resumed effective as of the date of termination of the subsequent service without change because of the subsequent service.

(4) This section does not apply to a deferred vested member who is required to make an election under

section 61.

**History:** Add. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1023c Increase of retirement allowance.**

Sec. 23c. (1) After December 31, 1986, on January 1 of each year a retirement allowance attributable to a member who first becomes a member on or before January 1, 1995, shall be increased 4% compounded annually.

(2) Beginning January 1, 1995, each retirement allowance attributable to a member who first becomes a member after January 1, 1995, shall be increased each January 1. The amount of the annual increase shall be equal to 4% of the retirement allowance payable as of the retirement allowance effective date.

(3) A retirement allowance that begins after January 1 of the immediately preceding calendar year shall be increased under this section on a pro rata basis by the applicable percentage amount from the time the retirement allowance begins to the date of the increase.

**History:** Add. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Eff. Jan. 1, 1979;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1023d Disabled member; retirement allowance; annual examination.**

Sec. 23d. (1) A member who meets the service requirements of section 23(1)(a) but not the age requirements of section 23(1)(b), a member who does not meet the requirements of section 23(10)(b), or a deferred vested member may receive a retirement allowance if the board has received a certification by not less than 2 licensed physicians appointed by the board stating that the member or deferred vested member is disabled from engaging in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death, or can be expected to last for a continuous period of 12 months or more.

(2) A member or deferred vested member who is determined eligible to receive a retirement allowance under subsection (1) shall receive the retirement allowance applicable to that member or deferred vested member provided for in section 23(4), (5), or (6).

(3) A member who is currently receiving compensation as a legislator or lieutenant governor shall not receive a retirement allowance under this section.

(4) The board may provide for the examination by 1 or more licensed physicians designated by the board at least once a year of a person who is receiving a retirement allowance under this section during the continuance of the disability. The board shall not provide for an examination after the member attains 55 years of age.

**History:** Add. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1023e Supplemental payments for retirants or retirement allowance beneficiaries with retirement allowance effective date before January 1, 1979; future adjustments.**

Sec. 23e. (1) Effective January 1, 1988, but before any of the increases provided by section 23c on or before January 1, 1988 are included, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary and determined upon the date of retirement of the retirant whose retirement allowance effective date was before January 1, 1979 is supplemented as follows:

| Effective Date of Retirement          | Percent of Increase |
|---------------------------------------|---------------------|
| October 1, 1977 to December 31, 1978  | 10                  |
| October 1, 1976 to September 30, 1977 | 11                  |
| October 1, 1975 to September 30, 1976 | 12                  |
| October 1, 1974 to September 30, 1975 | 13                  |
| October 1, 1973 to September 30, 1974 | 14                  |
| October 1, 1972 to September 30, 1973 | 15                  |
| October 1, 1971 to September 30, 1972 | 16                  |
| October 1, 1970 to September 30, 1971 | 17                  |
| October 1, 1969 to September 30, 1970 | 18                  |
| October 1, 1968 to September 30, 1969 | 19                  |
| October 1, 1967 to September 30, 1968 | 20                  |

|                                       |    |
|---------------------------------------|----|
| October 1, 1966 to September 30, 1967 | 21 |
| October 1, 1965 to September 30, 1966 | 22 |
| October 1, 1964 to September 30, 1965 | 23 |
| October 1, 1963 to September 30, 1964 | 24 |
| October 1, 1962 to September 30, 1963 | 25 |
| October 1, 1961 to September 30, 1962 | 26 |
| October 1, 1960 to September 30, 1961 | 27 |
| October 1, 1959 to September 30, 1960 | 28 |
| October 1, 1958 to September 30, 1959 | 29 |
| October 1, 1957 to September 30, 1958 | 30 |

(2) The recalculated retirement allowance as supplemented by this section shall be the basis on which future adjustments to the allowance are calculated.

**History:** Add. 1987, Act 58, Imd. Eff. June 23, 1987.

**38.1024 Survivor's retirement allowance; eligibility; duration, commencement, and rate; status of adopted child; payments to eligible child; effect of marriage or attainment of ineligible age; payment of survivor's retirement allowance as provided in written designation; division of survivor's retirement allowance among eligible survivors; receipt of entire survivor's retirement allowance by surviving spouse when eligible children become ineligible.**

Sec. 24. (1) Unless otherwise provided by the member pursuant to this act, the surviving spouse of a deceased member, deferred vested member, or retirant having the service qualifications required by section 23 shall be entitled to receive a survivor's retirement allowance for life payable from the survivors' retirement fund. The survivor's retirement allowance shall be payable beginning on the day after the date of death of the member or deferred vested member, or beginning in the month after the month of death in the case of a retirant. If an eligible child or children also survive the member, deferred vested member, or retirant, and the child or children are under the care of the eligible surviving spouse, the survivor's retirement allowance shall begin as of the day after the date of death of the member or deferred vested member or the month after the month of death in the case of a retirant, without regard to whether the surviving spouse has attained 55 years of age. The benefits to an eligible child or children shall continue whether or not the surviving spouse remarries. If the eligible child or children, or any of them, are not under the care of the eligible surviving spouse, at the specific designation of the deceased member, deferred vested member, or retirant as provided in this act, a survivor's retirement allowance shall begin for the benefit of the eligible child or children as of the day after the date of death of the member or deferred vested member, or beginning in the month after the month of death in the case of a retirant. A deduction from the monthly survivor's retirement allowance shall not be made for any fraction of a month remaining at the time of a survivor's death or becoming ineligible.

(2) The survivor's retirement allowance shall be equal to 66-2/3% of the retirement allowance which the deceased member, deferred vested member, or retirant had earned on the date of death, as a member, deferred vested member, or retirant. If an eligible survivor, regardless of age, has in his or her care an eligible child or children of the deceased member, deferred vested member, or retirant, the survivor's retirement allowance shall be 75% of the retirement allowance, but when all the children have become ineligible, the survivor's retirement allowance shall be 66-2/3% of the retirement allowance.

(3) An adopted child of a member for the purposes of this act shall have the same status as a natural child of a member.

(4) If there is not a surviving spouse but an eligible child exists, or if an eligible child survives a surviving spouse, then the survivor's retirement allowance otherwise payable to the surviving spouse shall be paid in equal parts to each eligible child until the child becomes ineligible, and the total of the survivor's retirement allowance paid to any other child shall not be diminished because of the attainment of ineligible age, marriage, or death of an eligible child. The portion of the survivor's retirement allowance that was paid to a formerly eligible child who subsequently becomes ineligible shall be paid in equal parts among the remaining eligible children, if any, until no eligible children remain to be paid.

(5) Marriage or attainment of ineligible age, whichever occurs first, shall render a child of a member, deferred vested member, or retirant ineligible for further consideration in the payment of a survivor's retirement allowance or in the increase in the amount of the survivor's retirement allowance under this act.

(6) If the deceased member, deferred vested member, or retirant is survived by an eligible child or children who are not under the care of an eligible surviving spouse and if the deceased member, deferred vested member, or retirant has filed a written designation with the board, the survivor's retirement allowance or a part

of it shall be paid to or for the benefit of the eligible child or children in the shares and in the manner as provided in the written designation. The deceased member, deferred vested member, or retirant may provide in the written designation that payment of all or any part of the survivor's retirement allowance to a surviving spouse not having the care of all of the eligible children shall be deferred until the children become ineligible.

(7) If there is not a written designation by a member, deferred vested member, or retirant, and if the surviving spouse is not the biological parent of an eligible child or children, the survivor's retirement allowance shall be divided equally among the eligible survivors.

(8) Unless designated by a member, deferred vested member, or retirant, when an eligible child or all of the eligible children become ineligible, the surviving spouse at the time of the member, deferred vested member, or retirant's death shall receive the entire survivor's retirement allowance.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1979, Act 52, Imd. Eff. July 7, 1979;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 2006, Act 614, Imd. Eff. Jan. 3, 2007.

### **38.1024a Remarriage of surviving spouse.**

Sec. 24a. The remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive a survivor's retirement allowance described in section 24. A surviving spouse whose survivor's retirement allowance described in section 24 was terminated due to the surviving spouse's remarriage shall be eligible to receive that retirement allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the survivor's retirement allowance attributable to any month beginning before the month of reinstatement under this section.

**History:** Add. 1986, Act 29, Imd. Eff. Mar. 10, 1986.

### **38.1025 Retirement system as trust; board as fiduciary; nonapplicability to Tier 2 retirement plan.**

Sec. 25. (1) The retirement system shall be construed to be a trust, separate from all other entities, maintained for the purpose of securing payment of benefits to the members, deferred vested members, retirants, and their survivors and beneficiaries as provided in this act.

(2) The board is the fiduciary of the retirement system with the authority to control and manage the operation and administration of the retirement system in the manner provided by this act.

(3) This section does not apply to the Tier 2 retirement plan.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1026 Retirement system; board of trustees; membership; eligibility and terms; oath of office.**

Sec. 26. (1) The retirement system shall be administered by a board of trustees, consisting of 11 persons as follows:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed in the same manner as members of standing committees of the senate are appointed.

(c) Two retirants appointed by the speaker of the house of representatives and 2 retirants appointed by the senate majority leader.

(d) One deferred vested member appointed by the speaker of the house of representatives and 1 deferred vested member appointed by the senate majority leader. If a deferred vested member serving on the board becomes a retirant during his or her term of office, he or she shall be entitled to serve the remainder of his or her term of office.

(e) One participant of Tier 2 who was a former member of Tier 1 appointed in 1999 by the senate majority leader and beginning in 2001 appointed alternately by the speaker of the house of representatives and the senate majority leader. However, if there is no participant of Tier 2 who meets the former member requirement of this subdivision, then 1 additional deferred vested member appointed in the manner prescribed in this subdivision.

(2) Only members of the retirement system are eligible to serve as members on the board of trustees except for the retirants and Tier 2 participant authorized under subsection (1). Board members appointed under

subsection (1)(a) and (b) are appointed for 2-year terms. Board members appointed under subsection (1)(c) are appointed for 4-year terms. Board members appointed for terms beginning in 1999 under subsection (1)(d) are appointed for 2-year terms. Board members appointed for terms beginning in 2001 under subsection (1)(d) are appointed for 4-year terms. A board member appointed for a term beginning in 1999 under subsection (1)(e) is appointed for a 2-year term. Beginning in 2001, a board member appointed under subsection (1)(e) is appointed for a 4-year term.

(3) Each person, whether appointed as a trustee or becoming a trustee ex officio, shall take an oath of office before the secretary of state, clerk of the house, or secretary of the senate, and, upon taking the oath, qualifies as a trustee. The oath of office shall be as prescribed under section 1 of article XI of the state constitution of 1963.

(4) A member of the board of trustees serving as of December 31, 2010 shall continue to serve as a member until December 31, 2011. Beginning January 1, 2012, the board of trustees shall be composed of 11 members as indicated in this section and in the bylaws. Except as otherwise provided in this section, the 11 members of the board shall contain at least 4 members who are retirants, 2 members who are deferred former qualified participants, and at least 1 current member of Tier 2. If there are insufficient persons who qualify under this section and are willing to serve, then members shall be appointed as indicated in the bylaws.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002;—Am. 2006, Act 614, Imd. Eff. Jan. 3, 2007.

### **38.1027 First board of trustees; organizational meeting, election of officers.**

Sec. 27. The first board shall meet as soon as practicable after the enactment of this act, at Lansing, Michigan, for the purpose of organizing this system and shall, at that meeting, elect a chairman and a vice-chairman.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1028 Vacancy in trusteeship.**

Sec. 28. Beginning January 1, 2012, a vacancy in a trusteeship shall be filled as provided in the bylaws.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 2006, Act 614, Imd. Eff. Jan. 3, 2007.

### **38.1029 Trustees; compensation and expenses.**

Sec. 29. Trustees shall serve without compensation but shall be reimbursed for any reasonable traveling expenses incurred in attending meetings of the board.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1030 Board of trustees; quorum, proxy.**

Sec. 30. Each trustee is entitled to 1 vote on any action of the board and at least 6 concurring votes are necessary for any action by the board at a meeting. A decision or action shall not become effective, unless presented and so approved by the action of the board. A trustee shall not vote by proxy, but shall be present at the meeting in order to have his or her vote recorded.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

### **38.1031 Board of trustees; powers and duties.**

Sec. 31. The board shall, in addition to all other powers and duties arising out of this act and not otherwise specifically reserved or delegated to others, have the powers and duties designated in sections 32 to 44, inclusive, of this act.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1032 Board of trustees; regular and special meetings; conducting business at public meeting; notice of meeting.**

Sec. 32. The board shall hold regular meetings at least quarterly each year and special meetings when considered necessary by the chairperson of the board. Meetings of the board shall be held in the office of the board. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1977, Act 179, Imd. Eff. Nov. 17, 1977.

### **38.1033 Board of trustees; authority as to retirement allowances, suspensions and refunds.**

Sec. 33. The board shall consider and pass on all applications for retirement allowances and refunds, authorize the granting of all retirement allowances and refunds and suspend any payment or payments, all in accordance with the provisions of this act.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1034 Board of trustees; certification of prescribed interest rate; adoption of actuarial tables.**

Sec. 34. The board shall certify in the records of the board the prescribed interest rate, and adopt all necessary actuarial tables in accordance with certifications of the actuary.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1035 Board of trustees; estimate of appropriation.**

Sec. 35. The board shall submit to the governor on or before November first of each year an estimate of the amount of appropriation required for the purpose of the system for the next fiscal year.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1036 Repealed. 1987, Act 58, Imd. Eff. June 23, 1987.**

**Compiler's note:** The repealed section pertained to investments by board of trustees.

**38.1036a Reinstatement of suspended contributions.**

Sec. 36a. If the actuary determines in his or her annual valuation of the system that the system is less than 100% funded, the retirement board may reinstate the member contributions that were suspended in sections 21, 22, and 50a and reduce the member contributions that were increased in section 22c.

**History:** Add. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

**38.1037 Repealed. 1981, Act 123, Imd. Eff. July 23, 1981.**

**Compiler's note:** The repealed section pertained to annual medical examination of disability retirees.

**38.1038 Board of trustees; offices; books and records; availability of certain writings to public.**

Sec. 38. The board shall establish an office or offices which provide suitable space for the meetings of the board and for the necessary administrative personnel. All books and records shall be kept in those offices. A writing prepared, owned, used, in the possession of, or retained by the board, in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1977, Act 179, Imd. Eff. Nov. 17, 1977.

**38.1039 Board of trustees; appointment of secretary and administrative personnel.**

Sec. 39. The board shall appoint a secretary and employ such other actuarial, medical, clerical or other help as shall from time to time be required for the efficient administration of the system and determine and fix the rate of pay of such persons.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1040 Board of trustees; record of proceedings; individual accounts; actuarial data.**

Sec. 40. The board shall keep a permanent record of all proceedings of the board, a separate account for each individual member and such additional data as shall be specified by the actuary as being necessary for required calculations and valuations.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

**38.1041 Board of trustees; audit of accounts; annual statement.**

Sec. 41. The board shall have the accounts of the system audited at least biennially by the auditor general and submit an annual statement to the governor and legislature as soon as possible after the end of each fiscal year.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960.

**38.1042 Acceptance of gift, grant, or bequest by board.**

Sec. 42. The board may accept any gift, grant, or bequest of any money or securities for the purposes designated by the grantor.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

#### **38.1043 Individual statement.**

Sec. 43. The board shall submit an individual statement to a member, deferred vested member, or retiree upon reasonable request. The statement shall indicate the amount of accumulations to the credit of the member, deferred vested member, or retiree as of the latest date practicable.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

#### **38.1044 Rules and bylaws.**

Sec. 44. The board shall adopt rules and bylaws necessary for the efficient administration of the system.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1974, Act 215, Eff. Dec. 31, 1974.

#### **38.1045 Secretary of board; powers and duties.**

Sec. 45. The secretary of the board shall be in charge of the administration of the detailed affairs of the retirement system and, in addition to the other powers and duties as are properly delegated by the board, shall:

(a) Collect and record the receipt of all payments to the retirement system, including member contributions, state contributions, interest and principal collections on investments as they become due and payable, and other funds accruing to the retirement system, and immediately deposit them with the state treasurer for the account of the retirement system.

(b) Sign vouchers requesting warrants upon the state treasurer pursuant to resolutions of the board, authorizing payment of benefits, refunds, and expenses out of funds belonging to the retirement system.

(c) Certify to the proper authority the names of the persons from whom deductions are to be made and the amounts or rates of the contributions to be deducted.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

#### **38.1046 Actuary; technical advisor of board, powers and duties.**

Sec. 46. The actuary shall be the technical advisor of the board and, in addition to supplying general information on technical matters, shall:

1. Make an investigation during the fourth year of operation of the system, and at least once every 5 years thereafter of the mortality, retirement, disability, separation, interest and salary rates and recommend, as a result of each such investigation, the tables to be adopted for all required actuarial calculations;

2. Make an annual valuation of the liabilities and reserves of the system, an annual determination of the amount of the required state contributions and certify the results thereof to the board.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

#### **38.1047 State treasurer as ex officio treasurer of retirement system; duties.**

Sec. 47. The state treasurer shall be ex officio the treasurer of the retirement system and shall:

(a) Act as official custodian of the cash and securities belonging to the retirement system and provide adequate safe deposit facilities for the preservation of the securities and hold the cash and securities subject to the order of the board.

(b) Receive from the secretary all items of cash belonging to the retirement system, as the items of cash are transmitted by the secretary of the retirement system, including member contributions, state contributions, interest and principal on investments, and other income accruing to the retirement system, and deposit all amounts in a special trust fund for the account of the retirement system, and notify the board of all the transactions semiannually.

(c) Furnish a corporate surety bond acceptable to the board of that amount as the board designates. The bond shall indemnify the board against any loss which may result from any action or failure to act on the part of the treasurer or any of his or her agents. All reasonable charges incidental to the procuring and giving of the bond shall be paid by the board.

(d) Invest and reinvest, in the manner permitted by the board, the cash assets of the system in excess of the amount required for current operations.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987.

#### **38.1048 Warrants.**

Sec. 48. The accounting division of the department of management and budget is authorized and directed to draw warrants upon the state treasurer payable from the funds of this system for purposes provided for in this act upon the presentation of vouchers approved by the secretary of the board in accordance with resolutions of the board.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1974, Act 215, Eff. Dec. 31, 1974.

### **38.1049 Payroll voucher.**

Sec. 49. (1) All payroll vouchers covering payments of salary to members for their services shall indicate all of the following:

(a) The amount of member contributions which are to be deducted from the salary of each member included in the payroll vouchers.

(b) The net amount payable to each member after the deduction of the contribution.

(c) The total of all member contributions deducted.

(2) An additional certified copy of each payroll voucher, by the state, shall be prepared and forwarded along with the original payroll voucher for transmittal to the board as provided in this act.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

### **38.1050 Investment and reinvestment of cash assets; nonapplicability to Tier 2.**

Sec. 50. The cash assets of the retirement system in excess of the amount required for current operations shall be invested and reinvested by the board in the manner provided by Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws. This section does not apply to Tier 2.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1050a Grants and insurance revolving fund; creation; purpose; expenditures; payments to fund by payroll deductions; purchase and payment of premiums on life insurance policies.**

Sec. 50a. (1) The grants and insurance revolving fund is created in the state treasury as a separate fund, into which shall be paid legislative grants, earnings from the fund, payments by or on behalf of members, and revenue from other sources accepted by the board. Money appropriated to the grants and insurance revolving fund shall not revert to the general fund at the close of the fiscal year but shall remain in the grants and insurance revolving fund. The legislative grants in the grants and insurance revolving fund shall not be expended except upon express direction of the legislature; but all other money in the grants and insurance revolving fund may be expended for the purposes and in the manner provided in this section.

(2) Except as otherwise provided in this subsection, beginning with salary received that is attributable to service performed on and after January 1, 1995, each legislator or member shall pay a sum equal to 0.5% of salary to the grants and insurance revolving fund to be eligible for the benefits provided in this section. The sum shall be collected by payroll deductions in the manner prescribed in this act. Beginning on the effective date of section 36a, member contributions required under this subsection are suspended unless reinstated by the board under section 36a.

(3) The board shall self-insure or shall purchase and pay the premiums on a life insurance policy or policies to provide life insurance death or other benefits for retirants, deferred vested members, and the spouses, eligible children, or eligible beneficiaries of retirants and deferred vested members from the amounts paid pursuant to subsection (2) for this purpose to the grants and insurance revolving fund. Life insurance benefits provided on June 23, 1987 shall not be diminished due to the amendments to this section by 1987 PA 58.

**History:** Add. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1981, Act 185, Imd. Eff. Dec. 23, 1981;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1998, Act 80, Imd. Eff. May 4, 1998;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1050b Hospitalization, medical, dental, and vision coverage; purchase; payment of premiums; manner.**

Sec. 50b. (1) For a retirant or a survivor or beneficiary of a deceased retirant, or for a deferred vested member if that deferred vested member first became a member on or before January 1, 1995, the retirement system shall purchase and pay the premium for hospitalization and medical insurance coverage and dental and vision coverage for the retirant, deferred vested member, and the spouses, eligible children, and survivors of those retirants and deferred vested members. Except as otherwise provided in this section, the retirement system shall provide hospitalization and medical insurance coverage and dental and vision insurance coverage

under this section at a level that is equal to or greater than the level of insurance coverage under this section in effect on December 1, 1992. The retirement board may increase the amounts each person who is enrolled in insurance coverage under this section is required to pay for co-pays or deductibles under that insurance coverage.

(2) On and after March 31, 1997, the retirement system shall also pay health insurance premiums described in this section in the manner prescribed in section 79.

**History:** Add. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Imd. Eff. Jan. 1, 1971;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1987, Act 58, Imd. Eff. June 23, 1987;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1051 Investment of retirement system funds; ownership by system; registration; recording; nonapplicability to Tier 2.**

Sec. 51. The retirement board shall clearly mark all investments to indicate ownership by the system and, to the extent possible, shall register all investments in the name of the system. The retirement board shall record all investments pursuant to generally accepted accounting principles promulgated by the governmental accounting standards board, upon adoption of those principles by the retirement board. This section does not apply to Tier 2.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1960, Act 113, Eff. Aug. 17, 1960;—Am. 1994, Act 359, Eff. Dec. 31, 1994;—Am. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1052 Board of trustees and employees; interest in investments prohibited; violation of section, penalty.**

Sec. 52. Except as otherwise herein provided, no trustee and no employee of the board shall have any direct interest in the income gains or profits of any investments made by the board, nor shall any such person receive any pay or emolument for services in connection with any investment. No trustee or employee of the board shall become an indorser or surety, or in any manner an obligor for money loaned or borrowed from the system. Whoever violates any of the provisions of this section shall be guilty of a misdemeanor.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1053 Vested interest in refunds; payment of member contributions; discharge of claims.**

Sec. 53. (1) Each member shall, by virtue of the payment of the member contributions required to be paid to the retirement system, receive a vested interest in the refunds provided in section 55, and each member in consideration of the vested interest shall be considered to have agreed to, and authorized the deductions from the payments of salary of all contributions payable to the retirement system pursuant to this act.

Payment of salary as prescribed by law, less the amounts of contributions provided in this act shall, together with the special vested rights in the refunds provided by this retirement system, be a full complete discharge of all claims of payments for service rendered by a member during the period covered by the payment.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1981, Act 123, Imd. Eff. July 23, 1981.

### **38.1054 Payments as obligations of state; disposition of revenues.**

Sec. 54. (1) It is the intention of the legislature that the payment of the required state contributions, all benefits granted under this system, and all expenses in connection with the administration and operation of the retirement system are made obligations of the state.

(2) All revenue derived from deposits and investments authorized by this act shall be credited to the account of this system in the state treasury and shall be used to pay benefits and costs of administration as provided in this act.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1994, Act 359, Eff. Dec. 31, 1994.

### **38.1055 Refund of contributions with interest; request; forfeiture; service credit upon resumption of membership; designation of beneficiary; payment of contributions with interest.**

Sec. 55. (1) A member who does not meet the requirement of section 23(1)(a) upon leaving service, or a

deferred vested member who is no longer a member, upon written request, shall receive, with interest at 4% compounded annually, a refund of all of his or her contributions standing to his or her credit in the members' savings fund. By accepting the refund a member who does not meet the requirement of section 23(1)(a) upon leaving service or a deferred vested member forfeits all accrued rights and benefits in the retirement system and loses credit for all service rendered to the state for which credit is given under this act. A member who does not meet the requirement of section 23(1)(a) upon leaving service or a deferred vested member who accepts a refund, and again becomes a member, may receive service credit for prior service by paying to the retirement system, within 180 days after he or she again becomes a member, the full amount of money he or she has received as a refund together with interest at 6% per annum compounded annually from the time of the refund until the time of repayment.

(2) A member, deferred vested member, or retirant who is not married and does not have an eligible child may designate in writing a beneficiary to receive the contributions that the member, deferred vested member, or retirant made to the survivors' retirement fund. Upon the death of a member, deferred vested member, or retirant who designated a beneficiary pursuant to this subsection, the survivors' retirement fund contributions made by the deceased member, deferred vested member, or retirant shall be paid to the named beneficiary. If a beneficiary was not named pursuant to this subsection, then the contributions shall be paid to the estate of the deceased member, deferred vested member, or retirant upon request by the authorized representative of the deceased's estate. Contributions paid pursuant to this subsection shall be paid with interest at 4% compounded annually beginning at the time the member, deferred vested member, or retirant last made a contribution.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1961, Act 167, Eff. Sept. 8, 1961;—Am. 1963, Act 45, Eff. Sept. 6, 1963;—Am. 1968, Act 229, Eff. July 1, 1968;—Am. 1970, Act 237, Eff. Jan. 1, 1971;—Am. 1974, Act 215, Eff. Dec. 31, 1974;—Am. 1978, Act 560, Imd. Eff. Dec. 27, 1978;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1981, Act 185, Imd. Eff. Dec. 23, 1981.

### **38.1056 Undivided interest in assets of system.**

Sec. 56. The assets of the system shall be invested as one fund, and no particular person, group of persons or entity shall have any right in any specific security or property, or in any item of cash other than an undivided interest in the whole as specified in the provisions of this act as it now exists or is subsequently amended.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1057 Retirement allowances, benefits, and credits not subject to taxation; subject to taxation beginning January 1, 2012; subject to public employee retirement benefit protection act.**

Sec. 57. (1) Except as otherwise provided in this section, all retirement allowances and other benefits payable under this act and all accumulated credits of members, deferred vested members, and retirants in this retirement system are not subject to taxation by this state or any political subdivisions of this state.

(2) Beginning January 1, 2012, all retirement allowances and other benefits payable under this act and all accumulated credits of members, deferred vested members, and retirants in this retirement system are subject to taxation by this state upon distribution to a member, deferred vested member, or retirant.

(3) All retirement allowances and other benefits payable under this act and all accumulated contributions of members, deferred vested members, and retirants in this retirement system are subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1961, Act 167, Eff. Sept. 8, 1961;—Am. 1981, Act 123, Imd. Eff. July 23, 1981;—Am. 1985, Act 39, Imd. Eff. June 13, 1985;—Am. 1995, Act 258, Imd. Eff. Jan. 5, 1996;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002;—Am. 2011, Act 43, Imd. Eff. May 25, 2011.

### **38.1058 Retirement system records; falsification, penalty.**

Sec. 58. Any person who knowingly makes any false statement, or falsifies or permits to be falsified any record of this system, in any attempt to defraud the system, shall be guilty of a misdemeanor.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1058a Correction of error; adjustment of payment.**

Sec. 58a. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall correct the error, and as far as practicable, shall adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance

beneficiary, or refund beneficiary was entitled. An adjustment in benefits shall not be made for an error totaling \$10.00 or less annually and the amount shall be debited or credited to the members' retirement fund.

**History:** Add. 1998, Act 501, Imd. Eff. Jan. 5, 1999.

### **38.1059 Payment of benefits; commencement.**

Sec. 59. No payments of benefits shall be made until on or after the first day of January, 1959.

**History:** 1957, Act 261, Eff. Sept. 27, 1957.

### **38.1059a Retirement system as qualified pension plan; administrative requirements and benefit limitations; qualified military service.**

Sec. 59a. (1) This section is enacted pursuant to section 401(a) of the internal revenue code, 26 USC 401, that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The board of trustees shall administer the retirement system to fulfill this intent.

(2) Notwithstanding any other provision of this act, the retirement system shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to governmental plans and beginning January 1, 2010, applicable portions of the final regulations issued by the internal revenue service on April 5, 2007. Employer-financed benefits provided by the retirement system under this act shall not exceed the applicable limitations of section 415 of the internal revenue code, 26 USC 415, as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code, 26 USC 415, to reflect cost of living increases, and the retirement system shall adjust the benefits, including benefits payable to retirants and retirement allowance survivors, subject to the limitation each calendar year to conform with the adjusted limitation. For purposes of section 415(b) of the internal revenue code, 26 USC 415, the applicable limitation shall apply to aggregated benefits received from all qualified pension plans for which the office of retirement services coordinates administration of that limitation. If there is a conflict between this section and another section of this act, this section prevails.

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

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires. The required minimum distribution requirements imposed by section 401(a)(9) of the internal revenue code, 26 USC 401, shall apply to this act and be administered in accordance with a reasonable and good faith interpretation of the required minimum distribution requirements for all years to which the required minimum distribution requirements apply to this act.

(6) If the retirement system is terminated, the interest of the members, deferred vested members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411(d)(3), and related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(8) For purposes of determining actuarial equivalent retirement allowances under this act, the actuarially assumed interest rate shall be 7% with utilization of the 1971 group annuity and mortality table.

(9) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401(a)(17), as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(10) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414(u). This subsection applies to all qualified military service on or after December 12, 1994. Beginning January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service, for purposes of determining any death benefits payable under this act, the member will be treated as having resumed and then terminated employment on account of death.

**History:** Add. 1995, Act 175, Imd. Eff. Oct. 17, 1995;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002;—Am. 2006, Act 614, Imd. Eff. Jan. 3, 2007;—Am. 2008, Act 355, Imd. Eff. Dec. 23, 2008.

### **38.1060 Short title.**

Sec. 60. This act shall be known and may be cited as the “Michigan legislative retirement system act”.

**History:** 1957, Act 261, Eff. Sept. 27, 1957;—Am. 1974, Act 215, Eff. Dec. 31, 1974.

### **38.1061 Election to terminate membership in Tier 1 and become qualified participant in Tier 2; election by deferred vested member or former nonvested member; election as irrevocable; rights and duties; method of election; signature of spouse; waiver; election subject to eligible domestic relations order; notice of disqualification for tax purposes.**

Sec. 61. (1) The retirement system shall provide an opportunity for each member who is a member on March 30, 1997, to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period beginning on January 2, 1998 and ending on April 30, 1998. A member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A member who makes and files a written election under this subsection elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight May 31, 1998.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m., June 1, 1998.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under this act effective 12 midnight May 31, 1998. This subdivision does not affect a person's right to health benefits provided under this act pursuant to section 79.

(2) If an individual who was a deferred vested member on March 30, 1997, or an individual who was a former nonvested member on March 30, 1997 becomes a legislator or lieutenant governor and is again eligible for membership in Tier 1, the individual shall elect in writing to remain a member of Tier 1 or to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a deferred vested member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a deferred vested member or a former nonvested member during the period beginning on the date of the individual's eligibility for membership and ending upon the expiration of 60 days after the date of that eligibility. A deferred vested member or former nonvested member who makes and files a written election to remain a member of Tier 1 retains all rights and is subject to all conditions as a member of Tier 1 under this act. A deferred vested member or former nonvested member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A deferred vested member or former nonvested member who makes and files a written election to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m. on the first day of the payroll period immediately following the date of the election.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election. This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 79.

(3) After consultation with the retirement system's actuary, the retirement board shall determine the method by which a member, deferred vested member, or former nonvested member shall make a written election under this section. If the member, deferred vested member, or former nonvested member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the retirement board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

(4) An election under this section is subject to the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(5) If the board receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1062 Election to terminate membership in retirement system under MCL 38.1061(1) and (2); transfer of lump sum amount; recomputation; calculation; basis; utilization of actuarial valuation report; notification of disqualification for tax purposes.**

Sec. 62. (1) For a member who elects to terminate membership in Tier 1 under section 61(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before September 30, 1998. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions and applicable interest, if any, from the member's savings fund as of 12 midnight May 31, 1998.

(b) For a member who is vested under section 23(1)(a) as of 12 midnight on May 31, 1998, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the member's retirement fund. Except as provided in subsection (5), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final salary as of 12 midnight on May 31, 1998. The actuarial present value shall be computed as of 12 midnight May 31, 1998 and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retiree longevity in the most recent actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight May 31, 1998. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight May 31, 1998:

(A) Age 55.

(B) The member's age, if the member is at least 50 years old and the sum of his or her age and estimated credited service equals or exceeds 70.

(c) Interest on any amounts determined in subdivisions (a) and (b), from June 1, 1998 to the date of the transfer, based upon 8% annual interest, compounded annually.

(2) For each member who elects to terminate membership in the retirement system under section 61(1), the retirement system shall recompute the amount transferred under subsection (1) not later than November 30, 1998 based upon the member's actual credited service and actual final salary as of 12 midnight May 31, 1998. If the recomputed amount differs from the amount transferred under subsection (1) by \$10.00 or more, not later than December 15, 1998, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the members' retirement fund to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight May 31, 1998 to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the qualified participant's account in Tier 2 to the members' retirement fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (1), based upon 8% effective annual interest, compounded annually.

(3) For a deferred vested member who elects to terminate membership in this retirement system under section 61(2), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's termination of employment. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The deferred vested member's accumulated contributions and applicable interest, if any, from the members' savings fund as of 12 midnight on the last day of the payroll period that includes the date of the

election.

(b) The excess, if any, of the actuarial present value of the deferred vested member's accumulated benefit obligation, over the amount specified in subdivision (a), from the members' retirement fund. Except as provided in subsection (5), for the purposes of this subsection, the present value of the deferred vested member's accumulated benefit obligation is based upon the deferred vested member's estimated credited service and estimated final salary as of 12 midnight on the last day of the payroll period that includes the date of the election. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retiree longevity in the most recent annual actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the last day of the payroll period that includes the date of the election. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the last day of the payroll period that includes the date of the election:

(A) Age 55.

(B) The deferred member's age, if the deferred member is at least 50 years old and the sum of his or her age and estimated credited service equals or exceeds 70.

(c) Interest on any amounts determined in subdivisions (a) and (b), from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(4) For each deferred vested member who elects to terminate membership in Tier 1 under section 61(2), the retirement system shall recompute the amount transferred under subsection (3) not later than the expiration of 90 days after the transfer occurs under subsection (3) based upon the deferred vested member's actual credited service and actual final salary as of 12 midnight on the last day of the payroll period that includes the date of the election. If the recomputed amount differs from the amount transferred under subsection (3) by \$10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the members' retirement fund to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight on the last day of the payroll period that includes the date of the election to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the qualified participant's account in Tier 2 to the members' retirement fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (3), based upon 8% effective annual interest, compounded annually.

(5) For the purposes of subsections (1) to (4), the calculation of estimated and actual present value of the member's or deferred vested member's accumulated benefit obligation shall be based upon methods adopted by the retirement system's actuary in consultation with the retirement board. The retirement system shall utilize the same actuarial valuation report used to calculate the amount transferred under subsection (1) or (3) when making the recomputation required under subsection (2) or (4). Estimated and actual final salary shall be determined as provided in section 9 as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 61.

(6) For a former nonvested member who elects to terminate membership in Tier 1 under section 61(2) and who has accumulated contributions standing to his or her credit in the members' savings fund, the retirement system shall direct the state treasurer to transfer a lump sum amount from the members' savings fund to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's election to terminate membership. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The former nonvested member's accumulated contributions and applicable interest, if any, from the members' savings fund as of 12 midnight on the last day of the payroll period that includes the date of the election.

(b) Interest on any amounts determined in subdivision (a), from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(7) If the board receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 1998, Act 305, Imd. Eff. July 28, 1998;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1063 Calculation of accrued cost savings; submission of total amount in executive budget to legislature; appropriation.**

Sec. 63. After consulting the retirement system's actuary, the board shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 486 over the costs that would have been incurred by this state to fund this retirement system had 1996 PA 486 not been implemented. The total amount of the cost savings shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year to the health insurance fund created by section 22c.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002;—Am. 2011, Act 99, Imd. Eff. July 19, 2011.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1064 Meanings of words and phrases; "accumulated balance" defined.**

Sec. 64. (1) For the purposes of this section and sections 65 to 80, the words and phrases defined in this section and sections 65 to 80 have the meanings ascribed to them in those sections.

(2) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1065 "Employer," "former qualified participant," and "health benefit dependent" defined.**

Sec. 65. (1) "Employer" means this state.

(2) "Former qualified participant" means an individual who was a qualified participant and who terminates the employment upon which his or her participation is based for any reason.

(3) "Health benefit dependent" means the qualified or former qualified participant's spouse, if any, and an unmarried child who is considered a dependent of the qualified or former qualified participant under section 152 of the internal revenue code, if any.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1066 "Qualified participant," "refund beneficiary," and "state treasurer" defined.**

Sec. 66. (1) "Qualified participant" means an individual who is a participant of Tier 2 and who meets 1 of the following requirements:

(a) An individual who first becomes a legislator or lieutenant governor on or after March 31, 1997, and who before March 31, 1997 would have been eligible to be a member of Tier 1.

(b) An individual who elects to terminate membership in Tier 1 and who elects to participate in Tier 2 in the manner prescribed in section 61.

(2) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 77 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 78.

(3) "State treasurer" means the treasurer of this state.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1067 Administration and investment of Tier 2 by state treasurer; state treasurer as fiduciary and trustee; appointment of advisory board; determination of provisions and**

**procedures; authority and responsibility of state treasurer to employ or contract with employees or for services.**

Sec. 67. (1) The state treasurer shall administer Tier 2 and shall invest the assets of Tier 2. The state treasurer is the fiduciary and trustee of Tier 2. The state treasurer may appoint an advisory board to assist the state treasurer in carrying out his or her duties as fiduciary and trustee.

(2) The state treasurer shall determine the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

(3) The state treasurer has the exclusive authority and responsibility to employ or contract with personnel and for services that the state treasurer determines necessary for the proper administration of and investment of assets of Tier 2, including but not limited to managerial, professional, legal, clerical, technical, and administrative personnel or services.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1068 Hearing.**

Sec. 68. (1) A qualified participant, former qualified participant, health benefit dependent, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. Upon written request, the state treasurer shall provide for a hearing that shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws. An individual may be represented by counsel or other duly authorized agent at a hearing conducted under this section.

(2) Chapters 2, 3, and 5 of Act No. 306 of the Public Acts of 1969, being sections 24.221 to 24.264 and 24.291 to 24.292 of the Michigan Compiled Laws, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1069 Accumulated employer and employee contributions and earnings; direction of investment; limitations inapplicable to Tier 2.**

Sec. 69. 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 state treasurer. The limitations on the percentage of total assets for investments provided in Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws, do not apply to Tier 2.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1070 Tier 2; payment of administrative expenses.**

Sec. 70. The administrative expenses of Tier 2 shall be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the state treasurer.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**38.1071 Participation in other public sector retirement benefits plan.**

Sec. 71. A qualified participant shall not participate in any other public sector retirement benefits plan for simultaneous service rendered to the same public sector employer. Except as otherwise provided in this act or by the state treasurer, this section does not prohibit a qualified participant from participating in a retirement plan established by this state or other public sector employer under the internal revenue code.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1072 Individual becoming legislator or lieutenant governor on or after March 31, 1997; notice of election.**

Sec. 72. An individual who first becomes a legislator or lieutenant governor on or after March 31, 1997 may irrevocably elect not to become a qualified participant of Tier 2 or may irrevocably elect to discontinue participation in Tier 2 by filing written notice of the election with the state treasurer. Upon receipt of the election, his or her employer shall not contribute any percentage of salary under section 74 for the individual who makes either election.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1073 Election to terminate membership in Tier 1; crediting Tier 2 account; charging Tier 2 account for excess transfers.**

Sec. 73. (1) The state treasurer shall promptly credit the Tier 2 account of a qualified participant who makes an election under section 61 to terminate membership in Tier 1 with any amount transferred from Tier 1 pursuant to section 62.

(2) Not later than 30 days after receipt of a recomputed amount under section 62(2) or (4), the state treasurer shall charge the qualified participant's Tier 2 account for any amount of excess transfers under section 62(1) or (3) and transfer that amount to the appropriate fund in Tier 1. The state treasurer may determine which investment choice or choices within a qualified participant's Tier 2 account will be used for this purpose.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1074 Section subject to vesting requirements; Tier 2 contributions by employer and qualified participant; limitations.**

Sec. 74. (1) This section is subject to the vesting requirements of section 75.

(2) A qualified participant's employer shall contribute to the qualified participant's account in Tier 2 an amount equal to 4% of the qualified participant's salary.

(3) A qualified participant may periodically elect to contribute up to 3% of his or her salary to his or her Tier 2 account. The qualified participant's employer shall make an additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection.

(4) A qualified participant may make contributions in addition to contributions made under subsection (3) to his or her Tier 2 account as permitted by the state treasurer and the internal revenue code. The qualified participant's employer shall not match contributions made by the qualified participant under this subsection.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

### **38.1075 Tier 2; vesting requirements and schedule; health care coverage; vesting requirements.**

Sec. 75. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

- (a) Upon completion of 2 years of service, 50%.
- (b) Upon completion of 3 years of service, 75%.
- (c) Upon completion of 4 years of service, 100%.

(2) A qualified participant is vested in the health insurance coverage provided in section 79 if the qualified participant meets 1 of the following requirements:

(a) The qualified participant has completed 6 years of service as a qualified participant before January 1, 2013 and was not a member, deferred vested member, or former nonvested member of Tier 1.

(b) The qualified participant was a member, deferred vested member, or former nonvested member of Tier

1 who made an election to participate in Tier 2 pursuant to section 61, and who has met the service requirements he or she would have been required to meet in order to vest in health benefits under section 50b.

(c) The qualified participant meets all of the following requirements:

(i) Was not a member, deferred vested member, or former nonvested member of Tier 1.

(ii) Was first elected to fill a vacancy in the house of representatives for a period less than the full term but more than 1/2 of the term of office.

(iii) Has completed 5 years of service as a qualified participant before January 1, 2013.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2011, Act 200, Imd. Eff. Oct. 18, 2011.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1076 Crediting years of accrued service.**

Sec. 76. A qualified participant who was a member, deferred vested member, or former nonvested member of Tier 1 who makes an election to participate in Tier 2 pursuant to section 61, shall be credited with the years of service accrued under Tier 1 on the effective date of participation in Tier 2 for the purpose of meeting the vesting requirements for benefits under section 75.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1077 Refund beneficiary; nomination.**

Sec. 77. A qualified participant or former qualified participant may nominate 1 or more individuals as a refund beneficiary by filing written notice of nomination with the state treasurer. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the state treasurer may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1078 Distribution of accumulated balance.**

Sec. 78. (1) A qualified participant is eligible to receive distribution of his or her accumulated balance in Tier 2 upon becoming a former qualified participant.

(2) Upon the death of a qualified participant or former qualified participant, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the state treasurer, the state treasurer, in a lump sum distribution, shall distribute the accumulated balance to the legal representative, if any, of the deceased participant or, if there is no legal representative, to the deceased participant's estate.

(3) A former qualified participant or refund beneficiary may elect 1 or a combination of several of the following methods of distribution of the accumulated balance:

(a) A lump sum distribution to the recipient.

(b) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.

(c) Periodic distributions, as authorized by the state treasurer.

(d) No current distribution, in which case the accumulated balance shall remain in Tier 2 until the former qualified participant or refund beneficiary elects a method or methods of distribution under subdivisions (a) to (c), to the extent allowed by federal law.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1079 Health insurance coverage; election; eligibility.**

Sec. 79. (1) A former qualified participant may elect health insurance benefits in the manner prescribed in this section if he or she meets both of the following requirements:

(a) The former qualified participant is vested in health benefits under section 75(2).

(b) The former qualified participant meets 1 of the following requirements:

(i) He or she meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 62 and the service requirements that would have applied to that former participant under Tier 1 for receiving health insurance coverage under section 50b, if that former participant was a member of Tier 1.

(ii) He or she is 55 years of age or older.

(2) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in a health benefit plan or plans as authorized by section 50b. A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may also elect health insurance coverage for his or her health benefit dependents, if any. A surviving health benefit dependent of a deceased former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage to begin at the death of the deceased former qualified participant in the manner prescribed in this section.

(3) An individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 50b.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 75(2)(a) or (c), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be 90% of the payments for health insurance coverage under section 50b. If the individual elects the health insurance coverage provided under section 50b, this state shall transfer its portion of the amount calculated under this subsection to the health insurance fund created by section 22c.

(5) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 75(2)(b), and for his or her health benefit dependents, this state shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by this state under this subsection. The portion of the health insurance coverage premium paid by this state under this subsection shall be equal to the premium amounts paid on behalf of retirants of Tier 1 for health insurance coverage under section 50b. If the individual elects the health insurance coverage provided under section 50b, the state shall transfer its portion of the amount calculated under this subsection to the health insurance fund created by section 22c.

(6) If the department of technology, management, and budget receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

(7) A former qualified participant who does not meet the vesting requirements of section 75(2) is not eligible for health insurance benefits under this act.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 1998, Act 501, Imd. Eff. Jan. 5, 1999;—Am. 2006, Act 614, Imd. Eff. Jan. 3, 2007;—Am. 2011, Act 200, Imd. Eff. Oct. 18, 2011.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

### **38.1080 Distributions; exemption from tax; subject to public employee retirement benefit protection act; right of setoff to recover overpayment and satisfy claims; correction of errors in records and actions.**

Sec. 80. (1) Distributions from employer contributions made pursuant to section 74(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 74(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax and are subject to the public employee retirement benefit protection act.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

**History:** Add. 1996, Act 486, Eff. Mar. 31, 1997;—Am. 2002, Act 97, Imd. Eff. Mar. 27, 2002.

**Compiler's note:** Section 2 of Act 486 of 1996 provides:

“Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.”

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