SOCIAL SECURITY FOR PUBLIC EMPLOYEES

Act 205 of 1951

AN ACT to provide for the coverage of certain officers and employees of the state of Michigan, of instrumentalities of the state of Michigan, of interstate instrumentalities jointly created by the state of Michigan and any other state or states, and of local governments of the state of Michigan under the old-age and survivors insurance provisions of title II of the federal social security act, as amended; to prescribe the powers and duties of the state retirement board in respect to such coverage; to provide for the cost of administration of this act by collections from employers above the costs of coverage.

History: 1951, Act 205, Imd. Eff. June 14, 1951

The People of the State of Michigan enact:

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38.851 Federal social security old-age and survivors insurance coverage; extension to public employees; maintenance of benefits.

Sec. 1.

In order to extend to employees of the state of Michigan and its political subdivisions and to the dependents and survivors of such employees, the provisions of old-age and survivors insurance system embodied in the social security act, it is hereby declared to be agreeable to the state, subject to the limitations of this act, that such steps be taken as to provide such coverage to employees of the state and its political subdivisions, on as broad a basis as permitted by title II of the social security act.

In the event the positions of any coverage group covered by any public retirement system shall become covered under old-age and survivors insurance, then the aggregate benefits, old-age and survivors insurance and those of the public retirement system combined, for such public employees in positions covered by a retirement system on January 1, 1955, and for those receiving or entitled to receive periodic benefits from such retirement systems on January 1, 1955, shall not be less than the benefits provided by their respective retirement acts, charters, ordinances, or other official instruments of coverage in effect on January 1, 1955.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955

38.852 Extension of social security to public employees; definitions.

Sec. 2.

For the purposes of this act—

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the federal insurance contributions act, would not constitute "wages" within the meaning of that act;

(b) The term "employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, including service performed by a circuit court stenographer in any county which pays any part of his wages, for such employer, except (1) service which in the absence of agreement entered into under this act would constitute "employment" as defined in the social security act; (2) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under this act: Provided, That no existing retirement system may hereafter be abolished in whole for the purpose of bringing the employees of such political subdivision under the provisions of this act: Provided, All services of an emergency nature shall be excluded, and that service (1) in any class or classes of part time positions, (2) in any class or classes of positions filled by popular election, (3) of a student, (4) performed in agricultural labor, or (5) any positions the compensation for which is on a fee basis, may be excluded in a plan

submitted under section 8 of this act: Provided further, That service which under the social security act may be included in an agreement only upon certification by the governor or an official delegated by him in accordance with section 218 (d) (3) of title II of the social security act shall be included in the term "employment" if and when the governor or an official delegated by him issues, with respect to such service, a certificate to the secretary of health, education, and welfare pursuant to section 21 (b) of this act;

(c) The term "employee" includes an officer, including elected officials, of a state or political subdivision thereof; and shall include as service performed for a county, service performed by a circuit court stenographer in each county which pays any part of his wages. It shall also include persons defined as "public school employees" under section 1 of chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, and persons defined as "member" under section 11 of chapter II of said act;

(d) The term "department" means the retirement board of the retirement system created and established by Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.43 of the Compiled Laws of 1948; Provided, however, That the department is authorized, pursuant to an agreement with the head of any state agency, to delegate any of its functions under this act which involved the correcting of reports or the auditing of the records of political subdivisions, to any officer or employee of such state agency, and the terms of payment therefor shall be provided in such agreement;

(e) The term "secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any of his functions under the social security act with respect to coverage under such act of employees of states and their political subdivisions, and with respect to any action taken prior to April 11, 1953, includes the federal security administrator and any individual to whom such administrator had delegated any such functions.

(f) The term "political subdivision" includes the regents of the university of Michigan, the state board of agriculture, and an instrumentality (1) of the state, (2) of 1 or more of its political subdivisions, or (3) of the state and 1 or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision: Provided, however, That any organization which has been held to be exempt from taxes imposed by sections 1400 and 1410 of the federal insurance contributions act, by reason of being an instrumentality of 1 or more political subdivisions of the state which is wholly owned by 1 or more subdivisions of the state within the exception provided by sections 1426 (b) (8) and 1607 (c) (7) of the federal insurance contributions act, shall be deemed for the purposes of this act to be a juristic entity and shall be accepted for coverage under this act upon depositing with the department a sum in cash or government bonds equal to 4 times the estimated average quarterly contributions for which such instrumentality shall be liable under the agreement entered into with the department, which deposit shall be continuously maintained as recomputed from time to time in accordance with current estimates of such average quarterly contributions;

(g) The term "social security act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "social security act," (including regulations and requirements issued pursuant thereto), as such act was last amended prior to the effective date of this act; and

(h) The term "federal insurance contributions act" means sub-chapter A of chapter 9 of the federal internal revenue code of 1939 and sub-chapters A and B of chapter 21 of the federal internal revenue code of 1954, as such codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such code of 1939 and section 3101 of such code of 1954.

(i) The term "plan" shall be confined to the old-age and survivors insurance program of the social security act.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1953, Act 137, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955 ;-- Am. 1961, Act 83, Eff. Sept. 8, 1961

Compiler's Notes: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

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38.853 Agreement to extend benefits of federal old-age and survivors insurance system; contents; approval; separate retirement systems.

Sec. 3.

(a) The department may enter on behalf of the state into an agreement with the secretary of health and human services, consistent with this act, for purposes of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision of this state for services specified in the agreement which constitute employment as defined in section (2)(b). The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the department and the secretary of health and human services

agree upon. However, the agreement shall be approved by the attorney general and shall provide for all of the following:

(1) That the agreement shall be effective for services in employment covered by the agreement performed after a date specified in the agreement. Effective for agreements or modifications to an agreement executed on or after January 1, 1960, this state may make coverage retroactive for 5 years preceding the year in which the agreement or modification is executed, but not earlier than January 1, 1956.

(2) That all services which constitute employment as defined in section 2 and which are performed in the employ of this state by employees of this state, except for those services which have been specifically excluded, shall be covered by the agreement.

(3) That services that do any of the following are covered in the agreement:

(i) Constitute employment as defined in section 2, except for those services that have been specifically excluded.

(ii) Are performed in the employ of a political subdivision of this state.

(iii) Are covered by a plan for extending the benefits of title II of the social security act, 42 U.S.C. 401, 402-405, 406-410, 411-418, 420-423, 424a-426i, and 427-433, which is in conformity with the terms of the agreement and has been approved by the department under section 8.

(4) That as modified, the agreement shall include all services described in either subdivision (2) or subdivision (3) that are performed by individuals to whom section 218(c)(3)(b) of title II of the social security act, 42 U.S.C. 418, applies, and shall provide that the service of that individual shall continue to be covered by the agreement if the individual thereafter becomes eligible to be a member of a retirement system.

(5) That as modified, the agreement shall include all services described in either subdivision (2) or subdivision (3) that are performed by individuals in positions covered by a retirement system for which the governor or an official delegated by the governor has issued a certificate to the secretary of health and human services pursuant to section 21(b).

(b) For purposes of this act and pursuant to section 218(d)(6) of title II of the social security act, 42 U.S.C. 418, each of the following retirement systems shall be considered as a separate retirement system for the state:

(1) The state employees' retirement system established under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws. However, at the discretion of the appropriate governing body, the employees of the Michigan technological university who are members of the state employees' retirement system may be considered a separate coverage group.

(2) The Michigan public school employees' retirement system, established under the public school employees retirement act of 1979, Act No. 300 of the Public Acts of 1980, being sections 38.1301 to 38.1407 of the Michigan Compiled Laws, except as follows:

(i) At the discretion of the appropriate governing body, employees of Ferris state university and employees of Michigan technological university who are members of the Michigan public school employees' retirement system may be separate coverage groups, respectively.

(ii) At the discretion of the state board of education, employees of eastern Michigan university, central Michigan university, northern Michigan university, and western Michigan university may be 1 coverage group, or the employees of each such institution may be made a separate coverage group.

(iii) Employees of junior colleges or community colleges shall be considered employees of the public school districts or community college districts operating the junior colleges or community colleges and shall be included in the coverage group for employees of public school districts under the Michigan public school employees' retirement system.

(3) Employees of the commission of agriculture.

(4) Employees of the regents of the university of Michigan. However, at the discretion of the board of regents, the 2 retirement systems maintained by the university of Michigan may be regarded as separate coverage groups.

(5) Any other retirement systems presently maintained and administered by a political subdivision of this state shall be considered to constitute separate retirement systems or coverage groups.

(6) Exclusive of those employees expressly excluded under the social security act, chapter 531, 49 Stat. 620, the municipal employees' retirement system established under the municipal employees retirement act of 1984, Act No. 427 of the Public Acts of 1984, being sections 38.1501 to 38.1555 of the Michigan Compiled Laws. However, upon action of the governing body of the municipal employees' retirement system, employees of the participating municipalities may be regarded as constituting separate retirement systems or coverage groups.

(7) The probate judges' retirement system established under the probate judges retirement act, Act No. 165 of the Public Acts of 1954, as amended, being sections 38.901 to 38.933 of the Michigan Compiled Laws.

(8) The judges' retirement system established under the judges' retirement act, Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.831 of the Michigan Compiled Laws.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955 ;-- Am. 1957, Act 161, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 199, Imd. Eff. Apr. 21, 1958 ;-- Am. 1961, Act 83, Eff. Sept. 8, 1961 ;-- Am. 1987, Act 161, Imd. Eff. Nov. 5, 1987

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38.854 Extension of social security; joint action with other states.

Sec. 4.

Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under section 5 if they were covered by an agreement made pursuant to section 3, and (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of section 3 and other provisions of this act.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955

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38.855 Employee contributions required.

Sec. 5.

Every employee of the state, including public school employees as defined under section 2 (c) of this act, whose services are covered by an agreement entered into under section 3 shall be required to pay for the period of such coverage, into the contribution fund established by section 13, at such time or times as the secretary of health, education, and welfare may by regulation prescribe, amounts equivalent to the sum of the taxes which would be imposed under the federal insurance contributions act if the services of employees covered by this agreement constituted employment as defined in such act.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955 ;-- Am. 1957, Act 161, Eff. Sept. 27, 1957

38.856 Employee contributions; payroll deduction.

Sec. 6.

The contribution imposed by section 5 shall be collected by the state treasurer by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution. The contributions so collected shall be turned over to the contribution fund established under section 13 of this act.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1961, Act 83, Eff. Sept. 8, 1961

38.857 Employee contributions; adjustments, refunds.

Sec. 7.

If more or less than the correct amount of the contribution imposed by section 5 is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made in such manner and at such times as the department shall prescribe.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.858 Political subdivision; submission of plan for extension of social security benefits; requirements, approval.

Sec. 8.

Each political subdivision of the state is hereby authorized to submit for approval by the department a plan for extending the benefits of title II of the social security act, in conformity with applicable provisions of such act, to employees of such political subdivision. Such plan shall be made effective on a date specified therein. Each such plan, and any amendment thereof, shall be approved by the department if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the department, except that no such plan shall be approved unless—

(a) It is in conformity with the requirements of title II of the social security act and with the agreement entered into under section 3;

(b) It provides that all services which constitute employment and are performed in the employ of the political subdivisions by employees thereof, shall be covered by the plan. The plan, however, may exclude from coverage certain services as provided by subsection (b) of section 2 of this act as amended and/or services performed by individuals to whom section 218 (c) (3) (e) of title II of the social security act is applicable;

(c) It specifies the source or sources from which the funds necessary to make the payments required by section 9, by subsection (a) of section 11, and by section 12 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

(d) It provides that the political subdivision shall perform such services as are required for the proper operation of the plan;

(e) It provides that the political subdivision will make such reports, in such form and containing such information, as the department may from time to time require, and comply with such provisions as the department or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports; and

(f) It authorizes the department to terminate the plan in its entirety, in the discretion of the department, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the department and may be consistent with the provisions of the social security act:

(g) Provided, That the boards of supervisors shall have power and they are hereby authorized at any meeting thereof legally held to provide social security coverage as provided under this act for county employees of their respective counties, and of the several offices, boards and departments thereof including the board of county road commissioners.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955

38.859 Political subdivision; plan to provide for appropriations to contribution fund.

Sec. 9.

Each plan made under section 8 shall provide that the political subdivision will appropriate to the contribution fund created under section 13 of this act for each year that the plan is in effect an amount equal to the subdivision's share of the cost of administration of this act by the department, such amount to be not greater than 5 per centum of the contributions made by the subdivision under the requirements of section 11.

History: 1951, Act 205, Imd. Eff. June 14, 1951

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38.860 Nonapproval of plan; notice, hearing; review by supreme court.

Sec. 10.

The department shall not finally refuse to approve a plan submitted by a political subdivision under section 8, and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby. The findings of fact made by the department acting within its power shall, in the absence of fraud, be conclusive, but the Michigan supreme court shall have power to review all questions of law involved in any such proceedings of the department: Provided, That application for such review be made by the aggrieved political subdivision within such time after a final determination by the department, as may be prescribed by statute or rule of said court.

History: 1951, Act 205, Imd. Eff. June 14, 1951

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38.861 Political subdivision; payments into contribution fund.

Sec. 11.

(a) Each political subdivision as to which a plan has been approved under this section shall pay into the contribution fund, created under section 13, with respect to wages at such time or times as the department may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the department under section 3, and for the purpose of this subsection, the amounts severally due on behalf of the state and of such other employers may be determined in accordance with section 218 (e) (2) of the federal social security act.

Contributions by employees.

(b) Every employee of a political subdivision required to make payments under subsection (a) of this section, whose services are covered by an approved plan, shall be required to pay for the period of such coverage to the political subdivision at such time or times as the secretary of health, education and welfare may by regulation prescribe, amounts equivalent to the sum of the taxes which would be imposed under the federal insurance contributions act if the services of employees covered by this agreement constituted employment as defined in such act. Such liability shall arise in consideration of the employee's retention in, or entry upon, employment after enactment of this act. The political subdivision is authorized to deduct the amount of such contributions from the wages of such employee as and when paid.

Judges' retirement system.

With respect to the judges' retirement system established under Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948:

Contributions by judges.

(1) For each judge who is a member of the judges' retirement system, his social security taxes retroactive from the date of the social security agreement covering such judge to January 1, 1956, or to the date of his entry into the judges' retirement system, whichever is later, shall be paid by the participating judge. For each judge who is not a member of the judges' retirement system, his social security taxes retroactive from the date of the social security agreement covering such judge to January 1, 1956, or to the date upon which he assumed the duties of judge, whichever is later, shall be deducted from his first payroll check following the date of the social security agreement.

All social security taxes upon the judge subsequent to the social security date shall be paid as provided in section 5 of Act No. 161 of the Public Acts of 1957, as amended, being section 38.855 of the Compiled Laws of 1948, and shall be in addition to any contributions provided for in this subsection (b), as amended.

Employer's social security taxes.

(2) The employer's social security taxes covering members of the judges' retirement system, except judges of the recorder's court and common pleas court of Detroit, shall be paid by the state. The employer social security taxes for judges of the recorder's court and common pleas court of Detroit and judges who are not members of the judges' retirement system shall be paid by the political entity or entities from which the judge receives any part of his salary.

Payment of contributions, adjustment.

(c) Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision under subsection (a). Failure to deduct such contributions shall not relieve the employee or employer of liability therefor. If more or less than the correct amount of the contribution imposed by subsection (b) is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impractical,

shall be made in such manner and at such times as the political subdivision shall prescribe.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 39, Imd. Eff. Apr. 21, 1955 ;-- Am. 1957, Act 161, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 199, Imd. Eff. Apr. 21, 1958 ;-- Am. 1964, Act 25, Imd. Eff. Apr. 29, 1964 ;-- Am. 1969, Act 251, Imd. Eff. Aug. 11, 1969

38.862 Delinquent payments; recovery with interest from political subdivision.

Sec. 12.

Delinquent payments due under section 11(a), with interest at a rate established by the department, but not to exceed the interest rate required under federal law to be paid by the state on delinquent social security taxes, may be recovered in an action in the circuit court against the political subdivision liable for the payment, or shall at the request of the department be deducted from any other money payable to the political subdivision by any department or agency of the state.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1984, Act 313, Eff. Mar. 29, 1985

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38.863 Contribution fund; establishment; deposits.

Sec. 13.

There is established in the state treasury a special fund to be known as the contribution fund. The fund shall consist of and there shall be deposited in the fund all of the following:

(a) All contributions, interest, and penalties collected under sections 5, 8, 10, and 11.

(b) All money appropriated under this act.

(c) Any property or securities acquired through the use of money belonging to the fund.

(d) All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received for the fund from any other source. All money received in the fund under this section shall be mingled and undivided, except as provided in section 14. Subject to the provisions of this act, the department is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging to the fund, and may perform any and all acts whether or not specifically designated, which are necessary to the administration of the fund and are consistent with the provisions of this act. Interest earnings on cash balances shall not be deposited in the fund.

History: 1951, Act 205, Imd. Eff. June 14, 1951 ;-- Am. 1980, Act 484, Imd. Eff. Jan. 20, 1981

38.864 Contribution fund; administrative account, establishment, deposits.

Sec. 14.

There shall be established within the contribution fund a separate account to be known as the administrative account. This account shall consist of, and there shall be deposited therein, all moneys received under sections 9 and 18. All moneys received in the administrative account shall be mingled and undivided.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.865 Contribution fund; segregation; withdrawals.

Sec. 15.

The contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this act. Withdrawals from such fund shall be made for, and solely for (a) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under section 3; (b) payment of refunds provided for in section 7 of this act; (c) the expenses of administration of this act; and (d) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality, including overpayments of their share of the cost of administration of this act made under section 9.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.866 Contribution fund; payments to secretary of treasury.

Sec. 16.

From the contribution fund the custodian of the fund shall pay to the secretary of the treasury of the United States such amounts as are provided under the agreement entered into under section 3 and the social security act, at such time or times as the department directs.

History: 1951, Act 205, Imd. Eff. June 14, 1951

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38.867 Contribution fund; administration.

Sec. 17.

The treasurer of the state shall be ex-officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this act and the directions of the department and shall pay all warrants drawn upon it in accordance with the provisions of this act and with such regulations as the department may prescribe pursuant thereto.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.868 Annual appropriation to contribution fund for payments to secretary of treasury.

Sec. 18.

There are hereby authorized to be appropriated annually to the contribution fund, in addition to the contributions collected and paid into the contribution fund under sections 5, 11 and 12, to be available for the purposes of section 15 and section 16 until expended, such additional sums as are found to be necessary in order to make the payments to the secretary of the treasury of the United States which the state is obligated to make pursuant to the agreement entered into under section 3.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.869 Appropriation of all contributions to contribution fund.

Sec. 19.

For the purpose of administering the provisions of this act, there are hereby appropriated to the department all contributions made to the contribution fund under section 9 and there is authorized to be appropriated from the general fund for each fiscal year an amount necessary to pay the state's proportionate share of the cost of administration of this act.

History: 1951, Act 205, Imd. Eff. June 14, 1951

38.870 Rules and regulations.

Sec. 20.

The department shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

History: 1951, Act 205, Imd. Eff. June 14, 1951

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38.871 State employees' retirement system; referendum on coverage; petition; conduct; notice; supplemental statement; governor's certificate.

Sec. 21.

(a) With respect to employees of the state who are members of the state employees' retirement system created by Act No. 240 of the Public Acts of 1943, as amended, the regents of the university of Michigan, the state board of agriculture, public school employees who are members of the retirement system created by chapter 1 of Act No. 136 of the Public Acts of 1945, as amended, the probate judges who are members of the probate judges' retirement system created by Act No. 165 of the Public Acts of 1954, as amended, and the judges who are members of the judges' retirement system created by Act No. 198 of the Public Acts of 1951, as amended, the governor is empowered to authorize a referendum upon the request of the respective boards administering the retirement systems for such coverage group. With respect to the employees of any political subdivision, including a school district of the first class whose employees are members of the retirement system created by chapter 2 of Act No. 136 of the Public Acts of 1945, as amended, he shall authorize a referendum only upon joint petition of the governing body of such political subdivision or school district of the first class together with the governing body of the retirement system in which such employees have membership. In lieu of the governing body of the retirement system in which such employees have membership and/or if there is no such retirement system governing body, there may be substituted as joint petitioner with the governing body of such political subdivision a petition signed by not less than 20% of the employees in positions under consideration for old-age and survivors insurance coverage.

The referendum shall be conducted in accordance with the provisions of section 218 (d) (3) of title II of the social security act, by the retirement system governing body, or, if no such retirement system governing body, then by the governing body of the political subdivision under the supervision of the governor or any agency or individual designated by him on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this act: Provided, That in the case of a retirement system that is part of the charter of the political subdivision, the plan shall be agreed to by action of the governing body of the political subdivision and by referendum of the employees as herein provided, before submission to the electorate.

The notice of referendum required by section 218(d)(3)(c) of title II of the social security act to be given to employees shall be accompanied by, or shall, not less than 40 days prior to the referendum, be supplemented by a statement in such manner, form and detail as the agency or individual designated to supervise the referendum shall

deem necessary and sufficient to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject if their services are included under an agreement under this act. In case a 90 day period after notice of referendum shall lapse before changes in a retirement system shall have been enacted or approved as above provided, then the date of referendum shall be automatically extended to not less than 40 days after such enactment or adoption.

(b) Upon receiving evidence satisfactory to him that, with respect to any such referendum, the conditions specified in section 218(d)(3) of title II of the social security act and the conditions specified in this act, as amended, have been met, the governor or an official delegated by him shall so certify to the secretary of health, education, and welfare.

History: Add. 1955, Act 39, Imd. Eff. Apr. 21, 1955 ;-- Am. 1957, Act 161, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 199, Imd. Eff. Apr. 21, 1958 ;-- Am. 1961, Act 83, Eff. Sept. 8, 1961

Compiler's Notes: Act 136 of 1945, referred to in this section, was repealed by Act 300 of 1980.

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