STATE EMPLOYEES' RETIREMENT ACT

Act 240 of 1943

AN ACT to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1957, Act 232, Eff. Sept. 27, 1957 ;-- Am. 1984, Act 3, Eff. May 1, 1984 ;-- Am. 1989, Act 297, Imd. Eff. Jan. 3, 1990 ;-- Am. 1996, Act 389, Imd. Eff. Sept. 30, 1996 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002

The People of the State of Michigan enact:

CAUTION! This document is from an archive and may contain outdated information.

38.1 Short title; meanings of words and phrases.

Sec. 1.

(1) This act shall be known and may be cited as the "state employees' retirement act".

(2) For the purposes of this act, the words and phrases defined in sections 1a to 1i have the meanings ascribed to them in those sections.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- Am. 1947, Act 351, Eff. Oct. 11, 1947 ;-- Am. 1948, 1st Ex. Sess., Act 41, Imd. Eff. May 10, 1948 ;-- CL 1948, 38.1 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1958, Act 207, Imd. Eff. May 5, 1958 ;-- Am. 1962, Act 233, Eff. Mar. 28, 1963 ;-- Am. 1968, Act 111, Eff. Nov. 15, 1968 ;-- Am. 1981, Act 157, Imd. Eff. Nov. 19, 1981 ;-- Am. 1982, Act 450, Imd. Eff. Dec. 30, 1982 ;-- Am. 1985, Act 151, Imd. Eff. Nov. 12, 1985 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1988, Act 338, Imd. Eff. Oct. 18, 1988 ;-- Am. 1990, Act 119, Eff. Apr. 1, 1991 ;-- Am. 1990, Act 177, Imd. Eff. July 2, 1990 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995
Admin Rule: R 38.11 and R 38.12 of the Michigan Administrative Code.

38.1a Definitions; A, B.

Sec. 1a.

(1) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the employees' savings fund, together with regular interest on that account.

(2) "Actuarial cost" means an amount that shall be paid, except as otherwise specifically provided by this act, by a member to purchase additional service credit as allowed under this act. Actuarial cost shall be computed as provided in section 17j.

(3) "Annuity" means annual payments for life derived from the accumulated contributions of a member. An annuity shall be paid in equal monthly installments.

(4) "Annuity reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of an annuity, or benefits in lieu of an annuity, granted to a member under this act.

(5) "Appointing authority" means the departmental officer who has the responsibility of making appointments and handling all other personnel transactions affecting the employees in the agency that the officer represents.

(6) "Banked leave time program" means the part B annual leave hours within the annual and sick leave program for state employees approved by a ruling of the internal revenue service on September 5, 2003, in which a pay reduction or other concessions are applied to a member or qualified participant in exchange for additional part B annual leave hours.

History: Add. 1968, Act 111, Eff. Nov. 15, 1968 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1998, Act 205, Eff. Aug. 1, 1998 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004

CAUTION! This document is from an archive and may contain outdated information.

38.1b Definitions; B, C.

Sec. 1b.

(1) "Beneficiary" or "disability beneficiary" means a person other than a retirant who receives a retirement allowance, pension, or other benefit provided by this act.

(2) "Compensation" means the remuneration paid a member on account of the member's services rendered to this state. If a member's remuneration is not paid totally in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission. Compensation does not include any of the following:

(a) Remuneration paid in lieu of accumulated sick leave.

(b) Remuneration for services rendered after October 1, 1981, payable at retirement or termination under voluntary or involuntary pay reduction plan B, in excess of the amount the member would have received had the member been compensated for those services at the rate of pay in effect at the time those services were performed.

(c) Payment for accrued annual leave at separation in excess of 240 hours.

(d) Remuneration received by an employee of the department formerly known as the department of mental health resulting from severance pay received because of the deinstitutionalization of the department formerly known as the department of mental health resident population.

(e) Remuneration received as a bonus by investment managers of the department of treasury under the treasury incentive bonus plan first approved by the civil service commission on February 11, 1988, pursuant to section 5 of article XI of the state constitution of 1963.

(f) Remuneration received as a bonus or merit payment by assistant attorneys general in the department of attorney general under the merit pay plan approved by the civil service commission on January 19, 1990, pursuant to section 5 of article XI of the state constitution of 1963.

(g) Any amounts refunded under section 35(2).

(3) "Conservation officer" means an employee of the department of natural resources, or its predecessor or successor agency, who has sworn to the prescribed oath of office and who is designated as a peace officer under section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606, and section 1 of 1986 PA 109, MCL 300.21.

(4) "Credited service" means the sum of the prior service and membership service credited to a member's service account.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 33, Imd. Eff. Feb. 26, 1996 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.1c Definitions; D.

Sec. 1c.

(1) "Deferred member" means a member who is separated from state service for a reason other than retirement or death and who has satisfied the requirements of section 20(4) or (5) for a deferred retirement allowance.

(2) "Designated temporary layoff" means the layoff of a member that does not exceed 1 month and has a fixed, predetermined, and announced recall date.

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

(4) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred 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 176, Imd. Eff. Oct. 17, 1995

CAUTION! This document is from an archive and may contain outdated information.

38.1d Definitions.

Sec. 1d.

(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, a political subdivision of a state, an agency or instrumentality of a state, or an agency or instrumentality of a political subdivision of a state, so long as amounts transferred into eligible retirement plans from this retirement system are separately accounted for by the plan provider that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(g) Beginning January 1, 2008, except as otherwise provided in this subsection, "eligible retirement plan" means 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) "Employee" means a person who may become eligible for membership under this act, as provided in section 13, if the person's compensation is paid in whole or in part by this state.

(4) "Employer" or "state" means this state.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2008, Act 353, Imd. Eff. Dec. 23, 2008

CAUTION! This document is from an archive and may contain outdated information

38.1e Definitions; F to I.

Sec. 1e.

(1) "Final average compensation" means the average of those years of highest annual compensation paid to a member during a period of 5 consecutive years of credited service; or if the member has less than 5 years of credited service, then the average of the annual compensation paid to the member during the member's total years of credited service. For a person whose retirement allowance effective date is on or after October 1, 1987, "final average compensation" means the average of those years of highest annual compensation paid to a member during a period of 3 consecutive years of credited service; or if the member has less than 3 years of credited service, then the average of the annual compensation paid to the member during the member's total years of credited service. Beginning January 1, 2012, compensation used to compute final average compensation shall not include includable overtime compensation paid to the member on or after January 1, 2012, except that a member's final average compensation that is calculated using any time period on or after January 1, 2012 shall also include, as prorated for the time period, the average of annual includable overtime compensation paid to the member during the 6 consecutive years of credited service ending on the same final date as used to calculate the final average compensation or, if the calculation date is before January 1, 2015, the average of the annual includable overtime compensation paid to the member on or after January 1, 2009 and before the final date as used to calculate the final average compensation. A member's final average compensation shall not be diminished because of required 1-day layoffs. The compensation used in computing the final average compensation for a period during which a member is in a

voluntary or involuntary pay reduction plan A or on a designated temporary layoff shall include the value of the hours not worked calculated at the member's hourly rate or rates of pay in effect immediately before the applicable final average compensation period. A member's final average compensation shall not be increased or decreased by the member's participation in voluntary or involuntary pay reduction plan B. Payment for accrued annual leave at separation in excess of 240 hours and payment for part B annual leave hours at separation shall not be included in final average compensation. Beginning October 1, 2003, the compensation used to compute the final average compensation for a period during which a member is participating in the banked leave time program shall include the value of any unpaid furlough hours and the value of any unpaid hours exchanged for part B annual leave hours calculated at the member's then current hourly rate or rates of pay.

(2) "Final compensation" means a member's annual rate of compensation at the time the member last terminates employment with this state.

(3) "Furlough hours" means unworked hours incurred in conjunction with the banked leave time program.

(4) "Includable overtime compensation" means the value of overtime premium payments for services rendered on or after January 1, 2009, and payments for services rendered in excess of 80 hours in a biweekly pay period on or after January 1, 2009.

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

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information.

38.1f Definitions; M to O.

Sec. 1f.

(1) "Member" means a state employee included in the membership of the retirement system, as provided for in section 13.

(2) "Membership service" means all service rendered after July 1, 1943.

(3) "New member" means a person who becomes a member of this retirement system on or after January 1, 1945.

(4) "Original member" means a person who became a member of this retirement system before January 1, 1945, or as provided in section 18.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995

38.1g Definitions; P.

Sec. 1g.

(1) "Pay reduction plan A" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to

reduce by 1 hour or more in any full-time pay period the number of hours worked with a corresponding reduction in compensation.

(2) "Pay reduction plan B" means the plan available to or required of a member during the fiscal years ending on and after September 30, 1981 under which the member may elect to work an entire full-time pay period, defer compensation for 1 or more of those hours, and accumulate or use the hours for which compensation has been deferred in the same manner as annual leave hours.

(3) "Pension" means annual payments for life payable from funds of the retirement system as provided in this act. A pension shall be paid in equal monthly installments.

(4) "Pension reserve" means the present value, computed upon the basis of mortality and other tables adopted by the retirement board, of all payments to be made on account of a pension, or benefits in lieu of a pension, granted to a member under this act.

(5) "Prior service" means all service as a state employee or as an appointed state officer, and as an elected or appointed state official, rendered before July 1, 1943.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995

CAUTION! This document is from an archive and may contain outdated information.

38.1h Definitions; R.

Sec. 1h.

(1) "Regular interest" means a rate or rates per annum, compounded annually, as the retirement board determines. For the purposes of employee refunds, the interest rate payable shall not exceed 4% per annum, compounded annually.

(2) "Retirant" means a person who has ceased to be a member of the retirement system by reason of retirement with a pension or retirement allowance payable from the funds of the retirement system.

(3) "Retirement allowance" means the sum of the annuity and the pension.

(4) "Retirement board" means the board provided for in section 2 to administer the retirement system.

(5) "Retirement system" means the state employees' retirement system created by section 2.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995

38.1i Definitions; S, T.

Sec. 1i.

(1) "Service" means service rendered to this state by an elected or appointed state official or employee of this state. Credit for service shall be determined by appropriate rules and regulations of the retirement board, but not more than 1 year of service shall be creditable for all service in 1 calendar year. The retirement board shall not allow credit for service for any period of more than 1 month in any 1 calendar year during which the employee was absent without pay. However, full service credit shall be given for a period during which an employee is on leave of absence and is receiving worker's compensation benefits as the result of a duty-incurred disability. Full service credit shall also be given to an employee for required 1-day layoffs, for voluntary or involuntary participation in pay reduction plan A, pay reduction plan B, or both, in effect during the fiscal years ending on and after September 30, 1981, for required and designated temporary layoffs, and, beginning October 1, 2003, for furlough hours, and for participation in the banked leave time program.

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

(3) "Tier 1" means the retirement plan available to a member under this act who was first employed and entered upon the payroll before March 31, 1997 and who does not elect to become a qualified participant of Tier 2.

(4) "Tier 2" means the retirement plan established pursuant to section 401(k) of the internal revenue code that is available to qualified participants under sections 50 to 69.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.2 State employees' retirement system; creation; administration by retirement board; rules.

Sec. 2.

(1) A state employees' retirement system is created for the employees of the state of Michigan.

(2) Except as otherwise provided in this section, the administration and management of the retirement system and the responsibility for making effective the provisions of this act are vested in a retirement board. Except as otherwise provided in this section, the retirement board may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, for the implementation and administration of this act.

(3) Subsection (2) does not apply to the Tier 2 retirement plan. The retirement board shall not promulgate rules for the establishment, implementation, administration, operation, investment, or distribution of a Tier 2 retirement plan.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.2 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."For transfer of powers and duties of state employees' retirement system board to Michigan retirement board, and abolishment of state employees' employees' retirement system board, see E.R.O. No. 2015-4, compiled at MCL 38.1174.
Admin Rule: R 38.11 and R 38.12 of the Michigan Administrative Code.

38.3 Retirement board; appointment and terms of members.

Sec. 3.

(1) The retirement board shall consist of 9 members, as follows:

(a) The insurance commissioner, the attorney general, the state treasurer, the deputy legislative auditor general, and the state personnel director.

(b) Two employee members of the retirement system, who shall be appointed by the governor. Not more than 1 employee member of the retirement board shall be from any 1 department, bureau, or agency of state government. The term of office of the employee members shall be 3 years.

(c) The 2 retirant members shall be retirants of the retirement system, who shall be appointed by the governor. The term of office of the retirant members shall be 3 years.

(2) After the effective date of this amendatory act, the seat of the first employee member to retire at the expiration of the member's present term or the member's retirement from active

CAUTION! This document is from an archive and may contain outdated information.

service, whichever shall be first, shall be filled by the appointment of a second retirant member.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.3 ;-- Am. 1965, Act 159, Imd. Eff. July 14, 1965 ;-- Am. 1970, Act 119, Imd. Eff. July 23, 1970 ;-- Am. 1976, Act 277, Eff. Mar. 31, 1977
Compiler's Notes: For transfer of position of commissioner of office of financial and insurance regulation as member or chairperson of board or commission to director of department of insurance and financial services, see E.R.O. No. 2013-1, compiled at MCL 550.991.
Transfer of Power: See MCL 16.206.

38.4 Retirement board; vacancies, vacation of office.

Sec. 4.

(a) Any vacancy occurring 90 days or more before the expiration of the term of any employee or retirant member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the balance of the unexpired term.

(b) Any employee or retirant member of the retirement board who fails to attend the scheduled meetings of the retirement board for 3 consecutive months or longer, without valid excuse, shall be considered as having resigned from board membership and the retirement board shall declare his office vacated as of the adoption of a proper resolution, and shall notify the governor of the vacancy.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.4 ;-- Am. 1955, Act 237, Eff. Oct. 24, 1955 ;-- Am. 1970, Act 119, Imd. Eff. July 23, 1970

CAUTION! This document is from an archive and may contain outdated information.

38.5 Retirement board; oath; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.

Sec. 5.

(a) Each member of the retirement board, created by this act, upon election or appointment, shall take an oath of office which shall be immediately filed in the office of the secretary of state. A majority of the retirement board shall constitute a quorum for the transaction of business at a meeting of the board.

(b) The business which the retirement board may perform shall be conducted at a public meeting of the retirement board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(c) The members of the retirement board shall serve without compensation, but shall not suffer a loss because of absence from regular employment, and shall be reimbursed for all actual necessary expense incurred in performance of duties in accordance with the statutes of this state. Notwithstanding this section, the retired state employee member shall receive the per diem compensation established annually by the legislature for the performance of official duties by attendance at regularly scheduled meetings.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.5 ;-- Am. 1972, Act 317, Imd. Eff. Jan. 2, 1973 ;-- Am. 1977, Act 184, Imd. Eff. Nov. 17, 1977 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

38.6 Retirement board; officers and employees.

Sec. 6.

Board chairman—secretary—actuary—medical advisor. The retirement board shall elect from its membership a chairman and a vice chairman, and shall appoint an executive secretary, and shall employ such other actuarial, medical, clerical, technical, and administrative employes as may be necessary for the proper operation of the retirement system. The compensation of all persons so appointed and employed shall be fixed in accordance with the official compensation schedules of the civil service commission.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.6

38.7 Retirement system; actuarial valuation of assets and liabilities; investigation of mortality, service, and compensation of members.

Sec. 7.

The retirement board shall collect and keep in convenient form such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system; and for making an actuarial investigation into the mortality, service, compensation, and other experience of the members, retirants and beneficiaries of the retirement system. At least once in each 5 year period, the retirement board shall cause an actuarial investigation to be made into the mortality, service, compensation, and other experience of the members and beneficiaries of the retirement system. Upon the basis of such actuarial investigation the retirement board shall adopt such tables as are deemed necessary for the proper operation of the retirement system and for making effective the provisions of this act.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.7 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955

CAUTION! This document is from an archive and may contain outdated information.

38.8 Administrative board; investment of funds, purchase of life insurance or annuity, deposits.

Sec. 8.

(a) The members of the retirement board shall be the trustees of the several funds created by this act. The board may invest and reinvest the funds of the system subject to terms and restrictions imposed by law upon a domestic life insurance company in this state in making and disposing of its investments, and subject to the state law relating to the investment of funds of public employee retirement systems or plans. The board may purchase, hold, sell, assign, transfer and dispose of any investment in which any fund of the system has been invested, the proceeds of such investment and any moneys belonging to the system. All such purchases shall be authorized by a resolution adopted by the board. The board may purchase appropriate contracts of life insurance or annuity from insurers duly authorized to do business in the state, if and when such purchase or purchases shall in the judgment of the board be appropriate or necessary to carry out the purposes of this act.

(b) For the purpose of meeting disbursements for retirement allowance and other payments in excess of the receipts, there shall be kept available by the retirement board an amount, not exceeding 10% of the total amount in the funds provided for by this act, on deposit in the state treasury.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.8 ;-- Am. 1951, Act 25, Imd. Eff. Apr. 13, 1951 ;-- Am. 1953, Act 127, Imd. Eff. May 27, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1965, Act 159, Imd. Eff. July 14, 1965

38.9 State treasurer as custodian of retirement system funds; powers and duties.

Sec. 9.

(1) All bonds or other obligations purchased according to section 8 shall be placed in the hands of the state treasurer, who is hereby designated as custodian of the bonds or other obligations, and it shall be his or her duty to collect the principal and the interest on the bonds or other obligations as they become due and payable, and deposit the principal and interest when collected into the retirement system's funds provided for bonds or other obligations. The administrative board may sell any of the bonds or other obligations upon like resolution, and the proceeds of the bonds or other obligations shall be paid by the purchaser to the state treasurer upon delivery to him or her of those bonds or other obligations by the state treasurer.

(2) The state treasurer shall be the custodian of all other funds of the retirement system and all disbursements shall be paid by the state treasurer upon vouchers authorized by the retirement board and bearing the signature of the authorized officer of the retirement board. The state treasurer shall give a separate and additional bond in an amount as may be established by the retirement board in the sum of not to exceed $100,000.00 which bond shall be approved by the attorney general and shall be conditioned for the faithful performance of his or her duties as custodian of the funds of the retirement system. The cost of the bond shall be paid out of the expense fund of the retirement board. The bond shall be deposited with the secretary of state and kept in his or her office.

(3) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by the state treasurer, and all interest earned on retirement system's funds as may be deposited by the state treasurer under this act shall be collected by him or her and placed to the credit of the retirement fund.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.9 ;-- Am. 2002, Act 372, Imd. Eff. May 24, 2002

CAUTION! This document is from an archive and may contain outdated information.

38.10 Retirement board members and employees; interest in investments prohibited.

Sec. 10.

No employe shall gain from investments. Except as provided herein, no member or employe of the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the retirement board nor as such directly or indirectly receive any pay or emolument for his services. And no member or person connected with the said retirement board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the retirement board; nor shall any member or employe of the retirement board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the retirement board.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.10

38.11 Employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund; creation; health advance funding subaccount; description of funds as reference to accounting records of retirement system.

Sec. 11.

(1) There is created the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund.

(2) The employees' savings fund is the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account for each member that shows the amount of the member's contributions together with interest on those contributions. The accumulated contributions of a member returned to the member upon his or her withdrawal from service, or paid to the member's estate or designated beneficiary in the event of the member's death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member or the member's legal representative as provided in this act within 5 years after the member's separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon the member's retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

(3) The employer's accumulation fund is the fund in which shall be accumulated the reserves derived from money provided by this state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by this state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon the member's death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the member's retirement or death and the member's accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement or death shall be transferred from the employer's accumulation fund to the pension reserve fund. If, in any year, the pension reserve fund is insufficient to cover the reserves for retirement allowances and other benefits being paid from the fund, the amount or amounts of the insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

(4) The annuity reserve fund is the fund from which shall be paid all annuities, or benefits in lieu of annuities, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

(5) The pension reserve fund is the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. For a disability retirant returned to active service with this state, his or her pension reserve, computed as of the date of return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion that this reserve, as of the date of his or her retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts transferred to the employees' savings fund under this section shall be credited to the member's individual account in the fund.

(6) An income fund is created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of the fund as evidenced by a resolution of the

CAUTION! This document is from an archive and may contain outdated information.

retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (2), (3), (4), (5), and (8), and the amount allowed under this subsection shall be due and payable to each of these funds and shall be annually credited to the funds by the retirement board and paid from the income fund. However, interest on contributions from members within a calendar year shall begin on the first day of the next calendar year, and shall be credited at the end of the calendar year. Except as provided in this subsection, income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement system shall determine the share of income, interest, and dividends attributable to the balance in the health advance funding subaccount created under subsection (9) and the share of income, interest, and dividends attributable to the health advance funding subaccount balance shall be paid into the health advance funding subaccount. The retirement board is authorized to accept gifts and bequests. Any funds that come into the possession of the retirement system as a gift or bequest, or any funds that may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other money the disposition of which is not otherwise provided for in this act shall be credited to the income fund.

(7) The expense fund is the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate the funds necessary to defray and cover the expenses of administering this act.

(8) The health insurance reserve fund is the fund into which appropriations made by the legislature, subscriber co-payments, and payments by the retirement system under section 68 for health, dental, and vision insurance premiums are paid. Health, dental, and vision insurance premiums payable pursuant to sections 20d and 68 shall be paid from the health insurance reserve fund. The assets and any earnings on the assets contained in the health insurance reserve fund and the health advance funding subaccount described in subsection (9) are not to be treated as pension assets for any purpose.

(9) The health advance funding subaccount is the account to which amounts transferred pursuant to sections 20d, 38(6), and 52 are credited. Any amounts received in the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 20d is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 20d if the actuarial accrued liability for health benefits under section 20d is at least 100% funded. For each fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount, amounts received in the health advance funding subaccount and accumulated earnings on those amounts may be expended or credited to fund health benefits under section 20d as provided in section 38(3). For the fiscal year ending on September 30, 2003 only, the general fund portion of all amounts received in the health advance funding subaccount as of October 1, 2002 and accumulated earnings on those amounts shall be transferred to the general fund. Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the employer's accumulation fund created under this section if the department does both of the following:

(a) At least 45 days before the intended transfer, submits a request to the chairs of the senate and house appropriations committees and, at least 15 days before the intended transfer, obtains the approval of both the senate and house appropriations committees.

CAUTION! This document is from an archive and may contain outdated information

(b) Ensures that the request submitted to the senate and house appropriations committees contains an actuarial valuation prepared pursuant to section 38 that demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions does not exceed the actuarial present value of benefits.

(10) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.11 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002

Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.12 Annual statement of retirement funds in custody of state treasurer; availability of report and other writings to public; request for statement of credit.

Sec. 12.

(1) The state treasurer shall furnish annually to the retirement board a statement of the amount of the funds in the custody of the treasurer belonging to the retirement system.

(2) The report and any writing prepared, owned, used, in the possession of, or retained by the retirement board or state treasurer 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.

(3) A member of the retirement system shall be furnished with a statement of the amount of the credit of that person's individual account in the employees' savings fund upon written request. The retirement board shall not be required to answer more than 1 request made by the retirement system member pursuant to this subsection within a 12-month period.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.12 ;-- Am. 1977, Act 184, Imd. Eff. Nov. 17, 1977

38.13 Membership in retirement system.

Sec. 13.

(1) Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service. All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, must become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service must not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement system the amount the employee's contributions would have been had the employee become a member immediately on employment by the state with interest

compounded annually at the regular rate from a date 1 year after the date of employment by this state to the date of payment. An individual who draws compensation as a state employee of a political subdivision of this state is eligible for the benefits provided by this act to the extent of the individual's compensation paid by this state. An individual who meets the requirements of section 44a is a member of the retirement system.

(2) Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council is excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed by an elected or appointed official during the time the official elects not to participate must not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate must be refunded all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1675.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) Except as provided in section 19g, an individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

(f) A retirant who again becomes employed by the state and is entered upon the payroll on or after December 1, 2002, for employment for which the retirant would have been eligible for membership under this section before December 1, 2002. A retirant described in this subdivision is a qualified participant in Tier 2 subject to sections 50 to 69.

(4) An individual who is hired in state classified or unclassified service after June 30, 1974, who is first employed and entered upon the payroll before March 31, 1997, and who possesses a Michigan teaching certificate is a member of this retirement system. After June 30, 1974, but before March 31, 1997, an individual who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the individual's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16. On and after March 31, 1997, an individual described in this subsection who returns to state service shall make an irrevocable election to remain in Tier 1 or to become a qualified participant of Tier 2 in the manner prescribed in section 50.

(5) An individual, not regularly employed by this state, who is employed through participation in 1 or more of the following programs, shall not be a member of the retirement system and must not receive service credit for the employment:

CAUTION! This document is from an archive and may contain outdated information

(a) A program authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

(b) A summer youth employment program established under the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(c) A program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(d) A program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(e) A program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259.

(6) An individual, not regularly employed by this state, who is employed to administer a program described in subsection (5) is not a member of the retirement system and must not receive service credit for the employment.

(7) If an individual described in subsection (5)(a) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment that is excluded in subsection (5) for purposes of determining a retirement allowance on the payment by the individual's employer under subsection (5) from funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, as funds permit, to the retirement system of the contributions, plus regular interest, the employer would have paid had the employment been rendered in a position covered by this act. During the individual's employment in the transitional public employment program, the individual's employer shall place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees that the employer determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions must be paid by the individual's current employer.

(8) For purposes of section 19g, a former member is considered a member and is considered to have satisfied the requirements of section 19g(1)(c) and (2)(c) if the former member was employed by the department formerly known as the department of mental health on January 1, 1996 and went on layoff status before January 1, 1997.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- Am. 1947, Act 351, Eff. Oct. 11, 1947 ;-- CL 1948, 38.13 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1952, Act 38, Eff. Sept. 18, 1952 ;-- Am. 1955, Act 237, Eff. Oct. 24, 1955 ;-- Am. 1956, Act 91, Imd. Eff. Apr. 5, 1956 ;-- Am. 1957, Act 145, Imd. Eff. May 29, 1957 ;-- Am. 1958, Act 207, Imd. Eff. May 5, 1958 ;-- Am. 1960, Act 156, Eff. Aug. 17, 1960 ;-- Am. 1961, Act 56, Eff. Sept. 8, 1961 ;-- Am. 1965, Act 189, Imd. Eff. July 15, 1965 ;-- Am. 1970, Act 119, Imd. Eff. July 23, 1970 ;-- Am. 1974, Act 6, Imd. Eff. Jan. 30, 1974 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1976, Act 63, Imd. Eff. Mar. 30, 1976 ;-- Am. 1978, Act 423, Imd. Eff. Sept. 30, 1978 ;-- Am. 1979, Act 146, Imd. Eff. Nov. 13, 1979 ;-- Am. 1983, Act 157, Imd. Eff. July 24, 1983 ;-- Am. 1984, Act 185, Imd. Eff. July 3, 1984 ;-- Am. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1996, Act 389, Imd. Eff. Sept. 30, 1996 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002 ;-- Am. 2018, Act 682, Imd. Eff. Dec. 28, 2018

Compiler's Notes: Act 136 of 1945, referred to in this section, is repealed by Act 300 of 1980.Section 2 of Act 195 of 1993 provides as follows:“Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially

CAUTION! This document is from an archive and may contain outdated information

all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."Section 2 of Act 487 of 1996 provides:"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."

38.13a Blind or partially sighted licensed vending stand operators deemed employees; rights and benefits; eligibility; contribution as condition to service credit; blindness not deemed retirable disability; employer cost.

Sec. 13a.

Effective January 1, 1973, blind or partially sighted persons licensed as vending stand operators within the controlled programs of the bureau of blind services are deemed to be employees within the meaning of this act for state retirement purposes only, and except as hereinafter provided are entitled to all the rights and benefits of state employees covered by the provisions of this act. Operators licensed in the vending stand program after January 1, 1973, who meet all the eligibility requirements of the state retirement system shall participate under the provisions of this act. A person covered by this section may receive retirement system service credit for not more than 10 years of service performed before January 1, 1973, providing, that such person pays the state employees' retirement system a contribution equal to that which would have been paid for each year that the blind vending stand operator has been under the state employees' retirement system with a maximum contribution of $416.00 per year. Blindness shall not be deemed a retirable disability under this act for persons covered by this section. The employer shall be deemed to be the Michigan department of social services. The employer cost of retirement shall be funded from moneys appropriated yearly to the department of social services.

History: Add. 1972, Act 320, Imd. Eff. Jan. 2, 1973 ;-- Am. 1973, Act 174, Imd. Eff. Dec. 21, 1973 ;-- Am. 1974, Act 352, Imd. Eff. Dec. 21, 1974

CAUTION! This document is from an archive and may contain outdated information.

38.13b Credited service to include credit for service rendered to joint federal-state commission; conditions.

Sec. 13b.

A member who retires on or after October 1, 1979 shall have his or her credited service include credit for service rendered by him or her between October 1, 1971 and October 1, 1979 to a joint federal-state commission authorized under the public works and economic development act of 1965, Public Law 89-136, 79 Stat. 552, in which the member represented this state and for which at least 50% of the member's salary was derived from funds provided by this state, if the member pays into the employees' savings fund a contribution determined by the board, but not less than an amount equal to 5% of the member's full-time compensation for the fiscal year in which payment is made, for each year of service claimed, and if the member relinquishes all rights in and to any pension benefit he or she would be eligible to receive from another publicly supported pension plan as the result of that service.

History: Add. 1982, Act 450, Imd. Eff. Dec. 30, 1982

38.14 Information required of members by retirement board.

Sec. 14.

Information furnished by members. Within 3 months after this act becomes effective, each original member, and within 30 days after his employment, each new member, shall submit to the retirement board a statement showing his name, sex, title, compensation, duties, date of birth, and length of service as a state employe, and such other information as the retirement board shall require. Each state employe, upon becoming a member, shall file a detailed statement of all his prior service as an employe and shall furnish such other facts as the retirement board may require for the proper operation of the retirement system.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.14

38.15 Original members; prior service certification.

Sec. 15.

Subject to such rules and regulations as the retirement board shall adopt, the retirement board shall certify to each original member of the retirement system the aggregate amount of all service rendered by him prior to July 1, 1943. Such certification shall be final and conclusive for retirement purposes as to such service, unless modified by the retirement board upon application made by the member.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.15 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955

38.16 Cessation of membership; reemployment.

Sec. 16.

(1) Except as otherwise provided in this act, if a member separates or is separated from state service without leave of absence before becoming eligible to retire with a retirement allowance payable from funds of the retirement system, the member ceases to be a member and forfeits credit for all service rendered by him or her before the date the member last separated from state service.

(2) If the individual again becomes employed by this state, he or she shall again become a member of the retirement system.

(3) An employee who reenters state service within 15 years after the date of his or her last separation from state service, or who accumulates 5 or more years of continuous service credit as a member of the retirement system after reentering state service, shall have the service credit forfeited by him or her at the time he or she last separated from service restored to his or her credit, if the member has not withdrawn his or her accumulated contributions from the employees' savings fund. If an employee described in this subsection has withdrawn his or her accumulated contributions from the employees' savings fund, the member shall have the service credit forfeited by him or her restored to his or her credit if he or she returns to the fund all amounts that were previously withdrawn from the fund, together with regular interest on that amount computed from the date of withdrawal to the date of repayment.

(4) If a member becomes a retirant or dies, he or she ceases to be a member.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- Am. 1945, Act 177, Eff. Sept. 6, 1945 ;-- CL 1948, 38.16 ;-- Am. 1953, Act 112, Imd. Eff. May 25, 1953 ;-- Am. 1954, Act 126, Eff. Aug. 13, 1954 ;-- Am. 1955, Act 237, Eff. Oct. 24, 1955 ;-- Am. 1970, Act 119, Imd. Eff. July 23, 1970 ;-- Am. 1997, Act 3, Imd. Eff. Apr. 15, 1997

CAUTION! This document is from an archive and may contain outdated information.

38.17 Service credited from state board of control for vocational education; conditions.

Sec. 17.

(a) At retirement a member's credited service shall include service rendered by him under the state board of control for vocational education, to the same extent that such service would have been credited had it been rendered in a position covered under this act, if the member (1) relinquishes for himself and his beneficiary all rights in and to a retirement allowance under the provisions of Act No. 136 of the Public Acts of 1945, as amended, being sections 38.201 to 38.356 of the Compiled Laws of 1948, and (2) pays into the employees' savings fund the contributions, together with regular interest, he would have paid had such service been rendered in a position covered under this act.

(b) At retirement a member's credited service shall include service rendered by him in a position covered under Act No. 136 of the Public Acts of 1945, as amended, to the same extent that such service would have been credited had it been rendered in a position covered under this act, but such service credit shall not include any period of service for which the member has acquired or could have acquired entitlement to an annuity, pension or retirement allowance payable to or to be payable by a retirement system, except the federal social security old-age, survivors and disability insurance program, under which the political subdivision covers its employees, and if the member (1) relinquishes for himself and his beneficiary all rights in and to a retirement allowance under the provisions of Act No. 136 of the Public Acts of 1945, as amended, and (2) pays into the employees' savings fund the contributions, together with regular interest, he would have paid had such service been rendered in a position covered under this act.

CAUTION! This document is from an archive and may contain outdated information

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.17 ;-- Am. 1951, Act 146, Eff. Sept. 28, 1951 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1957, Act 145, Imd. Eff. May 29, 1957 ;-- Am. 1960, Act 156, Eff. Aug. 17, 1960 ;-- Am. 1965, Act 159, Imd. Eff. July 14, 1965 ;-- Am. 1965, Act 189, Imd. Eff. July 15, 1965 ;-- Am. 1965, Act 384, Imd. Eff. Oct. 15, 1965

38.17a Use of credited service acquired in employ of governmental unit; "governmental unit of the state" defined.

Sec. 17a.

(1) If an employee of a department of a governmental unit of the state is transferred to the employ of the state, by reason of a function or functions of the department being transferred to the state, the employee so transferred, who does not withdraw his accumulated contributions from the governmental unit's retirement system, and subsequent to the date of his transfer acquires at least 1 year of service credit as a member of the state employees' retirement system, shall be entitled to use the credited service in force previously acquired as a member of the governmental unit's retirement system in meeting the service requirements for all retirement allowances and death benefits by the state employees' retirement system. The credited service acquired in the employ of the governmental unit shall not be used in computing the amount of a retirement allowance to be paid by the state employees' retirement system.

(2) For the purposes of this act "governmental unit of the state" includes the international bridge authority created by Act No. 99 of the Public Acts of 1954, being sections 254.221 to 254.240 of the Michigan Compiled Laws.

History: Add. 1965, Act 402, Imd. Eff. Oct. 27, 1965 ;-- Am. 1966, Act 122, Imd. Eff. June 23, 1966 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974

38.17b Credited service to include service rendered certain universities.

Sec. 17b.

A member retired after January 1, 1965 shall have his or her credited service include service rendered by him or her to the university of Michigan, Michigan state university, Wayne state university, Oakland university, Grand Valley state university and Saginaw valley state university to the same extent that service would have been credited had it been rendered in a position covered under this act, if the member pays into the employees' savings fund the contributions, together with regular interest, he or she would have paid had his or her service been rendered in a position covered under this act and if the member relinquishes for himself or herself and his or her beneficiary all rights in and to a retirement allowance for service rendered to the university of Michigan, Michigan state university, Wayne state university, Oakland university, Grand Valley state university and Saginaw valley state university.

History: Add. 1976, Act 34, Imd. Eff. Mar. 5, 1976 ;-- Am. 1987, Act 164, Imd. Eff. Nov. 5, 1987

38.17c Retirement system service credit for period of service under county department of social services; conditions.

Sec. 17c.

Any member retired on or after January 1, 1975 who is an employee of a county department of social services who was merged and placed under the employment of the state department of social services pursuant to Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.122 of the Michigan Compiled Laws, shall receive retirement system service credit for the period of service under the county department of social services if the employee withdraws all rights in and to any pension benefit he may be eligible to receive under a county pension plan, and pays into the state employees' retirement system a contribution of $600.00 for each year of service claimed.

History: Add. 1976, Act 227, Imd. Eff. Aug. 4, 1976

38.17d Credited service to include service rendered to department of state police or its predecessor agencies, or to court of record; conditions.

Sec. 17d.

A member who retires after October 8, 1976, at the member's request shall have his or her credited service include service rendered by that member to the department of state police, or its predecessor agencies, or to a court of record in this state to the same extent that the service is credited when rendered in a position covered under this act, and if service credited when rendered in a position in a court of record of this state exceeds 5 years, and if the member pays into the employees' savings fund the contributions the member paid during that period of service with the state police or its predecessor agencies or with the court of record plus interest as established by the board and if the member relinquishes for himself or herself and the member's beneficiary all rights in and to a retirement allowance for that service rendered.

History: Add. 1976, Act 271, Imd. Eff. Oct. 8, 1976 ;-- Am. 1978, Act 593, Imd. Eff. Jan. 4, 1979

CAUTION! This document is from an archive and may contain outdated information

38.17e, 38.17f Repealed. 1998, Act 205, Eff. Aug. 1, 1998.

Compiler's Notes: The repealed sections pertained to purchase of service credit as manager of department fee branch office or service in VISTA or peace corps program.

38.17g Parental leave; purchase of service credit.

Sec. 17g.

(1) A member who left or leaves service with the state or who left or leaves service for a reporting unit of the public school employees retirement system for purposes of parental leave, and returned or returns to service with the state without other intervening employment of more than 20 hours per week for each week for which service credit is claimed, may purchase service credit for the time period or periods during which the person was separated or on leave of absence from service with the state or separated or on leave of absence from a reporting unit of the public school employees retirement system because of parental leave, upon submitting an application described in subsection (5) and upon payment to the retirement system of an amount that is equal to the actuarial cost multiplied by the member's full-time or equated full-time fiscal year compensation for the fiscal year in which payment is made multiplied by each year and fraction of a year of service to be purchased, up to the maximum. For the purpose of computing payment under this subsection, the compensation amount used shall not be less than the highest full-time or equated full-time fiscal year compensation previously received by the member as a member of the system. The total service credited under this section shall not exceed 5 years. A member requesting purchase of service credit under this section shall certify to the retirement system the purpose for which the member took leave or was separated from service with the state.

(2) Service credit purchased under this section shall not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance is not payable, or if the member leaves service with the state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the retirement system, or if a person is not designated, then to the member's legal representative.

(4) A member who reduces hours of employment with the state for purposes of parental leave may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member requesting purchase of service credit under this section shall submit an application as prescribed by the retirement system in which the member shall certify the time period claimed for parental leave and the purpose of the parental leave. If a request for purchase of service credit under this section is a result of leave taken to care for the member's child by birth or adoption, then the member also shall submit a certified copy of a birth certificate or adoption document from the appropriate court.

(6) Parental leave is creditable under this act until the child, by birth or adoption, attains age 18 or is married, whichever occurs first.

(7) For purposes of this section, "parental leave" means either of the following:

(a) The presence of the member in the active participation or supervision in the day-to-day, ongoing care or maintenance of his or her child by birth or adoption, for which the member

CAUTION! This document is from an archive and may contain outdated information.

reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

(b) A member's pregnancy, whether brought to full term or not, childbirth, and recuperation, for which the member reduces or eliminates the number of hours worked for the state or the reporting unit in a normal work time period.

History: Add. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 2004, Act 109, Imd. Eff. May 20, 2004

38.17h Full-time service as employee with city, county, township, or village of this state; purchase of service credit.

Sec. 17h.

(1) A member may elect to purchase service credit for not more than 5 years of full-time service as an employee with a city, county, township, or village of this state, upon request and presentation of documentation of the employment rendered which is verifiable from official employment records, which may be substantiated by federal wage statements, or other acceptable documentation as determined by the retirement board, and upon payment to the board of an amount which is equal to the actuarial cost multiplied by the member's full-time or equated full-time fiscal year compensation for the fiscal year in which payment is made multiplied by each year and fraction of a year of service to be purchased, up to the maximum. For the purpose of computing payment under this subsection, the compensation amount used shall not be less than the highest full-time or equated full-time fiscal year compensation previously received by the member as a member of the system.

(2) Service credit purchased under this section shall not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) Service credit purchased under this section shall not be creditable toward retirement under this act if the member is or was eligible to receive a pension or annuity for the same service from another retirement system.

(4) If a member who made payment under this section dies and a retirement allowance is not payable or if the member leaves service with the state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the board, or if a person is not designated, then to the member's legal representative.

History: Add. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987

38.17i Full-time service with federal government or as state employee with another state; purchase of service credit.

Sec. 17i.

(1) A member may elect to purchase service credit for not more than 5 years of full-time service with the federal government, or as a state employee with another state, upon request and presentation of documentation of the employment rendered which is verifiable from official federal or state government retirement system records or other acceptable documentation as determined by the retirement board, and upon payment to the board of an amount which is equal to the actuarial cost multiplied by the member's full-time or equated full-time fiscal year compensation for the fiscal year in which payment is made multiplied by each year and fraction of a year of service to be purchased, up to the maximum. For the

CAUTION! This document is from an archive and may contain outdated information.

purpose of computing payment under this subsection, the compensation amount used shall not be less than the highest fiscal year compensation previously received by the member as a member of the system. A member may not purchase service credit under this section for service with the federal government that may be purchased under section 18.

(2) Service credit purchased under this section shall not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) Service credit purchased under this section shall not be creditable toward retirement under this act if the member is eligible to receive a pension or annuity for the same service from another retirement system.

(4) If a member who made payment under this section dies and a retirement allowance is not payable or if the member leaves service with the state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the board, or if a person is not designated, then to the member's legal representative.

History: Add. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987

CAUTION! This document is from an archive and may contain outdated information.

38.17j Purchase of combined total of more than 10 years prohibited; purchase of service credit in separate increments; future purchases not barred; refund; actuarial cost.

Sec. 17j.

(1) On and after June 23, 1987, a member who is otherwise entitled to purchase service credit under section 17g, 17h, 17i, 17k, 17l, 17m, or 17n shall not purchase a combined total of more than 10 years of service credit under those sections.

(2) On and after June 23, 1987, a member who under section 17c, 17g, 17h, 17i, 17k, 17l, 17m, 17n, or 18(2) is otherwise entitled to purchase service credit may purchase the service credit in separate increments equal to 1 or more full years, or a remaining fraction of a year, if any, or both. Partial purchase of service credit under this section does not bar future purchases otherwise in compliance with this section and the provisions of this act authorizing the purchase, but computation of the amount of payment due shall be made separately for each purchase.

(3) If a member who made payment under this section dies and a retirement allowance is not payable or if the member leaves service with this state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the board, or if a person is not designated, then to the member's legal representative or estate.

(4) Actuarial cost shall be equal to the product of subdivisions (a), (b), and (c), as follows:

(a) A percentage, determined by the retirement board and the department, that when multiplied by a member's compensation, as determined under subdivision (b), results in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. The percentage may vary because of age, credited service, or benefit coverage. An increase or decrease in the percentage under this subdivision shall not become effective before the expiration of 6 months or more after the retirement board notifies the members of the increase or decrease.

(b) A member's compensation. The member's compensation shall be the member's full-time or equated full-time compensation earned in the fiscal year immediately before the fiscal year in which the application to purchase and payment for the service are made. The compensation amount used shall not be less than the highest compensation previously earned by the member.

(c) The number of years, including any fraction of a year, of credited service a member elects to purchase up to the maximum allowed.

History: Add. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1989, Act 9, Eff. July 1, 1989 ;-- Am. 1998, Act 205, Eff. Aug. 1, 1998 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

38.17k Repealed. 1998, Act 205, Eff. Aug. 1, 1998.

Compiler's Notes: The repealed section pertained to purchase of approved medical leave.

38.17l Purchase of additional service credit by employee of state accident fund, Michigan biologic products institute, or liquor control commission.

Sec. 17l.

(1) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer in order to qualify for a retirement allowance under this act may purchase additional service credit under this subsection. A member who purchases additional service credit shall contribute within 10 years after the effective date of the transfer an amount equal to the product of the following:

(a) Ten less the number of years and fraction of a year of that employee's credited service.

(b) The employee's full-time or equated full-time fiscal year compensation for the last fiscal year before the effective date of the transfer.

(c) The actuarial cost percentage determined under section 1a for the year in which the effective date of the transfer occurred.

(2) In order to qualify for a retirement allowance under this act, an employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance of the Michigan biologic products institute under the Michigan biologic products institute transfer act may purchase additional service credit under this subsection. A member who elects within 1 year after the effective date of the conveyance to purchase additional service credit under this subsection shall contribute within 11 years after the effective date of the conveyance an amount equal to the product of the following:

(a) Ten less the number of years and fraction of a year of that employee's credit service.

(b) The employee's full-time or equated full-time fiscal year compensation for the last fiscal year before the effective date of the conveyance.

(c) The actuarial cost percentage determined under section 1a(2) for the year which is 1 year after the year in which the effective date of the conveyance occurred.

(3) Subsection (2) applies only to members who were employees of the Michigan biologic products institute as of the effective date of the conveyance and who maintain employment with the transferee for not less than 1 year unless the employee is laid off by the new employer for reasons other than good cause.

(4) An employee of the liquor control commission created by section 5 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.5 of the Michigan Compiled Laws, whose employment is terminated due to the privatization of the distribution of spirits within this state pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission and who has 5 or more but less than 10 years of credited service on the date the

CAUTION! This document is from an archive and may contain outdated information.

privatization is effectuated in order to qualify for a retirement allowance under this act may purchase additional service credit under this subsection. The cost of benefits paid under this section shall be paid out of the revolving fund created under section 10 of Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.10 of the Michigan Compiled Laws. A member who elects within 1 year to purchase additional service credit under this subsection shall contribute within 6 years after the privatization date or the date of separation from state employment, whichever occurs first, an amount equal to the product of the following:

(a) Ten less the number of years and fraction of a year of that employee's credited service.

(b) The employee's full-time or equated full-time fiscal year compensation for the last fiscal year before the privatization date.

(c) The actuarial cost for the year in which the privatization date occurred.

(5) Not more than 5 years of additional service credit may be purchased under this section.

History: Add. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 521, Imd. Eff. Jan. 13, 1997

Compiler's Notes: Section 2 of Act 195 of 1993 provides as follows:"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

CAUTION! This document is from an archive and may contain outdated information.

38.17m Purchase of service credit; limitation; refund.

Sec. 17m.

(1) A member may elect to purchase not more than 5 years of service credit less the number of years of service credit purchased under sections 17e, 17f, and 17k, upon request and payment to the retirement system of the actuarial cost.

(2) Service credit purchased under this section may not be used to satisfy the minimum number of years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance is not payable, or if the member leaves service and a retirement allowance is not payable, the payment made by the member shall be refunded upon request to the member, the member's refund beneficiary, if any, or to the member's legal representative or estate.

History: Add. 1998, Act 205, Eff. Aug. 1, 1998

38.17n City employee; transfer or purchase of service credit.

Sec. 17n.

(1) A member may transfer or purchase service credit earned when the member was an employee of a city with a population over 750,000 if all of the following apply:

(a) The member became a member on September 1, 1981.

(b) The member was employed by a city with a population over 750,000 on August 31, 1981.

(c) The pension system of the city with a population over 750,000, the city with a population over 750,000, or the member agrees to contribute the actuarial cost of the service credit transferred or purchased to the retirement system.

(2) Upon payment of the actuarial cost of the service credit purchased, the retirement system shall credit the member with the service.

History: Add. 2002, Act 93, Imd. Eff. Mar. 27, 2002

38.18 Credit for military or federal service; credit for prior service; conditions; computation.

Sec. 18.

(1) A member of the retirement system who, while an employee of this state, was or who is drafted or enlisted into active military or other armed service of the United States government during time of war, or a member who is drafted or enlisted into active armed service during time of peace, and who returns for reemployment as a state employee within 6 months after the member's discharge from active service, or if hospitalized at date of discharge, returns for reemployment as a state employee within 6 months after release from the military facility, shall have all that active service credited as a member of the retirement system, in the same manner as if the member had served the state uninterruptedly but not more than 5 years of that service may be credited to a member. During the period of active service, and until return to state employment, the member's contributions to the employee's savings fund shall be suspended and the balance in the employees' savings fund standing to the member's credit as of the last payroll date preceding the leave of absence from the service of the member's department shall be accumulated at regular interest. If the member withdraws all or part of the accumulated contributions from the employees' savings fund, the active service shall not be credited until the member returns to the fund all amounts the member withdrew, together with regular interest computed from the date of withdrawal to the date of repayment.

(2) On or after January 1, 1978 a member of this retirement system who does not meet the requirements of subsection (1) and who was drafted, enlisted, inducted, or commissioned into active duty with the military or other armed service of the United States government may elect to receive service credit for not more than 5 years of active duty upon request and payment to the retirement system of an amount equal to 5% of the member's full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service shall not be credited if it is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. Armed service shall not be credited under this subsection until the member has accumulated the number of years of credited service needed to vest in the retirement system. Armed service under this subsection shall not be creditable to a member on deferred retirement status under section 20(4) before May 18, 1978. For purposes of computing payment under this subsection, the compensation amount used shall not be less than the highest fiscal year compensation previously received by the member.

(3) A person who was in the employ of the Michigan employment service on January 1, 1942, the date on which the employment service and its personnel were taken over by the United States employment service, and who continued in the employ of the United States employment service or who was temporarily taken out of the United States employment service for service in the war manpower commission or other government agency engaged in the prosecution of the war and later returned to the United States employment service, and whose service to the state, United States government, and state again was continuous and who was in the employ either of the United States employment service or of this state on November

CAUTION! This document is from an archive and may contain outdated information.

16, 1946, the date on which the employment service was returned to the state, and who reentered state service on or before that date, shall upon his reentry into the state service become an original member of the retirement system, and shall receive full service credit for the period during which the personnel of the Michigan employment service was taken over by the United States employment service.

(4) A person who entered into the employ of the Michigan employment service while the employment service was under the United States employment service and who retires after April 30, 1978, may receive service credit for the service under the United States employment service by contributing to the retirement system contributions the person would have made from July 1, 1943, to November 16, 1946, as if that service were rendered as a state employee, plus the interest with which the contributions would have been credited from the January following the year of employment to the date of repayment. The salary on which contributions are based shall be the salary received as a state employee on November 16, 1946.

(5) A member who has prior service is entitled to credit for that prior service if at the time of retirement the member has 15 or more years of total service, of which the last 5 are continuous years of service and if the member contributions equal the contributions made or that would have been made for not less than 15 years of membership service. In the computation of unpaid member contributions, the contribution rate will be computed on the member's salary level at retirement or date of payment, whichever first occurs.

CAUTION! This document is from an archive and may contain outdated information.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1948, 1st Ex. Sess., Act 41, Imd. Eff. May 10, 1948 ;-- CL 1948, 38.18 ;-- Am. 1949, Act 72, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1960, Act 156, Eff. Aug. 17, 1960 ;-- Am. 1962, Act 233, Eff. Mar. 28, 1963 ;-- Am. 1966, Act 5, Imd. Eff. Mar. 10, 1966 ;-- Am. 1968, Act 111, Eff. Nov. 15, 1968 ;-- Am. 1969, Act 299, Imd. Eff. Aug. 11, 1969 ;-- Am. 1978, Act 148, Imd. Eff. May 18, 1978 ;-- Am. 1978, Act 622, Imd. Eff. Jan. 6, 1979 ;-- Am. 1990, Act 177, Imd. Eff. July 2, 1990 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995

38.19 Retirement upon written application to retirement board; retirement without reduction in retirement allowance; definitions; layoff status because agency or inpatient facility designated for closure; conditions; certification; application; funding additional costs; employees of state accident fund, Michigan biologic products institute, or liquor control commission.

Sec. 19.

(1) A member who is 60 years of age or older and has 10 or more years of credited service or a member who is 60 years of age or older and has 5 or more years of credited service as provided in section 20(4) or (5) may retire upon written application to the retirement board, stating a date on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(2) A member who is 55 years of age or older, but less than 60 years of age, and has 15 or more years of credited service, may retire upon written application to the retirement board stating a date on which he or she desires to retire. Upon retirement he or she shall receive a retirement allowance computed according to section 20(1). Except as otherwise provided in this act, the retirement allowance of a member who has less than 30 years of credited service shall be reduced by an amount that is 0.5% of the retirement allowance multiplied by the number of months the person's age at retirement is under 60 years. The reduction of 1/2 of 1% for each month and fraction of a month from the member's retirement allowance effective date

to the date of the member's sixtieth birthday provided for in this subsection does not apply to a member who retired before July 1, 1974 and before attainment of age 60, with 30 or more years of credited service. The retirement allowance of a retirant or beneficiary of a retirant who retired before that date shall be recalculated disregarding the reduction, and the person receiving the retirement allowance is eligible to receive an adjusted retirement allowance based on the recalculation beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988. The retirement allowance of a retirant who dies before January 1, 1988, and who has not nominated a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(3) Notwithstanding any other provision of this section, effective April 1, 1988, a member may retire with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), if all of the following apply:

(a) The member files a written application with the retirement board stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which the member desires to retire, and which is within the early retirement effective period.

(b) The member was employed by the state for the 6-month period immediately preceding the member's retirement allowance effective date. This subdivision does not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.

(c) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's combined age and length of credited service is equal to or greater than 80 years and the member is 50 years of age or older.

(d) For purposes of this subsection, "early retirement effective period" means 1 of the following:

(i) Except as provided in subparagraph (ii), the period beginning on April 1, 1988 and ending on April 1, 1989.

(ii) For a member employed by a hospital or facility owned or operated by the department formerly known as the department of mental health that is in the process of being closed by the department formerly known as the department of mental health, the period beginning on April 1, 1988 and ending on October 1, 1989.

(4) As used in subsections (5) to (9):

(a) "Agency of the department" means 1 of the following:

(i) Southwest Michigan community living services.

(ii) Wayne community living services.

(b) "Department inpatient facility" means 1 of the following:

(i) A developmental disability center that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient care and treatment services to persons with developmental disabilities.

(ii) A psychiatric hospital that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient diagnostic and therapeutic services to persons who are mentally ill.

(5) Notwithstanding any other provision of this section, a member who is an employee of an agency of the department or a department inpatient facility and is on layoff status because the agency or inpatient facility has been designated by the state officer formerly known as the director of mental health for closure on or after October 1, 1989, may retire as provided in subsection (7) or (8), as applicable, with a retirement allowance computed according to section

CAUTION! This document is from an archive and may contain outdated information

20(1), without regard to the reduction in subsection (2), upon satisfaction of any 1 of the following conditions:

(a) The member is 51 years of age or older and has 25 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(b) The member is at least 56 years of age and has 10 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(c) The member has 25 or more years of credited service, regardless of age, as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(6) When a department inpatient facility or agency is designated for closure on or after October 1, 1989, the state officer formerly known as the director of mental health shall certify in writing to the state legislature and the retirement board, not less than 240 days before the designated official date of closure, which facility or agency is to be closed and the designated official date of closure.

(7) Except as provided in subsection (8), a member who is eligible to receive a retirement allowance under subsection (5) may retire effective on the date that an agency of the department or a department inpatient facility designated for closure as provided in subsection (5) actually closes, upon written application to the retirement board not less than 30 or more than 180 days before the designated official date of closure. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(8) A member who is on layoff status, is not working for the state, and becomes eligible to receive a retirement allowance under subsection (5) and who was an employee of an agency of the department or a department inpatient facility that has been designated for closure as provided in subsection (5) and that actually closes on or after October 1, 1989, may retire upon written application to the retirement board, stating a date upon which he or she wishes to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(9) Any additional accrued actuarial cost and costs for health insurance resulting from the implementation of subsection (5) shall be funded from appropriations to the department formerly known as the department of mental health for this purpose.

(10) A member who is an employee of the state accident fund on the date of transfer to a permitted transferee as that term is defined by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of transfer. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(11) A member who is an employee of the Michigan biologic products institute on the date the institute is conveyed pursuant to the Michigan biologic products institute transfer act, 1996 PA 522, MCL 333.26331 to 333.26340, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of the conveyance. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to

CAUTION! This document is from an archive and may contain outdated information.

retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(12) A member who is an employee of the liquor control commission created by section 209 of the Michigan liquor control code of 1998, 1998 PA 5, MCL 436.1209, whose employment is terminated due to the privatization of the distribution of spirits within this state is effectuated pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date the privatization is effectuated. The member may retire under this subsection upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1), without regard to the reduction required by subsection (2). The cost of benefits paid under this section shall be paid out of the revolving fund created under section 221 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1221.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.19 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 1988, Act 405, Eff. Jan. 1, 1989 ;-- Am. 1989, Act 297, Imd. Eff. Jan. 3, 1990 ;-- Am. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1996, Act 521, Imd. Eff. Jan. 13, 1997 ;-- Am. 1998, Act 205, Eff. Aug. 1, 1998 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

Compiler's Notes: Section 2 of Act 195 of 1993 provides as follows: "Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

CAUTION! This document is from an archive and may contain outdated information

38.19a Retirement upon satisfaction of certain requirements; monthly retirement allowance supplement; benefits, salary, or remuneration precluding payment under subsection (2); payment of sick leave; payment by retirement system; amount payable by principal departments; member considered retirant; deposit by principal department; use of deposits; exception; monthly payment by Michigan employment security commission; service credit for participation in pay reduction plan C; death of retirant or applicant for retirement.

Sec. 19a.

(1) Notwithstanding section 19, a member who is employed by the state on May 1, 1984 may retire and receive a retirement allowance computed according to section 20 if the member satisfies all of the following requirements:

(a) On the effective date of his or her retirement, 1 of the following applies:

(i) The member has attained age 60 and has 10 or more years of credited service.

(ii) The member's combined age and length of credited service is equal to or greater than 80 years, and the member has attained age 50.

(b) The member is not a supplemental member as defined in section 45.

(c) The member was employed by the state for the 6-month period immediately preceding May 1, 1984. This subdivision shall not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.

(d) The member files a written application with the retirement board, on or after May 1, 1984 but not later than June 1, 1984, stating a date, which date shall be on or after June 2, 1984 but not later than September 30, 1984, on which he or she desires to retire.

(e) The member agrees to the conditions stated in subsection (3).

(2) A member who retires under this section, and who at the time of his or her retirement has not attained age 62 years, shall receive a monthly retirement allowance supplement for each month, including any fraction of a month, until the retirant attains age 62 years. The amount of the monthly retirement allowance supplement shall be based upon the annual rate of base salary of the retirant as of the pay period immediately preceding the date of retirement, according to the following schedule:

Annual Base Salary	Monthly Retirement Allowance Supplement
Less than $10,000.00	$240.00
At least $10,000.00 but not more than $19,999.99	$280.00
At least $20,000.00 but not more than $29,999.99	$320.00
At least $30,000.00	$360.00

A payment shall not be made under this subsection for any month for which the retirant is paid, on account of his or her state employment, worker's compensation benefits, unemployment compensation benefits, long or short term disability benefits, federal social security benefits, Michigan state employees' retirement system disability benefits, state salary, or receiving remuneration for any contractual services provided to the state certified under section 18(1)(d) of former Act No. 18 of the Public Acts of 1981.

(3) Any amount which a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

(4) Payment of retirement allowances, retirement allowance supplements, and installment payments on account of accumulated sick leave to retirants under this section shall be made by the retirement system. Except as provided in subsection (7), each principal department shall pay to the retirement system for employees of that department who retire under this section an amount sufficient to cover all of the following:

(a) Retirement allowances payable to each individual who retires under this section before having attained age 60 years, until the retirant attains age 60 years, or in the event of a survivor allowance payable under section 31(1)(a), until the retirant would have attained age 60 years. This amount shall be paid from the account established in that department under subsection (6). In the absence of sufficient funds in the account established under subsection (6), this amount shall be paid from other funds available to the department.

(b) Retirement allowance supplements payable under this section. This amount shall be paid from the account established in that department under subsection (6). In the absence of sufficient funds in the account established under subsection (6), this amount shall be paid from other funds available to the department.

(c) Installment payments on account of accumulated sick leave payable under subsection (3). This amount shall be paid from money available to the department for that purpose.

CAUTION! This document is from an archive and may contain outdated information.

(5) Notwithstanding section 1h(2), a member who retires under this section shall be considered a retirant for purposes of receiving benefits under this act.

(6) Except as otherwise provided in this subsection, each principal department shall deposit into a separate departmental account the 1983-84 and 1984-85 fiscal year appropriations for salaries, wages, longevity payments, group insurance payments, retirement fund contributions, and social security employer contributions, which would have been paid to or on behalf of each employee who retires under this section, for use as follows:

(a) Payments to the retirement system as provided in subsection (4)(a) and (b) shall be made from the account.

(b) Installment payments to a retirant under subsection (3) and payments to the retirement system under subsection (4)(c) shall not be made from the account.

(c) Expenditures may be made from the account as provided in section 33 of former Act No. 18 of the Public Acts of 1981.

Deposits shall not be required under this subsection for employees of the Michigan employment security commission who retire under this section.

(7) The Michigan employment security commission shall pay to the retirement system monthly, from money available to that commission, an amount sufficient to cover the items enumerated in subsection (4)(a), (b), and (c), for employees of the Michigan employment security commission who retire under this section.

(8) For the purpose of qualifying for retirement under subsection (1)(a), or receiving a retirement allowance under this section, or both, a member who participated in pay reduction plan C may receive service credit for such leave of absence upon payment to the retirement system of an amount actuarially determined by the board, but which shall be not less than 5% of the member's full-time biweekly compensation for the fiscal year in which payment is made multiplied by the number of biweekly pay periods for which the member participated in pay reduction plan C and which the member is eligible to purchase under this subsection. For purposes of this subsection, "pay reduction plan C" means the plan available to a member during the fiscal years ending on or after September 30, 1981, under which the member may elect to take a leave of absence without pay for a duration of not less than 1 pay period. A member shall not be eligible to receive service credit under this subsection for more than 13 biweekly pay periods.

(9) If a person who retired under this section dies after the effective date of his or her retirement but before having attained age 62 years, the monthly retirement allowance supplement otherwise payable to the retirant under subsection (2) shall be paid as follows:

(a) Except as provided by subdivision (b), to the person or persons nominated for that purpose by the retirant by written designation duly executed and filed with the board. Payment shall be made by monthly installments in the manner provided under subsection (2), until the retirant would have attained age 62 years.

(b) If the retirant failed to execute and file a written nomination or nominated his or her estate, or if the person or persons nominated predecease the retirant, to the retirant's personal representative in a lump sum equal to the difference between the total amount the retirant would have received under subsection (2), had he or she attained age 62 years, and the amount actually received by the retirant under subsection (2).

(10) If a member who is eligible for retirement under this section files an application for retirement under subsection (1)(d) and dies prior to the date on which he or she desires to retire, the monthly retirement allowance supplement otherwise payable under subsection (2) shall be paid as follows:

CAUTION! This document is from an archive and may contain outdated information

(a) Except as provided by subdivision (b), to the person or persons nominated for that purpose by the member by written designation duly executed and filed with the board. Payment shall be made by monthly installments in the manner provided under subsection (2), until the member would have attained age 62 years.

(b) If the member failed to execute and file a written nomination or nominated his or her estate, or if the person or persons nominated predecease the member, to the member's personal representative in a lump sum equal to the amount the member would have received under subsection (2) had he or she retired and attained age 62 years.

History: Add. 1984, Act 3, Eff. May 1, 1984 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995

38.19b Right to retire and receive retirement allowance computed under MCL 38.20(1); application period; requirements; payment for accumulated sick leave in 60 monthly installments.

Sec. 19b.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under section 20(1) if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member has met the service requirements to receive a retirement allowance under this act, the member's combined age and amount of credited service is equal to or greater than 70 years, and the member is 50 years of age or older.

(b) The member was employed by this state for the 6-month period ending on the effective date of his or her retirement. A member who was restored to active service during that 6-month period under section 33 or a member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after September 1, 1991, but not later than March 1, 1992, stating a date, which date shall be 30 to 90 days after the execution and filing of the application but not later than April 1, 1992, on which he or she desires to retire.

(2) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

History: Add. 1991, Act 62, Imd. Eff. June 27, 1991

38.19c Right to retire and receive retirement allowance computed under MCL 38.20(1); application period; requirements; payment for accumulated sick leave in 60 monthly installments.

Sec. 19c.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under section 20(1) if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member has met the service requirements to receive a retirement allowance under this act and the member's combined age and amount of credited service is equal to or greater than 70 years.

(b) The member was employed by the legislature for the 6-month period ending on the effective date of his or her retirement. A member who was restored to active service with the

CAUTION! This document is from an archive and may contain outdated information.

legislature during that 6-month period under section 33 or a member who is on layoff status from the legislature during that 6-month period is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after November 15, 1992, but not later than December 31, 1992, stating a date, which date shall be 30 days or more after the execution and filing of the application but not later than February 1, 1993, on which he or she desires to retire.

(2) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

History: Add. 1991, Act 62, Imd. Eff. June 27, 1991 ;-- Am. 1992, Act 64, Imd. Eff. May 28, 1992

38.19d Right to retire and receive retirement allowance computed under MCL 38.20(1); application period; requirements; payment for accumulated sick leave in 60 monthly installments.

Sec. 19d.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under section 20(1) if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member has met the service requirements to receive a retirement allowance under this act and the member's combined age and amount of credited service is equal to or greater than 70 years.

(b) The member was employed by the legislature for the 6-month period ending on the effective date of his or her retirement. A member who was restored to active service with the legislature during that 6-month period under section 33 or a member who is on layoff status from the legislature during that 6-month period is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after November 15, 1994, but not later than December 31, 1994, stating a date, which date shall be 30 days or more after the execution and filing of the application but not later than February 1, 1995, on which he or she desires to retire.

(2) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

History: Add. 1991, Act 62, Imd. Eff. June 27, 1991 ;-- Am. 1992, Act 64, Imd. Eff. May 28, 1992

38.19e Right to retire and receive retirement allowance computed under MCL 38.20(1); application period; requirements; payment for amounts entitled to receive at retirement.

Sec. 19e.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under section 20(1) if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member has met the service requirements to receive a retirement allowance under this act and the member's combined age and amount of credited service is equal to or greater than 70 years.

(b) The member was employed by this state for the 6-month period ending on the effective date of his or her retirement. A member who was restored to active service during that 6-

CAUTION! This document is from an archive and may contain outdated information.

month period under section 33 or a member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after June 1, 1992, but not later than July 15, 1992, stating a date, which date shall be after the execution and filing of the application but not later than August 1, 1992, on which he or she desires to retire.

(2) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on October 1, 1992. Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated annual leave, deferred hours, longevity or prorated longevity, or any other lump sum payment otherwise payable at retirement shall be paid on or after October 1, 1992 but not later than December 31, 1992.

History: Add. 1992, Act 64, Imd. Eff. May 28, 1992

38.19f Retirement and receipt of retirement allowance; requirements; accumulated sick leave; request to extend effective date of retirement; calculation; state contract prohibited.

Sec. 19f.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member meets 1 or more of the following:

(i) The member is 60 years of age or older and has 10 or more years of credited service.

(ii) The member is 55 years of age or older and has 15 or more years of credited service.

(iii) The member is 50 years of age or older and has 25 or more years of credited service.

(b) The member was employed by this state for the 6-month period ending on the effective date of his or her retirement or was an employee of the state judicial council on September 30, 1996 as described in section 44a. A member who was restored to active service during that 6-month period under section 33 or a member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after March 1, 1997, but not later than April 30, 1997, stating a date, which date shall be at least 30 days after the execution and filing of the application but not later than June 1, 1997, on which he or she desires to retire. This subdivision is subject to subsection (4).

(d) The member is not employed in a covered position as defined in section 45.

(e) The member is not a conservation officer as described in section 48.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the effective date of his or her retirement, the member meets 1 or more of the following:

(i) The member is 60 years of age or older and has 10 or more years of credited service.

(ii) The member is 55 years of age or older and has 15 or more years of credited service.

(iii) The member is 50 years of age or older and has 25 or more years of credited service.

(b) The member was employed by the legislature for the 6-month period ending on the effective date of his or her retirement. A member who was restored to active service during

CAUTION! This document is from an archive and may contain outdated information.

that 6-month period under section 33 or a member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(c) The member files a written application with the retirement board, on or after December 15, 1996, but not later than April 30, 1997, stating a date, which date shall be at least 30 days after the execution and filing of the application but not later than June 1, 1997, on which he or she desires to retire.

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments.

(4) The director of a principal department may request that the effective date of retirement under subsection (1) of a member employed by that department be extended to a date not later than June 1, 1998. To make such a request, the director shall submit a written request along with the written concurrence of the member to the department of management and budget on or before April 30, 1997. Upon receipt of the written request and concurrence, the department of management and budget may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) to a date not later than December 31, 1998. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative council, and upon written concurrence of the member, the effective date of retirement for that member under subsection (2) may be extended to a date not later than December 31, 1998. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member under subsection (1) may be extended to a date not later than December 31, 1998. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement systems of all extensions approved on or before April 30, 1997.

(5) Upon his or her retirement as provided in this section, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(6) An employee who retires under this section may not be hired under contract by the state for a period of 2 years after the date of separation.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 1997, Act 3, Imd. Eff. Apr. 15, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.19g Member meeting certain requirements on or before November 1, 2002; computation of retirement allowance; payment of accumulated sick leave or annual leave; extension of effective date; participant in Tier 2.

Sec. 19g.

CAUTION! This document is from an archive and may contain outdated information.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member meets 1 or more of the following:

(i) The member's combined age and length of credited service is equal to or greater than 80 years.

(ii) The member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is within the classified state civil service, is an employee of the judicial branch, or is an individual not described in subsection (2)(b).

(c) Except as provided in section 13(8), the member was employed by this state for the 6-month period ending on the effective date of his or her retirement or was an employee of the state judicial council on September 30, 1996 as described in section 44a. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) Except as may be provided otherwise in subsection (5), the member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later. A written application submitted by a member and not withdrawn on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later, is irrevocable.

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member's combined age and length of credited service is equal to or greater than 80 years or the member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is an employee of the legislature, is an employee of the office of governor, or is an unclassified employee within the executive branch.

(c) Except as provided in section 13(8), the member was employed by this state or the legislature for the 6-month period ending on the effective date of his or her retirement. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) The member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002. A written application submitted by a member and not withdrawn on or before May 15, 2002 is irrevocable. This subdivision is subject to subsection (5).

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

CAUTION! This document is from an archive and may contain outdated information

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on or after October 1, 2002. Payments received under this subsection may not be used to purchase service credit under this act. These payments for accumulated sick leave are to be paid from funds appropriated to the appointing authority and not from funds of the retirement system. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(4) Any amount that a member retiring under this section is entitled to receive in a lump sum at retirement on account of accumulated annual leave shall be paid on or after October 1, 2002. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(5) The director of a principal department may request that the effective date of retirement under subsection (1) of a member employed by that department be extended to a date not later than February 1, 2004. To make a request under this subsection, the director shall submit a written request and the written concurrence of the member to the office of the state employer and the state budget office on or before May 31, 2002. Upon receipt of the written request and concurrence, the office of the state employer and the state budget office may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) to a date not later than February 1, 2004. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, director or chair of the legislative retirement system for a member who is an employee of the legislative retirement system, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative council, and upon written concurrence of the member, the effective date of retirement for that member under subsection (2) may be extended to a date not later than February 1, 2004. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member under subsection (1) may be extended to a date not later than February 1, 2004. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement services of all extensions approved on or before May 31, 2002.

(6) Upon his or her retirement as provided in this section, a member who did not make an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(7) Upon his or her retirement as provided in this section, a former member who made an election under section 50 to terminate membership in Tier 1 and become a qualified participant

CAUTION! This document is from an archive and may contain outdated information

in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1/4% of his or her final average compensation. Except for the calculation provided in this subsection, the former member's retirement allowance is subject to section 20. The former member's retirement allowance is not subject to reduction pursuant to section 19(2).

(8) For purposes of this section, an individual who elected to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 13, shall be considered a member of Tier 1 for the limited purpose of receiving a retirement allowance calculated under this section and paid by the retirement system.

History: Add. 2002, Act 93, Imd. Eff. Mar. 27, 2002

38.19h Payments not tax exempt and subject to certain operations of law.

Sec. 19h.

Payments made after September 30, 1991, under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

History: Add. 2002, Act 93, Imd. Eff. Mar. 27, 2002
Compiler's Notes: Enacting section 1 of Act 93 of 2002 provides:"Enacting section 1. The provisions of section 19h of the state employees' retirement act, 1943 PA 240, as added by this amendatory act, are curative and intended to correct any misinterpretation of legislative intent in the Michigan court of appeals decisions in Stone v State of Michigan, Department of Treasury, docket no. 217485, and in Liken v State of Michigan, Department of Treasury, docket no. 222588. This legislation expresses the original intent of the legislature that payments under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) of the state employees' retirement act, 1943 PA 240, MCL 38.19b, 38.19c, 38.19d, 38.19e, and 38.19f were not made by the retirement system and were not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1) of the state employees' retirement act, 1943 PA 240, MCL 38.40, are not exempt from taxation, are subject to executions, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69."

38.19i Retirement allowance; computation; accumulated sick leave; purchase of service credit; hiring under contract; limitation.

Sec. 19i.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before December 31, 2002, or on the effective date of his or her retirement, whichever is earlier, the member's combined age and length of credited service is equal to or greater than 75 years, or, if the member has at least 20 years of service credit, the member's combined age and length of credited service is equal to or greater than 65 years.

(b) The member is an employee of the legislature, is an employee of the office of governor, is an employee of the judicial system, or is an unclassified employee within the state civil service.

CAUTION! This document is from an archive and may contain outdated information.

(c) The member was employed by this state or the legislature for the 30-month period ending on December 1, 2002. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) The member executes and files a written application with the retirement board, on or after December 1, 2002, but not later than December 31, 2002, stating a date on or after January 1, 2003, but not later than February 1, 2003, on which he or she desires to retire. A member may withdraw a written application on or before January 15, 2003. A written application submitted by a member and not withdrawn on or before January 15, 2003 is irrevocable.

(e) The member is not employed in a covered position as defined in section 45.

(f) The member is not a conservation officer as described in section 48.

(2) If a member meets all of the requirements of subsection (1) except the requirement in subsection (1)(c), the member may retire and receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on or after February 1, 2003. Payments received under this subsection may not be used to purchase service credit under this act. These payments for accumulated sick leave are to be paid from funds appropriated to the appointing authority and not from funds of the retirement system. These payments shall be considered taxable income under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) Upon his or her retirement as provided in this section, a member who did not make an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(5) Upon his or her retirement as provided in this section, a former member who made an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1/4% of his or her final average compensation. Except for the calculation provided in this subsection, the former member's retirement allowance is subject to section 20. The former member's retirement allowance is not subject to reduction pursuant to section 19(2).

(6) For purposes of this section, an individual who elected to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 13, shall be considered a member of Tier 1 for the limited purpose of receiving a retirement allowance calculated under this section and paid by the retirement system.

(7) An employee who retires under this section shall not be hired under contract by the state for a period of 2 years after the date of separation.

History: Add. 2002, Act 743, Imd. Eff. Dec. 30, 2002

CAUTION! This document is from an archive and may contain outdated information

38.19j Retirement; requirements; accumulated annual leave, sick leave, and deferred leave hours; forfeiture; inclusion in calculation for determination of final average compensation; extension; request; retirement allowance calculation; "incentivized retirement application period" defined.

Sec. 19j.

(1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the last day of the month preceding the effective date of his or her retirement as stated in subdivision (f), the member's combined age and length of credited service is equal to or greater than 80 years, the member's length of credited service is equal to or greater than 30 years, or the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2).

(b) The member occupies a position in the classified state civil service, has classified state civil service status, or is an individual not described in subsection (2)(b).

(c) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, or if the member is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, the member meets the requirements of subsection (6).

(d) The member is not a conservation officer as described in section 48, or if the member is a conservation officer as described in section 48, the member meets the requirements of subsection (6).

(e) The member was employed by this state or the legislature within the 6-month period ending on the first day of the incentivized retirement application period. A member who was laid off or granted an approved leave of absence from state employment within the 12-month period ending on the first day of the incentivized retirement application period is considered to have met the employment requirement of this subdivision.

(f) The member executes and files an application in a manner determined by the retirement system with the retirement board, during the incentivized retirement application period, stating a retirement allowance effective date that is on or after November 1, 2010 but not later than January 1, 2011. A member may withdraw an application on or before the close of the incentivized retirement application period. An application submitted by a member and not withdrawn on or before the close of the incentivized retirement application period is irrevocable.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the last day of the month preceding the effective date of his or her retirement as stated in subdivision (f), the member's combined age and length of credited service is equal to or greater than 80 years, the member's credited service is equal to or greater than 30 years, or the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2).

(b) The member is an employee of the legislative branch of state government without classified civil service status, is an employee of the judicial branch of state government, or is an unclassified state employee not within the classified state civil service.

(c) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, or if the member is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, the member meets the requirements of subsection (6).

CAUTION! This document is from an archive and may contain outdated information

(d) The member is not a conservation officer as described in section 48, or if the member is a conservation officer as described in section 48, the member meets the requirements of subsection (6).

(e) The member was employed by this state within the 6-month period ending on the first day of the incentivized retirement application period. A member who was laid off or granted an approved leave of absence from state employment within the 12-month period ending on the first day of the incentivized retirement application period is considered to have met the employment requirement of this subdivision.

(f) The member executes and files an application in a manner determined by the retirement system with the retirement board, during the incentivized retirement application period, stating a retirement allowance effective date that is on or after November 1, 2010 but not later than January 1, 2011. A member may withdraw an application on or before the close of the incentivized retirement application period. An application submitted by a member and not withdrawn on or before the close of the incentivized retirement application period is irrevocable.

(3) Notwithstanding any other provision of this act, a member retiring under this section agrees that any amount that he or she would otherwise be entitled to receive at retirement on account of accumulated annual leave, sick leave, and other deferred leave hours shall not be paid to the member and shall be forfeited. The value of accrued annual leave up to 240 hours and the value of voluntary and involuntary pay reduction plan B for services rendered on or before October 1, 1981, forfeited under this subsection by a member shall be included in the calculation for the purposes of determining "final average compensation" for that member under this section. This subsection does not apply to banked leave time.

(4) The director of a principal department of the executive branch of state government may request that the effective date of retirement under subsection (1) or (2) of a member employed by that department be extended to a date not later than July 1, 2011. To make a request under this subsection, the director shall submit a written request and the written concurrence of the member to the director of the office of the state employer and the state budget director on or before the close of the incentivized retirement application period. Upon receipt of the written request and concurrence, the director of the office of the state employer and the state budget director may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) or (2) to a date not later than July 1, 2011. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, director or chair of the legislative retirement system for a member who is an employee of the legislative retirement system, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative council, and upon written concurrence of the member, the effective date of retirement for that member may be extended to a date not later than July 1, 2011. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member may be extended to a date not later than July 1, 2011. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement services of all extensions approved on or before October 29, 2010.

CAUTION! This document is from an archive and may contain outdated information

(5) Upon his or her retirement as provided in this section, a member with a retirement allowance effective date on or before January 1, 2011 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation if the member's final average compensation is $90,000.00 or less, and the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2). If the member has a retirement allowance effective date on or before January 1, 2011, the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2), and that member has a final average compensation that is greater than $90,000.00, the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation up to a final average compensation of $90,000.00 and the remaining portion of the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over $90,000.00. For members eligible under this section because the member's combined age and length of credited service is equal to or greater than 80 years or because the member's length of credited service is equal to or greater than 30 years, upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before January 1, 2011 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of the member's final average compensation if the final average compensation is $90,000.00 or less. For members eligible to retire under this section because the member's combined age and length of credited service is equal to or greater than 80 years or because the member's length of credited service is equal to or greater than 30 years whose final average compensation is greater than $90,000.00, the retirement allowance shall be calculated so that the member receives a portion of his or her retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of his or her final average compensation up to a final average compensation of $90,000.00 and the remaining portion of the retirement allowance shall be calculated as equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over $90,000.00. No additional increase in multiplier shall be used based on an extension under subsection (4).

(6) A member who is a conservation officer as described in section 48 or a member who is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 may make the election and be eligible for a retirement allowance under this section if the member meets the eligibility requirements of this section. A member who meets the eligibility requirements and makes an election under this section shall receive a retirement allowance calculated under this section and shall not be eligible for any supplemental benefit that he or she may have been eligible for had he or she retired under sections 45 to 48.

(7) Any additional costs to the retirement system as a result of the retirement allowance calculations under this section shall be amortized over a 5-year period.

(8) As used in this section, "incentivized retirement application period" means the period beginning on the effective date of the amendatory act that added this section and ending on November 5, 2010 at 5 p.m. eastern standard time unless the member selects a retirement allowance effective date of November 1, 2010. If the member selects a retirement allowance effective date of November 1, 2010, then the incentivized retirement application period ends on October 22, 2010 at 5 p.m. eastern daylight time.

History: Add. 2010, Act 185, Imd. Eff. Sept. 30, 2010

Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. If any section or

CAUTION! This document is from an archive and may contain outdated information.

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."

38.20 Computation of retirement allowance; right to elect option; retirement before age 65; death of retirant; separation from service; department of mental health employee termination; recalculation and payment of retirement allowance; eligibility of state accident fund or Michigan biologic products institute employees to health care benefits and certain rights, privileges, and benefits.

Sec. 20.

(1) Subject to section 20j, upon his or her retirement, as provided for in section 19, 19a, 19b, 19c, 19d, or 19e, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. The member's retirement allowance is subject to subsection (3). Upon his or her retirement, the member may elect an option provided for in section 31(1).

(2) Pursuant to rules promulgated by the retirement board, a member who retires before becoming 65 years of age may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable up to his or her attainment of 65 years of age and a reduced retirement allowance payable after his or her attainment of 65 years of age. His or her increased retirement allowance payable up to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount. In addition, upon retirement the member may elect an option provided for in section 31(1).

(3) If a retirant dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the retirant's accumulated contributions credited to the retirant in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of retirement allowance received by him or her shall be paid to the person or persons that he or she nominated by written designation executed and filed with the retirement board. If the person or persons do not survive the retirant, then the difference, if any, shall be paid to the retirant's legal representative or estate. Benefits shall not be paid under this subsection on account of the death of the retirant if he or she elected an option provided for in section 31(1).

(4) If a member has 10 or more years of credited service, or has 5 or more years of credited service as an elected officer or in a position in the executive branch or the legislative branch excepted or exempt from the classified state civil service as provided in section 5 of article XI of the state constitution of 1963, and is separated from the service of the state for a reason other than retirement or death, he or she shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a retirement allowance provided for in this section. If a former employee of the state accident fund who had 5 or more years of service as an employee of the state accident fund returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service before receiving a retirement allowance under this act. If a former employee of the Michigan biologic products institute who is eligible to and has elected to purchase additional credited service pursuant to section 17l(2) returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service, without regard to the additional credited service purchased pursuant to section 17l(2) but including any credited service authorized under section 16, before receiving a retirement allowance under

CAUTION! This document is from an archive and may contain outdated information.

this act. If the member withdraws all or part of his or her accumulated contributions, he or she ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon his or her written application to the retirement board as provided in section 19(1). If a member elects an option as provided under section 31(4), but dies before the effective date of his or her retirement, the option elected by the member shall be carried out, and the beneficiary of the member is entitled to all advantages due under that option.

(5) A person who is a member after January 1, 1981, who has at least 5 years of credited service, and whose employment with the department formerly known as the department of mental health is terminated by reason of reduction in force related to deinstitutionalization that may or may not result in facility closure, shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a service retirement allowance as provided in this subsection. As used in this subsection, "deinstitutionalization" means planned reduction of state center or hospital beds through placement of individuals from the hospital or facility, or through limiting admissions to centers and hospitals, or both. If a member withdraws all or part of the member's accumulated contributions, the member ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon written application to the retirement board. The application shall specify a date on which the member desires to retire. Upon retirement, the member shall receive a retirement allowance equal to the number of years and fraction of a year of credited state service multiplied by 1-1/2% of the member's final average compensation. Upon retirement, the member may elect an option provided in section 31(1). If the member elects an option provided for in section 31(4), but dies before the effective date of retirement, the option elected by the member shall be carried out, and a beneficiary of the member is entitled to all advantages due under the option.

(6) A retirant or the beneficiary of a retirant who retired before July 1, 1974 shall have his or her retirement allowance recalculated based on the retirant's number of years and fraction of a year of credited service multiplied by 1.5% of his or her final average compensation. The retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988 and shall be the basis on which future adjustments to the allowance, including the supplement provided by section 20h, are calculated. The retirement allowance of a retirant who dies before January 1, 1988, and who did not nominate a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(7) Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance is payable for the month in which a retirement allowance ceases.

(8) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer authorized by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

(9) An employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance authorized by the Michigan biologic products institute transfer act, 1996 PA 522, MCL 333.26331 to 333.26340, and who is permitted to receive a retirement allowance under subsection (4) is eligible for

CAUTION! This document is from an archive and may contain outdated information

health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- Am. 1945, Act 177, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 351, Eff. Oct. 11, 1947 ;-- CL 1948, 38.20 ;-- Am. 1949, Act 72, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1954, Act 126, Eff. Aug. 13, 1954 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1956, Act 80, Eff. Aug. 11, 1956 ;-- Am. 1958, Act 54, Eff. Sept. 13, 1958 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1982, Act 448, Eff. Mar. 30, 1983 ;-- Am. 1984, Act 3, Eff. May 1, 1984 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 1991, Act 62, Imd. Eff. June 27, 1991 ;-- Am. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1996, Act 521, Imd. Eff. Jan. 13, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Section 2 of Act 195 of 1993 provides as follows:"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information.

38.20a Minimum retirement allowance.

Sec. 20a.

After July 1, 1968 a retirant or a member who subsequently retires under the provisions of this act and who has completed at least 10 years of service shall receive a total retirement allowance of not less than $60.00 multiplied by his or her total number of years, but not to exceed 30 years of service credited to his or her account. Effective January 1, 1988, if the annual retirement allowance of a retirant or retirement allowance beneficiary of a retirant who has 20 or more years of credited service, after recalculation as provided by sections 19(2), 20(6), and 20h, is less than $3,000.00, then the annual retirement allowance shall be increased to $3,000.00.

History: Add. 1957, Act 232, Eff. Sept. 27, 1957 ;-- Am. 1968, Act 94, Imd. Eff. June 4, 1968 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987

38.20b Increase in monthly retirement allowance; payment.

Sec. 20b.

(1) On July 1, 1972, the monthly retirement allowance payable to a retirant or beneficiary who is on the rolls for June, 1971, is increased as follows:

Effective Date of Retirement	Percent of Increase
August 1, 1970 to July 1, 1971	1
August 1, 1969 to July 1, 1970	2
August 1, 1968 to July 1, 1969	3
August 1, 1967 to July 1, 1968	4

August 1, 1966 to July 1, 1967	5
August 1, 1965 to July 1, 1966	6
August 1, 1964 to July 1, 1965	7
August 1, 1963 to July 1, 1964	8
August 1, 1962 to July 1, 1963	9
August 1, 1961 to July 1, 1962	10
August 1, 1960 to July 1, 1961	11
August 1, 1959 to July 1, 1960	12
August 1, 1958 to July 1, 1959	13
August 1, 1957 to July 1, 1958	14
July 1, 1956 to July 1, 1957	15
Any time before July 1, 1956	25

(2) The increases in retirement allowances authorized by this section shall be paid only from the excess of assets in the pension reserve fund which the legislature has been informed is sufficient to cover the increased costs involved without requiring any appropriation of state funds.

History: Add. 1971, Act 205, Eff. Mar. 30, 1972

38.20c Supplement to retirement allowance.

Sec. 20c.

(1) On July 1, 1974, the monthly retirement allowance payable to a retirant or beneficiary who was on the rolls as such for June, 1973, is supplemented as follows:

Effective Date of Retirement	Percent of Increase
July 1, 1972 to June 30, 1973	1
July 1, 1971 to June 30, 1972	2
July 1, 1970 to June 30, 1971	3
July 1, 1969 to June 30, 1970	4
July 1, 1968 to June 30, 1969	5
July 1, 1967 to June 30, 1968	6
July 1, 1966 to June 30, 1967	7
July 1, 1965 to June 30, 1966	8
July 1, 1964 to June 30, 1965	9
July 1, 1963 to June 30, 1964	10
July 1, 1962 to June 30, 1963	11
July 1, 1961 to June 30, 1962	12
July 1, 1960 to June 30, 1961	13
July 1, 1959 to June 30, 1960	14
Any time before July 1, 1959	15

CAUTION! This document is from an archive and may contain outdated information.

(2) The supplement to the retirement allowance provided by this section shall be paid only during those fiscal years for which an appropriation is made which is sufficient to cover the additional payments likely to be made.

History: Add. 1974, Act 216, Imd. Eff. July 19, 1974

38.20d Hospitalization, medical, dental, and vision coverage insurance premium; computation and allocation of cost savings; payment by retirement board; "retirant" defined.

Sec. 20d.

(1) On and after July 1, 1974, hospitalization and medical coverage insurance premium payable by any retirant or his or her beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11. The amount payable shall be in the same proportion of premium payable by the state of Michigan for the classified employees occupying positions in the state civil service. The hospitalization and medical insurance premium payable shall be paid from appropriations made for this purpose to the health insurance reserve fund sufficient to cover the premium payment needed to be made.

(2) Effective January 1, 1988, 90% of the premium payable by a retirant or the retirant's beneficiary and his or her dependents for dental coverage or vision coverage, or both, under any group plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11.

(3) The department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund premiums payable pursuant to section 68 had 1996 PA 487 not been implemented. The total amount of the cost savings, if any, shall be allocated to the health advance funding subaccount created under section 11(9).

(4) 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 68.

(5) For purposes of this section, "retirant" includes a person who retires under section 306 or 410 of the Michigan military act, 1967 PA 150, MCL 32.706 and 32.810.

History: Add. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 1996, Act 532, Imd. Eff. Jan. 13, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.20e Supplemental retirement allowance; amount; payment.

Sec. 20e.

(1) After December 31, 1980, a retirant or beneficiary of a deceased retirant whose effective date of retirement benefit payable was before July 1, 1956, shall receive a supplemental to his or her retirement allowance in an amount sufficient to produce a total retirement allowance

CAUTION! This document is from an archive and may contain outdated information.

including all other supplements and adjustments of not less than $160.00 multiplied by the retirant's total number of years of retirement service credit.

(2) A supplemental retirement allowance provided by this section shall be paid only during those fiscal years for which an appropriation is made which is sufficient to cover the additional payments likely to be made.

History: Add. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1978, Act 148, Imd. Eff. May 18, 1978 ;-- Am. 1980, Act 467, Imd. Eff. Jan. 17, 1981

38.20f Supplement to retirement allowance payable on or after September 30, 1976.

Sec. 20f.

(1) The monthly retirement allowance payable to a retirant or beneficiary on or after September 30, 1976, who was on the rolls for April 1, 1978, is supplemented as follows:

Effective Date of Retirement	Percent Supplemented	
	10-1-76	10-1-77
July 1, 1975 to June 30, 1976	1	1
July 1, 1974 to June 30, 1975	2	2
July 1, 1973 to June 30, 1974	3	3
July 1, 1972 to June 30, 1973	4	4
July 1, 1971 to June 30, 1972	5	5
July 1, 1970 to June 30, 1971	6	6
July 1, 1969 to June 30, 1970	7	7
July 1, 1968 to June 30, 1969	8	8
Before July 1, 1968	8	8

(2) The supplement to the retirement allowance provided by this section shall be paid only during those fiscal years for which an appropriation is made which is sufficient to cover the additional payments likely to be made.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 1978, Act 148, Imd. Eff. May 18, 1978

38.20g Determining rate of investment return on retirement system assets and present value of retirement allowances; calculation and reduction of distribution income; crediting distribution units to retirant or retirement allowance beneficiary; calculation and payment of distribution amount; effect of death; increase in retirement allowance; computation of cumulative increase amount; supplemental payment.

Sec. 20g.

(1) After the end of each state fiscal year, the department of management and budget shall determine the rate of investment return earned on retirement system assets during the fiscal year, based upon methods established by the retirement board.

(2) At the end of each state fiscal year, the retirement system's actuary shall determine the present value of retirement allowances to be paid after the end of the fiscal year to retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the

fiscal period. The assumed interest rate used in the determination shall be 8% per year, compounded annually.

(3) The distribution income at the end of each state fiscal year shall be equal to the product of the present value of retirement allowances determined in subsection (2) at the end of the previous fiscal year times the positive excess, if any, of the rate of investment return determined in subsection (1) exceeding 8%. The distribution income calculated pursuant to this subsection at the end of the fiscal years 1984-85 and 1985-86 shall be reduced by the costs of postretirement adjustments paid during the fiscal year pursuant to sections 20b, 20c, 20e, and 20f.

(4) After the end of each state fiscal year, each retirant and retirement allowance beneficiary in receipt of a retirement allowance at the end of the fiscal year, and whose effective date of retirement allowance preceded the beginning of that fiscal year, shall be credited with 1 distribution unit for each full year between the effective date of retirement and the end of the fiscal year and 1 distribution unit for each full year of service credit in force on the effective date of retirement. Distribution units shall not accumulate from 1 year to the next year.

(5) The distribution amount for an individual retirant or retirement allowance beneficiary shall be equal to the product of the distribution income determined in subsection (3) times the individual's number of distribution units determined in subsection (4) divided by the total number of distribution units for all eligible retirants and retirement allowance beneficiaries in receipt of retirement allowances at the end of the fiscal year. The distribution amount for an individual retirant or retirement allowance beneficiary of a retirant whose retirement allowance effective date is on or after October 1, 1987 is zero.

(6) The distribution amount for each retirant or retirement allowance beneficiary shall be payable in the form of a supplemental payment prior to the seventh month after the end of the state fiscal year. Except as provided in subsection (9), a distribution amount shall not be payable after March 31, 1988. If a retirant dies before receipt of the distribution amount, the payment shall be made to the retirant's retirement allowance beneficiary, if any. If both the retirant and the retirement allowance beneficiary die before receipt of the distribution amount, no payment shall be made.

(7) Each retirement allowance shall be increased each October 1 beginning with the later of October 1, 1988 or the first October 1 which is at least 12 months after the retirement allowance effective date. The amount of the annual increase shall be equal to 3% of the retirement allowance that would be payable as of the date of the increase without application of this subsection, except that if the member made the election permitted under section 20(2), the increase shall be based on the amount of retirement allowance that would have been paid without application of section 20(2). The annual increase shall not exceed $300.00.

(8) After the end of each state fiscal year, the cumulative increase amount shall be computed for each retirant or retirement allowance beneficiary. The cumulative increase amount shall be equal to the difference between the total retirement allowance paid during the state fiscal year and the retirement allowance that would have been payable without application of subsection (7) and section 20h. The cumulative increase amount for any retirant or retirement allowance beneficiary whose retirement allowance effective date is on or after October 1, 1987 is zero.

(9) In March of each year, beginning in March, 1989, each retirant or retirement allowance beneficiary shall be paid, in a single supplemental payment, the excess, if any, of the distribution amount over the cumulative increase amount for the previous state fiscal year. If a retirant dies before receipt of a supplemental payment, the supplemental payment shall be made to the retirant's retirement allowance beneficiary, if any. If both the retirant and the

CAUTION! This document is from an archive and may contain outdated information

retirement allowance beneficiary die before receipt of a supplemental payment, no payment shall be made.

History: Add. 1982, Act 256, Imd. Eff. Sept. 30, 1982 ;-- Am. 1984, Act 130, Imd. Eff. June 1, 1984 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987

38.20h Supplemental payments for retirants or retirement allowance beneficiaries with retirement allowance effective date before October 1, 1986; future adjustments.

Sec. 20h.

(1) Effective October 1, 1987, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary whose retirement allowance effective date was before October 1, 1986, as recalculated pursuant to section 19(2) and 20(6), is supplemented as follows:

Effective Date of Retirement	Percent of Increase
October 1, 1985 to September 30, 1986	4
October 1, 1984 to September 30, 1985	5
October 1, 1983 to September 30, 1984	6
October 1, 1982 to September 30, 1983	7
October 1, 1981 to September 30, 1982	8
October 1, 1980 to September 30, 1981	9
October 1, 1979 to September 30, 1980	10
October 1, 1978 to September 30, 1979	11
October 1, 1977 to September 30, 1978	12
October 1, 1976 to September 30, 1977	13
October 1, 1975 to September 30, 1976	14
October 1, 1974 to September 30, 1975	15
October 1, 1973 to September 30, 1974	16
October 1, 1972 to September 30, 1973	17
October 1, 1971 to September 30, 1972	18
October 1, 1970 to September 30, 1971	19
October 1, 1969 to September 30, 1970	20
October 1, 1968 to September 30, 1969	21
October 1, 1967 to September 30, 1968	22
October 1, 1966 to September 30, 1967	23
October 1, 1965 to September 30, 1966	24
October 1, 1964 to September 30, 1965	25
October 1, 1963 to September 30, 1964	26
October 1, 1962 to September 30, 1963	27
October 1, 1961 to September 30, 1962	28
October 1, 1960 to September 30, 1961	29

CAUTION! This document is from an archive and may contain outdated information.

(2) The recalculated retirement allowance shall be the basis on which future adjustments to the allowance are calculated.

(3) The supplement provided by this section shall be calculated pursuant to subsection (1), shall be based on the amount of retirement allowance that would have been paid without application of section 20(2) if the member made the election permitted under section 20(2), and shall be paid by January 1, 1988. The retirement allowance of a retirant who dies before January 1, 1988 and who has not nominated a retirement allowance beneficiary pursuant to section 31 shall not be supplemented pursuant to this section.

(4) In the case of a member who retired pursuant to section 19a, the calculation of the supplement provided by this section shall not include the benefits received under section 19a(2) or (3).

History: Add. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987

38.20i Supplement.

Sec. 20i.

Upon his or her retirement as provided for in section 19j, beginning January 1, 2011, a member shall receive a supplement for 60 months to his or her retirement allowance payments equal to 1/60 of the amount forfeited in section 19j(3). The total amount of the supplement shall also be treated in the same manner as accumulated contributions credited to the retirant in the employees saving fund for purposes of a calculation performed for this supplement in the same manner as section 20(3). The amounts in this section do not include banked leave time. The employer shall make payments to the retirement system in amounts equal to the supplement required under this section. These payments shall be made from funds appropriated to the appointing authority in a manner determined by the employer.

History: Add. 2010, Act 185, Imd. Eff. Sept. 30, 2010
Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."

38.20j Member not making election under MCL 38.50a; calculation of retirement allowance beginning April 1, 2012; items of compensation; accumulation of service credit; member making election under MCL 38.50a(1) and designation under MCL 38.50a(2); calculation of retirement allowance; items of compensation; accumulation of service credit; treatment of member as Tier 1; "attainment date" defined.

Sec. 20j.

(1) Beginning April 1, 2012, the calculation of a retirement allowance under this act for a member who did not make the election under section 50a shall include only the following items of credited service, as applicable:

(a) The years and fraction of a year of credited service accrued to that member before April 1, 2012.

(b) Credit for years of service under sections 18(1) and 49(10).

(c) Service credit that was purchased before April 1, 2012.

CAUTION! This document is from an archive and may contain outdated information

(d) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of March 31, 2012.

(2) Beginning April 1, 2012, the calculation of a retirement allowance under this act for a member who did not make the election under section 50a shall include only the following items of compensation:

(a) Compensation received by the member before April 1, 2012.

(b) Up to 240 hours of accrued annual leave paid at separation multiplied by the hourly rate of pay for the member as of March 31, 2012, which for purposes of final average compensation shall be treated as being paid on March 31, 2012.

(3) Beginning on April 1, 2012, a member who did not make the election under section 50a shall continue to accumulate years of service credit after becoming a qualified participant in Tier 2 only as necessary for the purpose of vesting in a retirement allowance and to determine when a retirement allowance under Tier 1 may begin under this act, except as otherwise provided in section 50a(7).

(4) A member who did not make the election under section 50a shall continue to be treated as a member for purposes of Tier 1, except as otherwise provided in section 50a(7) and except for the limitations on credited service and compensation as provided in subsections (1) and (2).

(5) Beginning April 1, 2012, the calculation of a retirement allowance under this act for a member who makes the election under section 50a(1) and the designation under section 50a(2) shall include only the following items of credited service, as applicable:

(a) The years and fraction of a year of credited service accrued to that member on or before the attainment date.

(b) Credit for years of service under sections 18(1) and 49(10).

(c) Service credit that was purchased on or before the attainment date.

(d) Service credit that is purchased under a payment plan pursuant to this act that was in effect as of the attainment date.

(6) Beginning April 1, 2012, the calculation of a retirement allowance under this act for a member who makes the election under section 50a(1) and the designation under section 50a(2) shall include only the following items of compensation:

(a) Compensation received by the member on or before the attainment date.

(b) Up to 240 hours of accrued annual leave paid at separation multiplied by the hourly rate of pay for the member as of the attainment date, which for purposes of final average compensation shall be treated as being paid on the attainment date.

(7) Beginning on April 1, 2012, a member who makes the election under section 50a(1) and the designation under section 50a(2) shall continue to accumulate years of service credit after becoming a qualified participant in Tier 2 only as necessary to determine when a retirement allowance under Tier 1 may begin under this act, except as otherwise provided in section 50a(7).

(8) A member who makes the election under section 50a(1) and the designation under section 50a(2) shall continue to be treated as a member for purposes of Tier 1, except as otherwise provided in section 50a(7) and except for the limitations on credited service and compensation as provided in subsections (5) and (6).

(9) As used in this section, "attainment date" means the final day of the pay period in which the member attains 30 years of credited service or the date the member terminates employment, whichever first occurs.

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of

CAUTION! This document is from an archive and may contain outdated information

retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.21 Duty disability retirement.

Sec. 21.

(1) Except as may be provided otherwise in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease shall be retired, if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's employment.

(b) The retirement board finds that the member's personal injury or disease is the natural and proximate result of the member's performance of duty.

(c) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the member should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.21 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

CAUTION! This document is from an archive and may contain outdated information.

38.22 Retirement for disability at age 60; service retirement allowance; crediting 10 years of service.

Sec. 22.

Upon retirement for disability, as provided in section 21, a member who has attained age 60 shall receive a service retirement allowance as provided for in section 20. Notwithstanding that he or she may not have 10 years of credited service, he or she shall be credited with 10 years of service.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.22 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987

38.23 Retirement for disability before attaining age 60; benefits.

Sec. 23.

(1) Upon retirement for disability as provided in section 21, a member who is less than 60 years old shall receive a disability retirement allowance calculated under section 20(1). A disability retirement allowance payable under this subsection is payable beginning on the first day of the month following the date the member becomes totally incapacitated for state

employment. A disability retirement allowance payable under this subsection shall not be paid before the first day of the month after the later of the following:

(a) Twelve months before the date the application for a disability retirement allowance was filed with the retirement system under section 21.

(b) The date the disability retirant's name last appeared on the state payroll with pay.

(2) Upon attaining age 60 years, a disability retirant under subsection (1) shall receive a retirement allowance calculated under section 20. For the purpose of calculating that retirant's retirement allowance, the retirant shall be given membership service credit for the period during which the retirant was receiving the disability retirement allowance provided for in subsection (1). If the computation results in a retirement allowance less than the disability retirement allowance provided in subsection (1), the retirant shall receive a retirement allowance equal to the disability retirement allowance provided in subsection (1). Upon attaining age 60, the retirant may elect an option provided for in section 31(1).

(3) During the period a disability retirant is receiving a disability retirement allowance under subsection (1), the retirant's contributions to the employees' savings fund shall be suspended and the balance in the fund, that is credited to the retirant as of the date the disability retirement allowance begins, shall remain in the savings fund and shall be accumulated at regular interest. Upon attaining age 60 years, the disability retirant's accumulated contributions shall be transferred from the employees' savings fund to the pension reserve fund. If the disability retirant should die before attaining age 60 years, the accumulated contributions standing to the disability retirant's credit in the employees' savings fund shall be paid to the person or persons the disability retirant nominated by written designation executed and filed with the retirement system, or if there is not a designated person or persons surviving, then to the disability retirant's legal representative or estate.

(4) The disability retirement allowance payable to a disability retirant under this section shall not be less than $6,000.00 per year. A disability retirement allowance first payable to a disability retirant under this section shall not be more than an amount that when added to the worker's compensation benefits payable to the disability retirant exceeds the disability retirant's final compensation.

(5) If the disability retirant who retired under section 21 dies before reaching age 60, the retirement allowance payable to the beneficiary designated by the disability retirant shall be calculated as provided in section 20(1). For the purpose of calculating the retirement allowance payable to the beneficiary designated by the disability retirant, the deceased retirant shall be given membership service credit for the period during which the retirant was receiving the disability retirement allowance provided for in subsection (1).

(6) The receipt of a disability retirement allowance under this section is subject to sections 33 and 34.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.23 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1954, Act 126, Eff. Aug. 13, 1954 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1978, Act 91, Imd. Eff. Mar. 31, 1978 ;-- Am. 1983, Act 157, Imd. Eff. July 24, 1983 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 2004, Act 109, Imd. Eff. May 20, 2004

38.24 Non-duty disability retirement.

Sec. 24.

CAUTION! This document is from an archive and may contain outdated information

(1) Except as may otherwise be provided in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the member's performance of duty may be retired if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's state employment.

(b) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the member should be retired.

(c) The member has been a state employee for at least 10 years.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.24 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002

CAUTION! This document is from an archive and may contain outdated information.

38.25 Retirement for disability.

Sec. 25.

Upon retirement for disability, as provided in section 24, a member shall receive a retirement allowance computed in accordance with section 20(1). The retirement allowance or pension provided shall not be less than $600.00 per annum. Upon retirement, the member may elect an option provided for in section 31(1).

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.25 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986

38.26 Repealed. 1955, Act 237, Eff. Oct. 24, 1955.

Compiler's Notes: The repealed section provided for non-duty disability retirement allowance to public employees before age 60.

38.27 Death resulting from personal injury or disease arising out of and in course of state employment; survivor benefits.

Sec. 27.

(1) Except as provided in subsections (3), (4), and (5), if a member dies as a result of a personal injury or disease arising out of and in the course of his or her employment with the state and the personal injury or disease resulting in death is found by the retirement board to have been the sole and exclusive result of employment with the state, the surviving spouse shall receive a retirement allowance calculated as if the deceased member had retired effective the day before the date of death, elected option A under section 31(1), and nominated his or her spouse as retirement allowance beneficiary. The retirement allowance shall be calculated

under section 20(1) based upon the amount of the deceased member's credited service. If the deceased member does not have the minimum number of years of credited service needed to vest in the retirement system, the amount of service necessary to reach that amount of credited service shall be granted.

(2) The retirement allowance payable to a surviving spouse under this section shall not be less than $6,000.00 per year. The retirement allowance first payable to a surviving spouse under subsection (1) shall not be more than an amount that, when added to the statutory worker's disability compensation benefits payable to the surviving spouse of the deceased member, equals the deceased member's final compensation.

(3) If the requirements of subsection (1) are met but the deceased member is survived by a spouse and a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be payable as follows:

(a) One-half to the surviving spouse.

(b) One-half to the surviving child or children under 21 years of age, in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any. When there are no surviving children entitled to a share of the retirement allowance under this subsection, the children's share shall revert to the surviving spouse.

(4) If the requirements of subsection (1) are met and the deceased member is not survived by a spouse but is survived by a child or children under 21 years of age, then the retirement allowance calculated under subsections (1) and (2) shall be paid to the surviving child or children in equal shares. The retirement allowance payable to a surviving child under this subsection shall terminate upon that child's marriage, death, or becoming 21 years of age, whichever occurs first. That child's share of the terminated retirement allowance shall be redistributed among the remaining children under 21 years of age, if any.

(5) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. Subject to section 20j, the allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 31(1)(a), and nominated the surviving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.27 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1954, Act 126, Eff. Aug. 13, 1954 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1986, Act 25, Imd. Eff. Mar. 10, 1986 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 2004, Act 109, Imd. Eff. May 20, 2004 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information.

38.27a Retirement allowances granted under MCL 38.27; adjustment.

Sec. 27a.

(1) Beginning with retirement allowance payments due on or after June 1, 2004, retirement allowances granted under section 27 that began before the effective date of the amendatory act that added this section shall be adjusted as provided in this section.

(2) Except as otherwise provided in this section, a retirement allowance shall not be less than $6,000.00 per year.

(3) A portion of a retirement allowance payable to a surviving child or parent shall not be less than that portion of a retirement allowance that the child or parent was entitled to receive under section 27 before the effective date of the amendatory act that added this section.

History: Add. 2004, Act 109, Imd. Eff. May 20, 2004

38.28 Withdrawal of member before retirement; refund of contributions; restoration on re-employment; court administrator.

Sec. 28.

Should a member cease to be an employee before attaining age 60 years, or after attaining such age but before becoming eligible for a retirement allowance, for any reason except his retirement or death, or should a member be granted military leave as prescribed by the rules of the civil service commission, he shall be paid his accumulated contributions standing to his credit in the employees' savings fund, as he shall demand in writing upon forms furnished by the retirement board, subject to section 30. Any person who has withdrawn his accumulated contributions, as provided for in this section, and who again becomes a member, may restore to the employees' savings fund the amount previously withdrawn by him, together with regular interest from the date of withdrawal to the date of repayment. If the constitutional court administrator becomes a member of the judges' retirement system established by Act No. 198 of the Public Acts of 1951, as amended, being sections 38.801 to 38.830 of the Compiled Laws of 1948, he shall thereupon cease to be a member of this retirement system, regardless of his age, and his accumulated contributions standing to his credit in the employees' savings fund shall be returned to him.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.28 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1965, Act 267, Imd. Eff. July 21, 1965

38.29 Death before retirement; refund of contributions.

Sec. 29.

Should a member die before his service retirement becomes effective, the accumulated contributions standing to his credit in the employees' savings fund, at the time of his death, shall be paid, except as otherwise provided in this act, to such person or persons as he shall have nominated by written designation duly executed and filed with the retirement board, or if there be no such designated person or persons, then to his legal representative.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.29 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955

38.30 Withholding refund of contributions.

CAUTION! This document is from an archive and may contain outdated information.

Sec. 30.

Board may withhold refunds of contributions. The retirement board may, in its discretion, withhold payment of all or part of a member's contributions for not more than 6 months after a member has ceased to be an employe.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.30

38.31 Election of regular retirement allowance or reduced retirement allowance; payment options; designation of beneficiary; effect of beneficiary's death or divorce; request by nonduty disability retirant to change elections; death of member before effective date of retirement.

Sec. 31.

(1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in this act, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retirant and a retirement allowance beneficiary, pursuant to 1 of the following payment options:

(a) Option A. Upon the retirant's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retirant's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(c) Option C. On and after January 1, 2000, upon the retirant's death, 3/4 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsections (3) and (8), the election of a payment option under subsection (1) shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retirant or member.

(3) If the retirement allowance beneficiary named under a payment option under subsection (1) predeceases the retirant, the retirant's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retirant whose effective date of retirement was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance

CAUTION! This document is from an archive and may contain outdated information

beneficiary predeceased the retirant is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration executed and filed with the retirement board elect option A, provided for in subsection (1)(a), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. If the beneficiary's death or divorce from the member occurs before the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B or C as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies before the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

(5) If a member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance.

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retirant who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retirant and the retirant's spouse pursuant to the provisions of a payment option as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retirant had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retirant shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the

CAUTION! This document is from an archive and may contain outdated information.

month in which the retirant makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retirant was married on the effective date of his or her disability retirement allowance and on the date the retirant makes the election pursuant to this subsection.

(7) If a member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit, or on and after the date he or she becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, and who does not have an election of option A in force as provided in subsection (4), dies before the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid pursuant to section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death. If the other requirements of this subsection are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance that would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, which occurs first.

(8) If a retirant receiving a reduced retirement allowance under a payment option under subsection (1) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under the option, the election of the payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the payment option under subsection (1) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a payment option under subsection (1) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a regular retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a regular retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.31 ;-- Am. 1949, Act 72, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1968, Act 111, Eff. Nov. 15, 1968 ;-- Am. 1974, Act 216, Imd. Eff.

CAUTION! This document is from an archive and may contain outdated information

July 19, 1974 ;-- Am. 1976, Act 176, Imd. Eff. June 29, 1976 ;-- Am. 1985, Act 151, Imd. Eff. Nov. 12, 1985 ;-- Am. 1986, Act 1, Imd. Eff. Jan. 28, 1986 ;-- Am. 1990, Act 110, Eff. Apr. 1, 1991 ;-- Am. 1990, Act 177, Imd. Eff. July 2, 1990 ;-- Am. 1991, Act 48, Imd. Eff. June 27, 1991 ;-- Am. 1998, Act 205, Eff. Aug. 1, 1998 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002

38.32 Remarriage of surviving spouse.

Sec. 32.

The remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive a retirement allowance described in section 27 or 31(c). A surviving spouse whose retirement allowance described in section 27 or 31(c) was terminated due to the surviving spouse's remarriage shall be eligible to receive that 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 allowance attributable to any month beginning before the month of reinstatement under this section.

History: Add. 1986, Act 25, Imd. Eff. Mar. 10, 1986
Compiler's Notes: Former MCL 38.32, providing that retirement benefits be offset by workmen's compensation or similar benefits, was repealed by Act 237 of 1955.

CAUTION! This document is from an archive and may contain outdated information.

38.33 Disability retirant under age 60; medical examination required; reduction of retirement allowance on account of gainful employment.

Sec. 33.

(a) The retirement board may, and upon the application of anyone retired pursuant to section 21, 24, or 67a shall, require anyone retired under section 21, 24, or 67a who has not attained age 60 years to undergo a medical examination. The retirement board shall not require a person retired under section 21, 24, or 67a to undergo more than 1 medical examination in any calendar year. The examination is to be made by or under the direction of the medical advisor at the retirant's place of residence or other place mutually agreed upon. Should anyone retired under section 21, 24, or 67a who has not attained age 60 years refuse to submit to the medical examination, his or her disability retirement allowance or supplemental benefit provided for in section 67a may be discontinued until his or her withdrawal of the refusal. If the refusal continues for 1 year, all rights in and to his or her disability retirement allowance or supplemental benefit provided for in section 67a may be revoked by the retirement board. If upon the medical examination of a person retired under section 21, 24, or 67a, the medical advisor reports and his or her report is concurred in by the retirement board, that the person retired under section 21, 24, or 67a is physically capable of resuming employment, he or she shall be restored to active service with the state and his or her disability retirement allowance or supplemental benefit provided for in section 67a shall cease.

(b) If the secretary reports and certifies to the retirement board that a person retired under section 21, 24, or 67a is engaged in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her final compensation, and if the retirement board concurs in the report, then his or her retirement allowance shall be reduced to an amount which together with the amount earned by him or her shall equal his or her final compensation. Should the earnings of the person retired under section 21, 24, or 67a be later changed, the amount of his or her retirement allowance shall be further modified in like manner.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.33 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2004, Act 109, Imd. Eff. May 20, 2004

38.34 Disability retirant; reinstatement to service, service credits allowable.

Sec. 34.

A disability retirant who has been or shall be reinstated in active service, as provided in section 33, shall from the date of such reinstatement again become a member of the retirement system. Upon reinstatement of such disability retirant to active service, any balance he may have in the pension reserve fund at the time of such reinstatement to active service, shall be transferred from the pension reserve fund to the employees' savings fund and credited to his individual account in the employees' savings fund. Any service, on the basis of which his retirement allowance was computed at the time of his retirement, shall be restored to full force and effect, and, except in the case of retirement for non-duty disability as provided in section 24, he shall be given service credit for the period of time he was out of service due to such disability.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- CL 1948, 38.34 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955

38.35 Contribution of 3% of employee compensation to funding account; "funding account" defined; refund of amounts contributed under subsection (1).

Sec. 35.

(1) Beginning with the first pay date after November 1, 2010 and ending no later than the second pay date after the effective date of the amendatory act that added this phrase, each member and each qualified participant shall contribute an amount equal to 3.0% of the member's or qualified participant's compensation to the appropriate funding account established under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747. The member and qualified participant contributions shall be deducted by the employer and remitted as employer contributions to the funding account in a manner that the state budget office and the retirement system shall determine. The state budget office and the retirement system shall determine a method of deducting the contributions provided for in this section from the compensation of each member and qualified participant for each payroll and each payroll period. As used in this subsection, "funding account" means the appropriate irrevocable trust created in the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, for the deposit of funds and the payment of retirement health care benefits.

(2) On or before the beginning date for member contributions under section 35a(1), the state or the retirement system shall refund to members, former members, qualified participants, and former qualified participants who contributed under subsection (1) all amounts contributed under subsection (1), including any actual interest earned on those contributions while being held by this state or the retirement system. The refund shall be included in a payroll warrant issued to that member or qualified participant, or in a separate check issued to that former member or former qualified participant. The state or the retirement system shall permit each member or qualified participant who contributed under subsection (1) to make an election before the payment of the refund to defer his or her refund to an appropriate tax-deferred account.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 2010, Act 185, Imd. Eff. Sept. 30, 2010 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."Former MCL 38.35, which pertained to payroll deduction of contributions to employees' savings fund, was repealed by Act 216 of 1974, Imd. Eff. July 19, 1974.Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.35a Election under MCL 38.50a; contribution.

Sec. 35a.

(1) Beginning with the first pay date after April 1, 2012 and ending upon the member's termination of employment or attainment date, as applicable under section 50a, each member who made the election under section 50a shall contribute an amount equal to 4% of his or her compensation to the employees' savings fund to provide for the amount of retirement allowance that is calculated only on the credited service and compensation received by that member after March 31, 2012. The member shall not contribute any amount under this subsection for any years of credited service accrued or compensation received before April 1, 2012.

(2) The retirement system and state budget director shall determine a method of deducting the contributions provided for in this section from the compensation of each member for each payroll and each payroll period.

(3) The state shall pick up the member contributions required by subsection (1) for all compensation received on or after April 1, 2012. 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.

(4) A member is entitled to the benefit of all contributions made under this section in the same manner as provided under section 11(2).

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.36, 38.37 Repealed. 1974, Act 216, Imd. Eff. July 19, 1974.

Compiler's Notes: The repealed sections pertained to payroll deduction of contributions to employees' savings fund.

38.38 Annual level percent of payroll contribution rate; determination; basis; report; computation; amortization of unfunded actuarial accrued liability; annual appropriation to retirement system; transfer of funds; certification; difference between actual state contributions and product of contribution rates times aggregate compensations paid; submitting difference between estimated and actual aggregate compensation and estimated and actual contribution rate to legislature for appropriation; interest; deposit to health advance funding subaccount.

Sec. 38.

(1) The annual level percent of payroll contribution rate to finance the benefits provided under this act shall be determined by actuarial valuation pursuant to subsections (2) and (3), upon the basis of the risk assumptions adopted by the retirement board with approval of the department of technology, management, and budget, and in consultation with the investment counsel and the actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. The actuary shall report to the legislature by April 15 of each year on the actuarial condition of the retirement system as of the end of the previous fiscal year and on the projections of state contributions for the next fiscal year. The actuary shall certify in the report that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used fall within the range of reasonable and prudent assumptions and cost estimates. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The contribution rate for monthly benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using an individual projected benefit entry age normal cost method of valuation.

(3) Except as otherwise provided in this subsection, the contribution rate for benefits shall be computed using an individual projected benefit entry age normal cost method of valuation. For the 1995-96 state fiscal year and for each subsequent fiscal year in which the actuarial accrued liability for health benefits is less than 100% funded, the contribution rate for benefits provided under section 20d shall be computed using a cash disbursement method with the payment schedule for the employer being based upon and applied to the combined payrolls of the employees who are members and qualified participants. Beginning in the fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount created under section 11(9), and continuing for each subsequent fiscal year, the contribution rate for health benefits provided under section 20d shall be computed using an individual projected benefit entry age normal cost method of valuation. The contribution rate for service that may be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The unfunded actuarial accrued liability shall be equal to the actuarial present value of benefits reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. Except as otherwise provided in this subsection, the unfunded actuarial accrued liability shall be amortized in accordance with generally accepted governmental accounting standards over a period equal to or less than 40 years, with the payment schedule for the employer being based upon and applied to the combined payrolls of the employees who are members and qualified participants.

CAUTION! This document is from an archive and may contain outdated information

(4) The legislature annually shall appropriate to the retirement system the amount determined pursuant to subsections (2) and (3). The state treasurer shall transfer monthly to the retirement system an amount equal to the product of the contribution rates determined in subsections (2) and (3) times the aggregate amount of active member or qualified participant compensation, as appropriate, paid during that month. Not later than 60 days after the termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department of technology, management, and budget the actual aggregate compensations paid to active members and qualified participants during the preceding state fiscal year. Upon receipt of that certification, the director of the department of technology, management, and budget shall compute the difference, if any, between actual state contributions received during the preceding state fiscal year and the product of the contribution rates determined in subsections (2) and (3) times the aggregate compensations paid to active members or qualified participants, as appropriate, during the preceding state fiscal year. Except as otherwise provided in subsection (5), the difference, if any, shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(5) For differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (4), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(6) For each fiscal year that begins on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section for each fiscal year demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the annual level percent of payroll contribution rate as determined pursuant to subsections (1), (2), and (3) may be deposited into the health advance funding subaccount created under section 11(9).

(7) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund 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: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.38 ;-- Am. 1953, Act 196, Eff. Oct. 2, 1953 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1979, Act 73, Imd. Eff. July 31, 1979 ;-- Am. 1980, Act 483, Imd. Eff. Jan. 20, 1981 ;-- Am. 1982, Act 316, Imd. Eff. Oct. 18, 1982 ;-- Am. 1984, Act 130, Imd. Eff. June 1, 1984 ;-- Am. 1987, Act 57, Imd. Eff. June 23, 1987 ;-- Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987 ;-- Am. 1991, Act 62, Imd. Eff. June 27, 1991 ;-- Am.

CAUTION! This document is from an archive and may contain outdated information

1993, Act 15, Imd. Eff. Apr. 14, 1993 ;-- Am. 1993, Act 180, Imd. Eff. Sept. 29, 1993 ;-- Am. 1994, Act 273, Imd. Eff. July 11, 1994 ;-- Am. 1996, Act 279, Imd. Eff. June 17, 1996 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2007, Act 16, Imd. Eff. June 6, 2007 ;-- Am. 2010, Act 185, Imd. Eff. Sept. 30, 2010 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.39 Repealed. 1982, Act 316, Imd. Eff. Oct. 18, 1982.

Compiler's Notes: The repealed section pertained to payment of appropriation into employer's accumulation fund.

CAUTION! This document is from an archive and may contain outdated information.

38.39a Reserves for retirement allowances; legislative determination of funds from which appropriations made.

Sec. 39a.

In the making of appropriations required under the provisions of sections 38 and 39, the appropriations by the legislature meeting employer's contributions covering employees, to the extent of compensation, now or hereafter paid from the general fund, and any other special fund, shall be made from the fund or funds in such amounts as the legislature determines.

History: Add. 1944, 1st Ex. Sess., Act 3, Imd. Eff. Feb. 16, 1944 ;-- CL 1948, 38.39a ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974

38.40 Allowances, benefits, and other rights; exemption from taxation; subject to tax beginning January 1, 2012; subject to public employee retirement benefit protection act.

Sec. 40.

(1) Except as otherwise provided in this section, the right of a person to a pension, an annuity, a retirement allowance, and any optional benefit and any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds are exempt from any state, county, municipal, or other local tax.

(2) Beginning January 1, 2012, the right of a person to a pension, an annuity, a retirement allowance, and any optional benefit, and any other right accrued or accruing to any person under the provisions of this act, is subject to state tax upon distribution to the person from the various funds created by this act.

(3) The right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds is subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.40 ;-- Am. 1985, Act 35, Imd. Eff. June 13, 1985 ;-- Am. 1991, Act 48, Imd. Eff. June 27, 1991 ;-- Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002 ;-- Am. 2011, Act 41, Imd. Eff. May 25, 2011

38.41 Correction of errors in payment of retirement allowances.

Sec. 41.

Should any change or error in the records result in any member, retirant or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member, retirant or beneficiary was correctly entitled shall be paid.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.41 ;-- Am. 1955, Act 237, Imd. Eff. June 21, 1955

38.42 Retirement system records; falsification, penalty.

Sec. 42.

Penalty for false statements. Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a misdemeanor and shall upon conviction thereof be fined not less than $10.00 nor more than $100.00.

History: 1943, Act 240, Eff. July 30, 1943 ;-- CL 1948, 38.42

CAUTION! This document is from an archive and may contain outdated information.

38.43 Repealed. 1997, Act 148, Eff. Jan. 30, 1998.

Compiler's Notes: The repealed section pertained to contributions made to dissolved authority and transfer to retirement plan of successor agency.

38.44 Rights, privileges, and benefits of vested employee.

Sec. 44.

(1) An employee of the state accident fund who was vested in the state retirement system on or before the effective date of the transfer authorized by section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the effective date of the transfer.

(2) An employee of the Michigan biologic products institute who was vested in the state retirement system on or before the effective date of the conveyance authorized by the Michigan biologic products institute transfer act is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the effective date of the conveyance.

(3) An employee of the liquor control commission created by section 5 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.5 of the Michigan Compiled Laws, who was vested in the state retirement system on or before the date the privatization of the distribution of spirits within this state is effectuated

pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission is entitled to all of the rights, privileges, and benefits provided by this act accrued as of the date the privatization is effectuated.

History: Add. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1996, Act 521, Imd. Eff. Jan. 13, 1997
Compiler's Notes: Section 2 of Act 195 of 1993 provides as follows:"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

38.44a Member employed by state judicial council.

Sec. 44a.

(1) An individual who was a member on September 30, 1996 by virtue of his or her employment by the state judicial council shall continue to be a member on and after October 1, 1996 if all of the following requirements are met:

(a) The individual is employed by the Wayne county judicial council, if created, by the Detroit judicial council, if created, or by the city of Detroit or Wayne county performing judicial duties in the circuit court in the third judicial circuit, in the recorder's court of the city of Detroit, or in the district court in the thirty-sixth district.

(b) The individual's employer pays to the retirement system an amount based upon the contribution rates determined under section 38, in the manner prescribed by the retirement system.

(2) By January 20, April 20, July 20, and October 20 of each year, the employer of an individual described in subsection (1) shall file with the retirement system a quarterly affidavit for the preceding 3 months. The affidavit shall certify the aggregate compensation that is reportable to the retirement system under this act, sources of contributions, and contributions required by law. Not later than October 20 of each year, the employer of an individual described in subsection (1) shall file a report with the retirement system that includes all of the following information for the preceding 12 months:

(a) A list of all individuals described in subsection (1) employed by that employer.

(b) The salary paid to each individual listed under subdivision (a).

(c) The amount of service performed by an individual listed under subdivision (a).

(d) Any other information the retirement system requires for the administration of this section.

(3) If an employer fails to submit a report or contributions, or both, according to the schedule established by the retirement system, the employer shall pay a late fee. If the employer remits contributions late, the late fee shall include interest for each day the remittance of contributions is late. The retirement system periodically may establish a late fee, which fee shall not be less than $25.00, and interest charges, which charges shall not be less than 6% per annum.

(4) The retirement system shall grant service credit for the time an individual meets the requirements established in subsection (1). An individual who continues to be a member under this section is entitled to all of the rights, privileges, and benefits provided by this act.

History: Add. 1996, Act 389, Imd. Eff. Sept. 30, 1996

CAUTION! This document is from an archive and may contain outdated information.

38.45 Definitions.

Sec. 45.

As used in this section and sections 46 and 47:

(a) "Covered position" means any of the following:

(i) On or after January 1, 1989, a position in the classified civil service with a classification of any of the following:

(A) Corrections officer.

(B) Resident unit officer.

(C) Corrections medical aide.

(D) Corrections shift supervisor.

(E) Corrections security inspector.

(F) Corrections security representative.

(G) Deputy prison warden.

(H) Departmental administrator-prison warden.

(ii) On or after January 1, 1989, a position that is assigned to a work station inside the security perimeter of a state correctional facility designated as "medium", "close", or "maximum".

(iii) On or after January 1, 1989, a position within a state correctional facility that requires the employee to be in direct contact with prisoners for more than 50% of the employee's work time performing supervisory or disciplinary duties including 1 or more of the following:

(A) Supervising prisoners in the performance of tasks.

(B) Supervising prisoners for the purpose of enforcing the facility's rules.

(C) Direct participation in the disciplinary process.

(iv) On or after January 1, 1989, a position with the center for forensic psychiatry that is classified by civil service as forensics security aide IIB, forensics security aide IIIB, forensics security supervisor IVB, forensics security supervisor VB, forensics security supervisor VIB, or forensics supervisor VII.

(v) A position that was a covered position under this section before January 1, 1989, that is excluded by subparagraphs (i) to (iv), if and only as long as the person in the position on January 1, 1989, continues in the position after January 1, 1989.

(b) "Supplemental member" means a member who is employed in a covered position.

(c) "Covered service" means credited service acquired in a covered position.

(d) "Supplemental final average compensation" means 1/3 of the compensation paid a supplemental member during the period of 3 consecutive years of the member's covered service producing the highest average and contained within the member's last 10 years of credited service immediately preceding the date the member's employment in a covered position last terminates.

(e) "State correctional facility" means a facility under the jurisdiction of the department of corrections that has a designation of "maximum", "close", "medium", "minimum", "prison camp", or "correction center".

History: Add. 1976, Act 302, Eff. Mar. 31, 1977 ;-- Am. 1978, Act 622, Imd. Eff. Jan. 6, 1979 ;-- Am. 1988, Act 351, Eff. Jan. 1, 1989 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002 ;-- Am. 2018, Act 556, Imd. Eff. Dec. 28, 2018

38.46 Retirement or separation from employment of supplemental member with supplemental early retirement allowance; conditions; determination of eligibility.

CAUTION! This document is from an archive and may contain outdated information

Sec. 46.

(1) A supplemental member may retire with a supplemental early retirement allowance as provided for in section 47 if the supplemental member meets all of the following conditions:

(a) He or she is age 51 years or older but less than age 62 years.

(b) He or she has 25 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(2) A supplemental member may be separated from employment in a covered position the first day of the calendar month following the month in which he or she attains age 56 years. A supplemental member separated under this subsection may retire with a supplemental early retirement allowance provided in section 47 if he or she satisfies each of the following conditions:

(a) He or she has not attained age 62 years.

(b) He or she has 10 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(3) The state personnel director shall determine all questions on eligibility for supplemental early retirement benefits within the meaning of sections 45 to 47.

History: Add. 1976, Act 302, Eff. Mar. 31, 1977 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002

CAUTION! This document is from an archive and may contain outdated information.

38.47 Temporary straight life supplemental early retirement allowance; payment; computation; electing optional form of payment.

Sec. 47.

(1) Upon retirement as provided in section 46, a supplemental member shall be paid a temporary straight life supplemental early retirement allowance terminating upon the supplemental member reaching age 62 years or his or her death, whichever occurs first. Prior to the effective date of retirement, the supplemental member may choose to be paid his or her retirement allowance under an optional form of payment provided in section 31(1)(a). For the purposes of this election, the provisions of section 31(1)(a) are modified to reflect the temporary nature of a supplemental early retirement allowance.

(2) Subject to section 20j, the amount of the supplemental member's temporary straight life supplemental early retirement allowance is equal to the difference between (i) 2.0% of his or her supplemental final average compensation multiplied by his or her covered service plus 1.5% of the supplemental member's final average compensation multiplied by the excess, if any, of his or her credited service over his or her covered service; and (ii) the amount of retirement allowance paid under section 20.

History: Add. 1976, Act 302, Eff. Mar. 31, 1977 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Effective Date: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.47a Report.

Sec. 47a.

The retirement board shall report to the house and senate appropriations committees not later than June 30, 2003 on the cost of transferring persons to noncovered positions if they were in covered positions with corrections centers before their positions were terminated due to the closures of the corrections centers between August 1, 1999 and August 1, 2000, if the persons continue in noncovered positions until retiring as supplemental members under sections 46 and 47 or transferred to covered positions but whose last 3 years of credited service are a combination of covered and uncovered service due to the termination of the covered positions by the closure of a corrections center.

History: Add. 2002, Act 743, Imd. Eff. Dec. 30, 2002

38.48 Conservation officers.

Sec. 48.

(1) A member who is a conservation officer may retire under this section if all of the following requirements are met:

(a) The member is a conservation officer on April 1, 1991.

(b) The member has 25 or more years of credited service, of which 20 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(2) A member who is a conservation officer may retire under this section if the member has 25 or more years of credited service, of which 23 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(3) A member may retire under subsection (1) or (2) upon written application to the retirement board stating a date upon which he or she desires to retire. Subject to section 20j, beginning on the retirement allowance effective date, he or she shall receive a retirement allowance equal to 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer. The formula for calculating a member's retirement allowance under this subsection shall never exceed the formula for calculating a retirement allowance under section 24 of the state police retirement act of 1986, 1986 PA 182, MCL 38.1624.

(4) A member who is a conservation officer may retire under this section if all of the following requirements are met:

(a) The member is a conservation officer on April 1, 1991.

(b) The member is 50 years of age or older.

(c) The member has 10 years of credited service as a conservation officer and the last 2 years of credited service are as a conservation officer.

(5) A member may retire under subsection (4) upon written application to the retirement board, on or after April 1, 1991, but not later than April 1, 1992, stating a date on which he or she desires to retire. The retirement allowance effective date shall be on or after May 1, 1991 but not later than July 1, 1992. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance equal to 2% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer times the number of years, including any fraction of a year, of service credited to the member

CAUTION! This document is from an archive and may contain outdated information.

under this act. However, a retirement allowance payable under this subsection shall not exceed 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer.

(6) Before the effective date of the retirement allowance, a member who is a conservation officer and who retires under this section shall elect to receive his or her retirement allowance under a form of payment as provided in section 31(1).

(7) Pursuant to rules promulgated by the retirement board, a member who retires under this section before becoming 65 years old may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to age 65 and a reduced retirement allowance payable after becoming 65 years old. The retirant's increased retirement allowance payable to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount.

(8) If a member who retires under this section dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the accumulated contributions standing to the retirant's account in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of the retirement allowance received by him or her shall be paid to the person or persons that the retirant has nominated by written designation duly executed and filed with the retirement board, or, if there is no such designated person or persons surviving, then to the retirant's legal representative or estate.

(9) The director of the department of natural resources, or his or her designee, shall certify to the retirement board that a member who applies to retire under this section is a conservation officer.

(10) This section does not prohibit a member who is a conservation officer and who does not meet the requirements of this section from qualifying for a retirement allowance under any other provision of this act.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 1990, Act 110, Eff. Apr. 1, 1991 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.49 Administration of retirement system as qualified pension plan under internal revenue code; requirements and benefit limitations; qualified military service.

Sec. 49.

(1) This section is enacted under section 401(a) of the internal revenue code, 26 USC 401, which 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 organization exempt from taxation under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

(2) 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 provisions 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 must not exceed the applicable limitations set forth in 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 beneficiaries, 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 applies 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 must be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and must not be used for any other purpose. The assets must 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 on retirement, under Internal Revenue Service regulations and approved Internal Revenue Service exclusion ratio tables.

(5) The required beginning date for retirement allowances and other distributions must 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, apply to this act and must 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 the retirement system.

(6) If the retirement system is terminated, the interest of the members, vested former 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, 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 retirement board, 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 after December 31, 1992. Beginning October 1, 2010, a nonspouse beneficiary may elect to have any portion of an amount payable under this act that is an eligible rollover distribution treated as a direct rollover that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or individual retirement annuity described in section 408(a) or (b) of the internal revenue code, 26 USC 408, that is established for the purpose of receiving a distribution on behalf of the beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity under section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) For purposes of determining actuarial equivalent retirement allowances under sections 31(1) and 20(2), the actuarially assumed interest rate must be determined by the director of the department of technology, management, and budget and the retirement board in consultation

CAUTION! This document is from an archive and may contain outdated information

with the actuary using the mortality tables adopted by the department of technology, management, and budget and the retirement board.

(9) Notwithstanding any other provision of this act to the contrary, the compensation of a member of the retirement system must 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, as adjusted by the commissioner of internal revenue. This subsection applies to an individual who first becomes a member of the retirement system after September 30, 1996.

(10) Notwithstanding any other provision of this act to the contrary, contributions, benefits, and service credit with respect to qualified military service must be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service after December 11, 1994. Beginning on 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 death benefits payable under this act, the member is treated as having resumed and then terminated employment because of death.

History: Add. 1995, Act 176, Imd. Eff. Oct. 17, 1995 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004 ;-- Am. 2008, Act 353, Imd. Eff. Dec. 23, 2008 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011 ;-- Am. 2018, Act 336, Imd. Eff. July 2, 2018

Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information

38.50 Election to terminate participation in Tier 1 and to participate in Tier 2; irrevocability; termination of employment; reemployment of deferred or former nonvested member; method of election; signature of spouse; waiver; election subject to eligible domestic relations order act; effect of disqualification notice from United States internal revenue service; exception.

Sec. 50.

(1) Except as otherwise provided in subsection (2), 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 68.

(2) This subsection applies to an individual who was a vested member of Tier 1 on March 30, 1997 and who terminates the employment upon which that membership is based on or after March 31, 1997 but on or before May 31, 1998. Before the termination of his or her employment, an individual described in this subsection may elect in writing to terminate membership in Tier 1 and 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 a member during the period beginning on March 31, 1997 and ending on May 31, 1998. A member described in this subsection who does not make a written election or who does not file the election before the termination of his or her employment continues to be a member or defined member of Tier 1. A member who makes and files a written election under this subsection to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 and become a qualified participant in Tier 2 effective 12 midnight on the day immediately preceding the date of the termination of employment.

(b) Become a former qualified participant in Tier 2 effective 12:01 a.m. on the day immediately following the date described in subdivision (a).

(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 date described in subdivision (a). This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 68.

(3) If an individual who was a deferred member on March 30, 1997 or an individual who was a former nonvested member on March 30, 1997 is reemployed before January 1, 2012 and by virtue of that employment 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 member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a deferred member or a former nonvested member during the period beginning on the date of the individual's reemployment and ending upon the expiration of 60 days after the date of that reemployment but no later than February 29, 2012. A deferred 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 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 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 68.

(4) After consultation with the retirement system's actuary and the retirement board, the department of technology, management, and budget shall determine the method by which a member, deferred member, or former nonvested member shall make a written election under

CAUTION! This document is from an archive and may contain outdated information

this section. If the member, deferred 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.

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

(6) If an individual who was a deferred member of the public school employees retirement system on March 30, 1997 is first employed and entered upon the payroll of his or her employer on or after March 31, 1997 and before January 1, 2012, the retirement system shall provide an opportunity for that individual to elect in writing to become a member of Tier 1 or to become a qualified participant of Tier 2. The retirement system and the individual shall follow the provisions and procedures provided in this section and by the state treasurer as if the individual were a deferred member of this retirement system on March 30, 1997.

(7) 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.

(8) This section does not apply to a deferred member or former nonvested member under subsection (3) or a deferred member of the public school employees retirement system under subsection (6) on or after January 1, 2012.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information.

38.50a Election to continue receiving credit for future service and compensation; designation; failure to make election; rescission; reemployment of former nonvested member; "attainment date" defined.

Sec. 50a.

(1) The retirement system shall permit each member who is a member on December 31, 2011 to make an election with the retirement system to continue to receive credit for any future service and compensation after March 31, 2012, for purposes of a calculation of a retirement allowance under this act. A member who makes the election under this section shall make the contributions prescribed in section 35a.

(2) As part of the election under subsection (1), the retirement system shall permit the member to make a designation that the contributions prescribed in section 35a shall be paid only until the member's attainment date. A member who makes the election under subsection (1) and who makes the designation under this subsection shall make the contributions prescribed in section 35a only until the member's attainment date. A member who makes the election under subsection (1) and who does not make the designation or rescinds the designation under this subsection shall make the contributions prescribed in section 35a until termination of employment.

(3) The retirement system shall determine a method of accepting member elections and designations under this section. The retirement system shall accept elections and designations under this section from members during an election period that begins on January 3, 2012 and ends at 5 p.m. eastern standard time on March 2, 2012. A member may rescind an election or designation on or before the close of the election period. An election or designation made by a member and not rescinded on or before the close of the election period shall not be rescinded.

(4) A member who does not make the election under this section or who rescinds an election on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 20j, beginning 12 midnight on March 31, 2012.

(b) He or she becomes a qualified participant in Tier 2 beginning 12:01 a.m. on April 1, 2012.

(c) He or she shall receive a retirement allowance calculated under section 20 that is based only on credited service and compensation allowed under section 20j(1) and (2). This subdivision does not affect a person's right to health insurance coverage provided under section 20d or credit for service provided under section 20j(3).

(5) A member who makes the election under this section and the designation under subsection (2) and who does not rescind the election and designation on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 20j, beginning 12 midnight on the member's attainment date.

(b) He or she becomes a qualified participant in Tier 2 beginning 12:01 a.m. on the day after the attainment date if he or she remains employed by this state.

(c) He or she shall receive a retirement allowance calculated under section 20 that is based only on credited service and compensation allowed under section 20j(5) and (6). This subdivision does not affect a person's right to health insurance coverage provided under section 20d or credit for service provided under section 20j(7).

(6) Except as otherwise provided in this subsection or subsection (7), a deferred member or former nonvested member who is reemployed on or after January 1, 2012 shall be treated in the same manner as a member under section 20j who did not make the election under this section and shall become a qualified participant in Tier 2. However, a deferred member or former nonvested member who, while a member, made the election under this section shall have the credited service accrued and compensation received during the time he or she made the contributions under section 35a included in the calculation of a retirement allowance under this act.

(7) A former nonvested member who is reemployed on or after January 1, 2014 is not eligible for membership in Tier 1, shall become a qualified participant in Tier 2, and shall be treated as being first employed by this state as of his or her date of reemployment.

(8) A deferred member of the public school employees retirement system who is first employed and entered upon the payroll of his or her employer on or after January 1, 2012 shall become a qualified participant in Tier 2 and shall not be treated as a member for any purpose.

(9) As used in this section, "attainment date" means that term as defined in section 20j.

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Constitutionality: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory

CAUTION! This document is from an archive and may contain outdated information.

act 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."

38.51 Transfer of lump sum amount.

Sec. 51.

(1) For a member who elects to terminate membership in Tier 1 under section 50(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under section 11 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, if any, from the employees' savings fund as of 12 midnight May 31, 1998.

(b) For a member who is vested under section 20(4) or (5) 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 employer's accumulation fund. Except as provided in subsection (7), 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 average compensation 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 retirant 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 60.

(B) Age 55, if the member's estimated credited service equals or exceeds 30 years.

(C) The age of the member if section 19(5), 46, or 48 applies.

(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 50(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 average compensation 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 employer's accumulation 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 employer's accumulation 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.

CAUTION! This document is from an archive and may contain outdated information

(3) For a member who elects to terminate membership in this retirement system under section 50(2), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under section 11 to the former 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 member's accumulated contributions, if any, from the employees' savings fund as of 12 midnight on the day immediately preceding the date of the termination of employment.

(b) 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 employer's accumulation fund. Except as provided in subsection (7), 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 average compensation as of 12 midnight on the day immediately preceding the date of the termination of employment. 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 retirant 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 day immediately preceding the date of the termination of employment. 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 day immediately preceding the date of the termination of employment:

(A) Age 60.

(B) Age 55, if the member's estimated credited service equals or exceeds 30 years.

(C) The age of the member if section 19(5), 46, or 48 applies.

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

(4) For each member who elects to terminate membership in Tier 1 under section 50(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 member's actual credited service and actual final average compensation as of 12 midnight on the day immediately preceding the date of the termination of employment. 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 employer's accumulation fund to the former 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 day immediately preceding the date of the termination of employment 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 former qualified participant's account in Tier 2 to the employer's accumulation 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 a deferred member who elects to terminate membership in this retirement system under section 50(3), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under section 11 to the qualified participant's

CAUTION! This document is from an archive and may contain outdated information

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 deferred member's accumulated contributions, if any, from the employees' 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 member's accumulated benefit obligation, over the amount specified in subdivision (a), from the employer's accumulation fund. Except as provided in subsection (7), for the purposes of this subsection, the present value of the deferred member's accumulated benefit obligation is based upon the deferred member's estimated credited service and estimated final average compensation 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 retirant 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 60.

(B) Age 55, if the deferred member's estimated credited service equals or exceeds 30 years.

(C) The age of the deferred member if section 19(5), 46, or 48 applies.

(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.

(6) For each deferred member who elects to terminate membership in Tier 1 under section 50(3), the retirement system shall recompute the amount transferred under subsection (5) not later than the expiration of 90 days after the transfer occurs under subsection (5) based upon the deferred member's actual credited service and actual final average compensation 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 (5) by $10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the employer's accumulation 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 employer's accumulation 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 (6), based upon 8% effective annual interest, compounded annually.

(7) For the purposes of subsections (1) to (6), the calculation of estimated and actual present value of the member's or deferred member's accumulated benefit obligation shall be based upon methods adopted by the department of management and budget and the retirement system's actuary in consultation with the retirement board. The retirement system shall utilize

CAUTION! This document is from an archive and may contain outdated information.

the same actuarial valuation report used to calculate the amount transferred under subsection (1), (3), or (5) when making the recomputation required under subsection (2), (4), or (6). Estimated and actual final average compensation shall be determined as provided in section 1e as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 50.

(8) For a former nonvested member who elects to terminate membership in Tier 1 under section 50(3) and who has accumulated contributions standing to his or her credit in the employees' savings fund, the retirement system shall direct the state treasurer to transfer a lump sum amount from the employees' savings fund created under section 11 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, if any, from the employees' 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.

(9) If the department of 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.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information

38.52 Calculation of accrued cost savings for each fiscal year.

Sec. 52.

After consulting the retirement system's actuary, the department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund this retirement system had 1996 PA 487 not been implemented. For each fiscal year in which a deposit under section 38(6) does not occur, the department may deposit all or part of the cost savings calculated pursuant to this section into the health advance funding subaccount created under section 11(9) by reducing the normal cost and unfunded actuarial accrued liability contribution rates as calculated pursuant to section 38, and increasing the contribution rate for benefits provided under section 20d by the same amount. However, the normal cost and unfunded accrued actuarial liability rates shall not be reduced to an amount less than zero.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.53 Meanings of words and phrases; definitions; A to C.

Sec. 53.

(1) For the purposes of this section and sections 54 to 69, the words and phrases defined in this section and sections 54 to 69 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.

(3) "Compensation" means the remuneration paid a participant on account of the participant's services rendered to his or her employer equal to the sum of the following:

(a) A participant's W-2 earnings for services performed for the employer excluding part B annual leave hours paid at separation.

(b) Any amount contributed or deferred at the election of the participant which is excluded from gross income under section 125, 132(f)(4), 401(k), 403(b), or 457 of the internal revenue code, 26 USC 125, 132, 401, 403, and 457.

(c) Beginning October 1, 2003, the value of any unpaid furlough hours and the value of any unpaid hours exchanged for part B annual leave hours calculated at the participant's then current hourly rate or rates of pay for a period during which a participant is participating in the banked leave time program.

(d) The value of hours not worked during which a participant is in a voluntary or involuntary pay reduction plan A or on 1-day layoff or designated temporary layoff calculated at the participant's then current hourly rate or rates of pay.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.54 Definitions; E to H.

Sec. 54.

(1) "Employer" means this state or, if a qualified participant is not employed by this state but is a participant in Tier 2 by virtue of his or her employment, the employer that pays his or her compensation.

(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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.55 Definitions; P to Y.

Sec. 55.

(1) "Plan document" means the document that contains the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

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

(a) Is first employed and entered upon the payroll of his or her employer on or after March 31, 1997, and who before March 31, 1997 would have been eligible to be a member of Tier 1.

(b) Elects to terminate membership in Tier 1 and elects to participate in Tier 2 in the manner prescribed in section 50.

(c) Is an adjutant general or an assistant adjutant general under the Michigan military act, 1967 PA 150, MCL 32.501 to 32.851, and who is first employed as an adjutant general or assistant adjutant general on or after January 1, 2011.

(d) Was a member who did not make the election under section 50a.

(e) Was a member who made the election under section 50a(1) and the designation under section 50a(2) and who has attained 30 years of credited service or who has terminated employment and has been reemployed by this state.

(f) Was a member as described in section 50a(6), (7), or (8).

(3) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 66 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 67.

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

(5) "Tax-deferred account" means an account or accounts of existing deferred compensation plans or plans established by the retirement system, for which the retirement system has the authority to determine the membership, eligibility, terms, conditions, and other administrative and operational features. Tax-deferred account does not include a health reimbursement account for purposes other than complying with the contribution limits described in section 68b(12).

(6) Except as otherwise provided in this subsection, "year of service" means each period during which a qualified participant is employed by the employer and is credited with 2,080 hours of service. The Tier 2 plan administrator and the plan document may provide for a lesser number of annual hours and a maximum number of hours per pay period for any classification of employees, provided that no participant shall receive credit for more than 1 year of service for any 12-month period of employment. Beginning January 1, 2003, full service credit shall also be given to a participant for furlough hours, for required 1-day layoffs, for required and designated temporary layoffs, for a year in which a participant temporarily leaves employment to enter active military duty and then dies during that active military duty, and for participation in the banked leave time program. In the event a terminated participant is reemployed, such individual shall retain credit for all full and partial years of service completed prior to such reemployment, for purposes of determining his or her vesting percentage in any employer contributions made pursuant to section 63(2) and (3) after his or her reemployment.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004 ;-- Am. 2010, Act 256, Imd. Eff. Dec. 14, 2010 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.56 State treasurer; powers and duties.

Sec. 56.

CAUTION! This document is from an archive and may contain outdated information.

(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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.57 Hearing.

Sec. 57.

(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 24.224 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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.58 Investment of employer and employee contributions and earnings; direction by participant.

Sec. 58.

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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.59 Payment of administrative expenses.

Sec. 59.

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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.60 Other public sector retirement benefits plan; participation.

Sec. 60.

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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.61 Election by elected or appointed official.

Sec. 61.

An elected or appointed official who is first elected or appointed 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 compensation under section 63 for the official who makes either election.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.62 Transfer of amount; crediting and charging participant account.

Sec. 62.

(1) The state treasurer shall promptly credit the Tier 2 account of a qualified participant or former qualified participant who makes an election under section 50 to terminate membership in Tier 1 with any amount transferred from Tier 1 pursuant to section 51.

(2) Not later than 30 days after receipt of a recomputed amount under section 51(2), (4), or (6), the state treasurer shall charge the participant's Tier 2 account for any amount of excess transfers under section 51(1), (3), or (5) and transfer that amount to the appropriate fund in

Tier 1. The state treasurer may determine which investment choice or choices within a participant's Tier 2 account will be used for this purpose.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.63 Contributions by employer and participant.

Sec. 63.

(1) This section is subject to the vesting requirements of section 64.

(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 compensation.

(3) A qualified participant may periodically elect to contribute up to 3% of his or her compensation 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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.63a Tier 2 and tax-deferred accounts; terms and conditions.

Sec. 63a.

Tier 2 and tax-deferred accounts are subject to the following terms and conditions:

(a) On or before April 1, 2012, the retirement system shall design an automatic enrollment feature that provides that unless a qualified participant who makes contributions under section 63(3) or who is described in section 68b(2) elects to contribute a lesser amount, the qualified participant shall contribute the amount required to qualify for all eligible matching contributions under this act. The retirement system shall implement this automatic enrollment feature on or after April 1, 2012, as determined by the retirement system.

(b) In addition to elective employee contributions to Tier 2 or a tax-deferred account, the state may use elective employee contributions to the state 457 deferred compensation plan as a basis for making employer matching contributions to Tier 2 or a tax-deferred account.

(c) Employer matching contributions do not have to be made to the same plan or account to which the elective employee contributions were contributed as the basis for the matching contributions.

(d) Elective employee contributions shall not be used as the basis for more than an equivalent amount of employer matching contributions.

(e) The retirement system shall design and implement a method to determine the proper allocation of employer matching contributions based on elective employee contributions as provided in this section.

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.64 Tier 2; vesting requirements.

Sec. 64.

(1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2 and employer contributions under the banked leave time program. Except as otherwise provided in this section, 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 eligible for the health insurance coverage provided in section 68 if the qualified participant meets 1 of the following requirements:

(a) The qualified participant has completed 10 years of service as a qualified participant, was not a member, deferred member, or former nonvested member of Tier 1, was first employed and entered upon the payroll of his or her employer before January 1, 2012, and did not make an election to opt out of health insurance coverage under section 68b.

(b) The qualified participant was a member, deferred member, or former nonvested member of Tier 1 who made an election to participate in Tier 2 pursuant to section 50, 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 20d.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 33, Imd. Eff. Mar. 22, 2004 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Section 2 of Act 487 of 1996 provides:“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.”Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.65 Crediting years of service accrued.

Sec. 65.

A qualified participant who was a member, deferred member, or former nonvested member of Tier 1 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 64.

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Section 2 of Act 487 of 1996 provides:“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.”Enacting section 1 of Act 264 of 2011

provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.66 Refund beneficiary.

Sec. 66.

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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

CAUTION! This document is from an archive and may contain outdated information.

38.67 Distributions of accumulated balance.

Sec. 67.

(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 487, Eff. Mar. 31, 1997
Compiler's Notes: Section 2 of Act 487 of 1996 provides:"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."

38.67a Duty disability retirement allowance; supplemental benefit; health insurance coverage; exception.

Sec. 67a.

(1) Except as otherwise provided in this section or section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease shall be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, his or her department head, or the state personnel director files an application on behalf of the member with the retirement board.

(b) The retirement board finds that the qualified participant's personal injury or disease is the natural and proximate result of the qualified participant's performance of duty.

(c) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the qualified participant should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) If the retirement board grants the application of the qualified participant under subsection (1), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided in section 23 as if the former qualified participant had retired under section 21, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(3) If a qualified participant dies as a result of a personal injury or disease arising out of and in the course of his or her employment with this state, or if a former qualified participant who retired under subsection (1) who dies before becoming age 60 and within 3 years after the former qualified participant's disability retirement from the same causes from which he or she separated, and such death or illness or injuries resulting in death are found by the retirement board to have been the sole and exclusive result of employment with this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 27 had the former qualified participant been considered retired under section 27, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 67.

(4) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a duty disability retirement allowance pursuant to subsection (1), (2), or (3), is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

(5) Except as otherwise provided in this section or section 33, a qualified participant who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the qualified participant's performance of duty may be retired if all of the following apply:

(a) Within 1 year after the qualified participant becomes totally incapacitated or at a later date if the later date is approved by the retirement board, the qualified participant, the qualified participant's personal representative or guardian, the qualified participant's department head, or the state personnel director files an application on behalf of the qualified participant with the retirement board.

CAUTION! This document is from an archive and may contain outdated information.

(b) A medical advisor conducts a medical examination of the qualified participant and certifies in writing that the qualified participant is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the qualified participant should be retired.

(c) The qualified participant has been a state employee for at least 10 years.

(6) If the retirement board grants the application of the qualified participant under subsection (5), the qualified participant shall be granted a supplemental benefit equivalent to the amount provided for in section 25 as if the qualified participant had retired under section 24. The supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(7) Except as otherwise provided in this section, if a qualified participant who has been a state employee for the number of years necessary to vest under Tier 1 dies as a result of causes occurring not in the performance of duty to this state, a supplemental benefit shall be granted equivalent to the amount provided for in section 25 had the former qualified participant been considered retired under section 24, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance as determined by the retirement system upon becoming a former qualified participant pursuant to section 67.

(8) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a disability retirement allowance pursuant to subsection (5), (6), or (7) is eligible for health insurance coverage under section 20d in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

(9) This section does not apply to a qualified participant or former qualified participant who was a member who meets the requirements of section 55(2)(d), (e), or (f).

(10) Subsections (4) and (8) do not apply to a qualified participant or former qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012.

CAUTION! This document is from an archive and may contain outdated information

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2004, Act 109, Imd. Eff. May 20, 2004 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Section 2 of Act 487 of 1996 provides:“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.”Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.68 Health insurance coverage.

Sec. 68.

(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 eligible for health benefits under section 64(2).

(b) The former qualified participant meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 51 and the service requirements that would have applied to that former qualified participant under Tier 1 for

receiving health insurance coverage under section 20d, if that former qualified participant was a member of Tier 1.

(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 20d. 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 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 20d.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is eligible for those benefits under section 64(2)(a), 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. For a former qualified participant who commenced state employment before April 1, 2010 and for his or her health benefit dependents, the portion of the health insurance coverage premium paid by this state under this subsection shall be equal to the product of 3% and the former qualified participant's years of service, up to 30 years, but shall not exceed the lesser of 90% of the payments for health insurance coverage or the portion of the health insurance coverage premiums payable by this state for a retirant, his or her beneficiary, and his or her dependents under section 20d. If the individual elects the health insurance coverage provided under section 20d, the state shall transfer its portion of the amount calculated under this subsection to the health insurance reserve fund created by section 11. For a former qualified participant who commenced state employment on or after April 1, 2010 and for his or her health benefit dependents, the portion of the health insurance coverage premium paid by this state under this subsection shall be equal to the product of 3% and the former qualified participant's years of service, up to 30 years, but shall not exceed the lesser of the portion of the health insurance coverage premiums payable by this state for a retirant, his or her beneficiary, and his or her dependents under section 20d or the portion of the health insurance coverage premiums payable by this state for a member who occupies a position in the classified state civil service or has classified civil service status commencing state employment on or after April 1, 2010.

(5) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is eligible for those benefits under section 64(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 20d. If the individual elects the health insurance coverage provided under section 20d, the state shall transfer its portion of the amount calculated under this subsection to the health insurance reserve fund created by section 11.

CAUTION! This document is from an archive and may contain outdated information.

(6) Beginning January 1, 2011, any former qualified participant or health benefit dependent who is eligible to elect health insurance coverage under this section and who previously elected coverage under a different plan than the plan authorized under section 20d may either elect coverage under this section or may at his or her own cost participate in coverage under a different plan than the plan authorized under section 20d.

(7) 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.

(8) As used in this section, "health insurance coverage" means the hospitalization and medical insurance, dental coverage, vision coverage, and any other health care insurance provided in section 20d.

(9) Subsections (1) to (8) do not apply to a qualified participant or former qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made the election to opt out of health insurance coverage under section 68b.

(10) A former qualified participant may enroll in the same retiree health care plan offered by this state and available to former qualified participants who commenced state employment on or after April 1, 2010, if he or she meets all of the following requirements:

(a) The former qualified participant made the election to opt out of health insurance coverage under section 68b or was first employed and entered on the payroll of his or her employer on or after January 1, 2012.

(b) The former qualified participant meets or exceeds the benefit commencement age as set forth in section 51(3)(b)(iii).

(c) The former qualified participant enrolls immediately on termination.

(d) The former qualified participant has not previously disenrolled from the plan.

(e) The former qualified participant pays the total cost of the plan.

CAUTION! This document is from an archive and may contain outdated information

History: Add. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2010, Act 185, Imd. Eff. Sept. 30, 2010 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Section 2 of Act 487 of 1996 provides:“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.”Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.68a Appropriation amount; purpose; work project; estimated completion date.

Sec. 68a.

In addition to the amount appropriated in part 1 of 2001 PA 83 for retirement services, there is appropriated for the fiscal year ending September 30, 2002, $2,100,000.00 in pension trust funds to the department of management and budget, retirement services, for administration of the changes created by House Bill No. 5732 of the 91st Legislature. The unexpended portion of this appropriation is considered a work project appropriation. The project will be

accomplished by the use of department personnel and contracting with private consultants with an estimated completion date of September 30, 2003.

History: Add. 2002, Act 99, Imd. Eff. Mar. 27, 2002

38.68b Participant employed on or after January 1, 2012 or making election under subsection (5) or (6); health insurance coverage; contribution to tax-deferred account; opt-out; calculation of amount under subsection (7) and adjustment under subsection (8); implementation of subsections (5) to (11); method; report.

Sec. 68b.

(1) A qualified participant or former qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6) shall not receive any health insurance coverage premium from this state under section 68. In lieu of any health insurance coverage premium that might have been paid by this state under section 68, a qualified participant's employer shall make a matching contribution up to 2% of the qualified participant's compensation to an appropriate tax-deferred account for each qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6). A matching contribution under this subsection shall not be used as the basis for a loan from an employee's Tier 2 or tax-deferred account.

(2) A qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6) may make a contribution up to 2% of the qualified participant's compensation to an appropriate tax-deferred account.

(3) Except as otherwise provided in this subsection, a qualified participant is vested in contributions made to his or her tax-deferred account under subsections (1) and (2) according to the vesting provisions under section 64(1). A qualified participant who is eligible for health insurance coverage under section 67a(4) or (8) is not vested in any employer contributions under subsection (1) and forfeits the contributions and earnings on the contributions.

(4) The contributions described in this section shall begin with the first payday after the qualified participant is employed or on or after April 1, 2012 for a qualified participant who makes an election under subsection (5) or (6) and end upon his or her termination of employment.

(5) Except as otherwise provided in this subsection, beginning January 3, 2012 and ending at 5 p.m. eastern standard time on March 2, 2012, the retirement system shall permit each qualified participant who is a qualified participant on December 31, 2011 to make an election to opt out of the health insurance coverage premium that would have been paid by this state under section 68 and opt in to the tax-deferred account provisions of this section effective April 1, 2012. A qualified participant who is a qualified participant on December 31, 2011 and who does not make the election under this subsection continues to be eligible for the health insurance coverage premium paid by this state under section 68 and is not eligible for the tax-deferred account provisions of this section. A qualified participant who is a qualified participant on December 31, 2011 and who makes the election under this subsection shall cease accruing years of service credit for purposes of calculating a portion of the health insurance coverage premium that would have been paid by this state under section 68 as if that section continued to apply and for the portion of the amount to be calculated under subsection (7) for crediting to a tax-deferred account. This subsection does not apply to any of the following:

CAUTION! This document is from an archive and may contain outdated information.

(a) A former member who made an election to become a qualified participant under section 50.

(b) A member who did not make the election under section 50a.

(c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(d) A former qualified participant who was a former qualified participant on December 31, 2011.

(6) Except as otherwise provided in this subsection, a former qualified participant who has 10 or more years of service on or before December 31, 2011 and who is reemployed by this state on or after January 1, 2012 and before January 1, 2014 may make an election under this subsection and receive an amount, if any, as determined under this section. Beginning on the date of the former qualified participant's reemployment and ending 60 days after the former qualified participant's first pay date, the retirement system shall permit the former qualified participant to make an election to opt out of the health insurance coverage premium that would have been paid by this state under section 68 and opt in to the tax-deferred account provisions of this section effective on or after the former qualified participant's date of reemployment. If the former qualified participant does not make the election under this subsection, he or she continues to be eligible for the health insurance coverage premium paid by this state under section 68 and is not eligible for the tax-deferred account provisions of this section. A former qualified participant who makes the election under this subsection ceases to accrue years of service credit for purposes of calculating a portion of the health insurance coverage premium that would have been paid by this state under section 68 as if that section continued to apply and for purposes of calculating the portion of the amount to be credited to a tax-deferred account under subsection (7). This subsection does not apply to any of the following:

(a) A former member who made an election to become a qualified participant under section 50.

(b) A member who did not make the election under section 50a.

(c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(7) Except as otherwise provided in this section, in lieu of any health insurance coverage premium that might have been paid by this state under section 68, the retirement system shall calculate an amount to be credited at termination to an appropriate tax-deferred account for each qualified participant who makes an election under subsection (5) or (6). The amount described in this subsection shall be an amount calculated to approximate the actuarial present value as of 12 midnight March 31, 2012 of the projected retirant health benefits based on the current benefit structure under section 68 and the qualified participant's years of service as of March 31, 2012. The amount calculated under this subsection shall be equal to the product of all of the following as determined by the retirement system in consultation with the actuary for the system:

(a) An average monthly premium of $1,000.00, payable for the life of the qualified participant, which approximates the overall average value of all types of premium coverages for single and multiple lives during both pre-medicare and post-medicare periods.

(b) A frozen benefit accrual percent that is the product of 3% and the qualified participant's years of service as of March 31, 2012, up to 30 years.

(c) A deferred life annuity factor equal to the actuarial present value as of March 31, 2012 of $1.00 per month payable for the life of the qualified participant, based on the following actuarial assumptions:

CAUTION! This document is from an archive and may contain outdated information

(i) An interest discount rate of 4% annually for all future years, which approximates the use of an assumed rate of investment return or interest discount rate of 8%, combined with an assumption that the average premium is projected to increase 4% annually for all future years.

(ii) Mortality rates based on a 50% male - 50% female blend of the 1994 group annuity mortality table set forward 1 year for both males and females.

(iii) Commencement of the $1.00 per month deferred life annuity based on an assumption that the qualified participant will terminate employment upon reaching age 60 and that the qualified participant would have received health insurance coverage immediately upon termination of employment.

(8) The amount calculated under subsection (7) shall be adjusted annually from March 31, 2012 to the date of the qualified participant's actual termination of employment. Except as otherwise provided in this subsection, the retirement system shall establish the amount of the annual adjustment to be equal to the change in the medical care component of the United States consumer price index for the most recent 12-month period for which data are available from the bureau of labor statistics of the United States department of labor. The adjustment under this subsection shall not be less than 0% and shall not be more than 4%.

(9) The amount calculated under subsection (7) and adjusted under subsection (8) shall be credited at the qualified participant's first termination of employment following December 31, 2011, to the qualified participant's tax–deferred account according to the following schedule:

(a) One hundred percent of the calculated amount to a qualified participant who is at least 60 years of age with at least 10 years of service or is at least 55 years of age with at least 30 years of service.

(b) Fifty percent of the calculated amount to a qualified participant who has at least 10 years of service and who does not meet the age and service qualifications of subdivision (a).

(10) An individual who is a former qualified participant on December 31, 2011, who has 10 or more years of service on or before December 31, 2011, and who is reemployed by this state on or after January 1, 2014 shall be treated in the same manner as a qualified participant under this section who made the election under subsection (5) and shall receive an amount, if any, as determined under this section. This subsection does not apply to any of the following:

(a) A former member who made the election to become a qualified participant under section 50.

(b) A member who did not make the election under section 50a.

(c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(11) In lieu of any other health insurance coverage that might have been paid by this state, a credit to a health reimbursement account within the trust created under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, shall be made by this state in the amounts and to the qualified participants or former qualified participants as follows:

(a) Two thousand dollars to a qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012, who is 60 years of age or older, and who has at least 10 years of service at his or her first termination of employment.

(b) One thousand dollars to a qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment.

(c) Two thousand dollars to a former qualified participant who has less than 10 years of service as of December 31, 2011, who is reemployed by this state on or after January 1, 2012, who is 60 years of age or older, and who has at least 10 years of service at his or her first

CAUTION! This document is from an archive and may contain outdated information.

termination of employment following December 31, 2011. This subdivision does not apply to an individual described in subsection (10)(a), (b), or (c).

(d) One thousand dollars to a former qualified participant who has less than 10 years of service as of December 31, 2011, who is reemployed by this state on or after January 1, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment following December 31, 2011. This subdivision does not apply to an individual described in subsection (10)(a), (b), or (c).

(e) Two thousand dollars shall be the minimum amount credited to a qualified participant who made an election under subsection (5) and who does not otherwise qualify for an amount or qualifies for a lesser amount under this subsection at his or her first termination of employment after December 31, 2011.

(12) The retirement system shall determine a method to implement subsections (5) to (11), including a method for crediting the amounts in subsection (9) to comply with any contribution limits imposed by the internal revenue code, including, but not limited to, crediting of payments before termination of employment.

(13) Subsections (5) to (11) do not apply to a qualified participant who is eligible for health insurance coverage under section 67a(4) or (8).

(14) On or before January 1, 2017, the retirement system shall provide a report to the chair of the house and senate appropriations committees that provides the projected impact of subsection (11) as it applies to qualified participants entered upon the payroll of this state on or after January 1, 2017 with regard to the annual required contribution as used by the governmental accounting standards board and for purposes of the annual financial statements prepared under section 12(1).

CAUTION! This document is from an archive and may contain outdated information

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011

Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.68c Employment of retiree receiving retirement allowance; stopping retirement payment; applicability; "employed by this state" defined; coordination of benefits provision; exceptions to subsection (1); definitions.

Sec. 68c.

(1) Except as otherwise provided in this section, a retirant who is receiving a retirement allowance under this act and is employed by this state beginning after October 1, 2007 agrees to forfeit his or her right to receive that retirement allowance during this period of state employment. The retirement system shall stop payment of the retirement allowance to a retirant described in this subsection during this period of state employment and shall reinstate payment of the retirement allowance without recalculation when the period of state employment ceases. This subsection does not apply to a retirant who is directly or indirectly employed by this state on October 1, 2007 while he or she remains in the position held by the retirant on October 1, 2007. As used in this subsection, "employed by this state" means employed directly by this state as an employee, indirectly by this state through a contractual arrangement with other parties, or by engagement of the retirant by this state as an independent contractor. This subsection does not apply to a retirant who is engaged as an

independent contractor on October 1, 2010 while the retirant remains engaged in the same contract that was held by the retirant on October 1, 2010 without amendment or extension.

(2) A hospital, medical-surgical, and sick care benefits plan, dental plan, vision plan, and hearing plan that covers retirants, retirant allowance beneficiaries, former qualified participants, and health benefit dependents under this act must contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under any of the plans is also eligible for Medicare, the benefits under Medicare must be determined before the health insurance benefits under this act.

(b) If a person covered under any of the plans provided by this act is also covered under another plan that contains a coordination of benefits provision, the benefits must be coordinated as provided in the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.254.

(c) If the person covered under any of the plans provided by this act is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan must be determined before the benefits provided under this act.

(3) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The retirant is hired to provide health care services to individuals under the jurisdiction of the department of corrections.

(b) The retirant is hired in a position that is limited in term, no benefits are paid, and pay is on a per diem basis.

(c) The department of corrections provides written notice to the state budget office and the department of technology, management, and budget that attempts have been made to fill the position through postings and recruitment and that the position vacancy still exists.

(d) The department of corrections reports the employment of a retirant under this subsection within 30 days of employment of the retirant to the state budget office and the department of technology, management, and budget. The report must include the name of the retirant, the capacity in which the retirant is employed, and the total compensation paid to the retirant.

(e) The retirant retired after a bona fide termination.

(4) Subsection (1) does not apply to the appointment of a retirant who retired after a bona fide termination and who was an assistant attorney general as a special assistant attorney general if the attorney general determines that, as a result of his or her previous employment with this state, the retirant possesses specialized expertise and experience necessary for the appointment and that the appointment is the most cost-effective option for this state.

(5) Until 2 years after the effective date of the 2022 amendatory act that amended this subsection, subsection (1) does not apply to a retirant if all of the following apply:

(a) The department of corrections hires the retirant to provide for the custody of individuals under the jurisdiction of the department of corrections.

(b) The retirant is hired in a position that is limited in term and no benefits are paid.

(c) The retirant retired before January 1, 2022 and after a bona fide termination of employment.

(6) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The department of attorney general contracts with the retirant as a witness, expert, or consultant for litigation involving this state. The contract must provide that the retirant's service as a witness, expert, or consultant ends at the conclusion of the litigation.

(b) The attorney general determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the litigation and the contract is the most cost-effective option for the state.

(c) The retirant retired after a bona fide termination of employment.

CAUTION! This document is from an archive and may contain outdated information.

(7) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The retirant is hired by the department of natural resources for active wildland fire suppression.

(b) There is an immediate continual need for prequalified, skilled, and trained personnel to address wildfire suppression.

(c) The retirant works no more than 600 hours in a fiscal year.

(d) The retirant is hired in a position that is limited in term, no benefits are paid, and the pay is not more than 70% of the maximum hourly wage granted to classified civil service employees employed by the department of natural resources to perform the same duties as the retirant for the fiscal year during which the retirant is employed.

(e) The department of natural resources reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of natural resources may submit a report required under this subdivision electronically.

(f) By March 1 of each year, the department of natural resources submits a summary of all the reports required under subdivision (e) for the preceding fiscal year to the house of representatives and senate appropriations subcommittees that consider the budget of the department of natural resources, the state budget office, the house and senate fiscal agencies, and the department of technology, management, and budget. The department of natural resources may submit a summary required under this subdivision electronically.

(8) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The retirant is employed by the legislative service bureau as legal counsel through a contractual arrangement.

(b) The legislative council administrator determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost-effective option for this state.

(c) The legislative service bureau reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment to the department of technology, management, and budget, office of retirement services. The legislative service bureau may submit a report required under this subdivision electronically.

(9) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The department of health and human services hires the retirant as a psychiatrist to provide mental health services to individuals in psychiatric hospitals operated by the department of health and human services.

(b) The department of health and human services determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost-effective option for this state.

(c) The retirant retired before October 1, 2015 and after a bona fide termination of employment.

(d) The department of health and human services reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of

CAUTION! This document is from an archive and may contain outdated information

employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of health and human services may submit a report required under this subdivision electronically.

(e) By March 1 of each year, the department of health and human services submits a summary of all the reports required under subdivision (d) for the preceding fiscal year to the house of representatives and senate appropriations subcommittees that consider the budget of the department of health and human services, the state budget office, the house and senate fiscal agencies, and the department of technology, management, and budget. The department of health and human services may submit a summary required under this subdivision electronically.

(10) Until September 30, 2023, subsection (1) does not apply to a retirant if all of the following apply:

(a) The department of health and human services hires the retirant as a mental health professional other than a psychiatrist to provide mental health services to individuals in psychiatric hospitals operated by the department of health and human services.

(b) The retirant retired before October 1, 2015 and after a bona fide termination of employment.

(c) The department of health and human services determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost-effective option for this state.

(d) The department of health and human services reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of health and human services may submit a report required under this subdivision electronically.

(e) By March 1 of each year, the department of health and human services submits a summary of all the reports required under subdivision (d) for the preceding fiscal year to the house of representatives and senate appropriations subcommittees that consider the budget of the department of health and human services, the state budget office, the house and senate fiscal agencies, and the department of technology, management, and budget. The department of health and human services may submit a summary required under this subdivision electronically.

(11) Until March 31, 2021, subsection (1) does not apply to a retirant if all of the following apply:

(a) The Michigan unemployment insurance agency hires the retirant after March 15, 2020.

(b) The department of labor and economic opportunity determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost-effective option for this state.

CAUTION! This document is from an archive and may contain outdated information.

(c) The department of labor and economic opportunity reports the employment of the retirant under this subsection within 30 days after employment or by November 19, 2020, whichever occurs first, and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The department of labor and economic opportunity may submit a report required under this subdivision electronically.

(12) Until October 21, 2020, subsection (1) does not apply to a retirant if all of the following apply:

(a) The Michigan occupational safety and health administration hires the retirant after March 15, 2020.

(b) The Michigan occupational safety and health administration determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant and that the hiring of the retirant is the most cost-effective option for this state.

(c) The Michigan occupational safety and health administration reports the employment of the retirant under this subsection within 30 days after employment or by November 19, 2020, whichever occurs first, and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the department of technology, management, and budget. The report required under this subdivision must include the name of the retirant, the capacity in which the retirant is employed, the equivalent civil service position in which the retirant is employed, the hourly wage paid to the retirant, and the total hours of service provided by the retirant for the fiscal year. The Michigan occupational safety and health administration may submit a report required under this subdivision electronically.

(13) Subsection (1) does not apply to a retirant if all of the following apply:

(a) The retirant retired from the department of corrections.

(b) The retirant is hired indirectly by this state through a contractual arrangement with another party providing telecommunications services to the department of corrections for the primary purpose of collecting or analyzing intelligence generated within the department of corrections.

(c) The retirant has been retired for at least 30 days.

(d) The department of corrections determines that, as a result of the retirant's previous employment with this state, the retirant possesses specialized expertise and experience necessary for the hiring of the retirant to complete the tasks under subdivision (b).

(e) The department of corrections reports the employment of a retirant under this subsection within 30 days after employment and within 30 days after termination of employment or within 30 days after the end of each fiscal year, whichever occurs first, to the state budget office and the office of retirement services. The report required under this subdivision must include the name of the retirant and the capacity in which the retirant is employed. The department of corrections may submit a report required under this subdivision electronically.

(f) The department of corrections determines that either of the following applies:

(i) The retirant does not perform work that is the duty, service, or work included in the job classification of a civil service employee.

CAUTION! This document is from an archive and may contain outdated information

(ii) The retirant performs work that is solely the duty, service, or work included in the job classification of nonexclusively represented employees.

(14) As used in this section:

(a) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(b) "Mental health service" means service as that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(c) "Psychiatric hospital" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(d) "Psychiatrist" means that term as defined in section 100c of the mental health code, 1974 PA 258, MCL 330.1100c.

History: Add. 2007, Act 95, Imd. Eff. Oct. 1, 2007 ;-- Am. 2010, Act 54, Imd. Eff. Apr. 22, 2010 ;-- Am. 2010, Act 185, Imd. Eff. Sept. 30, 2010 ;-- Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011 ;-- Am. 2012, Act 432, Imd. Eff. Dec. 21, 2012 ;-- Am. 2013, Act 112, Imd. Eff. Sept. 24, 2013 ;-- Am. 2015, Act 20, Imd. Eff. May 5, 2015 ;-- Am. 2016, Act 351, Imd. Eff. Dec. 21, 2016 ;-- Am. 2016, Act 524, Imd. Eff. Jan. 9, 2017 ;-- Am. 2018, Act 357, Imd. Eff. Nov. 20, 2018 ;-- Am. 2020, Act 18, Imd. Eff. Jan. 27, 2020 ;-- Am. 2020, Act 230, Imd. Eff. Oct. 20, 2020 ;-- Am. 2020, Act 314, Imd. Eff. Dec. 29, 2020 ;-- Am. 2022, Act 217, Imd. Eff. Oct. 14, 2022

Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

CAUTION! This document is from an archive and may contain outdated information.

38.68d Administration of changes; appropriation.

Sec. 68d.

(1) There is appropriated for the fiscal year ending September 30, 2010, $1,600,000.00 to the office of retirement services in the department of technology, management, and budget for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is $1,600,000.00.

(d) The estimated completion date for the work project is September 30, 2011.

History: Add. 2010, Act 185, Imd. Eff. Sept. 30, 2010

Compiler's Notes: Enacting section 1 of Act 185 of 2010 provides:"Enacting section 1. 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."

38.68e Appropriation.

Sec. 68e.

(1) There is appropriated for the fiscal year ending September 30, 2012 $1,900,000.00 to the office of retirement services in the department of technology, management, and budget for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized under subsection (1) is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is $1,900,000.00.

(d) The estimated completion date for the work project is September 30, 2013.

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011
Compiler's Notes: Enacting section 1 of Act 264 of 2011 provides:"Enacting section 1. If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act 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."

38.69 Exemptions from taxation; subject to public employee retirement benefit protection law; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors in records and actions.

Sec. 69.

(1) Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax. Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions 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 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 99, Imd. Eff. Mar. 27, 2002
Compiler's Notes: Section 2 of Act 487 of 1996 provides:“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.”

CAUTION! This document is from an archive and may contain outdated information