

Act No. 523
Public Acts of 1996
Approved by the Governor
January 12, 1997
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senator E. J. Conroy

ENROLLED SENATE BILL No. 248

AN ACT to amend section 214 of Act No. 234 of the Public Acts of 1992, entitled "An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," being section 38.2214 of the Michigan Compiled Laws; and to add sections 110a, 401a, and 501a and article VII.

The People of the State of Michigan enact:

Section 1. Section 214 of Act No. 234 of the Public Acts of 1992, being section 38.2214 of the Michigan Compiled Laws, is amended and sections 110a, 401a, and 501a and article VII are added to read as follows:

Sec. 110a. (1) "Tier 1" means the retirement plan available under this act to a member who first became a judge or state official before March 31, 1997 and who does not elect to become a qualified participant of Tier 2.

(2) "Tier 2" means the retirement plan established pursuant to the internal revenue code that is available to qualified participants under article VII.

Sec. 214. The reserve for health benefits is created. The retirement system shall deposit into the reserve for health benefits the member contributions for health benefits required by section 305(1)(a). The retirement system shall disburse from the reserve for health benefits the premiums for hospital and medical-surgical and sick care benefits as required by sections 509 and 719.

Sec. 401a. (1) Notwithstanding section 401, an individual described in this subsection is not a member of the Tier 1 retirement plan:

(a) An individual who first becomes a judge or state official on or after March 31, 1997.

(b) An individual who elects to terminate membership under section 701 and who, but for that election, would otherwise be eligible for membership in Tier 1 pursuant to section 401.

(2) An individual who first becomes a judge or state official on or after March 31, 1997, is eligible to be a qualified participant in Tier 2 subject to article VII.

Sec. 501a. This retirement system is subject to the regulation of early retirement benefits act.

ARTICLE VII

Sec. 701. (1) The retirement system shall provide an opportunity for each member who is a member on March 30, 1997, to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period beginning on January 2, 1998 and ending on April 30, 1998. A member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A member who makes and files a written election under this subsection elects to do all of the following:

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

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

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under this act effective 12 midnight May 31, 1998. This subdivision does not affect a person's right to health benefits provided under this act pursuant to section 719.

(2) If an individual who was a vested former member on March 30, 1997, or an individual who was a former nonvested member on March 30, 1997 becomes a judge or state official and is again eligible for membership in Tier 1, the individual shall elect in writing to remain a member of Tier 1 or to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a vested former member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a vested former member or a former nonvested member during the period beginning on the date of the individual's eligibility for membership and ending upon the expiration of 60 days after the date of that eligibility. A vested former 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 vested former 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 vested former 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 719.

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

(4) An election under this section is subject to the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan Compiled Laws.

(5) 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.

Sec. 702. (1) For a member who elects to terminate membership in Tier 1 under section 701(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before September 30, 1998. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for member contributions as of 12 midnight May 31, 1998.

(b) For a member who is vested under section 501(1) 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 reserve for employer contributions. Except as provided in subsection (5), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final salary as of 12 midnight on May 31, 1998. The actuarial present value shall be computed as of 12 midnight May 31, 1998 and shall be based on the following:

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

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project 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 18 years.

(C) The member's age, if the member's estimated credited service equals or exceeds 25 years.

(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 701(1), the retirement system shall recompute the amount transferred under subsection (1) not later than November 30, 1998 based upon the member's actual credited service and actual final salary as of 12 midnight May 31, 1998. If the recomputed amount differs from the amount transferred under subsection (1) by \$10.00 or more, not later than December 15, 1998, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the reserve for employer contributions 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 reserve for employer contributions the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (1), based upon 8% effective annual interest, compounded annually.

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

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

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

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project 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 vested former member's estimated credited service equals or exceeds 18 years.

(C) The vested former member's age, if the vested former member's estimated credited service equals or exceeds 25 years.

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

(4) For each vested former member who elects to terminate membership in Tier 1 under section 701(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 vested former member's actual credited service and actual final salary as of 12 midnight on the last day of the payroll period that includes the date of the election. If the

recomputed amount differs from the amount transferred under subsection (3) by \$10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the reserve for employer contributions 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 reserve for employer contributions 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 (4), based upon 8% effective annual interest, compounded annually.

(5) For the purposes of subsections (1) to (4), the calculation of estimated and actual present value of the member's or vested former 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 the same actuarial valuation report used to calculate the amount transferred under subsection (1) or (3) when making the recomputation required under subsection (2) or (4). Estimated and actual final salary shall be determined as provided in section 105(3) as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 701.

(6) For a former nonvested member who elects to terminate membership in Tier 1 under section 701(2) and who has accumulated contributions standing to his or her credit in the reserve for member contributions, the retirement system shall direct the state treasurer to transfer a lump sum amount from the reserve for member contributions created under section 210 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 reserve for member contributions as of 12 midnight on the last day of the payroll period that includes the date of the election.

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

(7) If the 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.

Sec. 703. 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 the amendatory act that added this section over the costs that would have been incurred by this state to fund this retirement system had the amendatory act that added this section not been implemented. The total amount of such cost savings shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year to the reserve for health benefits created by section 214. Any amount appropriated pursuant to this section and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 509 is 100% funded.

Sec. 704. (1) For the purposes of this article, the words and phrases defined in this section and sections 705 to 710 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.

Sec. 705. (1) "Employer" means the qualified participant's reporting unit.

(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.

Sec. 706. (1) "Qualified participant" means an individual who is a participant of Tier 2 and who meets 1 of the following requirements:

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

(b) An individual who elects to terminate membership in Tier 1 and who elects to participate in Tier 2 in the manner prescribed in section 701.

(2) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 717 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 718.

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

Sec. 707. (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.

Sec. 708. (1) A qualified participant, former qualified participant, health benefit dependent, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. Upon written request, the state treasurer shall provide for a hearing that shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws. An individual may be represented by counsel or other duly authorized agent at a hearing conducted under this section.

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

Sec. 709. 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.

Sec. 710. 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.

Sec. 711. 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.

Sec. 712. An individual who first becomes a judge or state official on or after March 31, 1997 may irrevocably elect not to become a qualified participant of Tier 2 or may irrevocably elect to discontinue participation in Tier 2 by filing written notice of the election with the state treasurer. Upon receipt of the election, his or her employer shall not contribute any percentage of salary under section 714 for the individual who makes either election.

Sec. 713. (1) The state treasurer shall promptly credit the Tier 2 account of a qualified participant who makes an election under section 701 to terminate membership in Tier 1 with any amount transferred from Tier 1 pursuant to section 702.

(2) Not later than 30 days after receipt of a recomputed amount under section 702(2) or (4), the state treasurer shall charge the qualified participant's Tier 2 account for any amount of excess transfers under section 702(1) or (3) and transfer that amount to the appropriate fund in Tier 1. The state treasurer may determine which investment choice or choices within a qualified participant's Tier 2 account will be used for this purpose.

Sec. 714. (1) This section is subject to the vesting requirements of section 715.

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

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

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

Sec. 715. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

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

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

- (a) The qualified participant has completed 4 years of service as a qualified participant and was not a member, deferred vested member, or former nonvested member of Tier 1.
- (b) The qualified participant was a member, deferred vested member, or former nonvested member of Tier 1 who made an election to participate in Tier 2 pursuant to section 61, and who has met the service requirements he or she would have been required to meet in order to vest in health benefits under section 509.

Sec. 716. A qualified participant who was a member, deferred vested member, or former nonvested member of Tier 1 who makes an election to participate in Tier 2 pursuant to section 61, shall be credited with the years of service accrued under Tier 1 on the effective date of participation in Tier 2 for the purpose of meeting the vesting requirements for benefits under section 75.

Sec. 717. 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.

Sec. 718. (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.

Sec. 719. (1) A former qualified participant may elect health insurance benefits in the manner prescribed in this section if he or she meets both of the following requirements:

(a) The former qualified participant is vested in health benefits under section 715(2).

(b) The former qualified participant meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 702 and the service requirements that would have applied to that former participant under Tier 1 for receiving health insurance coverage under section 509, if that former 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 509, or in another plan as provided in subsection (6). 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) Except as otherwise provided in subsection (6), an individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 509.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 715(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. The portion of the health insurance coverage premium paid by this state under this subsection shall be 50% of the payments for health insurance coverage under section 509 if the former qualified participant has 4 years of service; 75% of the payments for health insurance coverage under section 509 if the former qualified participant has 5 years of service; or 90% of the payments for health insurance coverage under section 509 if the former qualified participant has 6 years of service. If the individual elects the health insurance coverage provided under section 509, the state shall transfer its portion of the amount calculated under this subsection to the reserve for health benefits created by section 214.

(5) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 715(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 509. If the individual elects the health insurance coverage provided under section 509, the state shall transfer its portion of the amount calculated under this subsection to the reserve for health benefits created by section 214.

(6) A former qualified participant or health benefit dependent who is eligible to elect health insurance coverage under this section and who elects health insurance coverage under a different plan than the plan authorized under section 509 may elect to have an amount up to the amount of the retirement system's share of the monthly health insurance premium subsidy provided in this section paid by the retirement system directly to the other health insurance plan or to a medical savings account established pursuant to section 220 of the internal revenue code, to the extent allowed by law or under the provisions and procedures of Tier 2.

(7) 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.

Sec. 720. (1) Distributions from employer contributions made pursuant to section 714(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 714(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and shall be unassignable except as otherwise provided in this act.

(2) The right of a qualified participant or a former qualified participant, or his or her beneficiaries, to a distribution described in subsection (1) is subject to forfeiture pursuant to the public employee retirement benefits forfeiture act, Act No. 350 of the Public Acts of 1994, being sections 38.2701 to 38.2705 of the Michigan Compiled Laws.

(3) The right of a qualified participant or former qualified participant to a distribution described in subsection (1) is subject to an award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws; an eligible domestic relations order under the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan Compiled Laws; and to any other domestic relations order of a court pertaining to alimony or child support.

(4) If an award or order described in subsection (3) requires Tier 2 to withhold payment of a distribution described in subsection (1) or requires Tier 2 to make payment or requires the individual to request that Tier 2 make payment of a distribution described in subsection (1), for the purpose of meeting the individual's obligations to a spouse, former spouse, or child, as provided in subsection (3), the withholding or payment provisions of the award or order are effective only against such amounts as they become due and payable to the individual receiving the distribution, unless otherwise provided in an eligible domestic relations order under the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991. The limitation contained in this subsection does not apply to the accumulated employee contributions of a former qualified participant who has terminated employment before acquiring a vested status in Tier 2 pursuant to this act.

(5) 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.

(6) 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.

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

Section 3. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

- (a) House Bill No. 6206.
- (b) House Bill No. 6207.
- (c) House Bill No. 6229.
- (d) House Bill No. 6230.

This act did not receive immediate effect and will take effect 90 days after final adjournment of the Legislature.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

