

# HOUSE BILL No. 5416

February 21, 2012, Introduced by Reps. Walsh, Hammel, Olson, Rogers and Heise and referred to the Committee on Appropriations.

A bill to amend 1965 PA 314, entitled "Public employee retirement system investment act," by amending sections 12b, 13, 14, 15, 19, 19a, 20c, 20d, 20h, 20k, and 20m (MCL 38.1132b, 38.1133, 38.1134, 38.1135, 38.1139, 38.1139a, 38.1140c, 38.1140d, 38.1140h, 38.1140k, and 38.1140m), sections 12b, 14, and 20c as amended by 2000 PA 307, section 13 as amended by 2009 PA 84, section 15 as amended and section 20k as added by 1996 PA 485, sections 19 and 20d as amended and section 19a as added by 2008 PA 425, section 20h as amended by 2002 PA 728, and section 20m as amended by 2007 PA 22, and by adding section 21.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 12b. (1) "Defined contribution plan" means a defined  
2 contribution plan as defined in section 414(i) in the internal

1 revenue code, **26 USC 414**.

2 (2) "Derivative" means either of the following:

3 (a) A contract or convertible security that changes in value  
4 in concert with a related or underlying security, future, or other  
5 instrument or index; or obtains much of its value from price  
6 movements in a related or underlying security, future, or other  
7 instrument or index; or both.

8 (b) A contract or security, such as an option, forward, swap,  
9 warrant, or a debt instrument with 1 or more options, forwards,  
10 swaps, or warrants embedded in it or attached to it, the value of  
11 which contract or security is determined in whole or in part by the  
12 price of 1 or more underlying instruments or markets.

13 (3) "Equity interests" means limited partnership interests and  
14 other interests in which the liability of the investor is limited  
15 to the amount of the investment, but does not mean general  
16 partnership interests or other interests involving general  
17 liability of the investor.

18 (4) ~~"Foreign"~~ **"GLOBAL** security" means any of the following:

19 (a) A fixed income security issued by a government, a  
20 governmental agency, or a public or private company that is traded  
21 **WITHIN OR** outside of the United States and **MAY BE** issued in a  
22 currency other than the United States dollar.

23 (b) An equity position in a company traded on an exchange  
24 **WITHIN OR** outside of the United States or a security **THAT MAY BE**  
25 issued in a currency other than the United States dollar or an  
26 unregistered American depository receipt.

27 (c) An equity or fixed income derivative that derives its

1 value from an investment described in subdivision (a) or (b) or a  
2 ~~foreign stock~~ **GLOBAL EQUITY** or bond index traded on an exchange  
3 **WITHIN OR** outside of the United States.

4       Sec. 13. (1) The provisions of this act shall supersede any  
5 investment authority previously granted to a system under any other  
6 law of this state.

7       (2) The assets of a system may be invested, reinvested, held  
8 in nominee form, and managed by an investment fiduciary subject to  
9 the terms, conditions, and limitations provided in this act. An  
10 investment fiduciary of a defined contribution plan may arrange for  
11 1 or more investment options to be directed by the participants of  
12 the defined contribution plan. The limitations on the percentage of  
13 total assets for investments provided in this act do not apply to a  
14 defined contribution plan in which a participant directs the  
15 investment of the assets in his or her individual account, and that  
16 participant is not considered an investment fiduciary under this  
17 act.

18       (3) An investment fiduciary shall discharge his or her duties  
19 solely in the interest of the participants and the beneficiaries,  
20 and shall do all of the following:

21       (a) Act with the same care, skill, prudence, and diligence  
22 under the circumstances then prevailing that a prudent person  
23 acting in a similar capacity and familiar with those matters would  
24 use in the conduct of a similar enterprise with similar aims.

25       (b) Act with due regard for the management, reputation, and  
26 stability of the issuer and the character of the particular  
27 investments being considered.

1 (c) Make investments for the exclusive purposes of providing  
2 benefits to participants and participants' beneficiaries, and of  
3 defraying reasonable expenses of investing the assets of the  
4 system.

5 (d) Give appropriate consideration to those facts and  
6 circumstances that the investment fiduciary knows or should know  
7 are relevant to the particular investment or investment course of  
8 action involved, including the role the investment or investment  
9 course of action plays in that portion of the system's investments  
10 for which the investment fiduciary has responsibility; and act  
11 accordingly. For purposes of this subsection, "appropriate  
12 consideration" includes, but is not limited to, a determination by  
13 the investment fiduciary that a particular investment or investment  
14 course of action is reasonably designed, as part of the investments  
15 of the system, to further the purposes of the system, taking into  
16 consideration the risk of loss and the opportunity for gain or  
17 other return associated with the investment or investment course of  
18 action; and consideration of the following factors as they relate  
19 to the investment or investment course of action:

20 (i) The diversification of the investments of the system.

21 (ii) The liquidity and current return of the investments of the  
22 system relative to the anticipated cash flow requirements of the  
23 system.

24 (iii) The projected return of the investments of the system  
25 relative to the funding objectives of the system.

26 (e) Give appropriate consideration to investments that would  
27 enhance the general welfare of this state and its citizens if those

1 investments offer the safety and rate of return comparable to other  
2 investments permitted under this act and available to the  
3 investment fiduciary at the time the investment decision is made.

4 (f) Prepare and maintain written objectives, policies, and  
5 strategies with clearly defined accountability and responsibility  
6 for implementing and executing the system's investments.

7 (g) Monitor the investment of the system's assets with regard  
8 to the limitations on those investments pursuant to this act. Upon  
9 discovery that an investment causes the system to exceed a  
10 limitation prescribed in this act, the investment fiduciary shall  
11 reallocate assets in a prudent manner in order to comply with the  
12 prescribed limitation.

13 (H) PREPARE AND MAINTAIN WRITTEN POLICIES REGARDING ETHICS AND  
14 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL, WHICH  
15 POLICIES CONTAIN CLEARLY DEFINED ACCOUNTABILITY AND REPORTING  
16 REQUIREMENTS FOR THE SYSTEM'S INVESTMENT FIDUCIARIES.

17 (I) PUBLISH A SUMMARY ANNUAL REPORT THAT INCLUDES ALL OF THE  
18 FOLLOWING:

19 (i) THE NAME OF THE SYSTEM.

20 (ii) THE NAMES OF THE SYSTEM'S INVESTMENT FIDUCIARIES.

21 (iii) THE NAMES OF THE SYSTEM'S SERVICE PROVIDERS.

22 (iv) THE SYSTEM'S ASSETS AND LIABILITIES AND CHANGES IN NET  
23 PLAN ASSETS ON A PLAN-YEAR BASIS.

24 (v) THE SYSTEM'S FUNDED RATIO BASED UPON THE RATIO OF  
25 VALUATION ASSETS TO ACTUARIAL ACCRUED LIABILITIES ON A PLAN-YEAR  
26 BASIS.

27 (vi) THE SYSTEM'S INVESTMENT PERFORMANCE NET OF FEES ON A

1 ROLLING CALENDAR-YEAR BASIS FOR THE PREVIOUS 1-, 3-, 5-, 7-, AND  
2 10-YEAR PERIODS.

3 (vii) THE SYSTEM'S ADMINISTRATIVE AND INVESTMENT EXPENDITURES  
4 PURSUANT TO STANDARDS OF THE GOVERNMENTAL ACCOUNTING STANDARDS  
5 BOARD, INCLUDING, BUT NOT LIMITED TO, A LIST OF ALL EXPENDITURES  
6 MADE WITH SOFT DOLLARS AND ALL EXPENDITURES FOR PROFESSIONAL  
7 TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES, BY OR ON  
8 BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE SYSTEM, IF ANY.

9 (viii) THE SYSTEM'S ITEMIZED BUDGET CONTAINING ALL PROJECTED  
10 EXPENDITURES, INCLUDING, BUT NOT LIMITED TO, EXPENDITURES FOR  
11 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES,  
12 BY OR ON BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE  
13 SYSTEM.

14 (ix) THE FOLLOWING INFORMATION AS PROVIDED IN THE SYSTEM'S MOST  
15 RECENT ANNUAL ACTUARIAL VALUATION REPORT:

16 (A) THE NUMBER OF ACTIVE MEMBERS.

17 (B) THE NUMBER OF RETIREES AND BENEFICIARIES.

18 (C) THE AVERAGE ANNUAL PENSION.

19 (D) THE TOTAL ANNUAL RETIREMENT ALLOWANCES BEING PAID.

20 (E) THE VALUATION PAYROLL.

21 (F) THE EMPLOYER'S COMPUTED NORMAL COST OF BENEFITS EXPRESSED  
22 AS A PERCENTAGE OF VALUATION PAYROLL.

23 (G) THE EMPLOYER'S TOTAL CONTRIBUTION RATE EXPRESSED AS A  
24 PERCENTAGE OF VALUATION PAYROLL.

25 (H) THE WEIGHTED AVERAGE OF MEMBER CONTRIBUTIONS, IF ANY.

26 (I) THE ACTUARIAL ASSUMED RATE OF INVESTMENT RETURN.

27 (J) THE ACTUARIAL ASSUMED RATE OF LONG-TERM WAGE INFLATION.

1           (K) THE SMOOTHING METHOD UTILIZED TO DETERMINE THE FUNDING  
2 VALUE OF ASSETS.

3           (L) THE AMORTIZATION METHOD AND PERIOD UTILIZED FOR FUNDING  
4 THE SYSTEM'S UNFUNDED ACTUARIAL ACCRUED LIABILITIES, IF ANY.

5           (M) THE SYSTEM'S ACTUARIAL COST METHOD.

6           (N) WHETHER SYSTEM MEMBERSHIP IS OPEN OR CLOSED TO SPECIFIC  
7 GROUPS OF EMPLOYEES.

8           (4) An investment fiduciary who is an investment fiduciary of  
9 any of the following shall comply with the divestment from terror  
10 act, 2008 PA 234, MCL 129.291 to 129.301, in making investments  
11 under this act:

12           (a) The Tier 1 retirement plan available under the state  
13 employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

14           (b) The Tier 1 retirement plan available under the judges  
15 retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

16           (c) The **MICHIGAN** state police retirement system created under  
17 the state police retirement act of 1986, 1986 PA 182, MCL 38.1601  
18 to 38.1648.

19           (d) The **MICHIGAN** public school ~~employees~~**EMPLOYEES'** retirement  
20 system created under the public school employees retirement act of  
21 1979, 1980 PA 300, MCL 38.1301 to ~~38.1408~~**38.1437**.

22           (5) An investment fiduciary may use a portion of the income of  
23 the system to defray the costs of investing, managing, and  
24 protecting the assets of the system; may retain investment and all  
25 other services necessary for the conduct of the affairs of the  
26 system, **INCLUDING INVESTMENT ADVISORS, CONSULTANTS, CUSTODIANS,**  
27 **AUDITORS, ATTORNEYS, ACTUARIES, ADMINISTRATORS, AND PHYSICIANS;** and

1 may pay reasonable compensation for those services. Subject to an  
2 annual appropriation by the legislature, a deduction from the  
3 income of a state-administered system resulting from the payment of  
4 those costs shall be made.

5 (6) SUBJECT TO THIS SUBSECTION, AN INVESTMENT FIDUCIARY MAY  
6 USE A PORTION OF THE INCOME OF THE SYSTEM TO DEFRAY THE COSTS OF  
7 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL COSTS, OF  
8 SYSTEM BOARD MEMBERS, WHICH PROFESSIONAL TRAINING AND EDUCATION,  
9 INCLUDING TRAVEL, ARE DIRECTLY RELATED TO THE ADMINISTRATION,  
10 MANAGEMENT, AND OPERATION OF THE SYSTEM. THE GOVERNING BOARD VESTED  
11 WITH THE GENERAL ADMINISTRATION, MANAGEMENT, AND OPERATION OF THE  
12 SYSTEM OR OTHER DECISION-MAKING BODY THAT IS RESPONSIBLE FOR  
13 IMPLEMENTATION AND SUPERVISION OF THE SYSTEM SHALL ADOPT AN ANNUAL  
14 BUDGET FOR PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL,  
15 AUTHORIZED UNDER THIS SUBSECTION. THE BUDGET ADOPTED UNDER THIS  
16 SUBSECTION SHALL REFLECT THE NUMBER OF BOARD MEMBERS, THE SIZE OF  
17 THE SYSTEM, AND THE EDUCATIONAL OBJECTIVES OF THE SYSTEM. THE  
18 SYSTEM'S TOTAL AGGREGATE COST FOR PROFESSIONAL TRAINING AND  
19 EDUCATION, INCLUDING TRAVEL COSTS, AUTHORIZED UNDER THIS SUBSECTION  
20 FOR A FISCAL YEAR SHALL NOT EXCEED \$150,000.00 OR AN AMOUNT THAT IS  
21 EQUAL TO THE TOTAL NUMBER OF SYSTEM BOARD MEMBERS MULTIPLIED BY  
22 \$12,000.00, WHICHEVER IS LESS. THE SYSTEM'S TOTAL COST FOR  
23 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL COSTS,  
24 AUTHORIZED UNDER THIS SUBSECTION FOR AN INDIVIDUAL SYSTEM BOARD  
25 MEMBER IN A FISCAL YEAR SHALL NOT EXCEED \$30,000.00. BEGINNING  
26 JANUARY 1, 2013, THE STATE TREASURER SHALL ADJUST THE DOLLAR  
27 AMOUNTS IN THIS SUBSECTION BY AN AMOUNT DETERMINED BY THE STATE



1   TREASURER AT THE END OF THE IMMEDIATELY PRECEDING CALENDAR YEAR TO  
2   REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER  
3   PRICE INDEX. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX"  
4   MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR  
5   THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES  
6   DEPARTMENT OF LABOR.

7           (7) BEFORE ANY INVESTMENT SERVICES ARE PROVIDED, AN INVESTMENT  
8   SERVICE PROVIDER SHALL PROVIDE THE INVESTMENT FIDUCIARY OF THE  
9   SYSTEM WITH A COMPLETE WRITTEN DISCLOSURE OF ALL FEES OR OTHER  
10   COMPENSATION ASSOCIATED WITH ITS RELATIONSHIP WITH THE SYSTEM.  
11   AFTER INVESTMENT SERVICES ARE PROVIDED TO THE INVESTMENT FIDUCIARY  
12   OF THE SYSTEM, AN INVESTMENT SERVICE PROVIDER SHALL PROVIDE ON AN  
13   ANNUAL BASIS WRITTEN DISCLOSURE OF ALL FEES INCLUDING, BUT NOT  
14   LIMITED TO, COMMISSIONS, 12B-1 AND RELATED FEES, COMPENSATION PAID  
15   OR TO BE PAID TO THIRD PARTIES, AND ANY OTHER COMPENSATION PAID BY  
16   THE SYSTEM TO THE INVESTMENT FIDUCIARY OF THE SYSTEM. AS USED IN  
17   THIS SUBSECTION, "INVESTMENT SERVICE PROVIDER" MEANS ANY  
18   INDIVIDUAL, THIRD-PARTY AGENT OR CONSULTANT, OR OTHER ENTITY THAT  
19   RECEIVES DIRECT OR INDIRECT COMPENSATION FOR CONSULTING, INVESTMENT  
20   MANAGEMENT, BROKERAGE, OR CUSTODY SERVICES RELATED TO THE SYSTEM'S  
21   ASSETS. INVESTMENT SERVICE PROVIDER DOES NOT INCLUDE A RETIREMENT  
22   SYSTEM.

23           (8) ~~(6)~~—The system shall be a separate and distinct trust fund  
24   and the assets of the system shall be for the exclusive benefit of  
25   the participants and their beneficiaries and of defraying  
26   reasonable expenses of investing the assets of the system. With  
27   respect to a system, an investment fiduciary shall not cause the

1 system to engage in a transaction if he or she knows or should know  
2 that the transaction is any of the following, either directly or  
3 indirectly:

4 (a) A sale or exchange or a leasing of any property from the  
5 system to a party in interest for less than the fair market value,  
6 or from a party in interest to the system for more than the fair  
7 market value.

8 (b) A lending of money or other extension of credit from the  
9 system to a party in interest without the receipt of adequate  
10 security and a reasonable rate of interest, or from a party in  
11 interest to the system with the provision of excessive security or  
12 at an unreasonably high rate of interest.

13 (c) A transfer to, or use by or for the benefit of, the  
14 political subdivision sponsoring the system of any assets of the  
15 system for less than adequate consideration.

16 (d) The furnishing of goods, services, or facilities from the  
17 system to a party in interest for less than adequate consideration,  
18 or from a party in interest to the system for more than adequate  
19 consideration.

20 (9) ~~(7)~~—With respect to a system subject to this act, an  
21 investment fiduciary shall not do any of the following:

22 (a) Deal with the assets of the system in his or her own  
23 interest or for his or her own account.

24 (b) In his or her individual or any other capacity act in any  
25 transaction involving the system on behalf of a party whose  
26 interests are adverse to the interests of the system or the  
27 interest of its participants or participants' beneficiaries.

1 (c) Receive any consideration for his or her own personal  
2 account from any party dealing with the system in connection with a  
3 transaction involving the assets of the system.

4 (10) ~~(8)~~—This section does not prohibit an investment  
5 fiduciary from doing any of the following:

6 (a) Receiving any benefit to which he or she may be entitled  
7 as a participant or participant's beneficiary of the system.

8 (b) Receiving any reimbursement of expenses properly and  
9 actually incurred in the performance of his or her duties for the  
10 system.

11 (c) Serving as an investment fiduciary in addition to being an  
12 officer, employee, agent, or other representative of the political  
13 subdivision sponsoring the system.

14 (d) Receiving agreed upon compensation for services from the  
15 system.

16 (11) ~~(9)~~—Except for an employee of a system, this state, or  
17 the political subdivision sponsoring a system, when acting in the  
18 capacity as an investment fiduciary, an investment fiduciary who is  
19 qualified under section 12c(1)(b) shall meet 1 of the following  
20 requirements:

21 (a) Be a registered investment adviser under ~~either~~ the  
22 investment advisers act of 1940, 15 USC 80b-1 to 80b-21, ~~the~~  
23 ~~uniform securities act, 1964 PA 265, MCL 451.501 to 451.818,~~ or the  
24 uniform securities act (2002), 2008 PA 551, MCL 451.2101 to  
25 451.2703.

26 (b) Be a bank as defined under the investment advisers act of  
27 1940, 15 USC 80b-1 to 80b-21.

1 (c) Be an insurance company qualified under section 16(3).

2 (12) ~~(10)~~ An investment fiduciary shall not invest in a debt  
3 instrument issued by a foreign country that has been identified  
4 **DESIGNATED** by the United States ~~state~~ department **OF STATE** as  
5 ~~engaging in or sponsoring~~ **PROVIDING SUPPORT FOR ACTS OF**  
6 **INTERNATIONAL** terrorism.

7 ~~—— (11) A system shall annually publish and make available to the~~  
8 ~~plan participants and beneficiaries a list of all expenses paid by~~  
9 ~~soft dollars.~~

10 (13) AN INVESTMENT FIDUCIARY SHALL NOT MAKE A PAYMENT FROM THE  
11 ASSETS OF A SYSTEM TO A SERVICE PROVIDER IF THE SERVICE PROVIDER OR  
12 A COVERED ASSOCIATE OF THE SERVICE PROVIDER HAS MADE A CONTRIBUTION  
13 TO AN OFFICIAL OF A GOVERNMENTAL ENTITY DURING THE IMMEDIATELY  
14 PRECEDING 24-CALENDAR-MONTH PERIOD. AN INVESTMENT FIDUCIARY, A  
15 SERVICE PROVIDER, OR A COVERED ASSOCIATE OF A SERVICE PROVIDER  
16 SHALL NOT DO ANYTHING INDIRECTLY THAT, IF DONE DIRECTLY, WOULD  
17 VIOLATE THIS SUBSECTION. THIS SUBSECTION DOES NOT APPLY UNDER ANY  
18 OF THE FOLLOWING CIRCUMSTANCES:

19 (A) THE CONTRIBUTION WAS MADE BY A SERVICE PROVIDER OR COVERED  
20 ASSOCIATE OF THE SERVICE PROVIDER TO AN OFFICIAL OF A GOVERNMENTAL  
21 ENTITY FOR WHOM THE SERVICE PROVIDER OR COVERED ASSOCIATE OF THE  
22 SERVICE PROVIDER WAS ENTITLED TO VOTE AT THE TIME OF THE  
23 CONTRIBUTION AND THE CONTRIBUTIONS BY THE SERVICE PROVIDER OR  
24 COVERED ASSOCIATE OF THE SERVICE PROVIDER TO THAT OFFICIAL IN THE  
25 AGGREGATE DO NOT EXCEED \$350.00 PER ELECTION.

26 (B) THE CONTRIBUTION WAS MADE BY A SERVICE PROVIDER OR COVERED  
27 ASSOCIATE OF THE SERVICE PROVIDER TO AN OFFICIAL OF A GOVERNMENTAL

1 ENTITY FOR WHOM THE SERVICE PROVIDER OR COVERED ASSOCIATE OF THE  
2 SERVICE PROVIDER WAS NOT ENTITLED TO VOTE AT THE TIME OF THE  
3 CONTRIBUTION AND THE CONTRIBUTIONS BY THE SERVICE PROVIDER OR  
4 COVERED ASSOCIATE OF THE SERVICE PROVIDER TO THAT OFFICIAL IN THE  
5 AGGREGATE DO NOT EXCEED \$100.00 PER ELECTION.

6 (C) THE CONTRIBUTION WAS MADE TO AN OFFICIAL OF A GOVERNMENTAL  
7 ENTITY BY AN INDIVIDUAL MORE THAN 6 MONTHS BEFORE HE OR SHE BECAME  
8 A COVERED ASSOCIATE OF THE SERVICE PROVIDER.

9 (D) THE CONTRIBUTION WAS MADE TO AN OFFICIAL OF A GOVERNMENTAL  
10 ENTITY BY A COVERED ASSOCIATE OF THE SERVICE PROVIDER AND ALL OF  
11 THE FOLLOWING REQUIREMENTS ARE MET:

12 (i) THE SERVICE PROVIDER DISCOVERS THE CONTRIBUTION THAT  
13 VIOLATES THIS SUBSECTION ON OR BEFORE THE EXPIRATION OF 4 MONTHS  
14 AFTER THE CONTRIBUTION WAS MADE.

15 (ii) THE CONTRIBUTION THAT VIOLATES THIS SUBSECTION WAS FOR  
16 \$350.00 OR LESS.

17 (iii) THE COVERED ASSOCIATE OF THE SERVICE PROVIDER OBTAINS THE  
18 RETURN OF THE CONTRIBUTION THAT VIOLATES THIS SUBSECTION ON OR  
19 BEFORE THE EXPIRATION OF 60 CALENDAR DAYS AFTER THE DATE OF THE  
20 DISCOVERY OF THE CONTRIBUTION UNDER SUBPARAGRAPH (i) .

21 (14) AN INVESTMENT FIDUCIARY OR A SERVICE PROVIDER WHO IS  
22 CONVICTED OF OR WHO ENTERS A NOLO CONTENDERE PLEA ACCEPTED BY A  
23 COURT FOR A FELONY OR MISDEMEANOR ARISING OUT OF HIS OR HER SERVICE  
24 TO A SYSTEM IS CONSIDERED TO HAVE BREACHED THE PUBLIC TRUST AND  
25 SHALL REIMBURSE THE SYSTEM FOR ALL COSTS, INCLUDING LEGAL DEFENSE  
26 FEES, THAT WERE PAID BY THE SYSTEM. THE SYSTEM SHALL USE REASONABLE  
27 EFFORTS TO COLLECT ANY FEES AND COSTS RECOVERABLE UNDER THIS

1 SUBSECTION.

2 (15) AS USED IN THIS SUBSECTION AND SUBSECTIONS (13) AND (14):

3 (A) "CONTRIBUTION" MEANS A GIFT, SUBSCRIPTION, LOAN, ADVANCE,  
4 OR DEPOSIT OF MONEY OR ANYTHING OF VALUE.

5 (B) "COVERED ASSOCIATE OF THE SERVICE PROVIDER" MEANS ANY OF  
6 THE FOLLOWING:

7 (i) A GENERAL PARTNER, MANAGING MEMBER, AGENT, OR OFFICER OF  
8 THE SERVICE PROVIDER OR ANY OTHER INDIVIDUAL WITH A SIMILAR STATUS  
9 OR FUNCTION FOR THE SERVICE PROVIDER.

10 (ii) AN EMPLOYEE OF THE SERVICE PROVIDER WHO SOLICITS A  
11 GOVERNMENTAL ENTITY ON BEHALF OF THE SERVICE PROVIDER AND ANY  
12 INDIVIDUAL EMPLOYED BY THE SERVICE PROVIDER WHO DIRECTLY OR  
13 INDIRECTLY SUPERVISES THAT EMPLOYEE.

14 (iii) A POLITICAL ACTION COMMITTEE CONTROLLED BY THE SERVICE  
15 PROVIDER OR BY ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (i) OR (ii).  
16 AS USED IN THIS SUBPARAGRAPH, "POLITICAL ACTION COMMITTEE" MEANS A  
17 POLITICAL COMMITTEE OR AN INDEPENDENT COMMITTEE AS THOSE TERMS ARE  
18 DEFINED IN THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA 388, MCL  
19 169.201 TO 169.282.

20 (C) "GOVERNMENTAL ENTITY" MEANS THIS STATE OR A POLITICAL  
21 SUBDIVISION OF THIS STATE. GOVERNMENTAL ENTITY INCLUDES A SYSTEM  
22 AND AN AGENCY, AUTHORITY, OR INSTRUMENTALITY OF THIS STATE OR OF A  
23 POLITICAL SUBDIVISION OF THIS STATE.

24 (D) "OFFICIAL OF A GOVERNMENTAL ENTITY" MEANS AN INDIVIDUAL  
25 WHO, AT THE TIME OF THE CONTRIBUTION, WAS AN INCUMBENT, CANDIDATE,  
26 OR SUCCESSFUL CANDIDATE FOR AN ELECTIVE OFFICE IN A GOVERNMENTAL  
27 ENTITY IF THE OFFICE MEETS ANY OF THE FOLLOWING REQUIREMENTS:

1 (i) IS DIRECTLY OR INDIRECTLY RESPONSIBLE FOR OR CAN INFLUENCE  
 2 THE OUTCOME OF THE HIRING OF A SERVICE PROVIDER BY A SYSTEM  
 3 SPONSORED BY THE GOVERNMENTAL ENTITY.

4 (ii) HAS THE AUTHORITY TO APPOINT AN INDIVIDUAL WHO IS DIRECTLY  
 5 OR INDIRECTLY RESPONSIBLE FOR OR CAN INFLUENCE THE OUTCOME OF THE  
 6 HIRING OF A SERVICE PROVIDER BY A SYSTEM SPONSORED BY THE  
 7 GOVERNMENTAL ENTITY.

8 (E) "PAYMENT" MEANS A GIFT, SUBSCRIPTION, LOAN, ADVANCE, OR  
 9 DEPOSIT OF MONEY OR ANYTHING OF VALUE.

10 (F) "REGULATED INVESTMENT ADVISER" MEANS AN INVESTMENT ADVISER  
 11 OR COVERED ASSOCIATE OF AN INVESTMENT ADVISER THAT IS REGULATED  
 12 UNDER THE INVESTMENT ADVISERS ACT OF 1940, 15 USC 80B-1 TO 80B-21.

13 (G) "SERVICE PROVIDER" MEANS A PERSON RETAINED TO PROVIDE  
 14 SERVICES TO A SYSTEM AND INCLUDES INVESTMENT ADVISERS, CONSULTANTS,  
 15 CUSTODIANS, AUDITORS, ATTORNEYS, ACTUARIES, ADMINISTRATORS, AND  
 16 PHYSICIANS. SERVICE PROVIDER INCLUDES AN INVESTMENT SERVICE  
 17 PROVIDER AS DEFINED IN SUBSECTION (7). SERVICE PROVIDER DOES NOT  
 18 INCLUDE A REGULATED INVESTMENT ADVISER.

19 Sec. 14. (1) An investment fiduciary ~~may~~ **SHALL NOT** invest ~~net~~  
 20 more than 70% of a system's assets in stock **OR THE TYPE OF GLOBAL**  
 21 **EQUITY DESCRIBED IN SECTION 12B(4)(B)**. An investment fiduciary  
 22 shall not invest in more than 5% of the outstanding stock of any 1  
 23 corporation, or invest more than 5% of a system's assets in the  
 24 stock of any 1 corporation, unless otherwise provided in this act.

25 (2) ~~Stock invested~~ **AN INVESTMENT FIDUCIARY MAY INVEST** in **STOCK**  
 26 **OR GLOBAL EQUITY** under ~~this section shall meet~~ **SUBSECTION (1) IF IT**  
 27 **MEETS** 1 of the following requirements:

1 (a) ~~Be-IS~~ registered on a national securities exchange  
2 regulated under title I of the securities exchange act of 1934,  
3 ~~chapter 404, 48 Stat. 881, 15 U.S.C. 78a to 78l, 78m to 78o, 78o-3~~  
4 ~~to 78dd-1, 78ee to 78hh, and 78kk to 78ll~~ **15 USC 78A TO 78PP, OR ON**  
5 **AN INDUSTRY-RECOGNIZED EXCHANGE OUTSIDE THE UNITED STATES.**

6 (b) ~~Be-IS~~ on the national association of securities dealers  
7 automated quotation system or a successor to this system **OR IS ON**  
8 **AN INDUSTRY-RECOGNIZED SYSTEM OUTSIDE THE UNITED STATES.**

9 (c) ~~Be-IS~~ issued pursuant to rule 144a under the securities  
10 act of 1933, 17 ~~C.F.R.~~ **CFR** 230.144a.

11 (3) Notwithstanding subsection (2), an investment fiduciary  
12 may designate an American depository receipt **OR THE TYPE OF GLOBAL**  
13 **EQUITY DESCRIBED IN SECTION 12B(4)(A)** that satisfies the  
14 requirements of subsection (2) as an investment qualified under  
15 this section or as an investment in ~~foreign~~ **GLOBAL** securities  
16 qualified under section 20k.

17 Sec. 15. An investment fiduciary may invest in investment  
18 companies registered under the investment company act of 1940,  
19 ~~title I of chapter 686, 54 Stat. 789, 15 U.S.C.~~ **USC** 80a-1 to 80a-  
20 64. The management company of the investment company shall have  
21 been in operation for at least 5 years and shall have assets under  
22 management of more than \$500,000,000.00. **AN INVESTMENT COMPANY MAY**  
23 **BE ESTABLISHED AS A LIMITED PARTNERSHIP, CORPORATION, LIMITED**  
24 **LIABILITY COMPANY, TRUST, OR OTHER ORGANIZATIONAL ENTITY FOR WHICH**  
25 **THE LIABILITY OF AN INVESTOR DOES NOT EXCEED THE AMOUNT OF THE**  
26 **INVESTMENT UNDER THE LAWS OF THE UNITED STATES OR THE APPLICABLE**  
27 **LAWS OF THE STATE, DISTRICT, TERRITORY, OR FOREIGN COUNTRY UNDER**



1 **WHICH THE INVESTMENT COMPANY WAS ESTABLISHED.** An investment in an  
2 investment company shall be considered an investment in the  
3 underlying assets for all purposes under this act.

4       Sec. 19. (1) An investment fiduciary may invest up to ~~5%~~**10%**  
5 of a system's assets in publicly or privately issued real estate  
6 investment trusts or in real or personal property otherwise  
7 qualified pursuant to section 15, 16, or 20c.

8       (2) In addition to investments authorized under subsection  
9 (1), an investment fiduciary of a system having assets of more than  
10 \$100,000,000.00 may do any of the following:

11       (a) Invest in, buy, sell, hold, improve, lease, or acquire by  
12 foreclosure or an agreement in lieu of foreclosure, real or  
13 personal property or an interest in real or personal property.

14       (b) Develop, maintain, operate, or lease the real or personal  
15 property referred to in subdivision (a).

16       (c) Form or invest in 1 or more limited partnerships,  
17 corporations, limited liability companies, trusts, or other  
18 organizational entities for which liability of an investor cannot  
19 exceed the amount of the investment under the laws of the United  
20 States or of any state, district, or territory of the United States  
21 or foreign country. The limited partnership, corporation, limited  
22 liability company, trust, or other organizational entity may invest  
23 in, buy, sell, hold, develop, improve, lease, or operate real or  
24 personal property, or originate a mortgage or invest in an annuity  
25 separate account that invests in real or personal property to hold  
26 title to, improve, lease, manage, develop, maintain, or operate  
27 real or personal property whether currently held or acquired after

1 ~~the effective date of the amendatory act that added this~~  
2 ~~subdivision~~ **DECEMBER 27, 1996**. An entity formed under this  
3 subdivision has the right to exercise all powers granted to the  
4 entity by the laws of the jurisdiction of formation, including, but  
5 not limited to, the power to borrow money in order to provide  
6 additional capital to benefit and increase the overall return on  
7 the investment held by the entity.

8 (d) Invest in investments otherwise qualified pursuant to  
9 subsection (1).

10 (3) Except as otherwise provided in this section, the  
11 aggregate investments made under subsection (2) shall not exceed ~~5%~~  
12 **10%** of the assets of the system. The purchase price of an  
13 investment made under this section shall not exceed the appraised  
14 value of the real or personal property.

15 (4) If the investment fiduciary of a system is the state  
16 treasurer, investments described in subsection (1) or (2) may  
17 exceed ~~5%~~ **10%** of the assets of the system.

18 (5) An investment qualified under this section in which the  
19 underlying asset is an interest in real or personal property  
20 constitutes an investment under this section for the purpose of  
21 meeting the asset limitations contained in this act. This  
22 subsection applies even though the investment may be qualified  
23 elsewhere in this act. Notwithstanding this subsection, an  
24 investment fiduciary may designate a real estate investment trust  
25 which satisfies the requirements of section 14(2) as an investment  
26 qualified under this section or as an investment in stock under  
27 section 14.

1           Sec. 19a. (1) If the investment fiduciary is the state  
2 treasurer, investments in private equity shall not be more than 30%  
3 of the SYSTEM'S total assets. IF THE INVESTMENT FIDUCIARY IS NOT  
4 THE STATE TREASURER AND THE SYSTEM HAS ASSETS OF \$1,000,000,000.00  
5 OR MORE, INVESTMENTS IN PRIVATE EQUITY SHALL NOT BE MORE THAN 10%  
6 OF THE SYSTEM'S TOTAL ASSETS. AN INVESTMENT FIDUCIARY DESCRIBED IN  
7 THIS SUBSECTION MAY INVEST NOT MORE THAN AN ADDITIONAL 5% OF THE  
8 SYSTEM'S ASSETS IN MICHIGAN PRIVATE EQUITY ONLY.

9           (2) AN INVESTMENT FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF  
10 \$250,000,000.00 OR MORE BUT LESS THAN \$1,000,000,000.00 SHALL NOT  
11 INVEST MORE THAN 5% OF THE SYSTEM'S ASSETS IN MICHIGAN PRIVATE  
12 EQUITY. AN INVESTMENT FIDUCIARY MAY OTHERWISE INVEST IN PRIVATE  
13 EQUITY UNDER SECTION 20D.

14           Sec. 20c. (1) ~~A financial institution, a trust company, a~~  
15 ~~management company qualified under section 15, or any affiliate of~~  
16 ~~a person described in this section if that affiliate qualifies as~~  
17 ~~an investment fiduciary under section 13(8)(a), retained to act as~~  
18 ~~an~~ AN investment fiduciary may invest the assets of a system in any  
19 collective investment fund, common trust fund, or pooled fund that  
20 is established and maintained for investment of those assets ~~by the~~  
21 ~~financial institution, trust company, or management company under~~  
22 federal or state statutes or rules or regulations OR AN APPLICABLE  
23 FOREIGN LAW. THE INVESTMENT FIDUCIARY OF THE COLLECTIVE INVESTMENT  
24 FUND, COMMON TRUST FUND, OR POOLED FUND SHALL BE A FINANCIAL  
25 INSTITUTION, A TRUST COMPANY, A MANAGEMENT COMPANY QUALIFIED UNDER  
26 SECTION 13(11)(A), OR AN AFFILIATE OF 1 OF THESE ENTITIES IF THAT  
27 AFFILIATE QUALIFIES AS AN INVESTMENT FIDUCIARY UNDER SECTION

1 13(11) (A). THE COLLECTIVE INVESTMENT FUND, COMMON TRUST FUND, OR  
2 POOLED FUND MAY BE ESTABLISHED AS A LIMITED PARTNERSHIP,  
3 CORPORATION, LIMITED LIABILITY COMPANY, TRUST, OR OTHER  
4 ORGANIZATIONAL ENTITY FOR WHICH LIABILITY OF ANY INVESTOR DOES NOT  
5 EXCEED THE AMOUNT OF THE INVESTMENT UNDER THE LAWS OF THE UNITED  
6 STATES OR THE LAWS OF THE STATE, DISTRICT, TERRITORY, OR FOREIGN  
7 COUNTRY THAT APPLIED TO THE ORGANIZATION OF THE COLLECTIVE  
8 INVESTMENT FUND, COMMON TRUST FUND, OR POOLED FUND. A POOL IN WHICH  
9 THE STATE TREASURER HAS ADMINISTRATIVE OR INVESTMENT AUTHORITY AND  
10 THE INVESTMENT POOLS OF THE MUNICIPAL EMPLOYEES RETIREMENT SYSTEM  
11 AND RETIREMENT BOARD CREATED UNDER THE MUNICIPAL EMPLOYEES  
12 RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555, ARE  
13 NOT POOLED FUNDS FOR PURPOSES OF THIS SECTION. An investment in a  
14 collective investment fund, common trust fund, or pooled fund ~~shall~~  
15 ~~be~~ IS considered an investment in the underlying assets of that  
16 fund for all purposes under this act.

17 (2) As used in this section, "financial institution" means a  
18 state or nationally chartered bank or a state or federally  
19 chartered savings and loan association, savings bank, or credit  
20 union whose deposits are insured by an agency of the United States  
21 government and ~~which~~ THAT maintains a principal office or branch  
22 office located in this state under the laws of this state or the  
23 United States.

24 Sec. 20d. (1) An investment fiduciary of a system having  
25 assets of less than \$250,000,000.00 may invest not more than ~~5%~~ 15%  
26 of the system's assets in investments not otherwise qualified under  
27 this act, except as qualified in section 19a, whether the

1 investments are similar or dissimilar to those specified in this  
2 act.

3 (2) An investment fiduciary of a system having assets of  
4 \$250,000,000.00 or more **BUT LESS THAN \$1,000,000,000.00** may invest  
5 not more than ~~10%~~**20%** of the system's assets in investments  
6 described in subsection (1).

7 (3) An investment fiduciary of a system having assets of  
8 \$1,000,000,000.00 or more may invest not more than ~~15%~~**25%** of the  
9 system's assets in investments described in subsection (1).

10 (4) An investment fiduciary of a system who is the state  
11 treasurer may invest not more than ~~20%~~**30%** of the system's assets  
12 in investments described in subsection (1).

13 (5) If an investment described in subsection (1) is  
14 subsequently determined to be permitted under another section of  
15 this act, then the investment shall no longer be included under  
16 this section.

17 (6) This section shall not be used to exceed a percentage of  
18 total assets limitation for an investment provided in any other  
19 section of this act.

20 Sec. 20h. (1) In addition to the provisions of this act, a  
21 system is subject to the applicable accounting, **AUDITING**, and  
22 reporting requirements contained in the following acts and parts of  
23 acts:

24 (a) 1919 PA 71, MCL 21.41 to 21.55.

25 (b) The uniform budgeting and accounting act, 1968 PA 2, MCL  
26 ~~141.121~~**141.421** to 141.440a.

27 (c) Section 91 of the executive organization act of 1965, 1965

1 PA 380, MCL 16.191.

2 (2) A SYSTEM SHALL RETAIN ITS FINANCIAL RECORDS FOR A MINIMUM  
3 PERIOD OF 6 YEARS FROM THE DATE OF THE CREATION OF THE RECORD  
4 UNLESS STATE OR FEDERAL LAW REQUIRES A LONGER RETENTION PERIOD. AS  
5 USED IN THIS SUBSECTION, "FINANCIAL RECORDS" INCLUDES, BUT IS NOT  
6 LIMITED TO, RECORDS PERTAINING TO EXPENDITURES FOR PROFESSIONAL  
7 TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES, BY OR ON  
8 BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE SYSTEM.

9 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,  
10 INFORMATION REGARDING THE CALCULATION OF ACTUAL OR ESTIMATED  
11 RETIREMENT BENEFITS FOR MEMBERS OF THE SYSTEM IS EXEMPT FROM  
12 DISCLOSURE BY THE SYSTEM OR THE POLITICAL SUBDIVISION SPONSORING  
13 THE SYSTEM PURSUANT TO SECTION 13(1)(D) OF THE FREEDOM OF  
14 INFORMATION ACT, 1976 PA 442, MCL 15.243. UPON A MAJORITY VOTE OF  
15 THE GOVERNING BODY OF THE POLITICAL SUBDIVISION SPONSORING THE  
16 SYSTEM, THE SYSTEM SHALL PROVIDE THE DESIGNATED REPRESENTATIVE OF  
17 THE POLITICAL SUBDIVISION WITH A REASONABLE OPPORTUNITY TO INSPECT,  
18 COPY, OR RECEIVE COPIES OF ALL INFORMATION REGARDING THE  
19 CALCULATION OF ACTUAL OR ESTIMATED RETIREMENT BENEFITS FOR MEMBERS  
20 OF THE SYSTEM. THE SYSTEM MAY REQUIRE THAT INFORMATION PROVIDED BY  
21 THE SYSTEM UNDER THIS SUBSECTION BE PROVIDED ONLY UPON A PROMISE OF  
22 CONFIDENTIALITY BY THE POLITICAL SUBDIVISION SPONSORING THE SYSTEM.  
23 A SYSTEM MAY MAKE REASONABLE RULES TO ENSURE THE CONFIDENTIALITY OF  
24 RECORDS EXEMPT FROM DISCLOSURE UNDER APPLICABLE STATE AND FEDERAL  
25 LAW. THE SYSTEM MAY CHARGE A FEE UNDER THIS SUBSECTION IN  
26 ACCORDANCE WITH SECTION 4 OF THE FREEDOM OF INFORMATION ACT, 1976  
27 PA 442, MCL 15.234. ALL FEES AND EXPENSES INCURRED BY THE POLITICAL

1 SUBDIVISION SPONSORING THE SYSTEM THAT ARE RELATED TO THIS  
 2 SUBSECTION SHALL BE BORNE BY THE POLITICAL SUBDIVISION AND SHALL  
 3 NOT BE DEDUCTED FROM OR OFFSET AGAINST THE POLITICAL SUBDIVISION'S  
 4 REQUIRED PENSION CONTRIBUTIONS TO THE SYSTEM.

5 (4) ~~(2) Except as otherwise provided in subsection (4), a~~ A  
 6 system shall have an annual actuarial valuation with assets valued  
 7 on a market-related basis. ~~A system shall prepare and issue a~~  
 8 ~~summary annual report. The system shall make the summary annual~~  
 9 ~~report available to the plan participants and beneficiaries and the~~  
 10 ~~citizens of the political subdivision sponsoring the system. The~~  
 11 ~~summary annual report shall include all of the following~~  
 12 ~~information:~~

13 ~~—— (a) The name of the system.~~

14 ~~—— (b) The names of the system's investment fiduciaries.~~

15 ~~—— (c) The system's assets and liabilities.~~

16 ~~—— (d) The system's funded ratio.~~

17 ~~—— (e) The system's investment performance.~~

18 ~~—— (f) The system's expenses.~~ **HOWEVER, A SYSTEM THAT HAS ASSETS OF**  
 19 **LESS THAN \$20,000,000.00 IS ONLY REQUIRED TO HAVE AN ACTUARIAL**  
 20 **VALUATION AS REQUIRED UNDER THIS SUBSECTION EVERY OTHER YEAR.**

21 (5) ~~(3)~~ A system shall provide a supplemental actuarial  
 22 analysis before adoption of pension benefit changes. **SYSTEM ASSETS**  
 23 **SHALL NOT BE USED FOR ANY ACTUARIAL EXPENSES RELATED TO THE**  
 24 **SUPPLEMENTAL ACTUARIAL ANALYSIS UNDER THIS SUBSECTION.** The  
 25 supplemental actuarial analysis shall be provided by the system's  
 26 actuary and shall include an analysis of the long-term costs  
 27 associated with any proposed pension benefit change. The

1 supplemental actuarial analysis shall be provided to the board of  
2 the particular system and to the decision-making body that will  
3 approve the proposed pension benefit change at least 7 days before  
4 the proposed pension benefit change is adopted. For purposes of  
5 this subsection, "proposed pension benefit change" means a proposal  
6 to change the amount of pension benefits received by persons  
7 entitled to pension benefits under a ~~THE~~ system. Proposed pension  
8 benefit change does not include a proposed change to a health care  
9 plan or health benefits.

10 ~~—— (4) A system that has assets of less than \$20,000,000.00 is~~  
11 ~~only required to have the actuarial valuation required under~~  
12 ~~subsection (2) done every other year.~~

13 (6) THE SYSTEM SHALL MAKE THE SUMMARY ANNUAL REPORT CREATED  
14 UNDER SECTION 13 AVAILABLE TO THE PLAN PARTICIPANTS AND  
15 BENEFICIARIES AND THE CITIZENS OF THE POLITICAL SUBDIVISION  
16 SPONSORING THE SYSTEM. IF THE SYSTEM HAS A WEBSITE, THE SYSTEM  
17 SHALL PUBLISH THE SUMMARY ANNUAL REPORT ON THE WEBSITE. IF THE  
18 SYSTEM DOES NOT HAVE A WEBSITE, THE POLITICAL SUBDIVISION  
19 SPONSORING THE SYSTEM SHALL PUBLISH THE SUMMARY ANNUAL REPORT ON A  
20 WEBSITE THAT THE POLITICAL SUBDIVISION HAS CREATED OR MAY CREATE.

21 Sec. 20k. (1) Notwithstanding a percentage of total assets  
22 limitation for an investment provided in any other section of this  
23 act, an investment fiduciary **WHO IS THE STATE TREASURER OR THE**  
24 **INVESTMENT FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF**  
25 **\$2,000,000,000.00 OR MORE** may invest not more than ~~20%~~30% of a  
26 system's assets in ~~foreign~~ **GLOBAL** securities. **AN INVESTMENT**  
27 **FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF LESS THAN**



1 \$2,000,000,000.00 AND WHO IS NOT THE STATE TREASURER MAY INVEST NOT  
2 MORE THAN 20% OF A SYSTEM'S ASSETS IN GLOBAL SECURITIES. Except as  
3 otherwise provided in this act, an investment fiduciary shall not  
4 do any of the following:

5 (a) Invest in more than 5% of the outstanding ~~foreign~~**GLOBAL**  
6 securities of any 1 issuer.

7 (b) Invest more than 5% of a system's assets in the ~~foreign~~  
8 **GLOBAL** securities of any 1 issuer.

9 (2) Investments in ~~foreign~~**GLOBAL** securities under this  
10 section shall be made only by investment fiduciaries described in  
11 section ~~13(8)~~**13(11)** who have demonstrated expertise in investments  
12 of that type.

13 Sec. 20m. The governing board vested with the general  
14 administration, management, and operation of a system or other  
15 decision-making body that is responsible for implementation and  
16 supervision of any system shall confirm in the annual actuarial  
17 valuation **REQUIRED UNDER SECTION 20H** and the summary annual report  
18 required under section ~~20h(2)~~**13** that each ~~plan~~**SYSTEM** under this  
19 act provides for the payment of the required employer contribution  
20 as provided in this section and shall confirm in the summary annual  
21 report that the system has received the required employer  
22 contribution for the year covered in the summary annual report. The  
23 required employer contribution is the actuarially determined  
24 contribution amount. An annual required employer contribution in a  
25 ~~plan~~**SYSTEM** under this act shall consist of a current service cost  
26 payment and a payment of at least the annual accrued amortized  
27 interest on any unfunded actuarial liability and the payment of the

1 annual accrued amortized portion of the unfunded principal  
2 liability. For fiscal years that begin before January 1, 2006, the  
3 required employer contribution shall not be determined using an  
4 amortization period greater than 40 years. Except as otherwise  
5 provided in this section, for fiscal years that begin after  
6 December 31, 2005, the required employer contribution shall not be  
7 determined using an amortization period greater than 30 years. For  
8 the **TIER 1 RETIREMENT PLAN UNDER THE** state ~~employees~~-**EMPLOYEES'**  
9 retirement system ~~—ACT, 1943 PA 240, MCL 38.1 TO 38.69~~; the  
10 **MICHIGAN** public school ~~employees~~-**EMPLOYEES'** retirement system ~~—~~  
11 **CREATED UNDER THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979,**  
12 **1980 PA 300, MCL 38.1301 TO 38.1437**; and the **MICHIGAN** state police  
13 retirement system **CREATED UNDER THE STATE POLICE RETIREMENT ACT OF**  
14 **1986, 1986 PA 182, MCL 38.1601 TO 38.1648**, only, for the fiscal  
15 year beginning October 1, 2006, the contribution for the unfunded  
16 actuarial accrued liability shall be equal to the product of the  
17 assumed real rate of investment return times the unfunded actuarial  
18 accrued liability. In a plan year, any current service cost payment  
19 may be offset by a credit for amortization of accrued assets, if  
20 any, in excess of actuarial accrued liability. A required employer  
21 contribution for a ~~plan~~-**SYSTEM** administered under this act shall  
22 allocate the actuarial present value of future plan benefits  
23 between the current service costs to be paid in the future and the  
24 actuarial accrued liability. The governing board vested with the  
25 general administration, management, and operation of a system or  
26 other decision-making body **THAT IS RESPONSIBLE FOR IMPLEMENTATION**  
27 **AND SUPERVISION** of a system shall act upon the recommendation of an

1 actuary and the board and the actuary shall take into account the  
2 standards of practice of the actuarial standards board of the  
3 American academy of actuaries in making the determination of the  
4 required employer contribution.

5       SEC. 21. (1) SUBJECT TO THIS SECTION, THE GOVERNING BOARD  
6 VESTED WITH THE GENERAL ADMINISTRATION, MANAGEMENT, AND OPERATION  
7 OF A SYSTEM OR OTHER DECISION-MAKING BODY THAT IS RESPONSIBLE FOR  
8 IMPLEMENTATION AND SUPERVISION OF A SYSTEM MAY REMOVE A MEMBER OF  
9 THE BOARD OR BODY AS PROVIDED IN SUBSECTION (2) BY EITHER OF THE  
10 FOLLOWING:

11       (A) A UNANIMOUS VOTE OF ALL OF THE MEMBERS OF THE BOARD OR  
12 BODY, OTHER THAN THE MEMBER WHO IS THE SUBJECT OF THE VOTE FOR  
13 REMOVAL.

14       (B) AN ORDER OF A CIRCUIT COURT WITH JURISDICTION ENTERED IN  
15 AN APPROPRIATE ACTION AUTHORIZED BY A MAJORITY VOTE OF THE MEMBERS  
16 OF THE BOARD OR BODY.

17       (2) THE GOVERNING BOARD VESTED WITH THE GENERAL  
18 ADMINISTRATION, MANAGEMENT, AND OPERATION OF A SYSTEM OR OTHER  
19 DECISION-MAKING BODY THAT IS RESPONSIBLE FOR IMPLEMENTATION AND  
20 SUPERVISION OF A SYSTEM SHALL GIVE NOTICE AND HOLD A HEARING ON THE  
21 REMOVAL OF A MEMBER OF THAT BOARD OR BODY FOR ANY OF THE FOLLOWING  
22 REASONS:

23       (A) FOR AN ELECTED MEMBER OF THE BOARD OR BODY, UPON RECEIPT  
24 OF A PETITION REQUESTING THE REMOVAL OF THE MEMBER, WHICH PETITION  
25 IS SIGNED BY 2/3 OF THE INDIVIDUALS ELIGIBLE TO VOTE IN THE  
26 ELECTION OF THE MEMBER OF THE BOARD OR BODY.

27       (B) THE MEMBER IS LEGALLY INCAPACITATED FROM EXECUTING HIS OR

1 HER DUTIES AS A MEMBER OF THE BOARD OR BODY AND NEGLECTS TO PERFORM  
2 THOSE DUTIES.

3 (C) THE MEMBER HAS COMMITTED A MATERIAL BREACH OF THE SYSTEM  
4 PROVISIONS OR SYSTEM POLICIES OR PROCEDURES AND THE REMOVAL OF THE  
5 MEMBER IS IN THE INTERESTS OF THE SYSTEM OR THE INTEREST OF ITS  
6 PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES.

7 (D) THE MEMBER IS CONVICTED OF A VIOLATION OF LAW AND THE  
8 REMOVAL OF THE MEMBER IS IN THE INTERESTS OF THE SYSTEM OR THE  
9 INTEREST OF ITS PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES.

10 (3) UPON THE REMOVAL OF A MEMBER OF A BOARD OR BODY UNDER THIS  
11 SECTION BEFORE EXPIRATION OF THE MEMBER'S TERM, A NEW SUCCESSOR  
12 MEMBER SHALL FILL THE VACANCY AS FOLLOWS:

13 (A) FOR AN ELECTED MEMBER OF THE BOARD OR BODY, BY ELECTION IN  
14 THE SAME MANNER AS THE REMOVED MEMBER FOR THE REMAINDER OF THAT  
15 TERM OF OFFICE.

16 (B) FOR AN APPOINTED MEMBER OF THE BOARD OR BODY, BY  
17 APPOINTMENT BY THE APPOINTING AUTHORITY OF THE REMOVED MEMBER FOR  
18 THE REMAINDER OF THAT TERM OF OFFICE.

19 (C) FOR AN EX OFFICIO MEMBER SERVING BY VIRTUE OF HIS OR HER  
20 OFFICE, BY APPOINTMENT BY THE GOVERNING BODY OF THE POLITICAL  
21 SUBDIVISION SPONSORING THE SYSTEM UNTIL THE TIME THAT A NEW  
22 INDIVIDUAL IS ELECTED OR APPOINTED TO THE OFFICE FROM WHICH THE  
23 REMOVED MEMBER SERVED AS A MEMBER.

24 (4) AN INDIVIDUAL WHO IS REMOVED FROM OFFICE AS A MEMBER OF A  
25 BOARD OR BODY UNDER THIS SECTION MAY APPEAL THE REMOVAL TO THE  
26 CIRCUIT COURT WITH JURISDICTION IF THE REMOVAL IS BY THE BOARD OR  
27 BODY OR, IF THE REMOVAL IS BY THE CIRCUIT COURT, TO THE APPROPRIATE

1 COURT WITH JURISDICTION. A SUCCESSOR MEMBER OF A BOARD OR BODY MAY  
2 BE ELECTED OR APPOINTED DURING THE PENDENCY OF AN APPEAL OF A  
3 REMOVED MEMBER UNDER THIS SUBSECTION UNTIL THE APPEAL IS WITHDRAWN  
4 OR THERE IS A FINAL JUDGMENT IN THE MATTER.

5 (5) IF, UPON AN APPEAL UNDER SUBSECTION (4), THE COURT FINDS  
6 THAT THE PETITION FOR REMOVAL OF THE MEMBER WAS FILED IN BAD FAITH  
7 AND THAT REMOVAL IS CONTRARY TO THE INTERESTS OF THE SYSTEM OR THE  
8 INTEREST OF ITS PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES, THE  
9 COURT MAY ORDER THAT THE INDIVIDUALS SEEKING THE REMOVAL OF THE  
10 MEMBER PAY ALL OR A PORTION OF THE COSTS OF THE PROCEEDINGS,  
11 INCLUDING REASONABLE ATTORNEY FEES.