

Act No. 674
Public Acts of 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Albert

ENROLLED HOUSE BILL No. 6475

AN ACT to amend 1986 PA 182, entitled “An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of technology, management, and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of technology, management, and budget, and certain state officers; and to repeal certain acts and parts of acts,” by amending sections 3, 4, 11, 12, 14, 14a, 15, 23, 24, 25, 26, 27, 28, 32, 33, 34, and 42 (MCL 38.1603, 38.1604, 38.1611, 38.1612, 38.1614, 38.1614a, 38.1615, 38.1623, 38.1624, 38.1625, 38.1626, 38.1627, 38.1628, 38.1632, 38.1633, 38.1634, and 38.1642), section 3 as amended by 2010 PA 220, section 4 as amended by 2004 PA 83, sections 14 and 42 as amended by 2004 PA 50, section 14a as amended by 2008 PA 366, and sections 25 and 26 as amended by 2000 PA 374, and by adding sections 15a, 24b, 42a, 42b, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, and 74.

The People of the State of Michigan enact:

Sec. 3. (1) “Banked leave time program” means the part B annual leave hours within the state’s annual and sick leave program 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 in exchange for additional part B annual leave hours.

(2) “Credited service” means the sum of the prior service and membership service credited to a member’s account.

(3) “Deferred member” means a member who separates from service with entitlement to a deferred retirement allowance as provided in section 30, but who is not a retiree.

(4) “Department” means the department of technology, management, and budget.

(5) “Direct rollover” means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(6) “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.

(7) “DROP participant” means an officer who participates in the deferred retirement option plan established in section 24a.

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

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

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

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

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

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

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

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

(9) 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, 26 USC 401.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent the 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 that is not so includable.

(10) "Final average compensation" means, except as otherwise provided in this subsection, the average annual salary for the last 2 years of service with the department of state police for which the member was compensated as defined in subsection (13). Except as otherwise provided in this subsection, for a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member on or after June 10, 2012, final average compensation means the average salary for the last 5 years of service for which the member was compensated as defined in subsection (14). Average annual salary includes only the following compensation items:

(a) Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member before June 10, 2012, only the following compensation items:

(i) Regular salary paid for the last 2 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(ii) Overtime, shift differential, and shift differential overtime paid for the last 2 years of service.

(iii) Gross pay adjustments paid affecting the last 2 years of service, including compensatory time and emergency response compensation.

(iv) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(v) Deferred hours under Plan B of the fiscal years ending September 30, 1981, and September 30, 1982, that are paid at the time of retirement separation.

(vi) Longevity pay equal to 2 full years.

(vii) Bomb squad pay paid for the last 2 years of service.

(viii) Post 29 freeway premium paid for the last 2 years of service.

(ix) On-call pay paid for the last 2 years of service.

(x) Beginning October 1, 2003, the value of any unpaid furlough hours or 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, for a period during which a member is participating in the banked leave time program.

(xi) Beginning May 1, 2009, the value of temporary layoff hours. As used in this subparagraph, "temporary layoff hours" means hours attributable to the layoff of a member if the layoff does not exceed 1 month and has a fixed, predetermined, and announced recall date.

(b) Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member on or after June 10, 2012, only the following compensation items:

(i) Regular salary paid for the last 5 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(ii) Shift differential.

(iii) Gross pay adjustments paid affecting the last 5 years of service, including compensatory time and emergency response compensation.

(iv) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(v) Longevity pay equal to 5 full years.

(vi) Bomb squad pay paid for the last 5 years of service.

(vii) Post 29 freeway premium paid for the last 5 years of service.

(viii) On-call pay paid for the last 5 years of service.

(ix) The value of any unpaid furlough hours or 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, for a period during which a member is participating in the banked leave time program.

(x) The value of temporary layoff hours. As used in this subparagraph, "temporary layoff hours" means hours attributable to the layoff of a member if the layoff does not exceed 1 month and has a fixed, predetermined, and announced recall date.

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

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

(13) "Last 2 years of service" means the 2-year period immediately preceding the member's last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted under section 29 or, if the officer participated in the deferred retirement option plan, the 2-year period immediately preceding participation in the deferred retirement option plan.

(14) "Last 5 years of service" means the 5-year period immediately preceding the member's last day of service or that period of 5 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted under section 29.

Sec. 4. (1) "Member", except where the context otherwise requires, means an employee of the department of state police who has subscribed to the constitutional oath of office.

(2) "Officer" means a nonexclusively represented member of the retirement system.

(3) "Qualified participant" means an individual who first becomes a member on or after June 10, 2012 and who is also a participant of Tier 2.

(4) "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 must not exceed 4% per annum, compounded annually.

(5) "Retirant" means a member who separates from service and retires with a retirement allowance payable from the appropriate reserve of the retirement system.

(6) "Retirement allowance" means the annual amount, payable monthly, to which a retirant, retirement allowance beneficiary, or refund beneficiary is entitled under this act.

(7) "Retirement allowance beneficiary" means a person who is being paid or has entitlement to the payment of a retirement allowance in the event of the death of a member, deferred member, or retirant.

(8) "Retirement board" means the retirement board created in section 6.

(9) "Retirement system" means the system of benefits for members and qualified participants of the department of state police and their survivors and beneficiaries provided by this act.

(10) "Surviving spouse" means the spouse at the time of death of the member or retirant.

(11) "Tier 1" means the retirement plan available to a member under this act.

(12) "Tier 2" means the retirement plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, that is available to qualified participants under sections 62 to 74.

Sec. 11. (1) The retirement board, in consultation with the department, shall engage an actuary, in conformance with section 261 of the management and budget act, 1984 PA 431, MCL 18.1261.

(2) The actuary shall prepare an annual valuation of the assets, liabilities, financial condition, and contribution rate of the retirement system, upon information supplied by the department.

(3) The retirement board and the department shall conduct and review an experience investigation study and adopt risk assumptions on which actuarial valuations are to be based, after consultation with the actuary, and the state treasurer. The experience investigation study must be periodically reviewed at least once every 5 years.

(4) Every April 1 following a periodic review of risk assumptions under subsection (3), the office of retirement services on behalf of the department and the state treasurer shall collaborate to submit a report to the senate majority leader, the speaker of the house of representatives, the senate and house of representatives appropriations committees, the senate and house fiscal agencies, and the department of state police. A report required under this subsection must be published on the office of retirement services's website and include at least all of the following:

(a) Forecasted rate of return on investments at all of the following probability levels:

(i) 5%.

(ii) 25%.

(iii) 50%.

(iv) 75%.

(v) 95%.

(b) The actual rate of return on investments for 10-, 15-, and 20-year time intervals.

(c) Mortality assumptions.

(d) Retirement age assumptions.

(e) Payroll growth assumptions.

(f) Any other assumptions that have a material impact on the financial status of the retirement system.

Sec. 12. The retirement board shall elect from its membership a chairperson who shall take office immediately on election and serve until a successor is elected. The director of the office of retirement service, department of technology, management, and budget, is the executive secretary of the retirement system.

Sec. 14. (1) The funding objective of the retirement system is to establish and receive contributions during each fiscal year that are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of services rendered by members during the fiscal year, the normal cost requirements of the retirement system, and finance the unfunded actuarial costs of benefits likely to be paid on account of service rendered before the fiscal year, the unfunded actuarial accrued liability of the retirement system, and health, dental, and vision insurance.

(2) Subject to subsections (5) to (7), the annual level percentage of payroll contribution rate must be actuarially determined using experience assumptions and level percent of payroll actuarial cost methods adopted by the retirement board and the department pursuant to an annual actuarial valuation, which must be sufficient to finance benefits being provided and to be provided by the retirement system.

(3) Subject to subsections (5) to (7), for differences occurring in fiscal years beginning on or after October 1, 2001, 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 (2), 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 must 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 must be included for each year that a portion of the remaining difference is carried forward. The interest rate must equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made.

(4) For each fiscal year that begins on or after October 1, 2003, if the actuarial valuation prepared under 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 amount based on the annual level percent of payroll contribution rate under subsections (1) and (2) may be deposited into the health advance funding subaccount created by section 42.

(5) Beginning with the state fiscal year ending September 30, 2022 until the pension and retiree health care payroll growth assumption rate is zero, the payroll growth assumption rate must be reduced by 50 basis points. Beginning with the state fiscal year ending September 30, 2022, the office of retirement services within the department of technology, management, and budget and the retirement board may agree to reduce the rate described in this subsection by any number of additional basis points.

(6) Beginning with the state fiscal year ending September 30, 2019 and for each subsequent fiscal year, the normal cost contribution rate must not be less than the normal cost contribution rate in the immediately preceding fiscal year.

Additionally, the employer portion of the contribution rate must not be less than the employer portion of the contribution rate in the immediately preceding fiscal year.

(7) Subject to this subsection, beginning with the state fiscal year ending September 30, 2019 and for each subsequent fiscal year until the unfunded actuarial accrued liability is paid off, the unfunded actuarial accrued liability contribution sum and due payable must not be less than the unfunded actuarial accrued liability contribution sum and due payable in the immediately preceding fiscal year. The unfunded actuarial accrued liability must be paid off no later than September 30, 2038. Additionally, the employer portion of the unfunded actuarial accrued liability contribution sum and due payable must not be less than the employer portion of the unfunded actuarial accrued liability contribution sum and due payable in the immediately preceding fiscal year.

(8) 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 must 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 must 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.

Sec. 14a. (1) This section is enacted under section 401(a) of the internal revenue code, 26 USC 401, that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

(2) The retirement system must 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 must 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, deferred members, retirants, and beneficiaries before satisfaction of all retirement system liabilities.

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

(5) The required beginning date for retirement allowances and other distributions 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 this act.

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and 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 on or after January 1, 1993. 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 pursuant to section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) Notwithstanding any other provision of this act, 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 any person who first becomes a member of the retirement system on or after October 1, 1996.

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

Sec. 15. (1) The reserve for employee contributions is the account in which member contributions are accumulated and from which must be made refunds and transfers of accumulated member contributions. The retirement system shall maintain 1 or more separate subaccounts for each person having an interest in this account. Member contributions must be accumulated at regular interest to the subaccounts of the members.

(2) Accumulated member contributions must be transferred from the reserve for employee contributions to the reserve for retired benefit payments on the retirement or death of a member or deferred member.

Sec. 15a. (1) Beginning with his or her first pay date and ending on the member's termination of employment, each member first employed on or after June 10, 2012 shall contribute an amount equal to 4% of his or her compensation to the reserve for employee contributions to provide for the amount of retirement allowance that is calculated only on the credited service and compensation received by that member.

(2) Beginning on October 1, 2012, and ending on the member's termination of employment, each member hired before June 10, 2012 who, on October 1, 2012, was a bargaining unit employee covered by the state police defined benefit retirement plan shall contribute an amount equal to 1% of his or her compensation to the reserve for employee contributions. Beginning on October 1, 2013, members described in this subsection shall contribute an additional amount equal to 1% of his or her compensation to the reserve for employee contributions.

(3) 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.

(4) The state shall pick up the member contributions required under subsections (1) and (2). Contributions picked up must 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.

(5) A member is entitled to the benefit of all contributions made under this section in the same manner as provided under section 15.

Sec. 23. (1) Except as otherwise provided under 1935 PA 59, MCL 28.1 to 28.16, an employee of the department of state police who has subscribed to the constitutional oath of office is a member of this retirement system.

(2) A member of this retirement system who first becomes a member on or after June 12, 2012 is a member of the Tier 1 plan and also participates in the Tier 2 plan until the member terminates employment or retires and receives a retirement allowance calculated under section 24.

(3) A member who resigns, dies, is transferred to a position not covered by the retirement system, or is dismissed for a reason other than his or her retirement or breach of the public trust, on application is entitled to receive in a lump sum, payable to him or her or his or her legal representative if the member dies or is legally disabled, 100% of the contributions made into the reserve for employee contributions. Any unclaimed contributions must be transferred from the reserve for employee contributions to the reserve for retired benefit payments.

Sec. 24. (1) Except as provided in section 24b and subject to subsection (14), a member who first became a member before June 10, 2012 and who has 25 years or more of credited service under this act or former 1935 PA 251, or both, may retire on his or her written application to the retirement board, stating a date, not less than 30 nor more than 90 days after the execution and filing of the application, he or she desires to retire. However, a member described in this subsection who becomes 56 years of age shall retire. A member retiring under this subsection is entitled to receive a retirement allowance equal to 60% of his or her final average compensation.

(2) Subject to subsection (4), if a retirant receiving a retirement allowance under subsection (1) dies, the retirement allowance must continue to be paid to the surviving spouse of the retirant for the rest of the spouse's life. If there is not a surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the retirant, share and share alike. If the surviving spouse dies and there are not eligible children, the retirement system shall pay to the retirant's estate or his or her legal representative any residual accumulated contributions and interest made by the retirant into the fund.

(3) If the director of the department of state police orders the retirement of any member eligible to retire for reason or reasons other than having become 56 years of age, and that member is aggrieved by the order, the member affected by an order described in this subsection is entitled to appeal to the retirement board. An appeal must be in writing and filed with the retirement board within 30 days after receipt of the order of retirement. The retirement board shall set the appeal for hearing within 30 days after the filing of the appeal and shall review the facts as presented and determine whether the order of retirement will continue or be revoked.

(4) A member who first becomes a member on or after July 1, 2006 as a new bargaining unit employee shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election must be in writing and filed with the retirement board at least 15 days before the effective date of the retirement allowance except as provided for a disability retiree under sections 26, 27, and 28. The amount of retirement allowance under subdivision (b), (c), or (d) is the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

(a) The retiree will be paid a straight retirement allowance for life computed under section 24. An additional retirement allowance payment will not be made on the retiree's death.

(b) The retiree will be paid a reduced retirement allowance for life with a provision that on the retiree's death, payment of the reduced retirement allowance will be continued throughout the lifetime of the retirement allowance beneficiary whom the member or deferred member designated in a writing filed with the retirement board at the time of election of this option. A member or deferred member may elect this option and designate a retirement allowance beneficiary under the conditions set forth in subsection (5).

(c) A retiree must be paid a reduced retirement allowance for life with the provision that on the retiree's death, payment of 1/2 of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(d) A retiree must be paid a reduced retirement allowance for life with the provision that on the retiree's death, payment of 75% of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(5) Except as otherwise provided in this section, the retirement allowance beneficiary selected under subsection (4)(b), (c), or (d) must not be changed on or after the effective date of the retirement allowance and must be either a spouse, brother, sister, parent, or child, including an adopted child, of the member, deferred member, retiring member, or retiring deferred member entitled to make the election under this act. Another retirement allowance beneficiary must not be selected. If a member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date, an election under subsection (4), other than an election under subsection (4)(b), naming the spouse as retirement allowance beneficiary, is not effective unless the election is signed by the spouse, except that this requirement may be waived by the board if the signature of a spouse cannot be obtained because of extenuating circumstances. For purposes of this subsection, "spouse" means the individual to whom the member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date. Payment to a retirement allowance beneficiary must start the first day of the month following the retiree's death.

(6) Except as otherwise provided in subsection (9), if the retirement allowance beneficiary selected under subsection (4)(b), (c), or (d) predeceases the retiree, the retiree's benefit must revert to a straight retirement allowance including postretirement adjustments, if any; is effective the first of the month following the death; and must be paid during the remainder of the retiree's life.

(7) If a retiree receiving a reduced retirement allowance under subsection (4)(b), (c), or (d) is divorced from the spouse who had been designated as the retiree's retirement allowance beneficiary under subsection (4)(b), (c), or (d), the election of a reduced retirement allowance payment option is 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, 2002 PA 100, MCL 38.1681 to 38.1689, and dated after June 27, 1991 provides that the election of a reduced retirement allowance payment option under subsection (4)(b), (c), or (d) is to be considered void by the retirement system and the retiree 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 reduced retirement allowance payment option under subsection (4)(b), (c), or (d) is considered void by the retirement system under this subsection, the retiree's retirement allowance must revert to a straight 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, 2002 PA 100, MCL 38.1681 to 38.1689. The retirement allowance must revert to a straight 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.

(8) A retirant, who is divorced after payment of his or her retirement allowance begins and whose former spouse is his or her retirement allowance beneficiary, may change his or her survivor option to the straight life option only if an order of the court states that the election of a survivor option under subsection (4) is considered void by the retirement system. A retirant who subsequently remarries may elect a survivor retirement allowance option for his or her spouse of 100%, 75%, or 50% of his or her actuarially reduced monthly payments, unless otherwise precluded by court order.

(9) If the retirement allowance payments terminate before an aggregate amount equal to the retirant's accumulated contributions has been paid, the difference between the retirant's accumulated contributions and the aggregate amount of retirement allowance payments made must be paid to the person designated in a writing filed with the retirement board on a form provided by the retirement board. If the designated person does not survive the retirant or retirement allowance beneficiary, the difference must be paid to the deceased recipient's estate or to the legal representative of the deceased recipient.

(10) A retirant who selected a retirement allowance beneficiary under subsection (4)(b), (c), or (d) may change his or her retirement allowance beneficiary if all of the following apply:

(a) The first retirement allowance beneficiary is a spouse.

(b) The first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date.

(c) The retirant marries another spouse after the retirement allowance effective date.

(d) Except as otherwise provided in an applicable collective bargaining agreement, the retirant files a written request with the retirement system to name his or her current spouse as a retirement allowance beneficiary not earlier than 180 days and not later than 1 year after the marriage of the retirant and the current spouse, except that a retirant whose first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection has 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(11) A retirant who was not married on his or her retirement allowance effective date and who did not select a payment option provided in this section may select an optional form of benefit payment under subsection (4)(b), (c), or (d) and designate a retirement allowance beneficiary subject to all of the following:

(a) The retirant marries after his or her retirement allowance effective date.

(b) The retirement allowance beneficiary is the retirant's spouse.

(c) The retirement allowance beneficiary is only designated as the retirement allowance beneficiary for that portion of the retirant's retirement allowance that is not subject to an eligible domestic relations order assigning a previous spouse a reduced benefit under section 4(b) of the eligible domestic relations order act, 1991 PA 46, MCL 38.1704.

(d) Except as otherwise provided in an applicable collective bargaining agreement, the retirant files a written request with the retirement system to select the optional form of benefit payment under subsection (4)(b), (c), or (d) and to designate his or her spouse as the retirement allowance beneficiary, not earlier than 180 days and not later than 1 year after the retirant's marriage except that a retirant who marries after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection has 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(e) A spouse who is added as a survivor under this subsection is not eligible for the payment of insurance premiums under section 42.

(12) The retirement allowance of the retirant who makes an election under subsection (10) or (11) must not be greater than the actuarial equivalent of the retirement allowance as determined by the retirement board that the retirant would otherwise be entitled to under subsection (4)(a) and must become effective the first day of the month following the filing of the written request with the retirement system.

(13) For purposes of determining actuarial equivalent retirement allowances under this section, the actuarially assumed interest rate is determined by the director of the department and the retirement board in consultation with the actuary with utilization of the mortality tables adopted by the department and the retirement board.

(14) If the retirant dies no later than 12 months after the effective date of his or her election under subsection (8), (10), or (11), the retirement allowance for the surviving spouse established under subsection (8), (10), or (11) must terminate 12 months after the death of the retirant.

(15) Unless otherwise provided in an applicable collective bargaining agreement, or by order of the director of the department of state police, a retirement allowance must not be paid under this section if at the time the member submits his retirement application the member is on suspension without pay for conduct involving the breach of the public trust.

Sec. 24b. (1) A member who first became a member on or after June 10, 2012, who is at least 55 years of age and has at least 25 years of credited service under this act, or who is at least 60 years of age and has at least 10 years of credited

service under this act, may retire on his or her written application to the retirement board, stating a date, not less than 30 days and not more than 90 days after the execution and filing of the application, he or she desires to retire.

(2) The calculation of a retirement allowance under this act for a member who first becomes a member on or after June 10, 2012 includes only the following, as applicable:

(a) 2% of final average compensation multiplied by years of service that do not exceed 25 years.

(b) For each year of service that exceeds 25 years, the 2% provided under this section must be reduced by 40 basis points for that applicable year until the percentage reaches 0% after years of service have exceeded 30 years.

Sec. 25. (1) Except as provided in section 24(4) and subject to subsection (4), the retirement system shall pay a retirement allowance to the surviving spouse of a member who, while in the discharge of his or her duty, is killed or receives injuries or contracts a disease or illness, by reason of his or her occupation, that results in his or her death. The retirement allowance must be equal to 60% of the member's final average compensation. On the death of the surviving spouse, or if there is no surviving spouse at the time of the death of the member, the retirement allowance must be paid to the children of the member under the age of 18 years, share and share alike. When each respective child attains the age of 18 years, payment to him or her must cease and his or her share must be prorated among the remaining children under 18 years of age. If there is a retirement allowance payable to a surviving spouse under this section, a retirement allowance of \$100.00 per month must be paid to each of the children under the age of 18 years, if any, of the deceased member, and all payments to the children must continue until each respective child reaches the age of 18 years. If there is not a surviving spouse, nor children under the age of 18 years, a retirement allowance equal to 60% of the member's final average compensation must be paid to the mother or father, or both, of the member, if dependent on him or her for support, until the dependency ceases. If there is not a dependent mother or father, a retirement allowance of \$100.00 per month must be paid to each of the sisters or brothers, if there are any under 18 years of age dependent upon the member for support. If there are not any dependents, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions, or \$1,500.00, whichever is greater.

(2) The supplements to retirement allowances and minimum annual retirement allowance provisions of this act do not apply to the special \$100.00 per month allowance to children and the allowance to dependent parents and siblings.

(3) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, must not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police before his or her death.

(4) For a member who first becomes a member on or after June 10, 2012, who while in the discharge of his or her duty is killed or receives injuries or contracts a disease or illness, by reason of his or her occupation, that results in his or her death, a retirement allowance must be paid in the same manner as provided for a duty disabled retirant under section 26. The retirement allowance payable under this section to a duly designated survivor beneficiary of a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of the employer-funded portion of the member's defined contribution account balance.

(5) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012.

Sec. 26. (1) Except as provided in section 24(4) and subject to subsection (5), a member who retires due to duty incurred disability after September 30, 1986, is entitled to receive a retirement allowance equal to 60% of the member's final average compensation.

(2) If a retirant receiving a retirement allowance under this section dies, the retirement system shall continue to pay the retirement allowance to the surviving spouse of the deceased retirant for the rest of the spouse's life.

(3) For purposes of this section, if there is no surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(4) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, must not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police before the duty disability retirement allowance effective date.

(5) The retirement allowance payable under this section to a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of the employer-funded portion of the member's defined contribution account balance.

(6) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

Sec. 27. (1) Except as provided in section 24(4) and subject to subsection (3), if a member continues as a member of the retirement system on or after the date he or she acquires 10 years of service credit and suffers a nonduty related death leaving a surviving spouse before the effective date of the member's retirement, while a member of the retirement system, the surviving spouse is entitled to receive a retirement allowance equal to 2.4% of the member's final average compensation times the number of years, including any fraction of a year, of service credited to the member under this act or former 1935 PA 251, or both, but not to exceed 25 years, as if the member had retired effective the day preceding the date of death and nominated the spouse as beneficiary. If there is not a surviving spouse, or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 years of the member, share and share alike. On the spouse's death, if there are not eligible children, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions. A retirement allowance is not payable under this section if a retirement allowance is payable under any other section of this act.

(2) Payment of the retirement allowance must begin the first day of the calendar month next following the month in which the member died.

(3) The retirement allowance payable under this section to a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of any employer contributions made under section 15a and forfeits the contributions and earnings on the contributions.

(4) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

Sec. 28. (1) Except as provided in section 24(4) and subject to subsection (3), a member who retires due to nonduty incurred disability on or after the effective date of this act and after completing 10 years of credited service under this act or former 1935 PA 251, or both, is entitled to receive a retirement allowance equal to 2.4% of the member's final average compensation times the number of years, including any fraction of a year, of service credited to the member pursuant to this act or former 1935 PA 251, or both, but not to exceed 25 years, during the period of disability. Except as provided in section 24(4), if a retirant receiving a retirement allowance under this section dies, the retirement allowance must continue to be paid to the surviving spouse for the rest of the spouse's life in an amount equal to the retirement allowance that the member was receiving on the date of his or her death.

(2) For purposes of this section, if there is no surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(3) The retirement allowance payable under this section must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth and employer contributions made under section 15a and earnings on the contributions.

(4) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

Sec. 32. (1) A member of the retirement system who has accumulated 10 or more years of retirement system service credit under this act or former 1935 PA 251, or both, and who, while an employee of the department of state police, was or is drafted, enlisted, inducted, or commissioned into active duty with the military, naval, marine, or other armed service of the United States government and who is accepted for reemployment as an employee of the department of state police who subscribes to the constitutional oath of office within 6 months following discharge from active service, or if hospitalized at date of discharge, is accepted for reemployment as an employee of the department who subscribes to the constitutional oath of office within 6 months following release from the military facility, has not more than 2 years of the active service credited as a member of the retirement system, in the same manner as if the member had served uninterruptedly. During the period of active service, and until reemployment, the member's contributions to the reserve for employee contributions must be suspended and the member's balance in his or her account standing to the member's

credit as of the last payroll date preceding the member's leave of absence must be accumulated at regular interest. If the member withdraws all or part of the accumulated contributions from his or her account, the active service must not be credited until the member returns to the reserve for employee contributions those amounts withdrawn, together with regular interest computed from the date of withdrawal to the date of repayment.

(2) 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 2 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 the payment is made multiplied by the years and months the member elects to purchase up to the maximum. For the purposes of computing payment under this subsection, the compensation amount used must not be less than the highest fiscal year compensation previously received by the member. Service must not be credited if the service 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 must not be credited under this subsection until the member has accumulated 10 years of credited service, of which the last 5 are continuous.

(3) Service credit may be purchased under this section instead of, but not in addition to, purchasing service credit under section 33.

Sec. 33. (1) Except as otherwise provided in this section, a member may elect to purchase service credit for not more than 2 years of full-time service as a volunteer in the VISTA program provided for under sections 101 to 108 of title I of Public Law 93-113, 42 USC 4951 to 4958, or as a volunteer, volunteer leader, or employee in the Peace Corps under sections 5 to 7 of title I of Public Law 87-293, 22 USC 2504 to 2506, on request and presentation of documentation of the employment rendered that is verifiable from official reporting unit records or other acceptable documentation as determined by the retirement board, and on payment to the retirement system of an amount that is equal to the actuarial cost of the service. For the purpose of computing payment under this subsection, the compensation amount used must not be less than the highest fiscal year compensation previously received by the member.

(2) Service must not be credited under this section until the member has accumulated 10 years of credited service.

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

(4) A member may purchase credit under this section instead of, but not in addition to, purchasing service credit under section 32.

(5) A member who first became a member on or after June 10, 2012 is not eligible to purchase service under this section.

Sec. 34. (1) Except as otherwise provided in this section, a member who left or leaves service as an employee of the department of state police for purposes of maternity or paternity or child rearing, and returns to service as an employee of the department of state police, 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 individual was separated from service as an employee of the department of state police on request and payment to the board of an amount determined by the board to be the actuarial cost. The total service credited under this section must not exceed 2 years. A member requesting purchase of service credit under this section shall certify to the board the purpose for which the member took leave and was separated from service as an employee of the department of state police.

(2) Service credit purchased under this section may not be used to satisfy the minimum of 10 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 beneficiary has not been designated, or if the member leaves employment before his or her retirement becomes effective, the payment made by the member must be refunded on request to the member or to the member's legal representative.

(4) Except as otherwise provided in this section, a member who reduces hours of employment with the department of state police for purposes of maternity, paternity, or child rearing may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member who first became a member on or after June 10, 2012 is not eligible to purchase service under this section.

Sec. 42. (1) Hospitalization and medical coverage insurance premiums payable by a retirant or his or her retirement allowance beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department must be paid in amounts provided by this subsection from appropriations for this purpose made to the retirement system. Until October 1, 1989, the amount payable by the retirement system must be 90% of the entire monthly premium payable for hospitalization and medical coverage insurance. Beginning October 1,

1989, the amount payable by the retirement system must be 95% of the entire monthly premium payable for hospitalization and medical coverage insurance.

(2) Effective October 1, 1989, dental coverage and vision coverage insurance premiums payable by a retirant or his or her retirement allowance beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department must be paid in amounts provided by this subsection from appropriations for this purpose made to the retirement system. The amount payable by the retirement system must be 90% of the entire monthly premium payable for dental coverage and vision coverage insurance.

(3) The health-dental-vision benefits fund is created and is the fund into which appropriations of this state for health, dental, and vision benefits are paid. Benefits payable under subsections (1) and (2) are payable from the health-dental-vision benefits fund. The assets and any earnings on the assets contained in the health-dental-vision benefits fund and the health advance funding subaccount are not to be treated as pension assets.

(4) The health advance funding subaccount is the account to which amounts transferred under section 14(3) are credited. Any amounts received from the health advance funding subaccount and accumulated earnings on those amounts must not be expended until the actuarial accrued liability for health benefits under this section is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under this section if the actuarial accrued liability for health benefits under this section is at least 100% funded.

(5) Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the reserve for employer contributions created by section 16 if the actuarial valuation prepared under section 14 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.

(6) Except as otherwise provided in sections 25 to 28, this section does not apply to a member who first becomes a member on or after June 10, 2012.

Sec. 42a. (1) A member who first becomes a member on or after June 10, 2012 must not receive any health insurance coverage premium from the retirement system under section 42. In lieu of any health insurance coverage premium that might have been paid by the retirement system under section 42, a member's employer shall make a matching contribution up to 2% of the member's compensation to the Tier 2 plan for each member who first becomes a member on or after June 10, 2012. A matching contribution under this subsection must not be used as the basis for a loan from an employee's Tier 2 account.

(2) A member who first becomes a member on or after June 10, 2012 may make a contribution up to 2% of the member's compensation to a Tier 2 account. A member described in this subsection may make additional contributions to his or her Tier 2 account as permitted by the department and the internal revenue code.

(3) Except as otherwise provided in this subsection, a member is vested in employer contributions made to his or her Tier 2 account under subsections (1) and (2) according to the vesting provisions under section 42b(2). A member who is eligible for health insurance coverage under section 42 or as a result of benefits provided under sections 25 to 28 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 must begin with the first payday after the member is employed and end on his or her termination of employment.

(5) An individual who was a former member on June 9, 2012 and who is reemployed by the department of state police and who subscribes to the constitutional oath of office after June 10, 2012 is treated in a manner as determined by the retirement system in consultation with the office of state employer.

(6) In lieu of any other health insurance coverage that might have been paid by the retirement system, a \$2,000.00 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, must be made by the employer for a member who first becomes a member on or after June 10, 2012 who has at least 10 years of service at his or her first termination of employment.

(7) The retirement system shall determine a method to implement subsections (5) and (6), including a method for crediting the amounts in subsection (6) to comply with any agreements between the office of state employer and members, and the internal revenue code, as applicable.

Sec. 42b. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2.

(2) A qualified participant who is a member of Tier 1 vests in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

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

Sec. 60. Notwithstanding any other provision of this act, the department shall implement the Tier 2 plan as soon as administratively feasible, but not later than September 30, 2019.

Sec. 61. For the purposes of this section and sections 62 to 74, the words and phrases defined in sections 62 to 64 have the meanings ascribed to them in those sections.

Sec. 62. (1) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

(2) "Compensation" means the remuneration paid to 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.

(b) Any amount contributed or deferred at the election of the participant that 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.

Sec. 63. (1) "Employer" means this state.

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

Sec. 64. (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) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 72 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 73.

Sec. 65. (1) The department shall administer Tier 2 and shall be the fiduciary and trustee of Tier 2. The department may appoint an advisory board to assist the department in carrying out its duties as fiduciary and trustee. The department and the state treasurer shall comply with Executive Reorganization Order No. 1999-5, MCL 38.2721, in the administration of Tier 2.

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

(3) The department has the exclusive authority and responsibility to employ or contract with personnel and for services that the department 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. 66. (1) A qualified participant, former qualified participant, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. On written request, the department shall provide for a hearing that must be conducted under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288. An individual may be represented by counsel or other authorized agent at a hearing conducted under this section.

(2) Chapters 2, 3, and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.224 to 24.266 and 24.291 to 24.292, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

Sec. 67. 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 department. The limitations on the percentage of total assets for investments provided in the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

Sec. 68. The administrative expenses of Tier 2 must be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the department.

Sec. 69. 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 department, 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. For the purposes of this section, "public sector employer" includes, but is not limited to, a reporting unit.

Sec. 70. (1) This section is subject to the vesting requirements of section 42b.

(2) Unless the qualified participant affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant shall contribute 2% of his or her compensation to his or her Tier 2 account. The qualified participant's

employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 2% of compensation contribution made by the qualified participant under this subsection.

(3) A qualified participant may make contributions in addition to contributions made under subsection (2) to his or her Tier 2 account as permitted by the department and the internal revenue code.

Sec. 72. 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 department. 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 if the signature of the participant's spouse is required by the plan document. However, the department may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

Sec. 73. (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 department, the department, in a lump sum distribution, shall distribute the accumulated balance in accordance with the plan document.

(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.

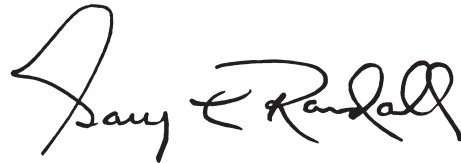
(c) Periodic distributions, as authorized by the department.

(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. 74. (1) The department 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.

(2) The department 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.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor