

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5230**

A bill to amend 1980 PA 300, entitled
"The public school employees retirement act of 1979,"
by amending section 127 (MCL 38.1427), as amended by 2017 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 127. (1) Each qualified participant, former qualified
2 participant, and refund beneficiary shall direct the investment of
3 the individual's accumulated employer and employee contributions
4 and earnings to 1 or more investment choices within available
5 categories of investment provided by the department. The
6 limitations on the percentage of total assets for investments
7 provided in the public employee retirement system investment act,
8 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

9 (2) In addition to the categories of investment provided by

1 the department under subsection (1), the retirement system shall
2 offer access to 1 or more fixed annuity options and 1 or more
3 variable annuity options. WHILE A QUALIFIED PARTICIPANT IS EMPLOYED
4 BY A REPORTING UNIT, THE ANNUITY OPTIONS OFFERED UNDER THIS
5 SUBSECTION MUST ALLOW A QUALIFIED PARTICIPANT THE ABILITY TO
6 PURCHASE A FIXED RATE ANNUITY AND MAY ALLOW THE OPTION TO PURCHASE
7 A VARIABLE RATE ANNUITY. THE ANNUITY OPTIONS OFFERED UNDER THIS
8 SUBSECTION MUST ALLOW A QUALIFIED PARTICIPANT THE ABILITY TO
9 PURCHASE AN ANNUITY WHILE THE QUALIFIED PARTICIPANT IS EMPLOYED BY
10 A REPORTING UNIT. SUBJECT TO SUBSECTION (4), THE STATE TREASURER
11 SHALL SELECT 2 OR MORE ANNUITY PROVIDERS BASED ON A COMPETITIVE
12 PROPOSAL PROCESS. SUBJECT TO SUBSECTION (4), THE STATE TREASURER
13 SHALL CONTRACT WITH 2 OR MORE ANNUITY PROVIDERS TO PROVIDE THE
14 ANNUITY OPTIONS UNDER THIS SUBSECTION. THE STATE TREASURER SHALL
15 SELECT AND CONTRACT WITH AN ANNUITY PROVIDER THAT MEETS ALL OF THE
16 FOLLOWING CONDITIONS, AS DETERMINED BY THE STATE TREASURER:

17 (A) THE ANNUITY PROVIDER AND ITS SUBSIDIARIES AND AFFILIATES
18 HAVE THE APPROPRIATE FINANCIAL STRENGTH AND STABILITY. IN
19 DETERMINING THE FINANCIAL STRENGTH AND STABILITY UNDER THIS
20 SUBDIVISION, THE STATE TREASURER SHALL OBTAIN WRITTEN
21 REPRESENTATION FROM THE ANNUITY PROVIDER OF ALL OF THE FOLLOWING:

22 (i) THAT THE ANNUITY PROVIDER IS AN AUTHORIZED INSURER AS THAT
23 TERM IS DEFINED IN SECTION 108 OF THE INSURANCE CODE OF 1956, 1956
24 PA 218, MCL 500.108.

25 (ii) THAT ALL OF THE FOLLOWING APPLY TO THE ANNUITY PROVIDER,
26 AT THE TIME OF SELECTION AND FOR EACH OF THE IMMEDIATELY PRECEDING
27 5 YEARS:

1 (A) THE ANNUITY PROVIDER OPERATES UNDER A CERTIFICATE OF
2 AUTHORITY FROM THE INSURANCE COMMISSIONER OF ITS DOMICILIARY STATE
3 THAT HAS NOT BEEN REVOKED OR SUSPENDED.

4 (B) THE ANNUITY PROVIDER HAS FILED AUDITED FINANCIAL
5 STATEMENTS IN ACCORDANCE WITH THE LAWS OF ITS DOMICILIARY STATE
6 UNDER APPLICABLE STATUTORY ACCOUNTING PRINCIPLES.

7 (C) THE ANNUITY PROVIDER MAINTAINS AND HAS MAINTAINED RESERVES
8 THAT SATISFY THE STATUTORY REQUIREMENTS OF EACH STATE WHERE THE
9 ANNUITY PROVIDER DOES BUSINESS.

10 (D) THE ANNUITY PROVIDER IS NOT OPERATING UNDER AN ORDER OF
11 REHABILITATION OR LIQUIDATION.

12 (iii) THAT THE ANNUITY PROVIDER UNDERGOES, AT LEAST EVERY 5
13 YEARS, A FINANCIAL EXAMINATION, WITHIN THE MEANING OF THE LAW OF
14 ITS DOMICILIARY STATE, BY THE INSURANCE COMMISSIONER OF THE
15 DOMICILIARY STATE OR REPRESENTATIVE, DESIGNEE, OR OTHER PARTY
16 APPROVED BY THE INSURANCE COMMISSIONER OF THE DOMICILIARY STATE.

17 (iv) THAT THE ANNUITY PROVIDER WILL NOTIFY THE RETIREMENT
18 SYSTEM OF ANY CHANGE IN CIRCUMSTANCES OCCURRING AFTER THE
19 REPRESENTATIONS MADE IN SUBPARAGRAPHS (i), (ii), AND (iii) THAT
20 WOULD PRECLUDE THE ANNUITY PROVIDER FROM MAKING THE REPRESENTATIONS
21 AT THE TIME THE ANNUITY PROVIDER ISSUES THE ANNUITY.

22 (B) THE ANNUITY PROVIDER IS ABLE TO PROVIDE CONTRACTED RIGHTS
23 AND BENEFITS TO A QUALIFIED PARTICIPANT.

24 (C) THE COSTS, INCLUDING FEES AND COMMISSIONS, OF THE ANNUITY
25 OPTIONS IN RELATION TO THE BENEFITS AND PRODUCT FEATURES OF THE
26 ANNUITY OPTION ARE REASONABLE.

27 (D) THE ADMINISTRATIVE SERVICES TO BE PROVIDED UNDER THE

1 ANNUITY OPTION ARE APPROPRIATE. AT A MINIMUM, THE ADMINISTRATIVE
2 SERVICES MUST INCLUDE PERIODIC REPORTS TO THE STATE TREASURER ABOUT
3 ALL OF THE FOLLOWING:

4 (i) THE NUMBER OF ANNUITANTS.

5 (ii) THE TYPES OF ANNUITIES PROVIDED.

6 (iii) ANY OTHER INFORMATION THAT THE STATE TREASURER MAY
7 REQUIRE.

8 (E) THE ANNUITY PROVIDER IS EXPERIENCED IN PAYING LIFETIME
9 RETIREMENT INCOME THROUGH ANNUITIES OFFERED TO PUBLIC EMPLOYEE
10 DEFINED CONTRIBUTION RETIREMENT PLANS.

11 (F) THE ANNUITY PROVIDER OFFERS ANNUITY OPTIONS THAT MEET ALL
12 OF THE FOLLOWING CONDITIONS:

13 (i) THE ANNUITY OPTIONS ARE SUITABLE FOR QUALIFIED
14 PARTICIPANTS, FORMER QUALIFIED PARTICIPANTS, AND REFUND
15 BENEFICIARIES.

16 (ii) THE CONTRACT TERMS AND INCOME BENEFITS ARE CLEARLY
17 STATED, BASED ON REASONABLE ASSUMPTIONS.

18 (iii) THE ANNUITY OPTIONS OFFER A RANGE OF LIFETIME INCOME
19 OPTIONS.

20 (iv) IF THE ANNUITY IS A VARIABLE ANNUITY, THE ANNUITY OFFERS
21 A FIXED ACCOUNT OPTION ALONG WITH ITS VARIABLE ACCOUNT OPTIONS.

22 (G) THE ANNUITY PROVIDER IS ABLE TO OFFER OBJECTIVE AND
23 PARTICIPANT-SPECIFIC EDUCATION AND TOOLS THAT HELP PARTICIPANTS
24 UNDERSTAND THE APPROPRIATE USE OF ANNUITIES AS A LONG-TERM
25 RETIREMENT SAVINGS VEHICLE.

26 (3) THE OFFICE OF RETIREMENT SERVICES SHALL VERIFY THE
27 INFORMATION IN A REPORT SUBMITTED UNDER SUBSECTION (2) (D). A REPORT

1 SUBMITTED UNDER SUBSECTION (2) (D) MUST BE PUBLISHED ON THE OFFICE
2 OF RETIREMENT SERVICES'S WEBSITE.

3 (4) AFTER THE COMPETITIVE PROPOSAL PROCESS UNDER SUBSECTION
4 (2) IS COMPLETE, THE STATE TREASURER MAY SELECT AND CONTRACT WITH
5 ONLY 1 ANNUITY PROVIDER TO PROVIDE ANNUITY OPTIONS TO QUALIFIED
6 PARTICIPANTS UNDER SUBSECTION (2) IF EITHER OF THE FOLLOWING
7 APPLIES:

8 (A) THE STATE TREASURER DETERMINES THAT SELECTING MORE THAN 1
9 ANNUITY PROVIDER IS NOT IN THE INTERESTS OF QUALIFIED PARTICIPANTS.

10 (B) ONLY 1 ANNUITY PROVIDER MEETS THE CONDITIONS UNDER
11 SUBSECTION (2).

12 (5) IF THE STATE TREASURER SELECTS ONLY 1 ANNUITY PROVIDER TO
13 PROVIDE ANNUITY OPTIONS UNDER SUBSECTION (2) AS PROVIDED IN
14 SUBSECTION (4), THE STATE TREASURER SHALL NOTIFY THE SPEAKER OF THE
15 HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE HOUSE OF
16 REPRESENTATIVES, THE SENATE MAJORITY LEADER, AND THE SENATE
17 MINORITY LEADER WITHIN 30 DAYS AFTER SELECTING AND CONTRACTING WITH
18 AN ANNUITY OF THE REASONS FOR SELECTING ONLY 1 ANNUITY PROVIDER.

19 Enacting section 1. This amendatory act takes effect 120 days
20 after the date it is enacted into law.

21 Enacting section 2. This amendatory act does not take effect
22 unless House Bill No. 5231 of the 99th Legislature is enacted into
23 law.