

Retirement; other; retirement system for volunteer firefighters;  
provide for.

RETIREMENT: Other; RETIREMENT: Fire and police; STATE AGENCIES  
(EXISTING): Treasury

A bill to establish a volunteer firefighters pension system;  
to provide for the administration and maintenance of the pension  
system; to create state and local pension boards; to prescribe  
the powers and duties of the pension boards; to establish certain  
funds for the pension system; to prescribe the powers and duties  
of certain state departments and certain state and local offi-  
cials and employees; and to prescribe penalties and provide  
remedies.

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

ARTICLE I

Sec. 101. This act shall be known and may be cited as the  
"volunteer firefighters pension system act".

Sec. 102. For the purposes of this act, the words and  
phrases defined in this article have the meanings ascribed to  
them in those sections.

1       Sec. 103. (1) "Commissioner" means the firefighters pension  
2 commissioner appointed under section 801.

3       (2) "Current pension plan" means a pension plan in which a  
4 fire department is participating when it elects to join the pen-  
5 sion system created by this act.

6       (3) "Department" means the department of management and  
7 budget.

8       (4) "Dependent" means an unmarried child, natural or  
9 adopted, who meets 1 of the following requirements:

10      (a) He or she is less than 18 years of age.

11      (b) He or she is less than 19 years of age and a full-time  
12 student at an elementary or secondary school.

13      (c) He or she became disabled before his or her  
14 twenty-second birthday and remains disabled.

15       Sec. 104. (1) "Fully funded pension system" means a system  
16 in which the actuarial value of assets is equal to or greater  
17 than the actuarial accrued liabilities.

18       (2) "Fund" means the firefighters relief and retirement fund  
19 created by this act.

20       (3) "Governing body" means the governing body of a political  
21 subdivision of this state within which a rural volunteer fire  
22 department is situated or the governing body of a city, village,  
23 or township within which a volunteer fire department subject to  
24 the provisions of this act is situated.

25       Sec. 105. (1) "Member fire department" means a fire depart-  
26 ment that participates in the pension system under this act.

1           (2) "Member firefighter" or "member" means a firefighter who  
2 participates in the pension system under this act.

(3) "Participating governing body" means a governing body that has elected to come under the provisions of this act and has not withdrawn its participation under article VI.

6       (4) "Pension system" means the system of contributions and  
7 benefits created by section 201.

8       Sec. 106. (1) "Qualified actuary" means a fellow of the  
9 society of actuaries or a member of the American academy of actu-  
10 aries, or both, who has at least 5 years of experience with  
11 public retirement systems.

(2) "Qualified service" means fire-fighting service rendered without monetary remuneration while a member in good standing of a fire-fighting unit that has no fewer than 10 active members, and a minimum of 2 drills each month, each drill 2 hours long, and each active member present at 40% of the drills and 25% of the fires. Absence from a drill or a fire caused by military duty does not affect qualified service.

19 (3) "Retirement age" means age 55.

20 ARTICLE II

21       Sec. 201. The volunteer firefighters pension system is cre-  
22 ated for volunteer firefighters as prescribed in this act.

23       Sec. 202. (1) The firefighters relief and retirement fund  
24 is a trust fund in the state treasury.

25 (2) Subject to article VI, a governing body may, in accord-  
26 ance with the usual procedures prescribed for other official

1 actions of the governing body, elect to come under the provisions  
2 of this act.

3       (3) The participating governing body shall conduct an elec-  
4 tion for the local board of trustees within 30 days of entering  
5 the pension system under subsection (2). The participating gov-  
6 erning body shall cause the names of the elected trustees to be  
7 filed with the commissioner as soon as possible after the  
8 election.

9       Sec. 203. (1) A participating governing body shall contrib-  
10 ute for each firefighter at least \$12.00 for each month of serv-  
11 ice beginning on the date the firefighter enters the pension  
12 system. Contributions must be paid at least every 12 months. If  
13 the member fire department is situated in more than 1 political  
14 subdivision, the governing bodies of each political subdivision  
15 shall contribute equally toward a total of at least \$12.00 for  
16 each firefighter for each month of service.

17       (2) This state shall contribute the sum necessary to make  
18 the fund fully funded each year. The state's contribution shall  
19 not exceed the amount of 1/3 of the total of all contributions by  
20 governing bodies in 1 year. If the state contributes 1/3 of the  
21 total contributions of the governing bodies in 1 year, the fund  
22 is presumed to be fully funded.

23       (3) The commissioner may receive contributions to the fund  
24 from any source.

25       (4) A contribution made and benefits provided pursuant to  
26 this act are not considered compensation, and member firefighters

1 are not considered to be in the paid service of a governing  
2 body.

3       Sec. 204. (1) Except as otherwise provided by this section,  
4 each firefighter who performs service for a member fire depart-  
5 ment is a member of the pension system.

6       (2) A volunteer firefighter is not a member of the pension  
7 system if any of the following circumstances exist:

8       (a) The governing body of the fire department does not elect  
9 to come under the provisions of this act under section 202(2).

10      (b) The firefighter is a minor.

11      (c) During a probationary period of service before becoming  
12 a regular member of a fire department, if the governing body of  
13 the fire department is not making contributions for the proba-  
14 tionary service.

15      (d) If the firefighter is retired under this act, whether or  
16 not the firefighter continues to participate in fire-related  
17 functions.

18      (3) A member who performs qualified service for more than 1  
19 member fire department may become eligible to receive service  
20 retirement benefits for service for each member fire department,  
21 but, if the person dies while a member, the member's beneficiary  
22 must choose between an on-duty or off-duty death benefit.

### 23                                   ARTICLE III

24      Sec. 301. (1) A member firefighter shall receive a pension  
25 payable in monthly installments on reaching retirement age,  
26 subject to the vesting provisions in section 304.

1       (2) The monthly pension is equal to 6 times the governing  
2 body's average monthly contribution over the member firefighter's  
3 term of qualified service under this act.

4       (3) For each year of additional qualified service in excess  
5 of 15 years, a member firefighter is entitled to receive an addi-  
6 tional 7% of his or her monthly pension, noncompounded. A fire-  
7 fighter may receive a proportional credit for days or months of  
8 qualified service that make up less than a year.

9       Sec. 302. (1) A member firefighter must, at the time of  
10 disability, elect between retirement benefits under section 301  
11 or disability benefits under this section if eligible for both.

12       (2) Notwithstanding section 304, a member firefighter who is  
13 disabled during the performance of duties as a firefighter is  
14 automatically vested 100% as of the date of disability, regard-  
15 less of whether the member has completed 15 years of qualified  
16 service. Disability benefits under this section are payable if  
17 the firefighter is unable to perform the person's duties as a  
18 firefighter.

19       (3) A member firefighter eligible for disability benefits  
20 under this section shall be paid a disability benefit of \$300.00  
21 a month.

22       Sec. 303. (1) The beneficiary of a deceased member fire-  
23 fighter whose death did not result from the performance of duties  
24 as a member of the fire department shall receive a lump-sum bene-  
25 fit that is the greater of the following:

26       (a) The sum contributed to the fund on the decedent's  
27 behalf.

1 (b) The sum that would have been contributed on the  
2 decedent's behalf from whatever source at the end of 15 years of  
3 qualified service.

4 (2) The beneficiary of a member whose death results from  
5 performing duties as a firefighter is guaranteed a lump-sum bene-  
6 fit of at least \$5,000.00.

7 (3) If the death of a member firefighter results from the  
8 performance of duties as a member of the fire department, in  
9 addition to the lump-sum death benefit, the deceased member's  
10 spouse and dependents are entitled to receive in equal shares a  
11 survivor's benefit equal to  $2/3$  of the monthly pension the dece-  
12 dent would have been entitled to receive if the decedent had been  
13 able to retire, vested at 100%, under section 301 on the date of  
14 the decedent's death. As long as both spouse and 1 or more  
15 dependents survive, an additional  $1/3$  of that monthly pension  
16 shall be paid to the dependents in equal shares.

17 (4) If a member firefighter dies after retirement, the sur-  
18 viving spouse shall receive  $2/3$  of the monthly pension the dece-  
19 dent was receiving at the time of death. If a member firefighter  
20 dies before retirement but after meeting the minimum age and  
21 service requirements for service retirement, the surviving spouse  
22 is entitled to receive  $2/3$  of the monthly pension the decedent  
23 would have received if the decedent had retired on the date of  
24 death.

25 (5) The surviving spouse is eligible to receive benefits as  
26 long as the spouse remains alive.

1           (6) Lump-sum death benefits are subject to the laws of  
2 descent and distribution if the decedent has not provided for  
3 testamentary disposition.

(7) If a firefighter names more than 1 beneficiary for the lump-sum death benefit, the benefit shall be divided equally among the named beneficiaries unless the firefighter designates a proportional division. If the firefighter designates a proportional division, each beneficiary shall receive the proportion of the lump-sum benefit designated by the firefighter.

10       Sec. 304. (1) No right to retirement benefits vests until 5  
11 years of qualified service are completed.

**12** (2) Vested retirement benefits are nonforfeitable.

**13** (3) Full retirement benefits vest at the following rates:

14 (a) Twenty-five percent after the first 5 years of qualified  
15 service.

16 (b) Five percent a year for the next 5 years of qualified  
17 service.

18 (c) Ten percent a year for the eleventh through the fif-  
19 teenth years of qualified service.

20       Sec. 305. The rights to benefits under this pension system  
21 are not defeated by benefits or payments received by other plans  
22 or insurance.

23 ARTICLE IV

24       Sec. 401. (1) Member firefighters shall file claims for  
25 benefits with the local board of trustees.

26 (2) On receiving a claim for benefits, the local board of  
27 trustees shall hold a hearing to decide the claim. The local



1 board of trustees shall send a written copy of the decision to  
2 the claimant and the commissioner.

3       Sec. 402. (1) A claimant may appeal the decision of the  
4 local board by filing notice of the appeal with the local board  
5 and the commissioner within 20 days after receiving notice of the  
6 local board's decision.

7       (2) The local board shall file a transcript of the local  
8 board hearing with the commissioner within 30 days after receiv-  
9 ing notice of appeal.

10       (3) The commissioner shall, within 30 days after receiving a  
11 notice of appeal, set a date for a hearing and notify the claim-  
12 ant and the local board.

13       (4) The commissioner shall send a written copy of his or her  
14 decision to the claimant and the local board.

15       Sec. 403. (1) A claimant may appeal the commissioner's  
16 decision to the state board of trustees. The appeal must be  
17 filed within 20 days after receiving notice of the commissioner's  
18 decision.

19       (2) The state board of trustees shall, within 30 days after  
20 receiving notice of appeal, set a date for a hearing and notify  
21 the claimant, the local board, and the commissioner.

22       (3) The claimant, the local board, and the commissioner may  
23 present any written or oral evidence necessary for deciding a  
24 claim.

25       Sec. 404. (1) The local board, the state board, and the  
26 commissioner may administer oaths, receive evidence, issue  
27 subpoenas to compel the attendance of witnesses and the

1 production of papers and documents related to a hearing held  
2 under this act, and make findings of fact and decisions in admin-  
3 istering this act.

4 (2) The attorney general shall represent the commissioner in  
5 all proceedings under this act that require representation.

6 (3) The local board may be represented by the city attorney  
7 or, if appropriate, the county attorney or counsel the board  
8 chooses to employ.

9 (4) The administrative procedures act of 1969, 1969 PA 306,  
10 MCL 24.201 to 24.328, and the open meetings act, 1976 PA 267, MCL  
11 15.261 to 15.275, apply to all hearings authorized by this act.

#### 12 ARTICLE V

13 Sec. 501. A firefighter entering service in a member fire  
14 department after the effective date of this act shall present to  
15 the local board of trustees a certification of physical fitness  
16 by a qualified physician. If the local board accepts the certi-  
17 fication, the firefighter becomes a member of the pension  
18 system. If the local board does not accept the certification or  
19 if the firefighter does not present a certification, the fire-  
20 fighter is not eligible to become a member of the pension  
21 system.

22 Sec. 502. A member firefighter who terminates service and  
23 later resumes service with the same fire department or transfers  
24 to another member fire department may transfer all accrued bene-  
25 fits to the new or resumed service. Upon request of the local  
26 board of trustees of the succeeding pension system, the local  
27 board of trustees of the preceding pension system, in the case of

1 transfer, shall promptly transfer to the succeeding pension  
2 system the actuarial present value of the member's accrued  
3 benefit. A local board of trustees of a preceding pension system  
4 that transfers the actuarial present value under this subsection  
5 is released from all liability for an annuity under this act to  
6 the affected member.

7 ARTICLE VI

8 Sec. 601. (1) An election must be held within the local  
9 fire department to merge its current pension plan with the pen-  
10 sion system provided under this act.

11 (2) The election must be held within 14 days after both of  
12 the following occur:

13 (a) A petition calling for an election that is signed by 50%  
14 of the active firefighters in the department is filed at the  
15 local department.

16 (b) The disclosure required by section 703 is made to the  
17 firefighters in the local department.

18 (3) If the current pension plan of the fire department is  
19 not fully funded, the election to enter the pension system in  
20 this act must be decided by a majority of the votes cast by qual-  
21 ified firefighters in the department. If the current pension  
22 plan of the fire department is fully funded, the election to  
23 enter the pension system in this act must be decided by at least  
24 60% of all votes cast.

25 (4) In the election required in this section, a  
26 firefighter's vote must be multiplied by the number of years of  
27 participation in the current pension plan.

1       Sec. 602. (1) If a fire department under a current pension  
2 plan elects to participate in the pension system as provided in  
3 section 601, the current pension plan is merged with the pension  
4 system.

5       (2) The costs of the current pension plan shall be deter-  
6 mined on an actuarially sound basis. The costs must be certified  
7 by a qualified actuary as of the effective date of merger or  
8 within 3 years preceding the date of merger.

9       (3) On the date of merger, all assets and liabilities of the  
10 current pension plan are transferred to the pension system and  
11 become an allocated part of the system. The assets may be merged  
12 with the pension system assets for investment purposes, but a  
13 separate account must be maintained for the funds allocated to  
14 each plan that has merged with the system.

15       (4) Following merger, a member's retirement benefits in the  
16 pension system are determined by either the future-service method  
17 or the buy-back method. The options are available only to fire-  
18 fighters participating in the current pension plan.

19       (5) In the future-service method, the qualified service  
20 required to earn retirement benefits in the pension system begins  
21 as of the date of merger. For determining a person's retirement  
22 benefits in the pension system, a firefighter may choose the for-  
23 mula for benefits used in the current pension plan or the formula  
24 for benefits as outlined in this act. Any retirement benefits  
25 accrued before the date of merger will also be paid on retirement  
26 according to the formula for benefits under the current pension  
27 plan.

1       (6) In the buy-back method in determining the firefighters'  
2 retirement benefits in the pension system, a firefighter may  
3 choose the formula for benefits used in the current pension plan  
4 or the formula for benefits as outlined in this act. The fire-  
5 fighter who has less than 15 years of service remaining before  
6 retirement as of the date of merger may count time served under  
7 the current pension plan before the date of merger as qualified  
8 service if the service complies with the minimum drill and fire  
9 attendance requirements provided for qualified service. The time  
10 period necessary to make 15 years of service before retirement  
11 may be used.

12       (7) A firefighter who terminates service before the date of  
13 merger of his or her fire department's current pension plan with  
14 the pension system is entitled to receive at retirement age the  
15 retirement benefits vested under the pension plan in effect  
16 during his or her service. The pension system pays his or her  
17 benefits.

18       (8) Any benefits being paid by the current pension plan at  
19 the date of merger will be paid by the pension system following  
20 merger.

21       (9) On merger of a current pension plan with the pension  
22 system, the sponsors of the current pension plan are obligated to  
23 make contributions to the pension system in this act to fund the  
24 unfunded prior-service cost. The unfunded prior-service cost is  
25 determined as of the date of merger. The period of funding these  
26 contributions shall not exceed 20 years measured from the date of  
27 merger. The state board of trustees may not charge interest on a

1 series of contributions to pay unfunded prior-service costs if  
2 the total unfunded prior-service costs of a current pension plan  
3 are paid not later than the third anniversary of the date of  
4 merger. The state board of trustees may by rule impose interest  
5 on all contributions if the total is not paid within the 3-year  
6 period.

7       Sec. 603. A participating governing body whose fire depart-  
8 ment did not have a pension plan in effect immediately before the  
9 date of participation may purchase, on terms acceptable to the  
10 commissioner, credit for prior service by its member  
11 firefighters. The commissioner, after consultation with a quali-  
12 fied actuary, shall determine the amount required to purchase  
13 prior-service credit under this section. The requirements of  
14 section 602 apply to the purchase of prior-service credit under  
15 this section to the extent that they are applicable. The value  
16 of prior service purchased under this section is the same as if  
17 it had been performed as a member of the fund.

18       Sec. 604. (1) A current pension plan that merges with the  
19 pension system may withdraw from the pension system within 5  
20 years after the date of merger on a majority vote of the fire-  
21 fighters in the department voting in the same manner as provided  
22 in section 601.

23       (2) On withdrawal from the pension system, the allocated  
24 assets and liabilities as apportioned by an actuary retained by  
25 the pension system must be transferred to the plan chosen to  
26 replace the pension system.

1 (3) If a firefighter terminates service before retirement,  
2 vested retirement benefits must be paid to the firefighter at  
3 retirement age. There is no penalty for nonconsecutive years of  
4 service.

5 Sec. 605. (1) The commissioner shall continue to administer  
6 benefits of the pension system for members and retirees who per-  
7 formed service for a former member fire department that has not  
8 withdrawn from the pension system under section 604 and has  
9 ceased to exist.

10 (2) The governing body of a political subdivision in which a  
11 former member fire department described by subsection (1) was  
12 located shall perform the duties provided by section 806 for the  
13 members and retirees who performed service for the former member  
14 fire department.

15 ARTICLE VII

16 Sec. 701. (1) The state treasurer shall be treasurer of the  
17 pension system and shall have investment authority, including the  
18 custodianship of the funds of the pension system, and shall have  
19 fiduciary responsibility with regard to the investment of funds  
20 from the reserves of the retirement system. The investment of  
21 the funds of the retirement system shall be subject to the limi-  
22 tations provided in the public employee retirement system invest-  
23 ment act, 1965 PA 314, MCL 38.1132 to 38.11401.

24 (2) The state treasurer shall deposit the funds of the pen-  
25 sion system in the same manner and subject to the law governing  
26 the deposit of state funds by the treasurer. Income earned by

1 the retirement system's reserves shall be credited to the  
2 respective reserves under this act that have earned the income.

3 (3) The pension system shall draw its warrants upon the  
4 state treasurer, payable out of the reserves of the retirement  
5 system, for the payment of pensions, the payment of salaries and  
6 wages, and other expenses necessary in the administration of the  
7 pension system.

8 (4) The state board of trustees shall employ a professional  
9 investment counselor. The cost of the investment counseling  
10 service may be paid from income earned by investments.

11 Sec. 702. (1) Every pension system established under this  
12 act shall be a fully funded pension system.

13 (2) If, after the effective date of this act, a plan is  
14 determined to be a non-fully funded pension system, it must  
15 become fully funded within 3 years. A non-fully funded pension  
16 system must demonstrate to the commissioner within 6 months after  
17 becoming non-fully funded that steps are being taken to become a  
18 fully funded pension system.

19 Sec. 703. (1) The governing body shall disclose to each  
20 member firefighter the information required by this section.

21 (2) The commissioner shall distribute to each member fire  
22 department and each governing body all of the following  
23 information:

24 (a) All benefits that are available in the pension system in  
25 this act.

26 (b) The contributions required by the pension system.



1 (c) The expected return on the investment of a member  
2 firefighter.

3 (d) When benefits vest.

4 (e) The transferability of benefits.

5 (f) Rights of withdrawing members.

6 (g) Procedures for filing claims and appeals.

7 (h) Tax consequences.

8 (i) Changes in the law.

9 (3) The member fire department shall disclose to each member  
10 firefighter in the department and to each new firefighter on his  
11 or her commissioning the information in subsection (2).

12 (4) After a petition for an election as required in  
13 section 601 has been filed and before the election occurs, the  
14 directors of a current pension plan must disclose to its members  
15 the information required in subsection (2) about the current pen-  
16 sion plan.

17 Sec. 704. (1) A governing body that does not disclose the  
18 information required in section 703 or does not meet the require-  
19 ments of a fully funded pension system as required in section 702  
20 is subject to a civil penalty of not less than \$100.00 or more  
21 than \$1,000.00 for each violation, plus reasonable attorney  
22 fees.

23 (2) The attorney general shall bring suit in a court of  
24 appropriate jurisdiction to collect the civil penalties autho-  
25 rized by this act.

## ARTICLE VIII

1

2       Sec. 801. The duties of the commissioner under this act  
3 shall be performed by the firefighters pension commissioner  
4 appointed by the governor with the advice and consent of the  
5 senate.

6       Sec. 802. (1) The commissioner shall not administer any  
7 firefighters pension plan other than the pension system created  
8 by this act.

9       (2) The commissioner and the state board of trustees shall  
10 assemble and disseminate the information necessary for the dis-  
11 closure requirements concerning the pension system as outlined in  
12 section 703.

13       (3) The commissioner is responsible for recovering any  
14 fraudulently acquired benefits. If it appears that fraud has  
15 occurred, the commissioner shall notify the local board and the  
16 claimant and hold a hearing. If after the hearing the commis-  
17 sioner decides that benefits have been or are being fraudulently  
18 acquired, he or she shall seek action in a court of appropriate  
19 jurisdiction.

20       (4) The commissioner shall collect the revenues for the fund  
21 from the local boards of trustees or the governing bodies.

22       (5) The commissioner may request and administer additional  
23 state funds in an emergency.

24       (6) The commissioner shall require annual reports from the  
25 local boards of trustees.

26       (7) The commissioner may at any reasonable time examine the  
27 records and accounts of local boards of trustees.

1       (8) The commissioner may recommend to the state board of  
2 trustees rules to implement this act.

3       (9) The commissioner shall keep a copy of all rules promul-  
4 gated under this act on file in the commissioner's office. A  
5 copy of the rules shall be placed with each local board of trust-  
6 ees and shall be made available for public inspection at any rea-  
7 sonable time.

8       (10) The commissioner shall prepare the necessary forms for  
9 use by local boards of trustees.

10       (11) The commissioner shall prepare an annual report on the  
11 activity and status of the fund. The report shall go to the gov-  
12 ernor, the lieutenant governor, the senate majority leader, and  
13 the speaker of the house of representatives.

14       (12) The commissioner shall oversee the distribution of all  
15 benefits. The commissioner shall make benefit payments to claim-  
16 ants after receiving a copy of a local board of trustees' deci-  
17 sion in favor of a claim and reviewing that decision.

18       (13) If the commissioner overrules a local board's decision,  
19 he or she shall immediately notify the local board and the  
20 claimant.

21       (14) After a hearing conducted by the state board of trust-  
22 ees, the commissioner shall determine each appeal from a local  
23 board of trustees' decision and issue a written opinion in com-  
24 pliance with the procedures required by this act.

25       (15) The commissioner shall keep a written transcript of all  
26 proceedings and hearings required by this act.

1       Sec. 803. (1) There is created in the department of  
2 management and budget a state board of trustees composed of 9  
3 active members. Six trustees must be member firefighters of the  
4 pension system and 3 trustees must be persons who have experience  
5 in the field of finance, securities investment, or pension  
6 administration.

7       (2) The governor, with the advice and consent of 2/3 major-  
8 ity membership of the senate, shall appoint the trustees from a  
9 list of 3 to 5 nominees submitted by the Michigan state police  
10 fire marshal division for each vacancy.

11       (3) A person is not eligible for appointment as a member of  
12 the state board of trustees if the person or the person's spouse  
13 is employed by or participates in the management of a business  
14 entity or other organization receiving funds from the board or  
15 the fund.

16       (4) A person shall not serve as a member of the state board  
17 of trustees or act as the general counsel to the state board of  
18 trustees if the person is required to register as a lobbyist  
19 under 1978 PA 472, MCL 4.411 to 4.431, because of the person's  
20 activities for compensation on behalf of a profession related to  
21 the operation of the board.

22       (5) Appointments to the state board of trustees shall be  
23 made without regard to the race, color, handicap, sex, religion,  
24 age, or national origin of the appointees.

25       (6) Except as otherwise provided in this subsection, the  
26 trustees shall serve 4-year terms. Of the trustees first  
27 appointed under this act, 2 shall be appointed to 1-year terms, 2

1 shall be appointed to 2-year terms, 2 shall be appointed to  
2 3-year terms, and 3 shall be appointed to 4-year terms.

3 (7) A majority of the trustees are a quorum.

4 (8) A board decision or recommendation is made by a majority  
5 vote of trustees present. The vote must be recorded in the  
6 minutes of board meetings.

7 (9) The trustees shall serve without compensation. Trustees  
8 may be reimbursed for travel expenses to attend board meetings.

9 (10) It is a ground for removal from the state board of  
10 trustees if any of the following circumstances exist:

11 (a) The member does not have at the time of appointment the  
12 qualifications required by subsection (1).

13 (b) The member does not maintain during service on the board  
14 the qualifications required by subsection (1).

15 (c) The member violates a prohibition established by  
16 subsection (3) or (4).

17 (d) The member is unable to discharge his or her duties for  
18 a substantial part of the term for which the member is appointed  
19 because of illness or disability.

20 (e) The member is absent from more than 1/2 of the regularly  
21 scheduled board meetings that the member is eligible to attend  
22 during a calendar year unless the absence is excused by majority  
23 vote of the board.

24 (11) The validity of an action of the board is not affected  
25 by the fact that it is taken when a ground for removal of a board  
26 member exists.

1       (12) If the commissioner has knowledge that a potential  
2 ground for removal exists, the commissioner shall notify the  
3 chairman of the board of the ground. The chairman shall then  
4 notify the governor that a potential ground for removal exists.

5       Sec. 804. (1) The state board of trustees shall employ the  
6 certified public accountant, the actuary, and the investment  
7 advisors for the fund and may acquire computer or custodial serv-  
8 ices for the fund. The cost of accounting, actuarial, invest-  
9 ment, computer, or custodial services may be paid from income  
10 earned by investment of the fund.

11       (2) The board shall establish rules and regulations neces-  
12 sary for the administration of the fund, in the manner prescribed  
13 by the administrative procedures act of 1969, 1969 PA 306, MCL  
14 24.201 to 24.328.

15       (3) After a hearing conducted by the state board of trust-  
16 ees, the board shall determine each appeal from a commissioner's  
17 decision.

18       (4) The board may authorize a cost-of-living increase for  
19 any benefit provided in the pension system. If benefits are  
20 increased, the board may require an increase in the governing  
21 body's contributions to maintain the actuarial soundness of the  
22 fund. The board shall give notice and hold a hearing before  
23 authorizing a cost-of-living increase in benefits. Any  
24 cost-of-living increase in benefits is effective after approval  
25 by the legislature by concurrent resolution.

26       Sec. 805. (1) The local board of trustees is composed of  
27 the following:

1 (a) One representative selected by the governing body.

2 (b) Five members of the local fire department chosen by a  
3 majority of firefighters in qualified service.

4 (c) Two tax-paying registered electors who are chosen by the  
5 other members of the board.

6 (2) The local board shall elect a chairperson from the mem-  
7 bers at the first meeting.

8 (3) Trustees serve 2-year terms.

9 (4) On the first local board, the fire department represen-  
10 tatives shall serve staggered terms. The fire department repre-  
11 sentatives shall draw by lot at the first board meeting to deter-  
12 mine the length of term to be served. Three representatives  
13 shall serve 2-year terms, and 2 representatives shall serve  
14 1-year terms. The first appointments of the tax-paying or citi-  
15 zen representatives shall be 1 appointed for a 2-year term and 1  
16 appointed for a 1-year term. After the initial appointments  
17 described in this subsection, all appointments are for 2-year  
18 terms.

19 (5) A vacancy on the board shall be filled for the remainder  
20 of the unexpired term by the procedure by which the position was  
21 originally filled.

22 (6) A majority of board members constitute a quorum.

23 (7) A board decision is made by majority vote of all members  
24 present. The vote must be recorded in the minutes of board  
25 meetings.

26 (8) Members of the local board shall not receive  
27 compensation for service as a trustee.

1       Sec. 806. (1) The local board of trustees shall collect all  
2 governing body contributions at least annually and send the con-  
3 tributions to the commissioner.

4       (2) The local board shall hear and decide all claims for  
5 benefits according to the procedures in article IV. The board  
6 shall mail a copy of a decision on a claim to the parties  
7 involved and to the commissioner. The board shall keep complete  
8 records of all claims and proceedings.

9       (3) The local board shall require a firefighter who is  
10 receiving temporary disability benefits to file a disability  
11 rating report from a physician every 3 months. The board may  
12 choose the physician. If a physician's report indicates a sig-  
13 nificant change of condition, the local board, after notice and a  
14 hearing, may enter an order to terminate benefit payments or  
15 place the firefighter on permanent disability. The local board  
16 shall send the order to the commissioner. If the board termi-  
17 nates benefits, the firefighter is presumed able to perform his  
18 or her duties as a firefighter or perform the duties of another  
19 occupation for which the person is reasonably suited by educa-  
20 tion, training, and experience.

21       Sec. 807. The commissioner and state board of trustees  
22 shall employ a qualified actuary to make an actuarial valuation  
23 of the pension system each year.

24       Sec. 808. (1) A member of the state or local board of  
25 trustees, upon appointment, shall take an oath of office, which  
26 shall be filed immediately in the office of the secretary of  
27 state.



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

7 (3) A writing prepared, owned, used, in the possession of,  
8 or retained by the state or local board of trustees in the per-  
9 formance of an official function shall be made available to the  
10 public in compliance with the freedom of information act, 1976 PA  
11 442, MCL 15.231 to 15.246.

## ARTICLE IX

13       Sec. 901. This act does not repeal the statutory authority  
14 for any existing or current pension plan. This act is intended  
15 to provide a pension system and death and disability benefits for  
16 firefighters who serve without monetary remuneration. The provi-  
17 sions of this act are not to be interpreted to affect fully paid  
18 firefighters or their pension systems in any way.

19       Sec. 902. The funding objective of the pension system is to  
20 establish and receive contributions during each fiscal year that  
21 are sufficient to fully cover the actuarial cost of benefits  
22 likely to be paid on account of services rendered by members  
23 during the fiscal year, the normal cost requirements of the  
24 retirement system, and finance the unfunded actuarial costs of  
25 benefits likely to be paid on account of service rendered prior  
26 to the fiscal year, the unfunded actuarial accrued liability of  
27 the retirement system.

1       Sec. 903. (1) This section is enacted pursuant to section  
2 401(a) of the internal revenue code that imposes certain adminis-  
3 trative requirements and benefit limitations for qualified gov-  
4 ernmental plans. This state intends that the retirement system  
5 be a qualified pension plan created in trust under section 401 of  
6 the internal revenue code and that the trust be an exempt organi-  
7 zation under section 501 of the internal revenue code. The  
8 department shall administer the retirement system to fulfill this  
9 intent.

10       (2) Except as otherwise provided in this section,  
11 employer-financed benefits provided by the retirement system  
12 under this act shall not exceed \$50,000.00 per year for a retir-  
13 ant who was a full-time employee of a police department or fire  
14 department and who has 15 or more years of credited service as a  
15 police officer, firefighter, or public safety officer at  
16 retirement.

17       (3) The limitation on employer-financed benefits provided by  
18 the retirement system under subsection (2) applies unless appli-  
19 cation of subsections (4), (5), and (6) produces a higher limita-  
20 tion, in which case the higher limitation applies.

21       (4) If a member retires at age 62 or older,  
22 employer-financed benefits provided by the retirement system  
23 under this act shall not exceed the lesser of \$90,000.00 or 100%  
24 of the member's average compensation for high 3 years as  
25 described in section 415(b)(3) of the internal revenue code.

26       (5) If a member retires before age 62, the amount of  
27 \$90,000.00 in subsection (4) is actuarially reduced to reflect

1 payment before age 62. The retirement system shall use an  
2 interest rate of 5% per year compounded annually to calculate the  
3 actuarial reduction in this subsection. If this subsection  
4 produces a limitation of less than \$75,000.00 at age 55, the lim-  
5 itation at age 55 is \$75,000.00 and the limitations for ages  
6 under age 55 shall be calculated from a limitation of \$75,000.00  
7 at age 55.

8 (6) Section 415 of the internal revenue code requires the  
9 commissioner of internal revenue to annually adjust the  
10 \$50,000.00 limitation described in subsection (2) and the  
11 \$90,000.00 limitation described in subsection (4) to reflect cost  
12 of living increases, beginning with calendar year 1988. This  
13 section shall be administered using the limitations applicable to  
14 each calendar year as adjusted by the commissioner of internal  
15 revenue under section 415 of the internal revenue code. The  
16 retirement system shall adjust the benefits subject to the limi-  
17 tation each year to conform with the adjusted limitation.

18 (7) The assets of the retirement system shall be held in  
19 trust and invested for the sole purpose of meeting the legitimate  
20 obligations of the retirement system and shall not be used for  
21 any other purpose. The assets shall not be used for or diverted  
22 to a purpose other than for the exclusive benefit of the members,  
23 deferred members, retirants, and beneficiaries before satisfac-  
24 tion of all retirement system liabilities.

25 (8) The retirement system shall return post-tax member con-  
26 tributions made by a member and received by the retirement system  
27 to a member upon retirement, pursuant to internal revenue service

1 regulations and approved internal revenue service exclusion ratio  
2 tables.

3       (9) The required beginning date for retirement allowances  
4 and other distributions shall not be later than April 1 of the  
5 calendar year following the calendar year in which the employee  
6 attains age 70-1/2 or April 1 of the calendar year following the  
7 calendar year in which the employee retires.

8       (10) If the retirement system is terminated, the interest of  
9 the members, deferred members, retirants, and beneficiaries in  
10 the retirement system is nonforfeitable to the extent funded as  
11 described in section 411(d)(3) of the internal revenue code and  
12 related internal revenue service regulations applicable to gov-  
13 ernmental plans.

14       (11) Notwithstanding any other provision of this act to the  
15 contrary that would limit a distributee's election under this  
16 act, a distributee may elect, at the time and in the manner pre-  
17 scribed by the retirement board, to have any portion of an eligi-  
18 ble rollover distribution paid directly to an eligible retirement  
19 plan specified by the distributee in a direct rollover.

20       (12) Notwithstanding any other provision of this section,  
21 the retirement system shall be administered in compliance with  
22 the provisions of section 415 of the internal revenue code and  
23 revenue service regulations under that section that are applica-  
24 ble to governmental plans. If there is a conflict between this  
25 section and another section of this or any other act of this  
26 state, this section prevails.

1       Sec. 904. If a change or error in the records of the  
2 pension system results in a retirant, retirement allowance  
3 beneficiary, or refund beneficiary receiving from the retirement  
4 system more or less than the retirant, retirement allowance bene-  
5 ficiary, or refund beneficiary would have been entitled to  
6 receive had the records been correct, the retirement system shall  
7 as far as practical correct the error, and may adjust the payment  
8 to provide an actuarial equivalent of the benefit to which the  
9 retirant, retirement allowance beneficiary, refund beneficiary,  
10 estate, or legal representative was correctly entitled. The  
11 retirement system shall not make an adjustment in benefits for an  
12 error totaling \$20.00 or less annually.

13       Sec. 905. (1) The right of a person to a pension, an annui-  
14 ty, a retirement allowance, any optional benefit, any other right  
15 accrued or accruing to any person under the provisions of this  
16 act, the various funds created by this act, and all money and  
17 investments and income of the funds, are exempt from any state,  
18 county, municipal, or other local tax, and shall not be subject  
19 to execution, garnishment, attachment, the operation of bank-  
20 ruptcy or insolvency laws, or other process of law, and shall be  
21 unassignable except as otherwise provided in this act.

22       (2) The right of a member, deferred member, or retirant to a  
23 pension, an annuity, a retirement allowance, any optional bene-  
24 fit, accumulated contributions, or any other benefit under the  
25 provisions of this act shall be subject to award by a court pur-  
26 suant to section 18 of 1846 RS 84, MCL 552.18, and to any other  
27 order of a court pertaining to alimony or child support. The

1 right of a member, deferred member, or retirant to a pension, an  
2 annuity, a retirement allowance, or an optional benefit under  
3 this act is subject to an eligible domestic relations order under  
4 the eligible domestic relations order act, 1991 PA 46, MCL  
5 38.1701 to 38.1711.

6       (3) If an award or order described in subsection (2)  
7 requires the pension system to withhold payment of a pension,  
8 annuity, deferred pension, accumulated contributions, or other  
9 benefit from the person to whom it is due or requires the retire-  
10 ment system to make payment or requires the person to request  
11 that the retirement system make payment of a pension, annuity,  
12 deferred pension, accumulated contributions, or other benefit,  
13 for the purpose of meeting the person's obligations to a spouse,  
14 former spouse or child, as provided in subsection (2), the with-  
15 holding or payment provisions of the award or order shall be  
16 effective only against such amounts as they become payable to the  
17 person receiving a pension or annuity unless otherwise provided  
18 in an eligible domestic relations order under the eligible domes-  
19 tic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711. The  
20 limitation contained in this subsection does not apply to the  
21 accumulated contributions of a person who has terminated member-  
22 ship before acquiring a vested member status.

23       Sec. 906. (1) The reserve for member contributions is the  
24 account in which member contributions are accumulated and from  
25 which shall be made refunds and transfers of accumulated member  
26 contributions. The pension system shall maintain 1 or more  
27 separate subaccounts for each person having an interest in this

1 account. Accumulated member contributions shall be transferred  
2 from the reserve for member contributions to the reserve for  
3 retired benefit payments upon the retirement or death of a member  
4 or deferred member.

5 (2) The reserve for employer contributions is the account to  
6 which contributions by the state and participating governing  
7 bodies shall be credited. Accumulated employer contributions  
8 shall be transferred from the reserve for employer contributions  
9 to the reserve for retired benefit payments upon the retirement  
10 or death of a member or deferred member.

11 (3) The reserve for retired benefit payments is the account  
12 from which shall be paid all pensions and residual refunds of  
13 accumulated contributions. At the end of each year, the balance  
14 in the reserve for retired benefit payments shall be brought into  
15 balance with the actuarial present value of pensions in payment  
16 status by a transfer between the reserve for employer contribu-  
17 tions and the reserve for retired benefit payments. The pending  
18 transfer shall be taken into account by the actuary when making  
19 the annual actuarial valuation.

20 (4) The reserve for casualty experience is the account in  
21 which shall be accumulated contributions by this state pursuant  
22 to actual and expected experience as determined by the actuarial  
23 valuations. The initial casualty valuation shall determine the  
24 full funding reserve requirements which shall be allocated from  
25 assets of the reserve. All retiree casualty payments shall be  
26 made from this account. For purposes of this section, the term

1 "casualty" means injury to or death of a member or vested former  
2 member.

3       (5) The reserve for undistributed investment income is the  
4 account to which is credited all interest, dividends, and other  
5 income from the investment of pension system assets; all gifts,  
6 bequests, and rewards offered or due to the members received by  
7 the pension system; all unclaimed accumulated contributions and  
8 pensions; and all other money received by the pension system, the  
9 disposition of which is not specifically provided. There shall  
10 be transferred from the reserve for undistributed investment  
11 income all amounts required to credit interest to the reserve for  
12 employee contributions, reserve for employer contributions, and  
13 the reserve for retired benefit payments; and to fund the reserve  
14 for administrative expenses. Whenever the department determines  
15 the balance in the reserve for undistributed investment income is  
16 more than sufficient to cover current charges to the reserve, all  
17 or any part of the excess may be used to provide contingency  
18 reserves or to meet special requirements of the other reserve  
19 accounts of the pension system. Whenever the balance in the  
20 reserve for undistributed investment income is insufficient to  
21 meet the current charges to the account, the amount of the insuf-  
22 ficiency shall be transferred from the reserve for employer  
23 contributions.

24       (6) The expenses for the administration of the retirement  
25 system shall be paid from the reserve for administrative expenses  
26 account. There shall be appropriated annually from the reserve



1 for undistributed investment income an amount sufficient to cover  
2 the necessary expenses of administering this act.

3       (7) The department shall at least annually allocate all or a  
4 portion of undistributed investment income to the individual bal-  
5 ances in the reserve for employee contributions, the reserve for  
6 member contributions, and the reserve for retired benefit pay-  
7 ments and on the aggregate balance in the reserve for excess  
8 casualty experience. The amounts allocated shall be charged to  
9 the reserve for undistributed investment income. The allocation  
10 rates shall be determined by the department. Allocation rates  
11 may vary by reserve account but shall be uniformly applied to  
12 each subaccount within a reserve account.