

SENATE BILL No. 1142

May 24, 2012, Introduced by Senators PAVLOV, COLBECK, MEEKHOF, PROOS, HILDENBRAND, HUNE, EMMONS, KOWALL and BOOHER and referred to the Committee on Appropriations.

A bill to amend 1965 PA 314, entitled
"Public employee retirement system investment act,"
(MCL 38.1132 to 38.1140m) by amending the title, as amended by 1988
PA 343, and by adding section 39b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to authorize the investment of assets of public
employee retirement systems or plans **AND THE ASSETS OF EMPLOYEES
CONTRIBUTED TO RETIREMENT SYSTEMS OR PLANS** created and established
by the state or any political subdivision; to provide for the
payment of certain costs and investment expenses; to authorize
investment in variable rate interest loans; **TO LIMIT EMPLOYER
LIABILITY FOR CERTAIN INVESTMENT DECISIONS**; to define and limit the
investments which may be made by an investment fiduciary with the

1 assets of a public employee retirement system; and to prescribe the
2 powers and duties of investment fiduciaries and certain state
3 departments and officers.

4 SEC. 39B. (1) A PUBLIC EMPLOYER MAY DEDUCT FROM THE WAGES OF
5 AN EMPLOYEE AN AMOUNT FOR A CONTRIBUTION TO AN INDIVIDUAL ACCOUNT
6 FOR EACH EMPLOYEE'S BENEFIT IN A PLAN MAINTAINED UNDER SECTION 125,
7 401(K), 403(B), 408, 408A, OR 457 OF THE INTERNAL REVENUE CODE OF
8 1986, 26 USC 125, 401, 403, 408, 408A, AND 457. THE PUBLIC EMPLOYER
9 SHALL GIVE WRITTEN NOTICE TO A PARTICIPATING EMPLOYEE OF THE
10 CONTRIBUTION BEFORE THE INITIAL DEDUCTION IS MADE. THE PUBLIC
11 EMPLOYER SHALL INCLUDE IN THE NOTICE A DESCRIPTION OF THE BENEFIT
12 THE CONTRIBUTION PROVIDES AND THE RIGHT OF THE PARTICIPATING
13 EMPLOYEE TO CANCEL THE CONTRIBUTION BY INSTRUCTION TO THE EMPLOYER,
14 INCLUDING THE PROCEDURE FOR GIVING THE INSTRUCTION.

15 (2) A PUBLIC EMPLOYER MAY PROVIDE FOR AUTOMATIC ENROLLMENT OF
16 AN EMPLOYEE IN A PLAN DESCRIBED IN SUBSECTION (1). AN EMPLOYER WHO
17 PROVIDES AUTOMATIC ENROLLMENT OF AN EMPLOYEE IN A PLAN AS PROVIDED
18 IN THIS SUBSECTION OR OTHER PLAN OFFICIAL IS NOT LIABLE FOR THE
19 ACTUAL DECISIONS MADE BY THE PUBLIC EMPLOYER OR OTHER PLAN OFFICIAL
20 ON BEHALF OF A PARTICIPATING EMPLOYEE WITH REGARD TO THE DEFAULT
21 INVESTMENT OF CONTRIBUTIONS MADE FOR THAT EMPLOYEE TO THE PLAN IF
22 ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

23 (A) THE PLAN ALLOWS THE PARTICIPATING EMPLOYEE AT LEAST
24 QUARTERLY OPPORTUNITIES TO SELECT INVESTMENTS FOR THE EMPLOYEE'S
25 CONTRIBUTIONS BETWEEN INVESTMENT ALTERNATIVES AVAILABLE UNDER THE
26 PLAN.

27 (B) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE OF THE

1 INVESTMENT DECISIONS THAT WILL BE MADE IN THE ABSENCE OF
2 PARTICIPATING EMPLOYEE DIRECTION.

3 (C) THE PARTICIPATING EMPLOYEE IS GIVEN A DESCRIPTION OF ALL
4 THE INVESTMENT ALTERNATIVES AVAILABLE FOR THE PARTICIPATING
5 EMPLOYEE TO CHANGE INVESTMENTS.

6 (D) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE AT LEAST
7 ANNUALLY OF THE ACTUAL DEFAULT INVESTMENTS MADE BY THE PUBLIC
8 EMPLOYER ON BEHALF OF THE PARTICIPATING EMPLOYEE.

9 (3) THIS SECTION DOES NOT ALTER ANY EXISTING RESPONSIBILITY OF
10 A PUBLIC EMPLOYER OR OTHER PLAN OFFICIAL FOR THE SELECTION OF
11 INVESTMENT FUNDS FOR PARTICIPATING EMPLOYEES.

12 (4) AS USED IN THIS SECTION:

13 (A) "AUTOMATIC ENROLLMENT" MEANS A PLAN PROVISION UNDER WHICH
14 THE EMPLOYEE WILL HAVE A SPECIFIED CONTRIBUTION MADE TO A PLAN
15 DESCRIBED IN SUBSECTION (1) EQUAL TO A COMPENSATION REDUCTION THAT
16 WILL BE MADE FOR THE EMPLOYEE UNLESS THE EMPLOYEE AFFIRMATIVELY
17 ELECTS NO COMPENSATION REDUCTION CONTRIBUTIONS OR A COMPENSATION
18 REDUCTION CONTRIBUTION IN ANOTHER AMOUNT.

19 (B) "PUBLIC EMPLOYER" MEANS THIS STATE OR AN AGENCY OF THIS
20 STATE, A CITY, COUNTY, VILLAGE, TOWNSHIP, SCHOOL DISTRICT, OR
21 INTERMEDIATE SCHOOL DISTRICT, OR AN INSTITUTION OF HIGHER
22 EDUCATION.