# Legislative Analysis

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**RETIREMENT SYSTEM ANNUITY OPTIONS**

**House Bill 5230 as enrolled**
**Sponsor: Rep. Steve Marino**

**House Bill 5231 as enrolled**
**Sponsor: Rep. Thomas A. Albert**

***(Vetoed by the Governor 12-27-18)***

**House Committee: Financial Liability Reform**
**Senate Committee: Finance**
**Complete to 4-11-19**

**SUMMARY:**

House Bills 5230 and 5231 would respectively amend the Public School Employees Retirement Act and the State Employees' Retirement Act to provide annuity options for employees and retirees in the defined contribution (DC, 401(k)-style) retirement plans provided through either the State Employees Retirement System (SERS) or the Michigan Public School Employees' Retirement System (MPSERS).

House Bill 5230 would revise the requirements related to annuity options that were added to the Public School Employees Retirement Act by 2017 PA 92. The bill would require that the annuity options allow DC participants to purchase an annuity while they are employed. The options would have to allow a DC participant, while employed, to purchase a fixed rate annuity, and could allow a DC participant, while employed, to purchase a variable rate annuity.

House Bill 5231 would require SERS to offer DC participants access to at least one fixed annuity option and at least one variable annuity option, in addition to currently offered investment options. The options would have to allow a DC participant, while employed, to purchase a fixed rate annuity, and could allow a DC participant, while employed, to purchase a variable rate annuity.

Selection of Annuity Providers

Each bill would require the state treasurer to select two or more annuity providers through a competitive proposal process and to contract with two or more annuity providers to provide the annuity options. The state treasurer would have to select and contract with an annuity provider that meets all of the following:

- The provider and its subsidiaries and affiliates have the appropriate financial strength and stability. To determine this, the state treasurer would obtain written representation from the provider of all of the following:
  - That the provider is an ***authorized insurer*** as that term is defined in section 108 of the Insurance Code.
  - That all of the following apply to the provider for each of the immediately preceding five years:
    - The provider has a current certificate of authority from its home state insurance commissioner.

        - The provider has filed audited financial statements in accordance with its home state laws under applicable statutory accounting principles.
        - The provider maintains statutorily required reserves in each state where it operates.
        - The provider is not operating under an order of supervision, rehabilitation, or liquidation.
    - The provider undergoes a financial examination every 5 years as required by the insurance commissioner and under the law in its home state.
    - The provider will notify the retirement system of any change in circumstances regarding the above requirements.
- The provider is able to provide contracted rights and benefits to a DC participant.
- The costs, including fees and commissions, of the annuity options in relation to the benefits and product features are reasonable.
- The administrative services provided under the annuity option are appropriate, which would have to include at least periodic reports to the state treasurer about the number of annuitants, the types of annuities provided, and any other information the state treasurer requires.
- The provider is experienced in paying lifetime retirement income through annuities offered to public employee DC retirement plans.
- The provider offers annuity options that meet all of the following conditions:
    - The annuity options are suitable for DC participants, whether employed, retired, or beneficiaries.
    - The contract terms and income benefits are clearly stated and based on reasonable assumptions.
    - The annuity options offer a range of lifetime income options.
    - For a variable annuity, the annuity offers a fixed account option along with its variable account options.
- The provider is able to offer objective and participant-specific education and tools that help participants understand appropriate use as a long-term retirement savings vehicle.

The bills would require the Office of Retirement Services (ORS) in the Department of Technology, Management, and Budget to verify the information in the required provider report and publish the report on its website.

The state treasurer could select and contract with only one annuity provider if, after the competitive process, the treasurer determined that selecting more than one provider would not be in the interest of the participants or that only one provider met the conditions described above. In this case, the state treasurer would have to notify the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Senate Majority Leader, and the Senate Minority Leader within 30 days after selecting and contracting with an annuity provider as to the reasons for selecting only one provider.

Each bill would take effect 120 days after being enacted. The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

MCL 38.1427 (HB 5230)
MCL 38.58 (HB 5231)

**FISCAL IMPACT:**

The bills would create additional administrative and oversight responsibilities for the Department of Treasury and ORS, which independently would likely be absorbed within current staffing levels, but along with other added responsibilities could require additional staff. The bills would have no fiscal impact on the retirement systems themselves.

***Vetoed 12-27-18*:**

In his veto message, Governor Snyder wrote, "As fiduciaries of the state's retirement systems, the Treasurer, and the new State of Michigan Investment Board are responsible for the mix of retirement offerings provided to employees. I believe it is inappropriate for the legislature, which does not have fiduciary responsibility for plan participants to legislatively decide what options are offered to employees."

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