

**THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)**  
**Act 300 of 1980**

ARTICLE 5

**38.1381 Retirement allowance under MCL 38.1384; application; eligibility requirements.**

Sec. 81. (1) Except as provided in section 81c, a member who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, upon the member's written application to the retirement system, shall be entitled to a retirement allowance provided for in section 84 if 1 of the following applies:

(a) The member is 55 years of age or older and has 30 or more years of credited service as provided under this act of which at least 15 years were served as a public school employee.

(b) The member is 60 years of age or older and has accumulated 10 or more years of credited service as a public school employee.

(c) The member is 55 years of age or older and has 15 or more years of credited service, but less than 30 years of credited service of which the last 5 consecutive years are immediately preceding the member's retirement allowance effective date.

(2) Except as provided in section 81c, for a member who contributes to the member investment plan, the eligibility requirements of subsection (1) shall be modified as provided in section 43b.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

**38.1381a Retirement allowance computed according to MCL 38.1384(1); reduction inapplicable; definitions.**

Sec. 81a. (1) Notwithstanding section 81, a member may retire with a retirement allowance computed according to section 84(1) if all of the following apply:

(a) The member files a written application with the retirement board within the early retirement effective period requesting a retirement allowance effective date that is on or before July 1, 1989.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application or the last day of the early retirement effective period, whichever occurs earlier, the member's combined age and length of credited service is equal to or greater than 80 years and the member has 10 or more years of credited service.

(c) The member was working as a public school employee immediately preceding the retirement allowance effective date.

(2) The reduction provided for in section 84(2) shall not apply to a person who retires pursuant to this section.

(3) For purposes of this section, "early retirement effective period" means the period beginning on January 1, 1986 and ending at midnight on January 1, 1989.

**History:** Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1988, Act 212, Imd. Eff. June 30, 1988;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

**38.1381b Retirement; eligibility requirements; computation; extension; "incentivized retirement application period" defined; amortization of additional costs.**

Sec. 81b. (1) Notwithstanding section 81, a member may retire with a retirement allowance computed according to this section if all of the following apply:

(a) The member files a written application with the retirement board within the incentivized retirement application period stating a retirement allowance effective date that is on or after July 1, 2010 but not later than September 1, 2010. A member may withdraw a written application submitted by a member on or before June 11, 2010. A written application submitted by a member and not withdrawn on or before June 11, 2010 is irrevocable.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's combined age and length of credited service is equal to or greater than 80 years or the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction

under section 84(2).

(c) The member was employed as a public school employee for the 6-month period ending May 1, 2010. A member who has worked in the 6-month period ending May 1, 2010 and is on layoff or on an approved leave of absence status from reporting unit employment is considered to have met the employment requirement of this subdivision.

(2) Upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before September 1, 2010 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of the member's final average compensation if the final average compensation is \$90,000.00 or less and the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction under section 84(2). If the member is eligible to retire under section 81 with a retirement allowance that is not subject to reduction under section 84(2) and has a final average compensation that is greater than \$90,000.00, the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00. For members eligible under this section because the member's combined age and length of credited service is equal to or greater than 80 years, upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before September 1, 2010 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of the member's final average compensation if the final average compensation is \$90,000.00 or less. For members eligible to retire under this section because the member's combined age and length of credited service is equal to or greater than 80 years whose final average compensation is greater than \$90,000.00, the retirement allowance shall be calculated so that the member receives a portion of his or her retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be calculated as equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00.

(3) Except as otherwise provided in this subsection, the superintendent for a reporting unit or the chief administrator for a reporting unit that does not have a superintendent may extend the effective date of retirement under subsection (1) of a member employed by that reporting unit to a date not later than September 1, 2011. Each reporting unit having a member who elects to retire under this section may extend the retirement effective date of 1 member under this section. Up to an additional 2,500 extensions shall be allotted to reporting units using a pro-rata methodology determined by the retirement system. The retirement system shall notify reporting units of any additional extension allotments by May 22, 2010. To make an extension under this subsection, the superintendent or chief administrator shall submit to the retirement system notification of members whose retirement dates the superintendent or chief administrator will extend along with the written concurrence of the member on or before June 15, 2010. The superintendent or chief administrator shall not request, and the retirement system shall not implement, the extension of a member that exceeds the number of extensions allotted to his or her reporting unit.

(4) For purposes of this section, "incentivized retirement application period" means the period beginning on May 19, 2010 and ending on June 11, 2010.

(5) Any additional costs to the retirement system as a result of the retirement allowance calculations under this section shall be amortized over a 10-year period.

**History:** Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1381c Member 60 years of age or older with 10 or more years of service; increase in regular retirement age; adjustment by retirement board; "regular retirement age" defined.**

Sec. 81c. (1) A member who first becomes a member on or after July 1, 2010 who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, on the member's written application to the retirement system, is entitled to a retirement allowance provided for in section 84(1) if the member is 60 years of age or older and has accumulated 10 or more years of credited service pursuant to section 68 as a public school employee and has reached regular retirement age.

(2) The eligibility requirements of subsection (1) must not be modified as provided in section 43b.

(3) The reduction provided for in section 84(2) does not apply to an individual who retires under this section.

(4) Notwithstanding any other provision of this act, a member who first becomes a member on or after July 1, 2010 shall not purchase or transfer service credit under article 4 and shall not have any purchased or transferred service credit included in the calculation of a retirement allowance on retirement.

(5) Beginning October 1, 2019 and for each fiscal year in which an experience investigation study is completed under section 41(16), if the most recent experience investigation study of mortality of the retirement system using a 65-year-old based on a 50-50 male-female blend shows an increase of 1 or more years from the previous experience investigation study of mortality, the retirement board, in consultation with the actuary and the department, shall increase the regular retirement age by at least 1 year up to the total increase in whole-year increments unless the most recent actuarial funded ratio for the benefits funded under section 41b(3) is greater than 100% after accounting for an increase in mortality as reflected in the experience investigation study. Any adjustment to the regular retirement age by the retirement board must take place within 12 months after the retirement board's adoption of the most recent experience investigation study on an effective date as determined by the retirement board. Any required increase to the regular retirement age under this subsection must take into account the cumulative increase in mortality relative to the experience investigation study covering the period 2012 through 2017, less any actual increase already taken into account in a previous increase to the regular retirement age. An adjustment to the regular retirement age under this subsection does not apply to a member who, on the effective date of the increase, is within 5 years of the then current regular retirement age. The retirement board may additionally exclude members who, on the effective date of the increase, are within between 5 and 8 years of the then current regular retirement age.

(6) As used in this section, "regular retirement age" means the following:

(a) For a member who first becomes a member on or after July 1, 2010 and before February 1, 2018, 60 years of age and is not subject to increase as provided under subsection (5).

(b) Subject to subsection (5), for a member who first becomes a member on or after February 1, 2018, 60 years of age.

**History:** Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2017, Act 92, Imd. Eff. July 13, 2017.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

**38.1381d Employment retirement system; election to participate in Tier 2; method of accepting elections; election period; member not making election considered as member of Tier 1; collection of employer and employee contributions; qualified participant considered as participant in Tier 2; definitions.**

Sec. 81d. (1) Except as provided in subsection (8), the retirement system shall permit each qualified participant who first becomes a qualified participant and first works for a reporting unit after September 3, 2012 to make an election to not become a member of Tier 1 and become only a qualified participant in Tier 2.

(2) The retirement system shall determine a method of accepting elections under subsection (1) and reporting units shall secure those elections during the period beginning on the date of the individual's employment and ending on the expiration of 75 days from the individual's first payroll date. An election under subsection (1) is irrevocable. The retirement system shall provide a form on which each qualified participant who first becomes a qualified participant and first works for a reporting unit after January 31, 2018 and before July 1, 2024 may make an election under subsection (1). The form described in this subsection must be accompanied by a description of the benefit options. The form must include an acknowledgment that the qualified participant has received the description of the benefit options.

(3) A qualified participant who first becomes a qualified participant and first works for a reporting unit after September 3, 2012 and before February 1, 2018 who does not make an election under subsection (1) for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) The qualified participant is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The qualified participant is also a qualified participant under Tier 2.

(4) A qualified participant who first becomes a qualified participant and first works for a reporting unit after January 31, 2018 and before July 1, 2024 who does not make an election for any reason on or before the close of the election period is considered to have made an election to become only a qualified participant in Tier 2.

(5) An individual who makes the election under subsection (1) on or before the close of the election period or is a qualified participant described in subsection (4) is considered to have made an election to not become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) The individual is not eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The individual is only a qualified participant under Tier 2.

(6) A qualified participant who first becomes a qualified participant and first works for a reporting unit after June 30, 2024 who does not make an election under subsection (1) for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of the qualified participant's employment:

(a) The qualified participant is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The qualified participant is also a qualified participant under Tier 2.

(7) The retirement system shall collect from an individual described in subsection (1) all amounts required under sections 43a and 131(2) and shall collect all required employer contributions required under Tier 1 from the individual's date of employment. If an individual makes a valid election under subsection (1) to not become a member of Tier 1 or is a qualified participant under subsection (4), the retirement system shall determine and implement a method to reconcile employer and employee contributions to be deposited to Tier 2, and any such employee contributions will be considered to be elective contributions under section 131.

(8) A qualified participant who first becomes a qualified participant and first works for a reporting unit following the effective date of the qualifying event is only a Tier 2 qualified participant and is considered to have made an election to become only a qualified participant in Tier 2. As used in this subsection:

(a) "Effective date of the qualifying event" means 12 months after the date that the retirement board receives the valuation report showing that the qualifying event has occurred.

(b) "Qualifying event" means the date on which the actuarial funded ratio for the plan for which the separate contribution rate is calculated under section 41b(2) falls below 85% for 2 consecutive years, based on the actuarial funded ratio using 5-year smoothing of investment returns. For purposes of valuation under this subdivision, the qualifying event does not occur if either of the following applies:

(i) The actuarial funded ratio falls below 85% but would not have fallen below 85% but for the failure of the employer or this state to make a required contribution as calculated under section 41b.

(ii) This state makes an appropriation to the plan described under this subdivision that increases the valuation as described under this subsection to 85% or higher.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2017, Act 92, Imd. Eff. July 13, 2017;—Am. 2023, Act 250, Eff. Feb. 13, 2024.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1382 Deferred vested service retirement allowance; entitlement; computation; application; forfeiture; payment of option to beneficiary.**

Sec. 82. (1) A member who terminates reporting unit service before 60 years of age for a reason other than the member's retirement or death, who does not withdraw accumulated contributions standing to the member's credit in the reserve for employee contributions and the reserve for member investment plan, and who has or maintains in effect 10 or more years of credited service shall be entitled to a deferred vested service retirement allowance computed pursuant to section 84 based upon the last year of credited service of the member's final average compensation period. Upon or after 60 years of age, entitlement of the member's deferred vested service retirement allowance shall begin the first day of the calendar month next following the

deferred member's written application filed with the retirement board on forms furnished by the board. The deferred member's entitlement to a deferred vested service retirement allowance based on prior service or contributory membership service, or both, shall be forfeited if the deferred member withdraws from the retirement system the member's accumulated contributions unless the service is reinstated as provided in section 66. A member who meets all of the qualifications of this subsection, has 30 or more years of credited service, and leaves service before the member's fifty-fifth birthday for a reason other than retirement or death shall be entitled to a deferred vested service retirement allowance at 55 years of age.

(2) If a member, before terminating reporting unit services, selects the option provided in section 85(1)(b), but dies before the effective date of the member's deferred vested service retirement allowance, the option provided in section 85(1)(b) and selected by the deferred member shall be paid to the retirement allowance beneficiary, at the time the deceased deferred member would have otherwise been eligible to begin receiving the deferred vested service retirement allowance.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

### **38.1383 Date of retirement allowance; payment on cessation of eligibility for continuation of benefits.**

Sec. 83. (1) Each retirement allowance shall date from the first of the month following the month in which the applicant satisfies the age and service requirements of this act and terminated reporting unit service, but not more than 12 months before the month in which the application was filed with the retirement system, if the applicant satisfies the legal requirements for the retirement allowance at the time the application is filed.

(2) A full month's retirement allowance shall be payable for the month in which a retirant or retirement allowance beneficiary ceases to be eligible for continuation of benefits. If eligibility ceases because of death, the payment shall be made to the retirement allowance beneficiary, if any, or to the deceased recipient's estate or to the legal representative of the deceased recipient.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

### **38.1384 Retirement allowance; benefits; applicability of reduction; recalculation of retirement allowance; adjusted retirement allowance; election to return retirement allowance payments.**

Sec. 84. (1) Subject to section 84b and except as provided in subsection (2), upon the member's retirement from service as provided in section 81, a member shall receive a retirement allowance that equals the product of the member's total years, and fraction of a year, of credited service multiplied by 1.5% of the member's final average compensation. A member shall not be allowed to use more than 15 years of out of system public education service, or more out of system public education service than service performed under this act or former 1945 PA 136 unless, before July 1, 1974, the member applied for out of system public education service credit based upon payment of contributions for the service as required under section 69, or former acts, in which case the total out of system public education service credited, not to exceed 15 years, shall be used to compute the member's retirement allowance if the minimum service requirements performed under this act or former acts or as a state employee under the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, are met. Credit for state of Michigan service shall be on the same basis for eligibility for retirement provided in this act as if the service were performed under this act, former 1945 PA 136, former 1941 PA 56, or former 1937 PA 184.

(2) If a member having less than 30 years credited service retires before the member's sixtieth birthday as provided in section 81, the member's retirement allowance provided in subsection (1) shall be reduced 1/2 of 1% for each month, and fraction of a month, within the period from the effective date of the member's retirement to the date of the member's sixtieth birthday, and shall continue at that same percentage after becoming 60 years of age.

(3) The reduction of 1/2 of 1% for each month and fraction of a month from the member's retirement allowance effective date to the date of the member's sixtieth birthday provided for in former 1945 PA 136, applicable to a member who retired before July 1, 1974 and before attainment of age 60, shall not apply to a member who retired before that date, at age 55 or more, having 30 or more years of credited service. The retirement allowance shall be recalculated disregarding the reduction and the person receiving the retirement allowance shall be eligible to receive an adjusted retirement allowance based on the recalculation beginning January 1, 1986, but shall not be eligible to receive the adjusted amount attributable to any month beginning before January 1, 1986.



(4) The reduction provided for in subsection (2) shall not apply to a member who retires under either section 86 or 87, or to a retirement allowance beneficiary who is granted an allowance under section 43c(c), 89, or 90.

(5) The retirement allowance of a person who satisfies the requirements of this subsection shall be recalculated based on 1.5% of final average compensation times years of credited service. The person receiving the retirement allowance shall be eligible to receive an adjusted retirement allowance based on the recalculation beginning January 1, 1986, but shall not be eligible to receive the adjusted amount attributable to any month beginning before January 1, 1986. A retirement allowance shall be recalculated under this subsection if 1 of the following applies:

(a) The retirement allowance was payable to a retirant or retirement allowance beneficiary under chapter II of former 1945 PA 136 and the retirement allowance effective date was on or after July 1, 1956 but before July 1, 1974.

(b) The retirement allowance was payable to a plan II retirant or retirement allowance beneficiary under chapter I of former 1945 PA 136 and the retirement allowance effective date was before July 1, 1974.

(6) A member retiring pursuant to section 81 who acquires at least 5 years of combined credited service under this act or under former 1945 PA 136, and who is already in receipt of a retirement allowance under chapter II of former 1945 PA 136, may elect to return to the retirement system any retirement allowance payments received, and receive a single retirement allowance computed on the combined years of service credited under this act and any former act.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

**38.1384b Retirement allowance for member making alternative election under section 59(2)(a) or (b); calculation; items of credited service under section 59(1); accumulation of years of service credit for purpose of vesting; calculation of retirement allowance under section 59(1) but not making attainment date designation; "attainment date" defined.**

Sec. 84b. (1) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member who did not make the election under section 59(1) and who made or is considered to have made the alternative election under section 59(2)(a) must include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to the member before the transition date.

(b) Service credit that was purchased before February 1, 2013.

(c) Service credit that is purchased under a payment plan under this act that was in effect as of February 1, 2013.

(d) Credit for years of service under sections 73 and 108(10).

(2) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member described in subsection (1) must also include the following items of credited service, as applicable, multiplied by 1.25% of final average compensation:

(a) The years and fraction of a year of credited service accrued to the member on and after the transition date.

(b) Service credit that was purchased on and after February 1, 2013, except as provided in subsection (1)(c).

(3) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member who did not make the election under section 59(1) and who made the alternative election under section 59(2)(b) must include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to the member before the transition date.

(b) Service credit that was purchased before February 1, 2013.

(c) Service credit that is purchased under a payment plan under this act that was in effect as of January 31, 2013.

(d) Credit for years of service under sections 73 and 108(10).

(4) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member described in subsection (3) must not include any year or fraction of a year of service performed by the member on and after the transition date or any service credit that is purchased by the member after February 1, 2013, except as provided in subsection (3)(c). Beginning with the first payroll date after the transition date, and ending on the member's termination of service, the employer of a member described in subsection (3) shall contribute 4% of the member's compensation as defined in section 122(2) to the member's Tier 2 account. A member is vested in employer contributions made under this subsection according to the vesting provisions under section 132. A member must be credited with years of service accrued under Tier 1 as of the transition date for purposes of meeting the applicable vesting requirements. Beginning with the first payroll date after 90 days after the effective date of the 2018 amendatory act that amended this section, all of the following apply to a member described in subsection (3):

(a) Unless the member affirmatively elects not to contribute or elects to contribute a lesser amount, the member shall contribute 3% of his or her compensation to his or her Tier 2 account.

(b) The member's employer shall make a contribution to the member's Tier 2 account in an amount equal to 100% of the first 3% of compensation contributed by the member under subdivision (a).

(5) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member who makes the election and attainment date designation under section 59(1) must include only the following items of credited service, as applicable, multiplied by 1.5% of final average compensation as provided in section 84:

(a) The years and fraction of a year of credited service accrued to the member on or before the attainment date.

(b) Service credit that was purchased on or before the attainment date.

(c) Service credit that is purchased under a payment plan under this act that was in effect as of the attainment date.

(d) Credit for years of service under sections 73 and 108(10).

(6) Beginning February 1, 2013, the calculation of a retirement allowance under this act for a member described in subsection (5) must also include the following items of credited service, as applicable, multiplied by 1.25% of final average compensation:

(a) The years and fraction of a year of credited service accrued to the member on and after the attainment date.

(b) Service credit that was purchased on and after the attainment date, except as provided in subsection (5)(c).

(7) Beginning on the transition date, a member described in subsection (1), (3), or (5) must continue to accumulate years of service credit as necessary for the purpose of vesting in a retirement allowance and to determine when a retirement allowance may begin under this act, regardless of when the service credit was accrued, except as otherwise provided in section 59(8). A member described in subsection (1), (3), or (5) must continue to be treated as a member for all purposes, except as otherwise provided in section 59(8) and except for the limitations on credited service and calculation of a retirement allowance as provided in subsections (1) through (6).

(8) The calculation of a retirement allowance under this act for a member who makes the election under section 59(1) but who does not make the attainment date designation under section 59(1) must include all items of credited service accrued to the member, regardless of when the service credit was accrued, which must be multiplied by 1.5% of final average compensation as provided in section 84.

(9) As used in this section, "attainment date" means the final day of the pay period in which the member attains 30 years of credited service.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012;—Am. 2018, Act 169, Imd. Eff. June 4, 2018.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

**38.1385 Payment options; election; change of option or beneficiary; payment to beneficiary; reversion of benefit to straight retirement allowance; term of payment; beneficiary predeceasing retirant who returns to service; effect of election of retirant's divorce from spouse designated as beneficiary; payment of difference between accumulated**

**contributions and aggregate amount of retirement allowance payments; change of beneficiary; optional form of benefit payment; limitation; termination.**

Sec. 85. (1) A retiring member or retiring deferred member who meets the requirements of section 81 or 81a or a member whom the retirement board finds to be totally and permanently disabled and eligible to receive a retirement allowance under section 86 or 87 shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election shall 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 section 86 or 87. The amount of retirement allowance under subdivision (b), (c), or (d) shall be the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

(a) A retiree shall be paid a straight retirement allowance for life computed pursuant to section 84. An additional retirement allowance payment shall not be made upon the retiree's death.

(b) A retiree shall be paid a reduced retirement allowance for life with the provision that upon the retiree's death, payment of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or deferred member designates 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 section 82(2) or 89(3).

(c) A retiree shall be paid a reduced retirement allowance for life with the provision that upon 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) On and after January 1, 2000, a retiree shall be paid a reduced retirement allowance for life with the provision that upon 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.

(2) In addition to the election under subsection (1), a retiree, other than a disability retiree who is 60 years of age or less, may elect to coordinate his or her retirement allowance with an estimated primary social security benefit. The retiree shall be paid an increased retirement allowance until 62 years of age and a reduced retirement allowance after 62 years of age. The increased retirement allowance paid until 62 years of age shall approximate the sum of the reduced retirement allowance payable after 62 years of age and the retiree's estimated social security primary insurance amount. The estimated social security primary insurance amount shall be determined by the retirement system. The election under this subsection shall be made at the same time and in the same manner as required under subsection (1).

(3) Except as otherwise provided in this section, the election of a payment option in subsections (1) and (2) shall not be changed on or after the effective date of the retirement allowance. Except as provided in this section, the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) shall not be changed on or after the effective date of the retirement allowance and shall 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 shall 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 (1), other than an election under subsection (1)(b), (c), or (d) naming the spouse as retirement allowance beneficiary, shall not be 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 person 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 shall start the first day of the month following the retiree's death.

(4) Except as otherwise provided in subsection (8), if the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the retiree, the retiree's benefit shall revert to a straight retirement allowance including post-retirement adjustments, if any, shall be effective the first of the month following the death, and shall be paid during the remainder of the retiree's life. This subsection applies to a retiree whose effective date of retirement is after June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or October 31, 1980. This subsection also applies to a retiree whose effective date of retirement was on or before June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retiree who on January 1, 1986 is receiving a reduced retirement allowance because the retiree designated a retirement allowance beneficiary and the



retirement allowance beneficiary predeceased the retirant is eligible to receive the straight retirement allowance beginning January 1, 1986, but the straight retirement allowance shall not be payable for any month beginning before January 1, 1986.

(5) A retirant who returns to service pursuant to section 61 and whose retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the member before he or she again becomes a retirant may again choose a retirement allowance beneficiary pursuant to subsection (1)(b), (c), or (d).

(6) If a retirant receiving a reduced retirement allowance under subsection (1)(b), (c), or (d) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under subsection (1)(b), (c), or (d), the election of a reduced retirement allowance payment option shall be 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 (1)(b), (c), or (d) is to be considered void by the retirement system and the retirant 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 (1)(b), (c), or (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall 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 shall 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.

(7) 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 shall 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 shall be paid to the deceased recipient's estate or to the legal representative of the deceased recipient.

(8) A retirant who selected a retirement allowance beneficiary under subsection (1)(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) 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 shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(9) 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 (1)(b), (c), or (d) and designate a retirement allowance beneficiary if all of the following apply:

(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) The retirant files a written request with the retirement system to select the optional form of benefit payment under subsection (1)(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 shall have 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(10) The retirement allowance of the retirant who makes an election under subsection (8) or (9) shall 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 (1)(a) and shall become effective the first day of the month following the filing of the written request with the retirement system.

(11) If the retirant dies no later than 12 months after the effective date of his or her election under subsection (8) or (9), the retirement allowance for the surviving spouse established under subsection (8) or (9) shall terminate 12 months after the death of the retirant.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2006, Act 617, Eff. Jan. 1, 2009.

**Popular name:** Act 300

### **38.1386 Disability allowance; requirements; extension of application time limit; computation; effective date.**

Sec. 86. (1) A member whom the retirement board finds to have become totally and permanently disabled for purposes of employment by his or her reporting unit by reason of personal injury or mental or physical illness before termination of reporting unit service and employment shall receive a disability allowance if all of the following requirements are met:

(a) The member has not met age and service requirements of section 81(1)(a) or (b) or, if the member first became a member on or after July 1, 2010, the member has not met age and service requirements of section 81c(1).

(b) The member has at least 10 years of credited service in effect before termination of employment.

(c) The member or reporting unit makes written application to the retirement board not more than 12 months after the date the member terminated public school employment.

(d) The person undergoes an examination by 1 or more practicing physicians or medical officers designated by the retirement board who certify to the retirement board that the member is totally and permanently disabled for performing the duties for the member's position or similar position for which the member is qualified by reason of training, experience, or both.

(2) The retirement board may extend the application time limit provided in subsection (1) not more than 24 months for a member or deferred member who satisfies the other requirements of subsection (1), if evidence of extenuating circumstances is presented to the satisfaction of the retirement board.

(3) The member's disability retirement allowance shall be computed pursuant to section 84. The effective date of the disability retirant's allowance shall be determined pursuant to section 83.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

### **38.1387 Duty disability retirement allowance; requirements; computation; effective date; service credit; adjustment.**

Sec. 87. (1) A member whom the retirement board finds to have become totally and permanently disabled from any gainful employment by reason of personal injury or mental or physical illness while serving as an employee of that reporting unit shall receive a duty disability retirement allowance if all of the following requirements are met:

(a) The member has not met age and service requirements of section 81(1)(a) or (b) or, if the member first became a member on or after July 1, 2010, the member has not met age and service requirements of section 81c(1).

(b) The member is in receipt of weekly worker's disability compensation on account of employment by a reporting unit.

(c) The member or reporting unit makes written application to the retirement board not more than 12 months after the date the member terminated public school employment.

(d) The member undergoes an examination by 1 or more practicing physicians or medical officers designated by the retirement board who certify to the retirement board that the member is totally and permanently disabled for performing the duties for the member's position for which the member is qualified by reason of training, or experience, or both.

(2) The member's duty disability retirement allowance shall be computed pursuant to section 84. The effective date of the duty disability retirant's allowance shall be the first of the month following the month in

which the member terminates employment and is in receipt of weekly worker's disability compensation. The years of service credit used in computing the retirant's duty disability retirement allowance shall not be less than 10 years. If the member has less than 5 consecutive years of credited service, the average of the member's annual compensation shall be used.

(3) Upon recovery and return to reporting unit service or upon termination of the statutory period for the payment of a disability retirant's worker's disability compensation, if any, arising on account of the retirant's reporting unit service, the retirant shall be given service credit for the period and the retirant's disability retirement allowance shall be adjusted to include the additional credit.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

**38.1388 Duty or nonduty disability retirant; medical examination; affidavit; deception; discontinuance or revocation of nonduty disability retirement allowance; return to membership; restoration of credited service; restoration of duty disability retirant to active service; cessation of allowance or rights to allowance; lump sum payment; payment on retirant's sixtieth birthday; reduction of retirement allowance; computation of allowable earnings; applicability of subsection (4).**

Sec. 88. (1) The retirement board may require a duty or nonduty disability retirant to submit to a medical examination by a practicing physician or a medical officer designated by the retirement board as necessary for proof of eligibility for continuance of the disability allowance. The retirement board may require each disability retirant who is 59 years of age or less to submit a sworn affidavit during January of each year, in the form and manner prescribed by the retirement board, attesting that the retirant believes himself or herself to be totally and permanently disabled for the same reason for which the disability allowance was granted, and disclosing any significant change in physical or mental condition that occurred during the preceding 12-month period because of medical treatment. A retirant who submits information with intent to deceive may have the disability retirement allowance revoked by the retirement board.

(2) The retirement board may discontinue a nonduty disability retirement allowance if medical examination reports indicate that the retirant no longer is disabled. If a nonduty disability retirant refuses to submit to an examination, the retirant's disability retirement allowance may be discontinued until withdrawal of the refusal. If a refusal continues for 12 months, the retirant's rights to a nonduty disability retirement allowance shall be revoked by the retirement board. However, upon the retirant's sixtieth birthday the retirant shall be paid a retirement allowance based on the final average compensation, service, and benefit formula as of the effective date of the retirant's nonduty disability retirement allowance if the retirant's contributions are left on deposit. If the nonduty disability retirant returns to membership service after termination of a disability allowance, the retirant shall again become a member of the retirement system. The retirant's credited service in effect at the time of disability retirement shall be restored.

(3) If, upon examination of a duty disability retirant, the medical report indicates that the retirant no longer is disabled and is capable of resuming public school employment, the retirant shall be restored to active service with the reporting unit from which the person terminated employment and the duty disability retirement allowance shall cease. Payment of the duty disability retirement allowance shall continue until the retirant is actually returned to reporting unit service in a position for which the retirant is qualified by reason of training, or experience, or both. The retirant again shall become a member of the retirement system and the retirant's credited service in effect at the time of duty disability retirement shall be restored. If the retirant refuses to either submit to a medical examination or to return to reporting unit service and if either refusal continues for 12 months, the retirant's rights to a duty disability retirement shall cease. A lump sum payment shall be made of the difference between the retirant's accumulated contributions at time of retirement and the aggregate amount of the retirant's disability retirement allowance payments, unless the retirant has acquired 10 or more years of credited service before the time of his or her duty disability allowance. In that event, upon the retirant's sixtieth birthday, the retirant shall be paid a retirement allowance based upon the final average compensation, service, and benefit formula as of the effective date of the duty disability retirement allowance, if the retirant's contributions as a member are left on deposit.

(4) If a disability retirant becomes engaged in gainful employment, and if the total of the retirant's income from the employment and retirement allowance exceeds the retirant's final average compensation, the retirement allowance shall be reduced to an amount which when added to the amount earned by the retirant equals the retirant's final average compensation. For purposes of computing allowable earnings under this

subsection, the final average compensation shall be increased by 2% for each 12 months elapsed after the date the retirement allowance commenced. This subsection shall not apply on or after the date the duty or nonduty disability retiree otherwise would have been eligible for an age and service retirement allowance if the retiree had not become disabled, but the retiree shall be subject to section 61.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980.

**Popular name:** Act 300

**38.1389 Surviving spouse; computation, payment, and termination of retirement allowance; remarriage of surviving spouse; allowance for surviving child less than 18; election of retirement allowance beneficiary; grounds for voiding election; death of member; presumption of dependency; termination of allowance; payment to refund beneficiary; member contributing to member investment plan.**

Sec. 89. (1) If a member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, dies before the effective date of his or her retirement and leaves a surviving spouse to whom the deceased member was married at time of death, the surviving spouse shall receive a retirement allowance computed in the same manner as if the deceased member had retired effective the day preceding the date of the deceased member's death, elected the option set forth in subsection (3), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section. A surviving spouse of a person who was a deferred member on October 31, 1980, who becomes eligible to receive a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945, shall be eligible to receive that retirement allowance and that allowance shall not be subject to termination because of the surviving spouse's remarriage.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) A member who continues as a public school employee on or after either the date the member has 15 years of credited service in effect, or the date of the member's sixtieth birthday if the member has 10 years of credited service in effect, may elect the option provided in section 85(1)(b) and nominate a retirement allowance beneficiary as provided in section 85(3). The election shall be in writing and filed with the retirement board in a manner and form prescribed by the retirement board. The election shall be void upon the member's retirement, termination of employment except as provided in section 82(2), divorce, the retirement allowance beneficiary's death, or upon the retirement allowance beneficiary no longer being dependent upon the member before the member's death. If a member who has an option election under section 85(1)(b) in effect dies before the effective date of his or her retirement, the member's retirement allowance beneficiary, so long as the beneficiary continues to be so dependent, shall receive the same retirement allowance as the retirement allowance beneficiary would have been entitled to receive under the option provided in section 85(1)(b) if the member had been regularly retired pursuant to section 81 or 82 the day preceding the date of the member's death, even though the member may not have acquired entitlement to service retirement. The surviving spouse of the deceased member shall be presumed to be 50% dependent on the deceased member for his or her own financial support. The surviving spouse's retirement allowance shall terminate upon the surviving spouse's death.

(4) If at the time a retirement allowance beneficiary's retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary are less than the accumulated contributions credited to the deceased member's account in the reserve for employee contributions at the time of the deceased member's death, the difference between the deceased member's accumulated contributions and the aggregate amount of retirement allowance payments

received by the retirement allowance beneficiary shall be paid to the deceased member's refund beneficiary.

(5) For a member who contributes to the member investment plan, the credited service eligibility requirement applicable to the survivor benefits provided in this section are subject to section 43c.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

**38.1390 Surviving spouse of deceased member receiving worker's disability compensation; computation, payment, and termination retirement allowance; remarriage of surviving spouse; allowance for surviving children less than 18; computation, payment, and termination of allowance for surviving child less than 18 or for surviving dependent parent; computation and effective date of retirement allowance beneficiary's duty death retirement allowance; use of average annual compensation; election to accept refund; payment to legal representative of deceased member's or retirant's estate.**

Sec. 90. (1) If a member dies as a result of injury or illness arising out of and in the course of the member's reporting unit service for which worker's disability compensation is paid, or a duty disability retirant who is in receipt of weekly worker's disability compensation on account of the retirant's reporting unit service dies from the same causes for which the person retired within 36 months after the retirant's retirement, and in either case the death or the illness or injury resulting in death is found by the retirement board to have resulted, without the member's or retirant's willful negligence, from the performance of the member's or retirant's reporting unit service, the surviving spouse of the deceased member or retirant shall receive a retirement allowance computed in the same manner as if the member or retirant had retired for reasons of age and service effective the day preceding the date of the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving spouse as retirement allowance beneficiary. The surviving spouse's retirement allowance shall terminate upon death. A surviving spouse who on June 27, 1984, is receiving a retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 shall be eligible to continue receiving that retirement allowance regardless of the surviving spouse's remarriage. A surviving spouse whose retirement allowance under this section or the predecessor to this section under former Act No. 136 of the Public Acts of 1945 was terminated due to the surviving spouse's remarriage shall be eligible to receive that allowance beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the allowance attributable to any month beginning before the month of reinstatement under this section.

(2) If the other requirements of subsection (1) are met but a surviving spouse does not exist, each child of the deceased member or duty disability retirant who is less than 18 years of age shall receive an allowance of an equal share of the retirement allowance which would have been paid to the spouse if living at the time of the member's or retirant's death. Payments under this subsection shall cease upon marriage, adoption, or becoming 18 years of age, whichever occurs first.

(3) If the other requirements of subsection (1) are met and neither a surviving spouse nor an eligible child surviving the deceased member or duty disability retirant exists, a monthly allowance shall be paid to 1 surviving dependent parent whom the retirement board finds to be totally and permanently disabled and to have been dependent upon the deceased member or retirant for at least 50% of the parent's financial support. The allowance shall be computed in the same manner as if the deceased member or retirant had retired for reasons of age and service effective the day preceding the member's or retirant's death, elected the option provided in section 85(1)(b), and nominated the surviving parent as retirement allowance beneficiary. The surviving parent's beneficiary retirement allowance shall terminate upon marriage or death.

(4) The retirement allowance beneficiary's duty death retirement allowance shall be computed pursuant to section 84, except that the reduction for early retirement shall not apply. The effective date of the retirement allowance beneficiary's duty death retirement allowance shall be the first of the month following the month in which the member or retirant died. The years of service credit used in computing the retirement allowance beneficiary's duty death retirement allowance shall not be less than 10 years. If the deceased member or duty disability retirant has less than 5 consecutive years of credited service, the average of the decedent's annual compensation shall be used.

(5) Instead of the duty death benefits provided in this section to an eligible retirement allowance beneficiary, the retirement allowance beneficiary, before receipt of his or her first payment, may elect to accept a refund of the deceased member or duty disability retirant's accumulated contributions.

(6) If, at the time a retirement allowance beneficiary's duty death retirement allowance granted by this section is terminated, the aggregate amount of retirement allowance payments received by the retirement



allowance beneficiary is less than the accumulated contributions credited to the deceased member's or duty disability retiree's account in the reserve for employee contributions and the reserve for member investment plan at the time of the member's or retiree's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the retirement allowance beneficiary shall be paid to the legal representative of the deceased member's or retiree's estate.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1984, Act 162, Imd. Eff. June 27, 1984;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

**38.1391 Hospital, medical-surgical, and sick care retiree benefits; dental and vision retiree benefits; retirement system premium; maximum contribution rate; health benefits coverage for dependent of retiree; coordination of benefits; definitions.**

Sec. 91. (1) Except as otherwise provided in this section, the retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in this section, beginning January 1, 2013, the retirement system shall pay 80% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsections (7) to (15), for a retiree or retirement allowance beneficiary who is enrolled in the hospital, medical-surgical, and sick care benefits plan on January 1, 2013 and who is eligible for medicare on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsection (8), this subsection does not apply to a retiree who first becomes a member after June 30, 2008.

(2) The retirement system may pay up to the maximum of the amount payable under subsection (1) toward the monthly premium for hospital, medical-surgical, and sick care benefits for the benefit of a retiree or retirement allowance beneficiary enrolled in a group health insurance or prepaid service plan not authorized by the retirement board and the department, if enrolled before June 1, 1975, for whom the retirement system on July 18, 1983 was making a payment towards his or her monthly premium.

(3) A retiree or retirement allowance beneficiary receiving hospital, medical-surgical, and sick care benefits coverage under subsection (1) or (2), until eligible for medicare, shall have an amount equal to the cost chargeable to a medicare recipient for part B of medicare deducted from his or her retirement allowance.

(4) Until December 31, 2012, the retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in this section, beginning January 1, 2013, the retirement system shall pay 80% of the monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Except as otherwise provided in subsections (7) to (15), for a retiree or retirement allowance beneficiary who is enrolled in the dental and vision plan on January 1, 2013 and who is 65 years of age or older on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for dental and vision benefits for the benefit of a retiree or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider. Except as otherwise provided in subsection (8), this subsection does not apply to a retiree who first becomes a member after June 30, 2008.

(5) Until December 31, 2012, the retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retiree receiving benefits under subsection (1) or (2). Until December 31, 2012, payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. Except as otherwise provided in subsections (7) through (15), for a health insurance dependent who is enrolled in the hospital, medical-surgical, and sick care benefit plan on January 1, 2013 and who is eligible for medicare on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of each health insurance dependent of a retiree receiving benefits under subsection (1) or (2). Until December 31, 2012, the retirement system shall

pay 90% of the monthly premium or membership or subscription fee for dental and vision benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Beginning January 1, 2013, any payment described in this subsection shall not exceed 80% of the actual monthly premium or membership or subscription fee. Except as otherwise provided in subsections (7) to (15), for a health insurance dependent of a retirant who is enrolled in the dental and vision plan on January 1, 2013 and who is 65 years of age or older on that date, the retirement system shall pay 90% of the entire monthly premium or membership or subscription fee for dental and vision benefits for the benefit of each health insurance dependent of the retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection and subsection (6) began October 1, 1985 for health insurance dependents who on July 10, 1985 were covered by the hospital, medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986. Except as otherwise provided in subsection (8), this subsection does not apply to a retirant who first becomes a member after June 30, 2008.

(6) The payment described in subsection (5) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retirant if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retirant as provided in section 43c(c), 89, or 90. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100% of the payments provided by this section. This subsection applies to any member who first became a member on or before June 30, 2008 and attains deferred status under section 82 after October 31, 1980.

(8) For a member or deferred member who first becomes a member after June 30, 2008 and before September 4, 2012, the retirement system shall pay up to 80% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, and vision plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member has 25 years or more of service credit under this act, and the retirant, deceased retirant, or deceased member was at least 60 years of age at the time of application for benefits under this section. If the retirant or deceased member is less than 60 years of age at the time of application for benefits under this section, the retirement system shall pay 80% of the monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, and vision plan, or any combination of the plans for the benefit of the retirant and his or her retirement allowance beneficiary and the retirant's health insurance dependents, or for the benefit of the deceased member's retirement allowance beneficiary if the retirant or deceased member has 25 or more years of service credit granted under section 68. If a retirant, deceased retirant, or deceased member described in this subsection has 10 or more but less than 25 years of service credit under this act and the retirant was at least 60 years of age at the time of application for benefits under this section, the retirement system shall pay a portion of the monthly premium or membership or subscription fee for the plans or combination of plans equal to the product of 3% and the retirant's, deceased retirant's, or deceased member's years of service for the first 10 years and 4% for each year after the first 10 years, up to 80%. This subsection does not apply to a member who receives a disability retirement allowance under section 86 or 87 or to a deceased member's retirement allowance beneficiary under section 90.

(9) The retirement system shall not pay the premiums or membership or subscription fees under subsection (8) until the retirant or retirement allowance beneficiary requests enrollment in the plans or combination of plans in writing in the manner prescribed by the retirement system. Not more than 1 year of service credit shall be counted for purposes of this subsection and subsection (8) in any school fiscal year.

(10) A member who retires under section 43b or 81 and who elects to purchase service credit on or after July 1, 2008 is not eligible for payments under this section for the hospital, medical-surgical, and sick care benefits plan, the dental plan, or vision plan, or any combination of the plans described in this section until the first date that the member would have been eligible to retire under section 43b or 81 if he or she had not purchased the service credit and had accrued a sufficient amount of service credit under section 68. A member who first becomes a member on or after July 1, 2008 shall not be eligible for health benefits under this subsection until at least the time of application under subsection (8). The retirement system shall apply a method that enables it to make the determination under this subsection.

(11) Except for a member who retires under section 86 or 87 or a member who meets the requirements under subsection (7) or (8), the retirement system shall not pay the benefits provided in subsection (1) or (4) unless the member was employed and has received a minimum total of 1/2 of a year of service credit granted pursuant to section 68 during the 2 school fiscal years immediately preceding the member's retirement allowance effective date or the member has received a minimum of 1/10 of a year of service credit granted pursuant to section 68 during each of the 5 school fiscal years immediately preceding the member's retirement allowance effective date. This subsection does not apply to a member who is unable to meet the service credit requirements of this subsection because of 1 or more periods of unpaid leaves of absence approved by the reporting unit during the period of leave of absence, as a result of a mental or physical disability supported by the member's doctor during the period of leave of absence.

(12) Any retirant or retirement allowance beneficiary excluded from payments under this section may participate in the hospital, medical-surgical, and sick care benefits plan, the dental plan, or vision plan, or any combination of the plans described in this section in the manner prescribed by the retirement system at his or her own cost.

(13) The hospital, medical-surgical, and sick care benefits plan, dental plan, and vision plan that covers retirants, retirement allowance beneficiaries, and health insurance dependents pursuant to this section shall contain a coordination of benefits provision that provides all of the following:

(a) If the person covered under the hospital, medical-surgical, and sick care benefits plan is also eligible for medicare or medicaid, or both, then the benefits under medicare or medicaid, or both, shall be determined before the benefits of the hospital, medical-surgical, and sick care benefits plan provided pursuant to this section.

(b) If the person covered under any of the plans provided by this section is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided by the coordination of benefits act, 1984 PA 64, MCL 550.251 to 550.255.

(c) If the person covered under any of the plans provided by this section is also covered under another plan that does not contain a coordination of benefits provision, the benefits under the other plan shall be determined before the benefits of the plan provided pursuant to this section.

(14) Beginning January 1, 2009, upon the death of the retirant, a retirement allowance beneficiary who became a retirement allowance beneficiary under section 85(8) or (9) is not a health insurance dependent and is not entitled to health benefits under this section except as provided in this subsection. Beginning January 1, 2009, a surviving spouse selected as a retirement allowance beneficiary under section 85(8) or (9) may elect the insurance coverages provided in this section if payment for the elected coverages is the responsibility of the surviving spouse and is paid in a manner prescribed by the retirement system.

(15) This section does not apply to a retirant or a health insurance dependent of that retirant under either of the following circumstances:

(a) The individual first became a member or qualified participant on or after September 4, 2012.

(b) The member made the election to opt out of health insurance coverage or receives a separate retirement allowance under section 91a.

(16) For purposes of this section:

(a) "Health insurance dependent" means any of the following:

(i) Except as provided in subsection (14), the spouse of the retirant or the surviving spouse to whom the retirant or deceased member was married at the time of the retirant's or deceased member's death.

(ii) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 19 years of age.

(iii) An unmarried child, by birth or adoption, of the retirant or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code, 26 USC 152.

(iv) An unmarried child, by birth or adoption, of the retirant or deceased member who is incapable of self-sustaining employment because of mental or physical disability, and who is or was at the time of the

retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code, 26 USC 152.

(v) The parents of the retirant or deceased member, or the parents of his or her spouse, who are residing in the household of the retirant or retirement allowance beneficiary.

(vi) An unmarried child who is not the child by birth or adoption of the retirant or deceased member but who otherwise qualifies to be a health insurance dependent under subparagraph (ii), (iii), or (iv), if the retirant or deceased member is the legal guardian of the unmarried child.

(b) "Medicaid" means benefits under the federal medicaid program established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(c) "Medicare" means benefits under the federal medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395kkk.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1981, Act 133, Imd. Eff. Oct. 7, 1981;—Am. 1982, Act 258, Imd. Eff. Sept. 30, 1982;—Am. 1983, Act 143, Imd. Eff. July 18, 1983;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 193, Imd. Eff. Aug. 25, 1989;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 85, Imd. Eff. May 13, 1998;—Am. 2004, Act 117, Imd. Eff. May 26, 2004;—Am. 2006, Act 617, Eff. Jan. 1, 2009;—Am. 2007, Act 110, Imd. Eff. Oct. 1, 2007;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Constitutionality:** The Michigan Supreme Court held that the failure by the state to prefund retirement health care benefits is in violation of Const 1963, art 9, § 24. However, the Michigan Supreme Court also held that it has no authority to order the governor or legislature to appropriate funds. *Musselman v Engler*, 448 Mich 503; 533 NW2d 237 (1995).

**Compiler's note:** Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1391a Retiree health care insurance coverage for employees hired after September 4, 2012; matching contribution in lieu of health insurance coverage benefits; vesting provisions; election to opt out of health insurance coverage premiums; effect of not making election under subsection (5); break in service or reemployment; implementation and applicability of subsections (5) to (10); report; definitions.**

Sec. 91a. (1) An individual who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5) shall not receive any health insurance coverage premium from the retirement system for any benefits under section 91 or as a result of benefits provided under section 86, 87, or 89. In lieu of any of these benefits that might have been paid by the retirement system, a member's or qualified participant's employer shall make a matching contribution up to 2% of the member's or qualified participant's compensation to Tier 2 for each member who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5). A matching contribution under this subsection shall not be used as the basis for a loan from an employee's Tier 2 account. If the department or retirement system offers a health expenditure account or similar account for the purpose of managing a member's health care funds under this section, as permitted by state or federal law, the department or retirement system shall issue a request for proposals before implementation of that health expenditure account or similar account.

(2) An individual who first became a member or qualified participant on or after September 4, 2012 or who made the election under subsection (5) may make a contribution up to 2% of the member's or qualified participant's compensation to a Tier 2 account. A member or qualified participant 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 or qualified participant is vested in contributions made to his or her Tier 2 account under subsections (1) and (2) according to the vesting provisions under section 132. A member who is eligible for the payment of health insurance coverage premiums by the retirement system as a result of benefits provided under section 90 is not vested in any



employer contributions under subsection (1) and forfeits the employer contributions and earnings on those contributions.

(4) The contributions described in this section shall begin with the first payroll date after the member or qualified participant is employed or on or after the transition date for a member who makes the election under subsection (5) and end upon his or her termination of employment.

(5) Except as otherwise provided in this section, beginning September 4, 2012 and ending at 5 p.m. eastern standard time on January 9, 2013, the retirement system shall permit each qualified member to make an election to opt out of health insurance coverage premiums that would have been paid by the retirement system under section 91 and opt into the Tier 2 account provisions of this section effective on the transition date. A qualified member who makes the election under this subsection shall cease accruing years of service credit for purposes of calculating a portion of the health insurance coverage premiums that would have been paid by the retirement system under section 91 as if that section continued to apply.

(6) A qualified member who does not make the election under subsection (5) continues to be eligible for the payment of health insurance coverage premiums by the retirement system under section 91 and is not eligible for the Tier 2 account provisions of this section. An individual who is not a qualified member, who is a former member on September 3, 2012, and who is reemployed by an employer on or after September 4, 2012 shall be treated in the same manner as a member described in this subsection who did not make the election under subsection (5).

(7) The retirement system shall calculate an amount to be credited to a Tier 2 account for each member who makes the election under subsection (5). The amount described in this subsection shall be an amount equal to the contributions made by the member under section 43e. A member who makes the election under subsection (5) shall cease making contributions under section 43e as determined by the retirement system, but no later than the first payroll date after the transition date. The amount calculated under this subsection shall be deposited as an employer contribution into the member's Tier 2 account as determined by the retirement system, but no later than the first payroll date after March 1, 2013. A member is immediately 100% vested in amounts deposited to his or her Tier 2 account under this subsection.

(8) A member or former member who does not make the election under subsection (5), who is 60 years of age or older, who does not qualify for the payment of health insurance coverage premiums by the retirement system under section 91, and who files an application with the retirement system on or after termination of employment shall receive a separate retirement allowance as calculated under this subsection. Except as otherwise provided under this subsection, the separate retirement allowance under this subsection shall be paid for 60 months and shall be equal to 1/60 of the amount equal to the contributions made by the member under section 43e. The retirement system may pay out de minimus amounts as a lump sum as determined by the retirement system and as permitted by the internal revenue code. A member receiving a separate retirement allowance under this subsection shall not subsequently receive the payment of health insurance coverage premiums by the retirement system under section 91. A member who dies before qualifying for the payment of health insurance coverage premiums by the retirement system under section 91 shall have a separate retirement allowance as provided in this subsection paid to the member's beneficiary upon application to the retirement system. A member who qualifies for the payment of health insurance coverage premiums by the retirement system under section 91 but who dies before the payment of health insurance coverage premiums by the retirement system in an amount equal to or greater than the amounts contributed under section 43e shall have a separate retirement allowance as provided in this subsection paid to the member's beneficiary following the cessation of health insurance coverage premiums paid by the retirement system in an amount equal to the difference between the health insurance coverage premiums paid by the retirement system under section 91 and contributions made by the member under section 43e. The amount of the separate retirement allowance as determined under this subsection shall be increased in a manner as determined by the retirement system by a percentage equal to 1.5% multiplied by the total number of years that member made contributions under section 43e.

(9) A member or former member who has a break in service and is reemployed retains the same election that the member made under this section before the break in service. If the member made the election under subsection (5), the member shall continue to receive the Tier 2 account contributions as provided in subsections (1) and (2). If the member did not make the election under subsection (5), the member shall continue to make the contributions as provided under section 43e and is subject to subsection (8), if applicable.

(10) In lieu of any other health insurance coverage premium that might have been paid by the retirement system under section 91, a 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, shall be made by the retirement system in the amounts and to the members or qualified participants as follows:



(a) Two thousand dollars to an individual who first became a member or qualified participant on or after September 4, 2012, who is 60 years of age or older, and who has at least 10 years of service at his or her first termination of employment.

(b) One thousand dollars to an individual who first became a member or qualified participant on or after September 4, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment.

(11) The retirement system shall determine a method to implement subsections (5) to (10), including a method for crediting the amounts in those subsections to comply with any restrictions imposed by the internal revenue code. Notwithstanding any provision of this act to the contrary, the Tier 2 plan provisions of this section shall be implemented by the department as soon as feasible but not later than January 1, 2013.

(12) Subsections (5) to (10) do not apply to a member who is eligible for the payment of health insurance coverage premiums by the retirement system as a result of benefits provided under section 90.

(13) On or before July 1, 2017, the retirement system shall provide a report to the chairs of the house and senate appropriations committees that provides the projected impact of subsection (10) as it applies to members first employed and entered upon the payroll of reporting units on or after July 1, 2017 with regard to the annual required contribution as used by the governmental accounting standards board and for purposes of the annual financial statements prepared under section 28(1).

(14) As used in this section:

(a) "Compensation" means that term as defined in section 122(2).

(b) "Qualified member" means a member who meets all of the following requirements:

(i) He or she first became a member before September 4, 2012.

(ii) He or she has earned service credit in the 12 months ending September 3, 2012 or was on an approved professional services or military leave of absence on September 3, 2012.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1392 Long-term care insurance; withholding from retirement allowance.**

Sec. 92. Beginning on July 1, 2004, upon written application of a retirant, the retirement system shall withhold from the retirant's retirement allowance the entire monthly premium for voluntary long-term care insurance for the retirant, the retirement allowance beneficiary, and health insurance dependents, as that term is defined in section 91, who elect coverage in a long-term care insurance plan that is authorized by the retirement system. If the entire monthly premium for retirants, retirement allowance beneficiaries, and health insurance dependents is greater than the retirement allowance, the retirement system shall withhold the entire retirement allowance and apply it to the premium balance.

**History:** Add. 2003, Act 17, Imd. Eff. June 10, 2003.

**Popular name:** Act 300

### **38.1392a Administration of changes; appropriation; work project; carrying forward unencumbered or unallotted funds.**

Sec. 92a. (1) There is appropriated for the fiscal year ending September 30, 2010, \$4,500,000.00 to the office of retirement services in the department of technology, management, and budget for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is \$4,500,000.00.

(d) The estimated completion date for the work project is September 30, 2011.

**History:** Add. 2010, Act 75, Imd. Eff. May 19, 2010.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

### **38.1392b Appropriation; purposes; amount; completion date.**

Sec. 92b. (1) There is appropriated for the fiscal year ending September 30, 2012, \$4,700,000.00 to the office of retirement services in the department of technology, management, and budget for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is \$4,700,000.00.

(d) The estimated completion date for the work project is September 30, 2013.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1392c Appropriation.**

Sec. 92c. (1) There is appropriated for the fiscal year ending September 30, 2017, \$5,000,000.00 to the office of retirement services in the department for administration of the changes under the amendatory act that added this section.

(2) The appropriation authorized in subsection (1) is a work project appropriation, and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to administer changes under the amendatory act that added this section.

(b) The work project will be accomplished through a plan utilizing interagency agreements, employees, and contracts.

(c) The total estimated completion cost of the work project is \$5,000,000.00.

(d) The estimated completion date for the work project is September 30, 2018.

**History:** Add. 2017, Act 92, Imd. Eff. July 13, 2017.

**Popular name:** Act 300

### **38.1393 Third-party study.**

Sec. 93. (1) The director of the department, senate majority leader, and speaker of the house of representatives shall commission an independent third party at a cost of no more than \$150,000.00 to conduct a study and prepare a report analyzing the current retirement system and develop a proposed plan to ensure the long-term sustainability of the retirement system. The office of retirement services on behalf of the department shall assist with the study. Input shall be solicited from the retirement system membership constituency organizations.

(2) On or before November 15, 2012, the study required under subsection (1) shall be delivered to the senate majority leader, speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house of representatives fiscal agencies. The study shall include primary and alternative recommendations considered necessary.

(3) The study required under subsection (1) shall review the advantages and disadvantages of implementing benefit design changes and shall include, but is not limited to, a review of the adequacy of the benefits, long-term retention of employees, investment return and other risk, stranded cost implications, and the economic impact of implementing the following:

(a) Defined contribution, hybrid defined contribution, and other defined contribution plan options as opposed to defined benefit plan options.

(b) Plan design, funding methods, benefits provided, and other features originally enacted or amended in other public state school employee plans and private retirement plans covering comparable employees.

(c) Funding or not funding the annual required contribution as used by the governmental accounting standards board or other annual funding requirements to meet any unfunded liabilities of the retirement system.

(d) Amendments to the retirement system features, such as reporting unit and member contributions, vesting, service credit purchases, retirement allowance calculations, cost of living allowances, rate of investment returns, mortality rates and longevity, and other similar features.

(e) A change in the funding method of health benefits provided under section 91 from a cash disbursement method to an individual projected benefit entry age normal cost method of valuation.

(4) The study required under subsection (1) shall review and identify the normal costs and transition costs of closing to all new members and qualified participants the Tier 1 and Tier 2 plans in effect on the effective date of this section and implementing a defined contribution only plan that is identical to the defined contribution plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, and that is available to qualified participants under sections 50 to 69 of the state employees' retirement act, 1943 PA 240, MCL 38.50 to 38.69. The study shall include specific recommendations on transitioning from the Tier 1 and Tier 2 plans to a defined contribution only plan that is identical to the defined contribution plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, and that is available to qualified participants under sections 50 to 69 of the state employees' retirement act, 1943 PA 240, MCL 38.50 to 38.69.

(5) The study required under subsection (1) shall review the degree to which current operating expenditures are a stable, growing, and equitable base for charging unfunded actuarial accrued liability costs to public local school districts, as compared to alternate measures of district financial activity. The study shall include an analysis of the degree to which current unfunded actuarial accrued liabilities are the result of stranded cost factors. The study shall include options regarding the use of current operating expenditures or an alternate measure as the basis for charging unfunded actuarial accrued liability costs to public local school districts. As used in this subsection, "current operating expenditures" for a public local school district includes functions 1xx, 2xx, 45x, and all object codes except 6xxx, as defined in the "Michigan Public School Accounting Manual Bulletin 1022", and is equal to the total of instructional and support services expenditures, including the total general fund charges incurred in the general, special education, and vocational education funds for the benefit of the current fiscal year, whether paid or unpaid, and all expenditures of the instructional programs plus applicable supporting service costs reduced by capital outlay, debt service, community services, and outgoing transfers and other transactions. Current operating expenditures for a public local school district also include operating funds for any public school or other public educational entity first authorized or established by the public local school district on or after the effective date of the amendatory act that added this section.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300