

**STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)**  
**Act 240 of 1943**

**38.38 Annual level percent of payroll contribution rate; determination; basis; report; computation; amortization of unfunded actuarial accrued liability; annual appropriation to retirement system; transfer of funds; certification; difference between actual state contributions and product of contribution rates times aggregate compensations paid; submitting difference between estimated and actual aggregate compensation and estimated and actual contribution rate to legislature for appropriation; interest; deposit to health advance funding subaccount.**

Sec. 38. (1) The annual level percent of payroll contribution rate to finance the benefits provided under this act shall be determined by actuarial valuation pursuant to subsections (2) and (3), upon the basis of the risk assumptions adopted by the retirement board with approval of the department of technology, management, and budget, and in consultation with the investment counsel and the actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. The actuary shall report to the legislature by April 15 of each year on the actuarial condition of the retirement system as of the end of the previous fiscal year and on the projections of state contributions for the next fiscal year. The actuary shall certify in the report that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used fall within the range of reasonable and prudent assumptions and cost estimates. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The contribution rate for monthly benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using an individual projected benefit entry age normal cost method of valuation.

(3) Except as otherwise provided in this subsection, the contribution rate for benefits shall be computed using an individual projected benefit entry age normal cost method of valuation. For the 1995-96 state fiscal year and for each subsequent fiscal year in which the actuarial accrued liability for health benefits is less than 100% funded, the contribution rate for benefits provided under section 20d shall be computed using a cash disbursement method with the payment schedule for the employer being based upon and applied to the combined payrolls of the employees who are members and qualified participants. Beginning in the fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount created under section 11(9), and continuing for each subsequent fiscal year, the contribution rate for health benefits provided under section 20d shall be computed using an individual projected benefit entry age normal cost method of valuation. The contribution rate for service that may be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The unfunded actuarial accrued liability shall be equal to the actuarial present value of benefits reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. Except as otherwise provided in this subsection, the unfunded actuarial accrued liability shall be amortized in accordance with generally accepted governmental accounting standards over a period equal to or less than 40 years, with the payment schedule for the employer being based upon and applied to the combined payrolls of the employees who are members and qualified participants.

(4) The legislature annually shall appropriate to the retirement system the amount determined pursuant to subsections (2) and (3). The state treasurer shall transfer monthly to the retirement system an amount equal to the product of the contribution rates determined in subsections (2) and (3) times the aggregate amount of active member or qualified participant compensation, as appropriate, paid during that month. Not later than 60 days after the termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department of technology, management, and budget the actual aggregate compensations paid to active members and qualified participants during the preceding state fiscal year. Upon receipt of that certification, the director of the department of technology, management, and budget shall compute the difference, if any, between actual state contributions received during the preceding state fiscal year and the product of the contribution rates determined in subsections (2) and (3) times the aggregate compensations paid to active members or qualified participants, as appropriate, during the preceding state fiscal year. Except as otherwise provided in subsection (5), the difference, if any, shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year. This subsection does not apply for

those fiscal years in which a deposit occurs pursuant to subsection (6).

(5) For differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (4), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(6) For each fiscal year that begins on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section for each fiscal year demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the annual level percent of payroll contribution rate as determined pursuant to subsections (1), (2), and (3) may be deposited into the health advance funding subaccount created under section 11(9).

(7) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

**History:** 1943, Act 240, Eff. July 30, 1943;—CL 1948, 38.38;—Am. 1953, Act 196, Eff. Oct. 2, 1953;—Am. 1955, Act 237, Imd. Eff. June 21, 1955;—Am. 1974, Act 216, Imd. Eff. July 19, 1974;—Am. 1979, Act 73, Imd. Eff. July 31, 1979;—Am. 1980, Act 483, Imd. Eff. Jan. 20, 1981;—Am. 1982, Act 316, Imd. Eff. Oct. 18, 1982;—Am. 1984, Act 130, Imd. Eff. June 1, 1984;—Am. 1987, Act 57, Imd. Eff. June 23, 1987;—Am. 1987, Act 241, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 62, Imd. Eff. June 27, 1991;—Am. 1993, Act 15, Imd. Eff. Apr. 14, 1993;—Am. 1993, Act 180, Imd. Eff. Sept. 29, 1993;—Am. 1994, Act 273, Imd. Eff. July 11, 1994;—Am. 1996, Act 279, Imd. Eff. June 17, 1996;—Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002;—Am. 2007, Act 16, Imd. Eff. June 6, 2007;—Am. 2010, Act 185, Imd. Eff. Sept. 30, 2010;—Am. 2011, Act 264, Imd. Eff. Dec. 15, 2011.

**Compiler's note:** Enacting section 1 of Act 185 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 1 of Act 264 of 2011 provides:

"Enacting section 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."