

HOUSE BILL No. 4338

March 11, 2015, Introduced by Rep. Forlini and referred to the Committee on Financial Liability Reform.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 125, 127, and 131a (MCL 38.1425, 38.1427, and 38.1431a), sections 125 and 127 as added by 2010 PA 75 and section 131a as added by 2012 PA 300.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 125. (1) ~~The~~**SUBJECT TO SECTION 131A, THE** department
2 shall administer Tier 2 and shall be the fiduciary and trustee of
3 Tier 2. The department may appoint an advisory board to assist the
4 department in carrying out its duties as fiduciary and trustee. The
5 department and the state treasurer shall comply with Executive
6 Reorganization Order No. 1999-5, MCL 38.2721, in the administration
7 of Tier 2.

8 (2) The department shall determine the provisions and
9 procedures of Tier 2 and the plan document in conformity with this

1 act and the internal revenue code.

2 (3) ~~The~~ **SUBJECT TO SECTION 131A, THE** department has the
3 exclusive authority and responsibility to employ or contract with
4 personnel and for services that the department determines necessary
5 for the proper administration of and investment of assets of Tier
6 2, including, but not limited to, managerial, professional, legal,
7 clerical, technical, and administrative personnel or services.

8 (4) Each employer ~~shall be deemed~~ **IS CONSIDERED** to have
9 adopted and shall comply with the provisions and procedures of Tier
10 2 and the plan document.

11 Sec. 127. ~~Each~~ **SUBJECT TO SECTION 131A, EACH** qualified
12 participant, former qualified participant, and refund beneficiary
13 shall direct the investment of the individual's accumulated
14 employer and employee contributions and earnings to 1 or more
15 investment choices within available categories of investment
16 provided by the department. The limitations on the percentage of
17 total assets for investments provided in the public employee
18 retirement system investment act, 1965 PA 314, MCL 38.1132 to
19 ~~38.1140m,~~ **38.1141**, do not apply to Tier 2.

20 Sec. 131a. Tier 2 accounts are subject to the following terms
21 and conditions:

22 (a) On or before January 1, 2013, the retirement system shall
23 design an automatic enrollment feature that provides that unless a
24 qualified participant who makes contributions under this act elects
25 to contribute a lesser amount, the qualified participant shall
26 contribute the amount required to qualify for all eligible matching
27 contributions under this act. The retirement system shall implement

1 this automatic enrollment feature on or after January 1, 2013, as
2 determined by the retirement system.

3 (b) Employer matching contributions do not have to be made to
4 the same plan or account to which the elective employee
5 contributions were contributed as the basis for the matching
6 contributions.

7 (c) Elective employee contributions shall not be used as the
8 basis for more than an equivalent amount of employer matching
9 contributions or, in the case of matching contributions under
10 section 131(2) and (6), 50% of the employer matching contributions.

11 (d) The retirement system shall design and implement a method
12 to determine the proper allocation of employer matching
13 contributions based on elective employee contributions as provided
14 in this section.

15 (E) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE CONTRARY,
16 A REPORTING UNIT MAY DESIGNATE ITS OWN TIER 2 CONTRACTS OR ACCOUNT
17 PLANS BY AN ALTERNATE PROVIDER TO OFFER TO ITS EMPLOYEES WHO ARE
18 QUALIFIED PARTICIPANTS OF TIER 2. A REPORTING UNIT SHALL
19 SUBSTANTIALLY COMPLY WITH THIS ACT IN DESIGNATING TIER 2 CONTRACTS
20 OR ACCOUNT PLANS UNDER THIS SUBDIVISION AND SHALL COMPLY WITH
21 APPLICABLE STATE RULES AND FEDERAL REGULATIONS WITH REGARD TO
22 RETIREMENT PLANS. A REPORTING UNIT SHALL NOT OFFER A DEFINED
23 BENEFIT OPTION, IN WHOLE OR IN PART, UNDER THIS SUBDIVISION. A
24 REPORTING UNIT SHALL OFFER THE SAME BENEFITS AS DESCRIBED IN
25 SECTION 131 AND THIS SECTION AND VESTING PROVISIONS AS DESCRIBED IN
26 SECTION 132 IN DESIGNATING TIER 2 CONTRACTS OR ACCOUNT PLANS UNDER
27 THIS SUBDIVISION. THE DEPARTMENT SHALL NOT COLLECT EMPLOYER OR

1 EMPLOYEE CONTRIBUTIONS RELATED TO TIER 2 FROM A REPORTING UNIT THAT
2 DESIGNATES A TIER 2 CONTRACT OR ACCOUNT PLAN UNDER THIS SUBDIVISION
3 UNLESS AUTHORIZED TO DO SO BY THE REPORTING UNIT. IF A REPORTING
4 UNIT DESIGNATES AN ALTERNATE PROVIDER UNDER THIS SUBDIVISION, THIS
5 STATE AND THE REPORTING UNIT DO NOT HAVE A DUTY TO MONITOR THE
6 ALTERNATE PROVIDER'S PERFORMANCE. THIS STATE AND THE REPORTING UNIT
7 ARE NOT LIABLE TO EMPLOYEES FOR DAMAGES RELATING TO THE PERFORMANCE
8 OF THE ALTERNATE PROVIDER.

9 (F) ON OR BEFORE JULY 1, 2015, THE DEPARTMENT SHALL IMPLEMENT
10 A SYSTEM TO FACILITATE THE ADMINISTRATION OF TIER 2 CONTRACTS OR
11 ACCOUNT PLANS DESIGNATED BY A REPORTING UNIT UNDER SUBDIVISION (E).
12 ALL OF THE FOLLOWING APPLY TO THE ADMINISTRATION OF TIER 2
13 CONTRACTS OR ACCOUNT PLANS:

14 (i) THE DEPARTMENT MAY EMPLOY OR CONTRACT WITH PERSONNEL FOR
15 SERVICES THAT THE DEPARTMENT DETERMINES NECESSARY FOR THE PROPER
16 ADMINISTRATION OF TIER 2 CONTRACTS OR ACCOUNT PLANS.

17 (ii) THE DEPARTMENT SHALL SELECT A THIRD PARTY ADMINISTRATOR TO
18 ADMINISTER TIER 2 CONTRACTS OR ACCOUNT PLANS. THE THIRD PARTY
19 ADMINISTRATOR SHALL NOT BE AFFILIATED WITH AN ENTITY THAT PROVIDES
20 INVESTMENT SERVICES TO THE RETIREMENT SYSTEM OR ANY REPORTING UNIT.
21 THE THIRD PARTY ADMINISTRATOR SHALL PROVIDE SERVICES TO MAINTAIN
22 ACCOUNT VALUES, ISSUE STATEMENTS OF ACCOUNTS, AND FACILITATE
23 COMPLIANCE ADMINISTRATORS SELECTED BY REPORTING UNITS TO COMPLY
24 WITH THE INTERNAL REVENUE CODE.

25 (iii) ALL MATERIALS RELATING TO AN ANNUITY PLAN DESCRIBED IN
26 SECTION 403(A) OF THE INTERNAL REVENUE CODE, 26 USC 403, INCLUDING,
27 BUT NOT LIMITED TO, SUMMARIES OF THE PLAN AND PLAN MARKETING, THAT

1 ARE PROVIDED BY THE RETIREMENT SYSTEM TO A REPORTING UNIT, OR BY A
2 REPORTING UNIT TO ITS EMPLOYEES ELIGIBLE TO PARTICIPATE IN THE
3 PLAN, SHALL NOT FAVOR A SPECIFIC ANNUITY OR INVESTMENT PROVIDER OR
4 PRODUCT, INCLUDING, BUT NOT LIMITED TO, AN INVESTMENT PROVIDER OR
5 PRODUCT THAT THE RETIREMENT SYSTEM OFFERS TO QUALIFIED
6 PARTICIPANTS.