

HOUSE BILL NO. 4532

April 30, 2019, Introduced by Reps. Bollin, Lower and Albert and referred to the Committee on Appropriations.

A bill to amend 1992 PA 234, entitled "The judges retirement act of 1992," by amending sections 301, 305, 509, 604, 714, and 719 (MCL 38.2301, 38.2305, 38.2509, 38.2604, 38.2664, and 38.2669), sections 305 and 714 as amended by 2002 PA 95, section 604 as amended by 2018 PA 335, and section 719 as added by 1996 PA 523, and by adding sections 509a and 714a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:



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1 Sec. 301. (1) The retirement system shall direct the actuary
2 to do all of the following:

3 (a) Determine the annual level ~~percent of payroll~~ **dollar**
4 contribution rate to finance the benefits provided under this act
5 by actuarial valuation ~~pursuant to~~ **under** subsections (2) and (3),
6 and ~~upon~~ **on** the basis of the risk assumptions that the retirement
7 board and the department adopt after consultation with the state
8 treasurer and the actuary.

9 (b) Make an annual actuarial valuation of the retirement
10 system in order to determine the actuarial condition of the
11 retirement system and the required contribution to the retirement
12 system.

13 (c) Make an annual actuarial gain-loss experience study of the
14 retirement system in order to determine the financial effect of
15 variations of actual retirement system experience from projected
16 experience.

17 (d) **Beginning with the state fiscal year ending September 30,**
18 **2021 and for each subsequent fiscal year, assume a rate of return**
19 **on investments and a discount rate not to exceed 6% per annum.**

20 (e) **Beginning with the state fiscal year ending September 30,**
21 **2021 and for each subsequent fiscal year, use layered amortization.**
22 **As used in this subdivision, "layered amortization" means a fixed**
23 **and closed period that separately layers the different components**
24 **to be amortized over a fixed period not to exceed 10 years, as it**
25 **emerges. The amortization period for layered amortization must use**
26 **a level dollar amortization method.**

27 (2) The actuary shall compute the contribution rate for
28 monthly benefits payable in the event of death of a member before
29 retirement or the disability of a member using ~~a terminal funding~~



1 **an individual projected benefit entry age normal cost** method of
2 ~~actuarial~~-valuation.

3 (3) The actuary shall compute the contribution rate for
4 benefits other than those described in subsection (2) using an
5 individual projected benefit entry age normal actuarial cost
6 method. The contribution rate for service that may be rendered in
7 the current year, **which is** known as the normal cost contribution
8 rate, is equal to the aggregate amount of individual entry age
9 normal costs divided by 1% of the aggregate amount of active
10 members' valuation compensation. The contribution rate for unfunded
11 service rendered on or before the last day of the fiscal year,
12 **which is** known as the unfunded actuarial accrued liability
13 contribution rate, is equal to the aggregate amount of unfunded
14 actuarial accrued liabilities divided by 1% of the actuarial
15 present value over a period not to exceed 40 years of projected
16 benefit compensation, where unfunded actuarial accrued liabilities
17 are equal to the actuarial present value of benefits reduced by the
18 actuarial present value of future normal costs and the actuarial
19 value of assets on the last day of the fiscal year.

20 Sec. 305. (1) Each member, ~~upon~~**on** taking office and ~~so long~~
21 ~~as~~**while** he or she remains in office, shall make contributions to
22 the retirement system according to the applicable plan member
23 classification as follows:

24 (a) ~~A~~**Except as otherwise provided in section 509a**, a plan 1
25 member or a plan 2 member shall contribute 5% of the member's
26 compensation. From this contribution, the retirement system shall
27 deposit an amount equal to 2.0% of the member's compensation into
28 the reserve for health benefits for hospital and medical-surgical
29 and sick care benefits as provided in section 509.



1 (b) A plan 3a member, a plan 3b member, or a plan 5 member
2 shall contribute 3.5% of the member's compensation.

3 (c) A plan 3c member, a plan 4 member, a plan 6 member, or a
4 plan 7 member shall contribute 7% of the member's compensation.
5 However, a plan 6 member shall not contribute more than \$980.00
6 annually.

7 (2) The retirement board shall determine the manner in which
8 member contributions are paid. Except as otherwise provided in this
9 section, the retirement system shall credit member contributions
10 when received to the reserve for member contributions.

11 (3) ~~Upon~~ **On** written notice from the executive secretary to the
12 state court administrator, the state treasurer shall withhold
13 payment of the amount due from the salary standardization payment
14 payable to a county or district control unit for member
15 contributions that are not received by the retirement system within
16 60 days after the due date.

17 Sec. 509. (1) The retirement system shall pay the premium for
18 hospital and medical-surgical and sick care benefits for a retirant
19 who, as a member, served after January 1, 1983 as a justice of the
20 supreme court, judge of the court of appeals, or a state official,
21 or for his or her retirement allowance beneficiary who elects
22 coverage in the state group health insurance plan, to the same
23 extent as is provided for retirants and retirement allowance
24 beneficiaries of the state employees' retirement system created by
25 the state employees' retirement act, ~~Act No. 240 of the Public Acts~~
26 ~~of 1943, being section 38.1 to 38.48 of the Michigan Compiled~~
27 ~~Laws.~~ **1943 PA 240, MCL 38.1 to 38.69.**

28 (2) The retirement system shall pay the premium under
29 subsection (1) only if section ~~305(l)(a)~~ **305(1)(a)** requires member



1 contributions for hospital and medical-surgical and sick care
2 benefits.

3 (3) This section does not apply to an individual who first
4 became a member or qualified participant on or after July 1, 2019
5 or to a qualified member who made an election to opt out of health
6 insurance coverage under section 509a. As used in this subsection,
7 "qualified member" means that term as defined in section 509a.

8 Sec. 509a. (1) For a member or qualified participant who is
9 not eligible for any future health insurance coverage premium from
10 the retirement system or for a qualified member who made the
11 election under subsection (3), in addition to the contributions
12 under section 714(3), the member or qualified participant may
13 contribute up to 4% of the member's or qualified participant's
14 salary to Tier 2. A member or qualified participant who makes a
15 contribution under this subsection may make additional
16 contributions to his or her Tier 2 account as permitted by the
17 department and the internal revenue code.

18 (2) A member or qualified participant is vested in
19 contributions made to his or her Tier 2 account under subsection
20 (1) according to the vesting provisions under section 715.

21 (3) Except as otherwise provided in this section, beginning
22 July 1, 2019 and ending at 5 p.m. eastern daylight time on
23 September 15, 2019, the retirement system shall permit each
24 qualified member to make an election to opt out of health insurance
25 coverage premiums that would have been paid by the retirement
26 system under sections 509 and 719 and opt into the Tier 2 account
27 provisions of this section effective October 1, 2019. A qualified
28 member who makes the election under this subsection shall cease
29 accruing years of service credit for purposes of calculating a



1 portion of the health insurance coverage premiums that would have
2 been paid by the retirement system under sections 509 and 719 as if
3 that coverage continued to apply. The election under this
4 subsection must be completed in a manner and by methods as
5 determined by the retirement system.

6 (4) A qualified member who does not make the election under
7 subsection (3) continues to be eligible for the payment of health
8 insurance coverage premiums by the retirement system under sections
9 509 and 719 and is not eligible for the Tier 2 account provisions
10 of this section. The retirement system shall treat an individual
11 who is not a qualified member, who is a former member on June 30,
12 2019, and who is reemployed by an employer after June 30, 2019 in
13 the same manner as a member described in this subsection who did
14 not make the election under subsection (3).

15 (5) The retirement system shall calculate an amount to be
16 credited to a Tier 2 account for each qualified member who makes
17 the election under subsection (3). The amount must equal the
18 contributions made by the qualified member for hospital and
19 medical-surgical and sick care benefits under section 305(1)(a) or
20 714(6), as applicable. A qualified member who makes the election
21 under subsection (3) shall cease making contributions into the
22 reserve for health benefits for hospital and medical-surgical and
23 sick care benefits under section 305(1)(a) or 714(6), as
24 applicable, as determined by the retirement system, but no later
25 than the first payroll date after October 1, 2019. The amount
26 calculated under this subsection must be deposited as an employer
27 contribution into the qualified member's Tier 2 account as
28 determined by the retirement system, but no later than the first
29 payroll date after January 1, 2020. A qualified member is



1 immediately 100% vested in amounts deposited to his or her Tier 2
2 account under this subsection.

3 (6) A qualified member who has a break in service and is
4 reemployed retains the same election made under this section before
5 the break in service. If the qualified member did not make the
6 election under subsection (3), the qualified member shall continue
7 to make the contributions as provided under section 305(1)(a) or
8 714(6), as applicable.

9 (7) Instead of any other health insurance coverage premium
10 that might have been paid by the retirement system under sections
11 509 and 719, a credit to a health reimbursement account within the
12 trust created under the public employee retirement health care
13 funding act, 2010 PA 77, MCL 38.2731 to 38.2747, must be made by
14 the retirement system in the amounts and to the qualified
15 participants who are plan 1 or plan 2 members as follows:

16 (a) Two thousand dollars to an individual who first became a
17 qualified participant after September 30, 2019, who is 60 years of
18 age or older, and who has at least 10 years of service at his or
19 her first termination of employment.

20 (b) One thousand dollars to an individual who first became a
21 member or qualified participant after September 30, 2019, who is
22 less than 60 years of age, and who has at least 10 years of service
23 at his or her first termination of employment.

24 (8) The retirement system shall determine a method to
25 implement subsections (3) to (7), including a method for crediting
26 the amounts in those subsections to comply with any restrictions
27 imposed by the internal revenue code. Notwithstanding any provision
28 of this act to the contrary, the Tier 2 plan provisions of this
29 section must be implemented by the department as soon as feasible



1 but not later than January 1, 2020.

2 (9) Subsections (3) to (7) do not apply to a member or
3 qualified participant who is eligible for the payment of health
4 insurance coverage premiums by the retirement system as a result of
5 benefits provided under section 507.

6 (10) As used in this section:

7 (a) "Qualified member" means a member or qualified participant
8 who meets all of the following requirements:

9 (i) He or she first became a member or qualified participant
10 before July 1, 2019.

11 (ii) He or she has earned service credit in the 12 months
12 ending June 30, 2019 or was on an approved professional services or
13 military leave of absence on June 30, 2019.

14 (iii) He or she is a plan 1 member or plan 2 member who is
15 eligible to qualify for future health insurance coverage premium
16 from the retirement system.

17 (b) "Salary" means that term as defined in section 706.

18 Sec. 604. (1) This section is enacted under section 401(a) of
19 the internal revenue code, 26 USC 401, which imposes certain
20 administrative requirements and benefit limitations for qualified
21 governmental plans. This state intends that the retirement system
22 be a qualified pension plan created in trust under section 401 of
23 the internal revenue code, 26 USC 401, and that the trust be an
24 organization exempt from taxation under section 501 of the internal
25 revenue code, 26 USC 501. The department shall administer the
26 retirement system to fulfill the intent of this subsection.

27 (2) The retirement system ~~shall~~**must** be administered in
28 compliance with the provisions of section 415 of the internal
29 revenue code, 26 USC 415, and regulations under that section that



1 are applicable to governmental plans and, beginning January 1,
2 2010, applicable provisions of the final regulations issued by the
3 Internal Revenue Service on April 5, 2007. Employer-financed
4 benefits provided by the retirement system under this act must not
5 exceed the applicable limitations set forth in section 415 of the
6 internal revenue code, 26 USC 415, as adjusted by the commissioner
7 of internal revenue under section 415(d) of the internal revenue
8 code, 26 USC 415, to reflect cost-of-living increases, and the
9 retirement system shall adjust the benefits, including benefits
10 payable to retirants and retirement allowance beneficiaries,
11 subject to the limitation each calendar year to conform with the
12 adjusted limitation. For purposes of section 415(b) of the internal
13 revenue code, 26 USC 415, the applicable limitation applies to
14 aggregated benefits received from all qualified pension plans for
15 which the office of retirement services coordinates administration
16 of that limitation. If there is a conflict between this section and
17 another section of this act, this section prevails.

18 (3) The assets of the retirement system must be held in trust
19 and invested for the sole purpose of meeting the legitimate
20 obligations of the retirement system and must not be used for any
21 other purpose. The assets must not be used for or diverted to a
22 purpose other than for the exclusive benefit of the members, vested
23 former members, retirants, and retirement allowance beneficiaries
24 before satisfaction of all retirement system liabilities.

25 (4) The retirement system shall return post-tax member
26 contributions made by a member and received by the retirement
27 system to a member on retirement, under Internal Revenue Service
28 regulations and approved Internal Revenue Service exclusion ratio
29 tables.



1 (5) The required beginning date for retirement allowances and
2 other distributions must not be later than April 1 of the calendar
3 year following the calendar year in which the employee attains age
4 70-1/2 or April 1 of the calendar year following the calendar year
5 in which the employee retires. The required minimum distribution
6 requirements imposed by section 401(a)(9) of the internal revenue
7 code, 26 USC 401, apply to this act and must be administered in
8 accordance with a reasonable and ~~good faith~~ **good-faith**
9 interpretation of the required minimum distribution requirements
10 for all years in which the required minimum distribution
11 requirements apply to this act.

12 (6) If the retirement system is terminated, the interest of
13 the members, vested former members, retirants, and retirement
14 allowance beneficiaries in the retirement system is nonforfeitable
15 to the extent funded as described in section 411(d)(3) of the
16 internal revenue code, 26 USC 411, and related Internal Revenue
17 Service regulations applicable to governmental plans.

18 (7) Notwithstanding any other provision of this act to the
19 contrary that would limit a distributee's election under this act,
20 a distributee may elect, at the time and in the manner prescribed
21 by the retirement board, to have any portion of an eligible
22 rollover distribution paid directly to an eligible retirement plan
23 specified by the distributee in a direct rollover. This subsection
24 applies to distributions made after December 31, 1992.

25 (8) For purposes of determining actuarial equivalent
26 retirement allowances under sections 506(1)(a) and (b) and 602, the
27 actuarially assumed interest rate must be determined by the
28 director of the department and the retirement board in consultation
29 with the actuary using the mortality tables adopted by the



1 department and the retirement board. **Beginning with the state**
2 **fiscal year ending September 30, 2021 and for each subsequent state**
3 **fiscal year, for the purposes of determining actuarial equivalent**
4 **retirement allowances under sections 506(1)(a) and (b) and 602, the**
5 **actuarial assumed interest rate and discount rate must not exceed**
6 **6% using the most recent available mortality tables provided by the**
7 **Actuarial Standards Board and used as risk assumptions by the**
8 **actuary during the most recent experience study.**

9 (9) Notwithstanding any other provision of this act, the
10 compensation of a member of the retirement system must be taken
11 into account for any year under the retirement system only to the
12 extent that it does not exceed the compensation limit established
13 in section 401(a)(17) of the internal revenue code, 26 USC 401, as
14 adjusted by the commissioner of internal revenue. This subsection
15 applies to an individual who first becomes a member of the
16 retirement system after September 30, 1996.

17 (10) Notwithstanding any other provision of this act,
18 contributions, benefits, and service credit with respect to
19 qualified military service will be provided under the retirement
20 system in accordance with section 414(u) of the internal revenue
21 code, 26 USC 414. This subsection applies to all qualified military
22 service after December 11, 1994. Beginning on January 1, 2007, in
23 accordance with section 401(a)(37) of the internal revenue code, 26
24 USC 401, if a member dies while performing qualified military
25 service, for purposes of determining any death benefits payable
26 under this act, the member is treated as having resumed and then
27 terminated employment on account of death.

28 Sec. 714. (1) This section is subject to the vesting
29 requirements of section 715.



1 (2) A qualified participant's employer shall contribute to the
2 qualified participant's account in Tier 2 an amount equal to 4% of
3 the qualified participant's salary.

4 (3) A qualified participant may periodically elect to
5 contribute up to 3% of his or her salary to his or her Tier 2
6 account. The qualified participant's employer shall make an
7 additional contribution to the qualified participant's Tier 2
8 account in an amount equal to the contribution made by the
9 qualified participant under this subsection.

10 (4) A qualified participant may make contributions in addition
11 to contributions made under subsection (3) to his or her Tier 2
12 account as permitted by the state treasurer and the internal
13 revenue code. The qualified participant's employer shall not match
14 contributions made by the qualified participant under this
15 subsection.

16 (5) A qualified participant who makes a written election under
17 section 701a may elect to contribute up to 6% of his or her salary
18 to his or her Tier 2 account. In lieu of employer contributions
19 under subsection (3), the qualified participant's employer shall
20 make an additional contribution to the qualified participant's Tier
21 2 account in an amount equal to the contribution made by the
22 qualified participant under this subsection. This subsection
23 applies for a period as determined by the department that equals
24 the time in which a Tier 1 member was not able to make
25 contributions to the Tier 2 plan because of the temporary
26 restraining order issued in the case of ~~Michigan judges assn v~~
27 ~~Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed~~
28 ~~Mi)~~ **Michigan Judges Assn v Treasurer of Michigan, opinion of the**
29 **United States District Court for the Eastern District of Michigan**



1 (Case No. 98-DT-72771-CV).

2 (6) ~~Beginning~~ **Except as otherwise provided in section 509a,**
3 **beginning** January 1, 2002, ~~each a~~ qualified participant who is a
4 plan 1 member or a plan 2 member, ~~upon~~ **on** taking office and ~~so long~~
5 ~~as~~ **while** he or she remains in office, shall contribute 2.0% of the
6 qualified participant's compensation to the retirement system. The
7 retirement system shall deposit the contribution under this
8 subsection into the reserve for health benefits for hospital and
9 medical-surgical and sick care benefits as provided in section 719.

10 **Sec. 714a. Tier 2 and tax-deferred accounts are subject to the**
11 **following terms and conditions:**

12 (a) **Before April 2, 2020, the retirement system shall design**
13 **an automatic enrollment feature that provides that unless a**
14 **qualified participant who makes contributions under section 714(3)**
15 **elects to contribute a lesser amount, the qualified participant**
16 **shall contribute the amount required to qualify for all eligible**
17 **matching contributions under this act. The retirement system shall**
18 **implement this automatic enrollment feature as soon as**
19 **administratively feasible, but no later than 12 months after the**
20 **effective date of the amendatory act that added this section.**

21 (b) **In addition to elective employee contributions to Tier 2**
22 **or a tax-deferred account, this state may use elective employee**
23 **contributions to the state 457 deferred compensation plan as a**
24 **basis for making employer matching contributions to Tier 2 or a**
25 **tax-deferred account.**

26 (c) **Employer matching contributions do not have to be made to**
27 **the same plan or account to which the elective employee**
28 **contributions were contributed as the basis for the matching**
29 **contributions.**



1 (d) Elective employee contributions may not be used as the
2 basis for more than an equivalent amount of employer matching
3 contributions.

4 (e) The retirement system shall design and implement a method
5 to determine the proper allocation of employer matching
6 contributions based on elective employee contributions as provided
7 in this section.

8 Sec. 719. (1) A former qualified participant may elect health
9 insurance benefits in the manner prescribed in this section if he
10 or she meets both of the following requirements:

11 (a) The former qualified participant is vested in health
12 ~~benefits~~**insurance coverage** under section 715(2).

13 (b) The former qualified participant meets or exceeds the
14 benefit commencement age ~~employed~~**used** in the actuarial present
15 value calculation under section 702 and the service requirements
16 that would have applied to that former participant under Tier 1 for
17 receiving health insurance coverage under section 509, if that
18 former participant was a member of Tier 1.

19 (2) A former qualified participant who is eligible to elect
20 health insurance coverage under subsection (1) may elect health
21 insurance coverage in a health benefit plan or plans as authorized
22 by section 509, or in another plan as provided in subsection (6). A
23 former qualified participant who is eligible to elect health
24 insurance coverage under subsection (1) may also elect health
25 insurance coverage for his or her health benefit dependents, if
26 any. A surviving health benefit dependent of a deceased former
27 qualified participant who is eligible to elect health insurance
28 coverage under subsection (1) may elect health insurance coverage
29 in the manner prescribed in this section.



1 (3) Except as otherwise provided in subsection (6), an
 2 individual who elects health insurance coverage under this section
 3 ~~shall~~**will** become a member of a health insurance coverage group
 4 authorized ~~pursuant to~~**under** section 509.

5 (4) For a former qualified participant who is eligible to
 6 elect health insurance coverage under subsection (1) and who is
 7 vested in those benefits under section 715(2)(a), and for his or
 8 her health benefit dependents, this state shall pay a portion of
 9 the health insurance premium as calculated under this subsection on
 10 a cash disbursement method. An individual described in this
 11 subsection who elects health insurance coverage under this section
 12 shall pay to the retirement system the remaining portion of the
 13 health insurance coverage premium not paid by this state under this
 14 subsection. The portion of the health insurance coverage premium
 15 paid by this state under this subsection ~~shall~~**must** be 50% of the
 16 payments for health insurance coverage under section 509 if the
 17 former qualified participant has 4 years of service; 75% of the
 18 payments for health insurance coverage under section 509 if the
 19 former qualified participant has 5 years of service; or 90% of the
 20 payments for health insurance coverage under section 509 if the
 21 former qualified participant has 6 years of service. If the
 22 individual elects the health insurance coverage provided under
 23 section 509, ~~the~~**this** state shall transfer its portion of the
 24 amount calculated under this subsection to the reserve for health
 25 benefits created by section 214.

26 (5) For a former qualified participant who is eligible to
 27 elect health insurance coverage under subsection (1) and who is
 28 vested in those benefits under section 715(2)(b), and for his or
 29 her health benefit dependents, this state shall pay a portion of



1 the health insurance premium as calculated under this subsection on
 2 a cash disbursement method. An individual described in this
 3 subsection who elects health insurance coverage under this section
 4 shall pay to the retirement system the remaining portion of the
 5 health insurance coverage premium not paid by this state under this
 6 subsection. The portion of the health insurance coverage premium
 7 paid by this state under this subsection ~~shall~~**must** be equal to the
 8 premium amounts paid on behalf of retirants of Tier 1 for health
 9 insurance coverage under section 509. If the individual elects the
 10 health insurance coverage provided under section 509, ~~the~~**this**
 11 state shall transfer its portion of the amount calculated under
 12 this subsection to the reserve for health benefits created by
 13 section 214.

14 (6) A former qualified participant or health benefit dependent
 15 who is eligible to elect health insurance coverage under this
 16 section and who elects health insurance coverage under a different
 17 plan than the plan authorized under section 509 may elect to have
 18 an amount up to the amount of the retirement system's share of the
 19 monthly health insurance premium subsidy provided in this section
 20 paid by the retirement system directly to the other health
 21 insurance plan or to a medical savings account established ~~pursuant~~
 22 ~~to~~**under** section 220 of the internal revenue code, **26 USC 220**, to
 23 the extent allowed by law or under the provisions and procedures of
 24 Tier 2.

25 (7) If the department of **technology**, management, and budget
 26 receives notification from the United States ~~internal revenue~~
 27 ~~service~~**Internal Revenue Service** that this section or any portion
 28 of this section will cause the retirement system to be disqualified
 29 for tax purposes under the internal revenue code, then the portion



1 that will cause the disqualification does not apply.

2 (8) This section does not apply to an individual who first
3 became a member or qualified participant after June 30, 2019 or to
4 a qualified member who made an election to opt out of health
5 insurance coverage under section 509a. As used in this subsection,
6 "qualified member" means that term as defined in section 509a.

