

# HOUSE BILL NO. 5021

September 20, 2023, Introduced by Reps. Koleszar, Churches, Wegela, Shannon, Breen, Steckloff, Skaggs, Weiss, Brabec, Rheingans, Morse, Morgan, Arbit and Conlin and referred to the Committee on Education.

A bill to amend 1980 PA 300, entitled  
"The public school employees retirement act of 1979,"  
by amending section 81d (MCL 38.1381d), as amended by 2017 PA 92.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 81d. (1) Except as provided in subsection ~~(7)~~, **(8)**, the  
2 retirement system shall permit each qualified participant who first  
3 becomes a qualified participant and first works for a reporting  
4 unit ~~on or~~ after September ~~4~~, **3**, 2012 to make an election to not  
5 become a member of Tier 1 and become only a qualified participant  
6 in Tier 2.

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

14           (3) A qualified participant who first becomes a qualified  
 15 participant and first works for a reporting unit ~~on or~~ after  
 16 September ~~4,~~ **3, 2012** and before February 1, 2018 who does not make  
 17 an election under subsection (1) for any reason on or before the  
 18 close of the election period is considered to have made an election  
 19 to become a member of Tier 1 and is subject to all of the following  
 20 as of the date of his or her employment:

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

24           (b) ~~He or she~~ **The qualified participant** is also a qualified  
 25 participant under Tier 2.

26           (4) A qualified participant who first becomes a qualified  
 27 participant and first works for a reporting unit ~~on or~~ after  
 28 ~~February 1,~~ **January 31, 2018 and before July 1, 2024** who does not  
 29 make an election for any reason on or before the close of the

1 election period is considered to have made an election to become  
2 only a qualified participant in Tier 2.

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

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

11 (b) ~~He or she~~**The individual** is only a qualified participant  
12 under Tier 2.

13 (6) **A qualified participant who first becomes a qualified**  
14 **participant and first works for a reporting unit after June 30,**  
15 **2024 who does not make an election under subsection (1) for any**  
16 **reason on or before the close of the election period is considered**  
17 **to have made an election to become a member of Tier 1 and is**  
18 **subject to all of the following as of the date of the qualified**  
19 **participant's employment:**

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

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

25 (7) ~~(6)~~**The retirement system shall collect from an individual**  
26 **described in subsection (1) all amounts required under sections 43a**  
27 **and 131(2) and shall collect all required employer contributions**  
28 **required under Tier 1 from ~~his or her~~**the individual's** date of**  
29 **employment. If an individual makes a valid election under**

1 subsection (1) to not become a member of Tier 1 or is a qualified  
2 participant under subsection (4), the retirement system shall  
3 determine and implement a method to reconcile employer and employee  
4 contributions to be deposited to Tier 2, and any such employee  
5 contributions will be considered to be elective contributions under  
6 section 131.

7       **(8)** ~~(7)~~—A qualified participant who first becomes a qualified  
8 participant and first works for a reporting unit following the  
9 effective date of the qualifying event is only a Tier 2 qualified  
10 participant and is considered to have made an election to become  
11 only a qualified participant in Tier 2. As used in this subsection:

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

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

22       (i) The actuarial funded ratio falls below 85% but would not  
23 have fallen below 85% but for the failure of the employer or this  
24 state to make a required contribution as calculated under section  
25 41b.

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