

# HOUSE BILL No. 5386

February 18, 2016, Introduced by Reps. Jacobsen, Garcia, Poleski, Price and Pscholka and referred to the Committee on Appropriations.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 5, 81d, and 131 (MCL 38.1305, 38.1381d, and 38.1431), sections 5 and 131 as amended and section 81d as added by 2012 PA 300.

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

1           Sec. 5. (1) "Member" means a public school employee, except  
2 that member does not include any of the following:

3           (a) A person enrolled in a neighborhood youth corps program  
4 operated with funds from the federal ~~office of economic opportunity~~  
5 **OFFICE OF ECONOMIC OPPORTUNITY** or a person enrolled in a comparable  
6 youth training program designed to prevent high school dropouts and  
7 rehabilitate high school dropouts operated by an intermediate  
8 school district.

1 (b) A person enrolled in a transitional public employment  
2 program and employed by a reporting unit.

3 (c) A person employed by a reporting unit while enrolled as a  
4 full-time student in that same reporting unit.

5 (d) A person who elects to participate in the optional  
6 retirement program under the optional retirement act of 1967, 1967  
7 PA 156, MCL 38.381 to 38.388.

8 (e) A retirant of this retirement system.

9 (f) A person, not regularly employed by a reporting unit, who  
10 is employed by a reporting unit through a summer youth employment  
11 program established ~~pursuant to~~ **UNDER** the Michigan youth corps act,  
12 1983 PA 69, MCL 409.221 to 409.229.

13 (g) A person, not regularly employed by a reporting unit, who  
14 is employed by a reporting unit to administer a program described  
15 in subdivision (f), (h), (i), (j), or (k).

16 (h) After September 30, 1983, a person, not regularly employed  
17 by a reporting unit, who is employed by a reporting unit through  
18 participation in a program established ~~pursuant to~~ **UNDER** the former  
19 job training partnership act, Public Law 97-300, 96 Stat. 1322 or  
20 beginning July 1, 2000, the workforce investment act of 1998,  
21 Public Law 105-220, 112 Stat. 936.

22 (i) A person, not regularly employed by a reporting unit, who  
23 is employed by a reporting unit through participation in a program  
24 established ~~pursuant to~~ **UNDER** the work first program under section  
25 57f of the social welfare act, 1939 PA 280, MCL 400.57f.

26 (j) A person, not regularly employed by a reporting unit, who  
27 is employed by a reporting unit through participation in a program

1 established ~~pursuant to~~ **UNDER** the Michigan community service corps  
2 program, first established under sections 25 to 35 of 1983 PA 259.

3 (k) A person, not regularly employed by a reporting unit, who  
4 is employed by a reporting unit through participation in a program  
5 established ~~pursuant to~~ **UNDER** the older American community service  
6 employment program under ~~the older American community service~~  
7 ~~employment act, title V of the older Americans act of 1965, Public~~  
8 ~~Law 89-73, 42 USC 3056 to 3056i.~~ **3056P.**

9 (l) A person, not regularly employed by a reporting unit, who  
10 is employed by a reporting unit in a temporary, intermittent, or  
11 irregular seasonal or athletic position and who is under the age of  
12 19 years.

13 (m) A person, not regularly employed by a reporting unit, who  
14 is employed by a reporting unit only in a temporary position to  
15 assist in the conduct of a school election.

16 (n) A qualified participant who makes a valid election under  
17 section ~~81d~~ **81D(1)** to not become a member of Tier 1.

18 **(O) A QUALIFIED PARTICIPANT WHO IS NOT A MEMBER OF TIER 1**  
19 **UNDER SECTION 81D(4).**

20 (2) "Membership service" means service performed after June  
21 30, 1945.

22 (3) "Noncontributory plan" means the plan ~~which~~ **THAT** began  
23 between July 1, 1974 and July 1, 1977, in which the reporting unit  
24 elected to discontinue withholding contributions from employees'  
25 compensation.

26 (4) "Noncontributory service" means credited service rendered  
27 under the noncontributory plan.

1           (5) "Nonteacher" means a person employed by a reporting unit  
2 who is not a teacher as defined in section ~~8(4)~~-8.

3           Sec. 81d. (1) ~~The~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**  
4 **(4), THE** retirement system shall permit each qualified participant  
5 who first becomes a qualified participant and first works for a  
6 reporting unit on or after September 4, 2012 to make an election to  
7 not become a member of Tier 1 and become only a qualified  
8 participant in Tier 2.

9           ~~—(2)—~~The retirement system shall determine a method of  
10 accepting elections under **THIS** subsection ~~(1)~~and reporting units  
11 shall secure those elections during the period beginning on the  
12 date of the individual's employment and ending ~~upon~~**ON** the  
13 expiration of 75 days from the individual's first payroll date. An  
14 election under **THIS** subsection ~~(1)~~is irrevocable.

15           ~~—(3)—~~An individual who does not make an election **UNDER THIS**  
16 **SUBSECTION** for any reason on or before the close of the election  
17 period is considered to have made an election to become a member of  
18 Tier 1 and is subject to all of the following as of the date of his  
19 or her employment:

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

23           (b) He or she is also a qualified participant under Tier 2.

24           **(2)** ~~(4)~~An individual who makes the election under subsection  
25 (1) on or before the close of the election period is considered to  
26 have made an election to not become a member of Tier 1 and is  
27 subject to all of the following as of the date of his or her

1 employment:

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

5 (b) He or she is only a qualified participant under Tier 2.

6 (3) ~~(5)~~—The retirement system shall collect from ~~the~~**AN**  
7 individual **DESCRIBED IN SUBSECTION (1)** all amounts required under  
8 sections 43a and 131(2) and shall collect all required employer  
9 contributions required under Tier 1 from his or her date of  
10 employment. If an individual makes a valid election under  
11 subsection (1) to not become a member of Tier 1, the retirement  
12 system shall determine and implement a method to reconcile employer  
13 and employee contributions to be deposited to Tier 2, and ~~any such~~  
14 **THE** employee contributions will be considered to be elective  
15 contributions under section 131.

16 (4) **AN INDIVIDUAL WHO FIRST BECOMES A QUALIFIED PARTICIPANT**  
17 **AND FIRST WORKS FOR A REPORTING UNIT AFTER JUNE 30, 2016, IF THE**  
18 **REPORTING UNIT IS A QUALIFIED REPORTING UNIT, IS NOT A MEMBER OF**  
19 **TIER 1, AND IS ONLY A QUALIFIED PARTICIPANT IN TIER 2. AN**  
20 **INDIVIDUAL DESCRIBED IN THIS SUBSECTION IS SUBJECT TO ALL OF THE**  
21 **FOLLOWING AS OF THE DATE OF HIS OR HER EMPLOYMENT:**

22 (A) **HE OR SHE IS NOT ELIGIBLE TO ACCRUE ANY SERVICE CREDIT OR**  
23 **QUALIFY FOR A RETIREMENT ALLOWANCE UNDER TIER 1 UNDER THE TERMS AS**  
24 **PROVIDED IN SECTION 81C.**

25 (B) **HE OR SHE IS ONLY A QUALIFIED PARTICIPANT UNDER TIER 2.**

26 (5) **AS USED IN THIS SECTION, A "QUALIFIED REPORTING UNIT"**  
27 **MEANS A REPORTING UNIT THAT IS A COMMUNITY DISTRICT ORGANIZED UNDER**

1 PART 5B OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.381 TO  
2 380.395.

3 Sec. 131. (1) This section is subject to the vesting  
4 requirements of section 132.

5 (2) Unless a qualified participant who is also a member of  
6 Tier 1 affirmatively elects not to contribute or elects to  
7 contribute a lesser amount, the qualified participant who is also a  
8 member of Tier 1 shall contribute 2% of his or her compensation to  
9 his or her Tier 2 account. The qualified participant's employer  
10 shall make a contribution to the qualified participant's Tier 2  
11 account in an amount equal to 50% of the first 2% of compensation  
12 contributed by the qualified participant under this subsection.

13 (3) A qualified participant **WHO IS ALSO A MEMBER OF TIER 1** may  
14 make contributions in addition to contributions made under  
15 subsection (2) to his or her Tier 2 account as permitted by the  
16 department and the internal revenue code.

17 (4) ~~Upon~~**ON** the written determination of the director of the  
18 office of retirement services, an employee of an employer that is  
19 not a qualified participant may elect to make contributions to a  
20 Tier 2 account as permitted by the department and the internal  
21 revenue code. An employee as described in this subsection ~~shall be~~  
22 **IS** treated as a qualified participant under this article for the  
23 limited purposes of his or her Tier 2 account.

24 (5) ~~Upon~~**ON** the written determination of the director of the  
25 office of retirement services, an employer may annually elect to  
26 make additional matching contributions, including those in addition  
27 to matching contributions made under subsections (2) and (6), to an

1 employee's Tier 2 account as permitted by the plan document and the  
2 internal revenue code. Matching contributions under this subsection  
3 ~~shall~~**MUST** be made in amounts equal to 50% of the contributions  
4 made by the employee not to exceed the first 4% of contributions  
5 made in whole percentages only, for any employee in addition to  
6 amounts that are already matched under this section, if any.

7 (6) Except as otherwise provided in section 81d, unless a  
8 qualified participant who is only a Tier 2 qualified participant  
9 ~~due to~~**BECAUSE OF** an election made under section 81d(1) **OR WHO IS**  
10 **ONLY A TIER 2 QUALIFIED PARTICIPANT UNDER SECTION 81(D) (4)**  
11 affirmatively elects not to contribute or elects to contribute a  
12 lesser amount, the qualified participant shall contribute 6% of his  
13 or her compensation to his or her Tier 2 account. The qualified  
14 participant's employer shall make a contribution to the qualified  
15 participant's Tier 2 account in an amount equal to 50% of the first  
16 6% of compensation contributed by the qualified participant under  
17 this subsection.

18 Enacting section 1. This amendatory act does not take effect  
19 unless Senate Bill No. \_\_\_\_ or House Bill No. 5384 (request no.  
20 03997'15) of the 98th Legislature is enacted into law.