

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5231

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 58 (MCL 38.58), as added by 1996 PA 487.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 58. **(1)** Each qualified participant, former qualified
2 participant, and refund beneficiary shall direct the investment of
3 the individual's accumulated employer and employee contributions
4 and earnings to 1 or more investment choices within available
5 categories of investment provided by the state treasurer. The
6 limitations on the percentage of total assets for investments
7 provided in ~~Act No. 314 of the Public Acts of 1965, being sections~~
8 ~~38.1132 to 38.1140i of the Michigan Compiled Laws,~~ **THE PUBLIC**
9 **EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT, 1965 PA 314, MCL 38.1132**
10 **TO 38.1141,** do not apply to Tier 2.

1 (2) IN ADDITION TO THE CATEGORIES OF INVESTMENTS PROVIDED BY
2 THE STATE TREASURER UNDER SUBSECTION (1), THE RETIREMENT SYSTEM
3 SHALL OFFER ACCESS TO 1 OR MORE FIXED ANNUITY OPTIONS AND 1 OR MORE
4 VARIABLE ANNUITY OPTIONS. WHILE A QUALIFIED PARTICIPANT IS EMPLOYED
5 BY THE EMPLOYER, THE ANNUITY OPTIONS OFFERED UNDER THIS SUBSECTION
6 MUST ALLOW A QUALIFIED PARTICIPANT THE ABILITY TO PURCHASE A FIXED
7 RATE ANNUITY AND MAY ALLOW THE OPTION TO PURCHASE A VARIABLE RATE
8 ANNUITY. SUBJECT TO SUBSECTION (4), THE STATE TREASURER SHALL
9 SELECT 2 OR MORE ANNUITY PROVIDERS BASED ON A COMPETITIVE PROPOSAL
10 PROCESS. SUBJECT TO SUBSECTION (4), THE STATE TREASURER SHALL
11 CONTRACT WITH 2 OR MORE ANNUITY PROVIDERS TO PROVIDE THE ANNUITY
12 OPTIONS UNDER THIS SUBSECTION. THE STATE TREASURER SHALL SELECT AND
13 CONTRACT WITH AN ANNUITY PROVIDER THAT MEETS ALL OF THE FOLLOWING
14 CONDITIONS, AS DETERMINED BY THE STATE TREASURER:

15 (A) THE ANNUITY PROVIDER AND ITS SUBSIDIARIES AND AFFILIATES
16 HAVE THE APPROPRIATE FINANCIAL STRENGTH AND STABILITY. IN
17 DETERMINING THE FINANCIAL STRENGTH AND STABILITY UNDER THIS
18 SUBDIVISION, THE STATE TREASURER SHALL OBTAIN WRITTEN
19 REPRESENTATION FROM THE ANNUITY PROVIDER OF ALL OF THE FOLLOWING:

20 (i) THAT THE ANNUITY PROVIDER IS AN AUTHORIZED INSURER AS THAT
21 TERM IS DEFINED IN SECTION 108 OF THE INSURANCE CODE OF 1956, 1956
22 PA 218, MCL 500.108.

23 (ii) THAT ALL OF THE FOLLOWING APPLY TO THE ANNUITY PROVIDER,
24 AT THE TIME OF SELECTION AND FOR EACH OF THE IMMEDIATELY PRECEDING
25 5 YEARS:

26 (A) THE ANNUITY PROVIDER OPERATES UNDER A CERTIFICATE OF
27 AUTHORITY FROM THE INSURANCE COMMISSIONER OF ITS DOMICILIARY STATE

1 THAT HAS NOT BEEN REVOKED OR SUSPENDED.

2 (B) THE ANNUITY PROVIDER HAS FILED AUDITED FINANCIAL
3 STATEMENTS IN ACCORDANCE WITH THE LAWS OF ITS DOMICILIARY STATE
4 UNDER APPLICABLE STATUTORY ACCOUNTING PRINCIPLES.

5 (C) THE ANNUITY PROVIDER MAINTAINS AND HAS MAINTAINED RESERVES
6 THAT SATISFY THE STATUTORY REQUIREMENTS OF EACH STATE WHERE THE
7 ANNUITY PROVIDER DOES BUSINESS.

8 (D) THE ANNUITY PROVIDER IS NOT OPERATING UNDER AN ORDER OF
9 REHABILITATION OR LIQUIDATION.

10 (iii) THAT THE ANNUITY PROVIDER UNDERGOES, AT LEAST EVERY 5
11 YEARS, A FINANCIAL EXAMINATION, WITHIN THE MEANING OF THE LAW OF
12 ITS DOMICILIARY STATE, BY THE INSURANCE COMMISSIONER OF THE
13 DOMICILIARY STATE OR REPRESENTATIVE, DESIGNEE, OR OTHER PARTY
14 APPROVED BY THE INSURANCE COMMISSIONER OF THE DOMICILIARY STATE.

15 (iv) THAT THE ANNUITY PROVIDER WILL NOTIFY THE RETIREMENT
16 SYSTEM OF ANY CHANGE IN CIRCUMSTANCES OCCURRING AFTER THE
17 REPRESENTATIONS MADE IN SUBPARAGRAPHS (i), (ii), AND (iii) THAT
18 WOULD PRECLUDE THE ANNUITY PROVIDER FROM MAKING THE REPRESENTATIONS
19 AT THE TIME THE ANNUITY PROVIDER ISSUES THE ANNUITY.

20 (B) THE ANNUITY PROVIDER IS ABLE TO PROVIDE CONTRACTED RIGHTS
21 AND BENEFITS TO A QUALIFIED PARTICIPANT.

22 (C) THE COSTS, INCLUDING FEES AND COMMISSIONS, OF THE ANNUITY
23 OPTIONS IN RELATION TO THE BENEFITS AND PRODUCT FEATURES OF THE
24 ANNUITY OPTION ARE REASONABLE.

25 (D) THE ADMINISTRATIVE SERVICES TO BE PROVIDED UNDER THE
26 ANNUITY OPTION ARE APPROPRIATE. AT A MINIMUM, THE ADMINISTRATIVE
27 SERVICES MUST INCLUDE PERIODIC REPORTS TO THE STATE TREASURER ABOUT

1 ALL OF THE FOLLOWING:

2 (i) THE NUMBER OF ANNUITANTS.

3 (ii) THE TYPES OF ANNUITIES PROVIDED.

4 (iii) ANY OTHER INFORMATION THAT THE STATE TREASURER MAY
5 REQUIRE.

6 (E) THE ANNUITY PROVIDER IS EXPERIENCED IN PAYING LIFETIME
7 RETIREMENT INCOME THROUGH ANNUITIES OFFERED TO PUBLIC EMPLOYEE
8 DEFINED CONTRIBUTION RETIREMENT PLANS.

9 (F) THE ANNUITY PROVIDER OFFERS ANNUITY OPTIONS THAT MEET ALL
10 OF THE FOLLOWING CONDITIONS:

11 (i) THE ANNUITY OPTIONS ARE SUITABLE FOR QUALIFIED
12 PARTICIPANTS, FORMER QUALIFIED PARTICIPANTS, AND REFUND
13 BENEFICIARIES.

14 (ii) THE CONTRACT TERMS AND INCOME BENEFITS ARE CLEARLY
15 STATED, BASED ON REASONABLE ASSUMPTIONS.

16 (iii) THE ANNUITY OPTIONS OFFER A RANGE OF LIFETIME INCOME
17 OPTIONS.

18 (iv) IF THE ANNUITY IS A VARIABLE ANNUITY, THE ANNUITY OFFERS
19 A FIXED ACCOUNT OPTION ALONG WITH ITS VARIABLE OPTIONS.

20 (G) THE ANNUITY PROVIDER IS ABLE TO OFFER OBJECTIVE AND
21 PARTICIPANT-SPECIFIC EDUCATION AND TOOLS THAT HELP PARTICIPANTS
22 UNDERSTAND THE APPROPRIATE USE OF ANNUITIES AS A LONG-TERM
23 RETIREMENT SAVINGS VEHICLE.

24 (3) THE OFFICE OF RETIREMENT SERVICES SHALL VERIFY THE
25 INFORMATION IN A REPORT SUBMITTED UNDER SUBSECTION (2) (D). A REPORT
26 SUBMITTED UNDER SUBSECTION (2) (D) MUST BE PUBLISHED ON THE OFFICE
27 OF RETIREMENT SERVICES'S WEBSITE.

1 (4) AFTER THE COMPETITIVE PROPOSAL PROCESS UNDER SUBSECTION
2 (2) IS COMPLETE, THE STATE TREASURER MAY SELECT AND CONTRACT WITH
3 ONLY 1 ANNUITY PROVIDER TO PROVIDE ANNUITY OPTIONS TO QUALIFIED
4 PARTICIPANTS UNDER SUBSECTION (2) IF EITHER OF THE FOLLOWING
5 APPLIES:

6 (A) THE STATE TREASURER DETERMINES THAT SELECTING MORE THAN 1
7 ANNUITY PROVIDER IS NOT IN THE INTERESTS OF QUALIFIED PARTICIPANTS.

8 (B) ONLY 1 ANNUITY PROVIDER MEETS THE CONDITIONS UNDER
9 SUBSECTION (2).

10 (5) IF THE STATE TREASURER SELECTS ONLY 1 ANNUITY PROVIDER TO
11 PROVIDE ANNUITY OPTIONS UNDER SUBSECTION (2) AS PROVIDED IN
12 SUBSECTION (4), THE STATE TREASURER SHALL NOTIFY THE SPEAKER OF THE
13 HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE HOUSE OF
14 REPRESENTATIVES, THE SENATE MAJORITY LEADER, AND THE SENATE
15 MINORITY LEADER WITHIN 30 DAYS AFTER SELECTING AND CONTRACTING WITH
16 AN ANNUITY PROVIDER OF THE REASONS FOR SELECTING ONLY 1 ANNUITY
17 PROVIDER.

18 Enacting section 1. This amendatory act takes effect 120 days
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless House Bill No. 5230 of the 99th Legislature is enacted into
22 law.