

**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 MAY OFFER
4 1 OR MORE VARIABLE ANNUITY OPTIONS. THE ANNUITY OPTIONS OFFERED
5 UNDER THIS SUBSECTION MUST ALLOW A QUALIFIED PARTICIPANT THE
6 ABILITY TO PURCHASE AN ANNUITY WHILE THE QUALIFIED PARTICIPANT IS
7 EMPLOYED BY THE EMPLOYER. SUBJECT TO SUBSECTION (4), THE STATE
8 TREASURER SHALL SELECT 2 OR MORE ANNUITY PROVIDERS BASED ON A
9 COMPETITIVE PROPOSAL PROCESS. SUBJECT TO SUBSECTION (4), THE STATE
10 TREASURER SHALL CONTRACT WITH 2 OR MORE ANNUITY PROVIDERS TO
11 PROVIDE THE ANNUITY OPTIONS UNDER THIS SUBSECTION. THE STATE
12 TREASURER SHALL CONSIDER ALL OF THE FOLLOWING IN SELECTING AN
13 ANNUITY PROVIDER UNDER THIS SUBSECTION:

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

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

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

25 (A) THE ANNUITY PROVIDER OPERATES UNDER A CERTIFICATE OF
26 AUTHORITY FROM THE INSURANCE COMMISSIONER OF ITS DOMICILIARY STATE
27 THAT HAS NOT BEEN REVOKED OR SUSPENDED.

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

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

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

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

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

19 (B) THE ABILITY OF THE ANNUITY PROVIDER TO PROVIDE CONTRACTED
20 RIGHTS AND BENEFITS TO A QUALIFIED PARTICIPANT.

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

24 (D) THE ADMINISTRATIVE SERVICES TO BE PROVIDED UNDER THE
25 ANNUITY OPTION. AT A MINIMUM, THE ADMINISTRATIVE SERVICES MUST
26 INCLUDE PERIODIC REPORTS TO THE STATE TREASURER ABOUT ALL OF THE
27 FOLLOWING:

1 (i) THE NUMBER OF ANNUITANTS.

2 (ii) THE TYPES OF ANNUITIES PROVIDED.

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

5 (E) THE EXPERIENCE OF THE ANNUITY PROVIDER IN PAYING LIFETIME
6 RETIREMENT INCOME THROUGH ANNUITIES OFFERED TO PUBLIC EMPLOYEE
7 DEFINED CONTRIBUTION RETIREMENT PLANS.

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

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

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

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

17 (G) THE ABILITY OF THE ANNUITY PROVIDER TO OFFER OBJECTIVE AND
18 PARTICIPANT-SPECIFIC EDUCATION AND TOOLS THAT HELP PARTICIPANTS
19 UNDERSTAND THE APPROPRIATE USE OF ANNUITIES AS A LONG-TERM
20 RETIREMENT SAVINGS VEHICLE.

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

25 (4) IF, AFTER THE COMPETITIVE PROPOSAL PROCESS UNDER
26 SUBSECTION (2) IS COMPLETE, THE STATE TREASURER DETERMINES THAT IT
27 IS IN THE BEST INTERESTS OF QUALIFIED PARTICIPANTS TO SELECT AND

1 CONTRACT WITH ONLY 1 ANNUITY PROVIDER TO PROVIDE ANNUITY OPTIONS TO
2 QUALIFIED PARTICIPANTS UNDER SUBSECTION (2), THE STATE TREASURER
3 MAY SELECT AND CONTRACT WITH ONLY 1 ANNUITY PROVIDER TO PROVIDE
4 ANNUITY OPTIONS TO QUALIFIED PARTICIPANTS UNDER SUBSECTION (2). THE
5 STATE TREASURER SHALL NOTIFY THE SENATE AND HOUSE OF
6 REPRESENTATIVES APPROPRIATIONS COMMITTEES WITHIN 30 DAYS AFTER
7 SELECTING AND CONTRACTING WITH AN ANNUITY PROVIDER UNDER THIS
8 SUBSECTION.

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

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