

HOUSE BILL No. 4135

January 25, 2007, Introduced by Reps. Bieda, Melton, Meisner, Wenke, Condino, Vagnozzi, Sak, Clack, Gillard, Donigan, Leland, Miller, Ball, Tobocman, Accavitti, Wojno, Hopgood, Coulouris, Spade, Mayes, Hammel, Polidori, Gonzales, Dean, Griffin, Lemmons, Byrnes, Lahti, Lindberg, Sheltroun, McDowell, Bauer, Johnson, Constan and Cheeks and referred to the Committee on New Economy and Quality of Life.

A bill to provide a retirement system to increase access to retirement plans for small business employees; and to provide certain duties of certain state agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "MI
2 retirement program act".

3 Sec. 2. As used in this act:

4 (a) "Account" means an account in a plan established under
5 this act.

6 (b) "Account owner" means the participant, former participant,
7 or designated beneficiary who owns the account in a plan
8 established under this act.

9 (c) "Compensation" means remuneration paid to a participant

1 for services rendered to his or her employer, as stated in the plan
2 document.

3 (d) "Department" means the department of management and
4 budget.

5 (e) "Designated beneficiary" means an individual nominated by
6 a participant or a former participant under section 9 to receive a
7 distribution of the participant's account balance in the event of
8 death in the manner prescribed in section 10.

9 (f) "Employer" means an employer that pays a participant
10 compensation, including a self-employed individual. The eligibility
11 requirements of an employer to participate in the plan are stated
12 in the plan document. Employer participation in the retirement plan
13 established under this act is voluntary.

14 (g) "Former participant" means an individual who was a
15 participant and who terminates the employment upon which his or her
16 participation is based for any reason.

17 (h) "Participant" means an individual who is a participant in
18 the plan.

19 (i) "Plan" means the retirement plan or plans established by
20 the department of management and budget director pursuant to the
21 internal revenue code that is available to eligible participants
22 under this act.

23 (j) "Plan document" means the document that contains the
24 provisions and procedures of the plan in conformity with this act
25 and the internal revenue code.

26 (k) "Treasurer" means the treasurer of this state.

27 Sec. 3. (1) It is the intent of the legislature that the MI

1 retirement plan will be transferred to a private or nonprofit
2 entity no later than 5 years after the effective date of this act.

3 (2) The department director shall administer any plan under
4 this act and is the sole fiduciary of any plan under this act. The
5 department director may appoint an advisory board to assist the
6 department director.

7 (3) The department director shall determine the provisions and
8 procedures of the plan in conformity with this act and the internal
9 revenue code.

10 (4) The department director has the exclusive authority and
11 responsibility to employ or contract with personnel and for
12 services that the department director determines necessary for the
13 proper administration of and investment of plan assets, including,
14 but not limited to, managerial, professional, legal, clerical,
15 technical, administrative personnel or services, and personnel or
16 services to assist with the transition of responsibility to a
17 private or nonprofit entity.

18 Sec. 4. A participant, former participant, or designated
19 beneficiary who believes the plan document has been violated can
20 appeal, as stated in the plan document.

21 Sec. 5. Each participant, former participant, and designated
22 beneficiary shall direct the investment of the individual's
23 accumulated employer and employee contributions and earnings to 1
24 or more investment choices within available categories of
25 investments provided by the department director, in consultation
26 with the treasurer.

27 Sec. 6. The administrative expenses of any plan shall be paid

1 by the participants, former participants, and designated
2 beneficiaries who have not closed their accounts in the manner
3 stated in the plan document.

4 Sec. 7. (1) This section is subject to section 8.

5 (2) A participant's employer may contribute to the
6 participant's account an amount equal to a percent of the
7 participant's compensation or a dollar amount, as stated in the
8 plan document.

9 (3) A participant may periodically elect to contribute up to a
10 set percentage of his or her compensation or a dollar amount to his
11 or her account, as stated in the plan document. The participant's
12 employer may make an additional contribution to the participant's
13 account, as stated in the plan document.

14 Sec. 8. A participant is immediately 100% vested in his or her
15 contributions made to the account. Except as otherwise provided in
16 this section, a participant shall vest in the employer
17 contributions made on his or her behalf to the account according to
18 the schedule stated in the plan document.

19 Sec. 9. Pursuant to the plan document and conformity with this
20 act and the internal revenue code, a participant or former
21 participant may nominate 1 or more individuals as a designated
22 beneficiary by filing a notice of nomination as stated in the plan
23 document.

24 Sec. 10. (1) A participant is eligible to receive distribution
25 of his or her account balance upon becoming a former participant as
26 stated in the plan document.

27 (2) Upon the death of a participant or former participant, the

1 account balance of that deceased participant is considered to
2 belong to the designated beneficiary, if any, of that deceased
3 participant. If a valid nomination of a designated beneficiary is
4 not on file, the plan, in a lump sum distribution, shall distribute
5 the account balance to the legal representative, if any, of the
6 deceased participant or, if there is no legal representative, to
7 the deceased participant's estate as stated in the plan document.
8 If neither the beneficiary nor the estate can be located and
9 reasonable attempts to locate the beneficiary or the estate have
10 been made, the account balance shall be escheated to the department
11 of treasury, as stated in the plan document.

12 (3) A former participant or designated beneficiary may elect 1
13 or a combination of several of the methods of distribution of the
14 account balance as stated in the plan document and to the extent
15 allowed by federal law.

16 Sec. 11. (1) This act does not create and shall not be
17 construed to create any obligation upon this state or any agency or
18 instrumentality of this state to make any guarantee for the benefit
19 of an account owner or designated beneficiary.

20 (2) All documents used in connection with a contribution to an
21 account shall clearly indicate that the account is not insured by
22 this state and that the money deposited into and investment return
23 earned on an account are not guaranteed by this state.

24 Sec. 12. It is the intent of the legislature that the
25 department may recover administrative costs that are appropriated
26 for start-up administration of this plan by charging an
27 administrative fee to participants in the same manner as described

1 in section 6. It is the intent of the legislature that the
2 department reimburse the general fund for the cost of the start-up
3 administrative costs from the proceeds of the administrative fee
4 charged to participants.

5 Sec. 13. This section is enacted pursuant to section 401(a) of
6 the internal revenue code, 26 USC 401, that imposes certain
7 administrative requirements and benefit limitations for qualified
8 plans. This state intends that any plan administered under this act
9 be a qualified pension plan created in trust under section 401 of
10 the internal revenue code, 26 USC 401, and that the trust be an
11 exempt organization under section 501 of the internal revenue code,
12 26 USC 501. The department director shall administer any plans
13 created under this act to fulfill this intent.

14 Sec. 14. All plans administered under this act shall contain a
15 provision that the employer, the participant, and all designated
16 beneficiaries agree and understand that this state is acting as a
17 plan administrator and no liability shall accrue from this state to
18 any employer, participant, or designated beneficiary because of any
19 action taken in the administration of any plan administered under
20 this act.

21 Sec. 15. If the department determines that the plan should be
22 terminated, the department shall terminate the plan and pay the
23 account balances as stated in the plan document.

24 Sec. 16. This act shall be construed liberally to effectuate
25 the legislative intent, the purposes of the act, and as complete
26 and independent authority for the performance of each and every act
27 and thing authorized in the act, and all powers granted in the act

- 1 shall be broadly interpreted to effectuate such intent and purposes
- 2 and not as to limitation of powers.