HOUSE BILL No. 5471

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January 30, 2018, Introduced by Reps. Green, Ellison, Greig, Sowerby, Pagan, Sneller, Yancey, Geiss, Lasinski, Brinks, LaGrand, Love, Garrett, Cambensy, Hertel, Hoadley, Moss, Chang, Liberati, Chirkun, Camilleri, Wittenberg, Durhal, Cochran, Rabhi, Faris, Jones, Dianda, Neeley, Clemente and Hammoud and referred to the Committee on Financial Liability Reform.

A bill to amend 1980 PA 300, entitled

"The public school employees retirement act of 1979,"

by amending sections 41, 41b, and 81c (MCL 38.1341, 38.1341b, and 38.1381c), as amended by 2017 PA 92.

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

Sec. 41. (1) The annual level percentage of payroll contribution rates to finance benefits being provided and to be provided by the retirement system must be determined by actuarial valuation under subsection (2) on the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and an actuary. An annual actuarial valuation must be made of the retirement system to determine the actuarial condition of the retirement system and the

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required contribution to the retirement system. An annual actuarial gain-loss experience study of the retirement system must be made to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) Except as otherwise provided in sections 41a and 41b, the annual contribution rates for benefits ~~is~~ **ARE** subject to all of the following:

(a) Except as otherwise provided in this subdivision, the contribution rate for benefits must be computed using an individual projected benefit entry age normal cost method of valuation. If the contributions described in section 43e are determined by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted to be unconstitutional and the contributions are not deposited into the appropriate funding account referenced in section 43e, the contribution rate for health benefits provided under section 91 must be computed using a cash disbursement method.

(b) Subject to subdivision (c), the contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, for reporting units must be determined as follows:

(*i*) Calculate the aggregate amount of individual projected benefit entry age normal costs.

(*ii*) Divide the result of the calculation under subparagraph (*i*) by 1% of the aggregate amount of active members' valuation compensation.

(c) Except for the employee portion of the normal cost contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year, the normal cost contribution rate must not be less than the normal cost contribution rate in the immediately preceding state fiscal year.

(d) Subject to the subdivision (e), the contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, must be determined as follows:

(*i*) Calculate the aggregate amount of unfunded actuarial accrued liabilities of reporting units as follows:

(A) Calculate the actuarial present value of benefits for members attributable to reporting units.

(B) Calculate the actuarial present value of future normal cost contributions of reporting units.

(C) Calculate the actuarial present value of assets on the valuation date.

(D) Add the results of sub-subparagraphs (B) and (C).

(E) Subtract from the result of the calculation under sub-subparagraph (A) the result from the calculation under sub-subparagraph (D).

(*ii*) Divide the result of the calculation under subparagraph (*i*) by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation.

(e) ~~Except for the employee portion of the unfunded actuarial accrued liability contribution rates for members under section 41b(2), beginning~~ **BEGINNING** with the state fiscal year ending

September 30, 2018 and for each subsequent fiscal year until the unfunded actuarial accrued liability is paid off, the unfunded actuarial accrued liability contribution rate must not be less than the unfunded actuarial accrued liability contribution rate in the immediately preceding state fiscal year.

(f) Beginning with the state fiscal year ending September 30, 2013 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 20.96% for a reporting unit that is not a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year are to be paid by appropriation from the state school aid fund established by section 11 of article IX of the state constitution of 1963. Except as otherwise provided in this section, section 41a, and section 41b, the unfunded actuarial accrued liability contribution rate must be based on and applied to the combined payrolls of the employees who are members or qualified participants, or both.

(g) Beginning with the state fiscal year ending September 30, 2019 ~~,~~ and for each subsequent fiscal year, for a reporting unit that is not a university reporting unit, tax supported community or junior college, public school academy, or district library as **THAT TERM IS** defined in section 69g, the unfunded actuarial accrued liability contribution rate determined under subdivision (d) must be applied to the reporting unit's payroll, as adjusted under subdivision (h).

(h) Beginning with the state fiscal year ending September 30, 2019, the payroll for which the unfunded actuarial accrued liability contribution rate is applied for a reporting unit described in subdivision (g) must be adjusted by the growth rate of the reporting unit's current operating expenditures in the previous fiscal year based on methods as determined by the retirement system and in consultation with the system's actuary. The adjusted payroll under this subdivision must become the basis on which the contribution rate provided under subdivision (d) for each subsequent state fiscal year is determined for a reporting unit described in subdivision (g).

(i) Beginning with the state fiscal year ending September 30, 2016 and for each subsequent state fiscal year, the unfunded actuarial accrued liability contribution rate applied to the combined payroll, as provided in section 41a, must not exceed 25.73% for a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year for university reporting units are to be paid by appropriation under article III of the state school aid act of 1979, 1979 PA 94, MCL 388.1836 to 388.1891.

(3) Before November 1 of each year, the executive secretary of the retirement board shall certify to the director of the department the aggregate compensation estimated to be paid public school employees for the current state fiscal year.

(4) On the basis of the estimate under subsection (3), the annual actuarial valuation, and any adjustment required under subsection (6), the director of the department shall compute the sum due and payable to the retirement system and shall certify this

amount to the reporting units.

(5) Except as provided in section 41b, the reporting units shall pay the amount certified under subsection (4) to the director of the department in equal payroll cycle installments for unfunded actuarial accrued liability contributions and payroll cycle installments for normal cost contributions.

(6) Not later than 90 days after termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. On receipt of that certification, the director of the department may compute any adjustment required to the amount due to a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, must be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit occurs under subsection (14).

(7) The director of the department may require evidence of correctness and may conduct an audit of the aggregate compensation that the director of the department considers necessary to establish its correctness.

(8) A reporting unit shall forward employee and employer social security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, 42 USC 401 to 434.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, must be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest must be included for each year that a portion of the remaining difference is carried forward. The interest rate must equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit occurs under subsection (14).

(10) Beginning on September 30, 2006, all assets held by the

retirement system must be reassigned their fair market value, as determined by the state treasurer, as of September 30, 2006, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before September 30, 2006 may not be considered by the retirement system's actuaries.

(11) Except as otherwise provided in this subsection, beginning on September 30, 2006, the actuary used by the retirement board shall assume a rate of return on investments of 8% per annum, as of September 30, 2006, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on July 1, 2010, the actuary used by the retirement board shall assume a rate of return on investments of 7% per annum for investments associated with members who first became members after June 30, 2010, and before February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on February 1, 2018, the actuary used by the retirement board shall assume a rate of return on investments of 6% per annum for investments associated with members who first became a member on or after February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on September 30, 2006, the value of assets used must be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after September 30, 2006, and the methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on September 30, 2006, the actuary used by the retirement board shall use a salary increase assumption that projects annual salary increases of 4%. In addition to the 4%, the retirement board shall use an additional percentage based on an age-related scale to reflect merit, longevity, and promotional salary increase. The actuary shall use this assumption until a change in the assumption is approved in writing by the retirement board and the director of the department.

(14) For fiscal years that begin on or after October 1, 2001, if the actuarial valuation prepared under this section demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the amount based on the annual level percent of payroll contribution rate under subsections (1) and (2) may be deposited into the health advance funding subaccount created ~~by~~ **UNDER** section 34.

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund must be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that must be allocated to that fund and deposit that amount in that fund before it deposits

any remaining employer contributions or other eligible funds in the pension fund.

(16) The retirement board and the department shall conduct and review an experience investigation study and adopt risk assumptions on which actuarial valuations are to be based after consultation with the actuary and the state treasurer. The experience investigation study ~~shall~~ **MUST** be completed and risk assumptions ~~shall~~ **MUST** be periodically reviewed at least once every 5 years.

(17) Every April 1 following the periodic review of risk assumptions under subsection (16), the office of retirement services on behalf of the department and the state treasurer shall collaborate to submit a report to the senate majority leader, the speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house fiscal agencies. A report required under this subsection must be published on the office of retirement ~~services'~~ **SERVICES'S** website and include at least all of the following:

(a) Forecasted rate of return on investments at all of the following probability levels:

(*i*) 5%.

(*ii*) 25%.

(*iii*) 50%

(*iv*) 75%.

(*v*) 95%.

(b) The actual rate of return on investments for 10-, 15-, and 20-year time intervals.

(c) Mortality assumptions.

(d) Retirement age assumptions.

(e) Payroll growth assumptions.

(f) Any other assumptions that have a material impact on the financial status of the retirement system.

(18) As used in this section:

(a) "Current operating expenditures" includes functions 1xx, 2xx, 45x, and all object codes except 6xxx, as defined in the most recent "Michigan Public School Accounting Manual Bulletin 1022" as of ~~the effective date of the amendatory act that added this subdivision,~~ **JULY 13, 2017,** and is equal to the total of instructional and support services expenditures, including the total general fund charges incurred in the general, special education, and vocational education funds for the benefit of the current fiscal year, whether paid or unpaid, and all expenditures of the instructional programs plus applicable supporting service costs reduced by capital outlay, debt service, community services, and outgoing transfers and other transactions. Current operating expenditures also include operating funds for any public school or other public educational entity first authorized or established by a reporting unit described in subsection (2)(g) on or after ~~the effective date of the amendatory act that added this subdivision.~~**JULY 13, 2017.**

(b) "University reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

Sec. 41b. (1) Beginning July 1, 2010, the retirement system may determine a separate employer contribution rate for members who first became members on or after July 1, 2010 and before February 1, 2018. Except as provided in this section, the retirement system shall determine the separate employer contribution rate in the manner prescribed in section 41.

(2) Beginning February 1, 2018, the retirement system shall determine a separate contribution rate for members who first became members on or after February 1, 2018. Except as provided in this section, the retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that any increase or decrease in the unfunded actuarial accrued liabilities associated with members who first became members on or after February 1, 2018 must be amortized on a 10-year level-dollar schedule with a new contribution rate calculated for each year.

(3) All normal cost ~~and any unfunded actuarial accrued liability~~ contributions as determined under subsection (2) must be paid on a cost-sharing basis of 50% by the employer and 50% by the employee. Except as provided in this section, contributions ~~shall~~ **MUST** be made in the manner prescribed in section 42. ~~An employee contribution for unfunded actuarial accrued liability must not be assessed to an employee based on any portion of an unfunded liability caused by the failure of an employer to make a required contribution.~~ Following the determination of the cost-sharing basis under this subsection, section 41(2)(c) and (e) applies.

~~(4) The contributions of a member for unfunded actuarial accrued liability must be treated as picked-up contributions under the internal revenue code, deducted by the employer, and remitted as employer contributions to the general fund of the retirement~~

~~system and must only be used to finance unfunded actuarial accrued liabilities of the retirement system.~~

**(4)** ~~(5)~~ To the extent and ~~upon~~ **ON** approval by the Internal Revenue Service, the retirement system for the Tier 1 plan and the plan administrator for the Tier 2 plan may also determine the extent to which some or all of the individuals performing services for an entity not participating in the retirement system that receives any funding from the state school aid fund established in section 11 of article IX of the state constitution of 1963 may participate in the Tier 1 and Tier 2 plans.

Sec. 81c. (1) A member who first becomes a member on or after July 1, 2010 who no longer is working as a public school employee or in any other capacity for which service credit performed in this state is allowed under this act, on the member's written application to the retirement system, is entitled to a retirement allowance provided for in section 84(1) if the member is 60 years of age or older and has accumulated 10 or more years of credited service ~~pursuant to~~ **UNDER** section 68 as a public school employee. ~~and has reached regular retirement age.~~

(2) The eligibility requirements of subsection (1) must not be modified as provided in section 43b.

(3) The reduction provided for in section 84(2) does not apply to an individual who retires under this section.

(4) Notwithstanding any other provision of this act, a member who first becomes a member on or after July 1, 2010 shall not purchase or transfer service credit under article 4 and shall not have any purchased or transferred service credit included in the

calculation of a retirement allowance on retirement.

~~(5) Beginning October 1, 2019 and for each fiscal year in which an experience investigation study is completed under section 41(16), if the most recent experience investigation study of mortality of the retirement system using a 65-year-old based on a 50-50 male-female blend shows an increase of 1 or more years from the previous experience investigation study of mortality, the retirement board, in consultation with the actuary and the department, shall increase the regular retirement age by at least 1 year up to the total increase in whole-year increments unless the most recent actuarial funded ratio for the benefits funded under section 41b(3) is greater than 100% after accounting for an increase in mortality as reflected in the experience investigation study. Any adjustment to the regular retirement age by the retirement board must take place within 12 months after the retirement board's adoption of the most recent experience investigation study on an effective date as determined by the retirement board. Any required increase to the regular retirement age under this subsection must take into account the cumulative increase in mortality relative to the experience investigation study covering the period 2012 through 2017, less any actual increase already taken into account in a previous increase to the regular retirement age. An adjustment to the regular retirement age under this subsection does not apply to a member who, on the effective date of the increase, is within 5 years of the then current regular retirement age. The retirement board may additionally exclude members who, on the effective date of the~~

~~increase, are within between 5 and 8 years of the then current regular retirement age.~~

~~(6) As used in this section, "regular retirement age" means the following:~~

~~(a) For a member who first becomes a member on or after July 1, 2010 and before February 1, 2018, 60 years of age and is not subject to increase as provided under subsection (5).~~

~~(b) Subject to subsection (5), for a member who first becomes a member on or after February 1, 2018, 60 years of age.~~