

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4265**

A bill to amend 1992 PA 234, entitled
"The judges retirement act of 1992,"
by amending sections 301, 305, 509, 604, 714, and 719 (MCL 38.2301,
38.2305, 38.2509, 38.2604, 38.2664, and 38.2669), sections 305 and
714 as amended by 2002 PA 95, section 604 as amended by 2018 PA
335, and section 719 as added by 1996 PA 523, and by adding
sections 509a and 714a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 301. (1) The retirement system shall direct the actuary
2 to do all of the following:
- 3 (a) Determine the annual level percent of payroll contribution
4 rate to finance the benefits provided under this act by actuarial
5 valuation ~~pursuant to~~**under** subsections (2) and (3), and ~~upon~~**on**

1 the basis of the risk assumptions that the retirement board and the
2 department adopt after consultation with the state treasurer and
3 the actuary.

4 (b) Make an annual actuarial valuation of the retirement
5 system in order to determine the actuarial condition of the
6 retirement system and the required contribution to the retirement
7 system.

8 (c) Make an annual actuarial gain-loss experience study of the
9 retirement system in order to determine the financial effect of
10 variations of actual retirement system experience from projected
11 experience.

12 (d) **Beginning with the state fiscal year ending September 30,**
13 **2021 and for each subsequent fiscal year, assume a rate of return**
14 **on investments and a discount rate not to exceed 6% for pension and**
15 **6% for retiree health care.**

16 (e) **Beginning with the state fiscal year ending September 30,**
17 **2028 and for each subsequent fiscal year, use layered amortization.**
18 **As used in this subdivision, "layered amortization" means a fixed**
19 **and closed period that separately layers the different components**
20 **to be amortized over a fixed period not to exceed 10 years, as it**
21 **emerges. The amortization period for layered amortization must use**
22 **a level dollar amortization method. The normal cost contribution**
23 **for any fiscal year must not be less than the normal cost component**
24 **of the actuarially determined contribution.**

25 (2) The actuary shall compute the contribution rate for
26 monthly benefits payable in the event of death of a member before
27 retirement or the disability of a member using ~~a terminal funding~~
28 **an individual projected benefit entry age normal cost** method of
29 ~~actuarial~~ valuation.

(3) The actuary shall compute the contribution rate for benefits other than those described in subsection (2) using an individual projected benefit entry age normal actuarial cost method. The contribution rate for service that may be rendered in the current year, **which is** known as the normal cost contribution rate, is equal to the aggregate amount of individual entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The contribution rate for unfunded service rendered on or before the last day of the fiscal year, **which is** known as the unfunded actuarial accrued liability contribution rate, is equal to the aggregate amount of unfunded actuarial accrued liabilities divided by 1% of the actuarial present value over a period not to exceed 40 years of projected benefit compensation, where unfunded actuarial accrued liabilities are equal to the actuarial present value of benefits reduced by the actuarial present value of future normal costs and the actuarial value of assets on the last day of the fiscal year.

(4) As part of each 5-year experience study, the retirement board and department must adopt, on the recommendation of the actuary and in accordance with all applicable actuarial standards of practice, the most current mortality tables that are most appropriate for the characteristics of the population.

Sec. 305. (1) Each member, ~~upon-on~~ taking office and ~~so long as-while~~ he or she remains in office, shall make contributions to the retirement system according to the applicable plan member classification as follows:

(a) ~~A-Except as otherwise provided in section 509a, a~~ plan 1 member or a plan 2 member shall contribute 5% of the member's compensation. From this contribution, the retirement system shall

1 deposit an amount equal to 2.0% of the member's compensation into
2 the reserve for health benefits for hospital and medical-surgical
3 and sick care benefits as provided in section 509.

4 (b) A plan 3a member, a plan 3b member, or a plan 5 member
5 shall contribute 3.5% of the member's compensation.

6 (c) A plan 3c member, a plan 4 member, a plan 6 member, or a
7 plan 7 member shall contribute 7% of the member's compensation.

8 However, a plan 6 member shall not contribute more than \$980.00
9 annually.

10 (2) The retirement board shall determine the manner in which
11 member contributions are paid. Except as otherwise provided in this
12 section, the retirement system shall credit member contributions
13 when received to the reserve for member contributions.

14 (3) ~~Upon~~ **On** written notice from the executive secretary to the
15 state court administrator, the state treasurer shall withhold
16 payment of the amount due from the salary standardization payment
17 payable to a county or district control unit for member
18 contributions that are not received by the retirement system within
19 60 days after the due date.

20 Sec. 509. (1) The retirement system shall pay the premium for
21 hospital and medical-surgical and sick care benefits for a retirant
22 who, as a member, served after January 1, 1983 as a justice of the
23 supreme court, judge of the court of appeals, or a state official,
24 or for his or her retirement allowance beneficiary who elects
25 coverage in the state group health insurance plan, to the same
26 extent as is provided for retirants and retirement allowance
27 beneficiaries of the state employees' retirement system created by
28 the state employees' retirement act, ~~Act No. 240 of the Public Acts~~
29 ~~of 1943, being section 38.1 to 38.48 of the Michigan Compiled~~

1 ~~Laws-1943 PA 240, MCL 38.1 to 38.69.~~

2 (2) The retirement system shall pay the premium under
3 subsection (1) only if section ~~305(l)(a)~~ **305(1)(a)** requires member
4 contributions for hospital and medical-surgical and sick care
5 benefits.

6 (3) This section does not apply to an individual who first
7 became a member or qualified participant after March 4, 2023, or to
8 a qualified member who made an election to opt out of health
9 insurance coverage under section 509a. As used in this subsection,
10 "qualified member" means that term as defined in section 509a.

11 Sec. 509a. (1) For a member or qualified participant who is
12 not eligible for any future health insurance coverage premium from
13 the retirement system or for a qualified member who made the
14 election under subsection (3), in addition to the contributions
15 under section 714(3), the member or qualified participant may
16 contribute up to 4% of the member's or qualified participant's
17 salary to Tier 2. A member or qualified participant who makes a
18 contribution under this subsection may make additional
19 contributions to his or her Tier 2 account as permitted by the
20 department and the internal revenue code.

21 (2) A member or qualified participant is vested in
22 contributions made to his or her Tier 2 account under subsection
23 (1) according to the vesting provisions under section 715.

24 (3) Except as otherwise provided in this section, beginning
25 March 6, 2023 and ending at 5 p.m. Eastern Standard Time on May 12,
26 2023, the retirement system shall permit each qualified member to
27 make an election to opt out of health insurance coverage premiums
28 that would have been paid by the retirement system under sections
29 509 and 719 and opt into the Tier 2 account provisions of this

1 section effective May 28, 2023. A qualified member who makes the
2 election under this subsection shall cease accruing years of
3 service credit for purposes of calculating a portion of the health
4 insurance coverage premiums that would have been paid by the
5 retirement system under sections 509 and 719 as if that coverage
6 continued to apply. The election under this subsection must be
7 completed in a manner and by methods as determined by the
8 retirement system.

9 (4) A qualified member who does not make the election under
10 subsection (3) continues to be eligible for the payment of health
11 insurance coverage premiums by the retirement system under sections
12 509 and 719 and is not eligible for the Tier 2 account provisions
13 of this section. The retirement system shall treat an individual
14 who is not a qualified member, who is a former member on March 4,
15 2023, and who is reemployed by an employer after March 4, 2023 in
16 the same manner as a member described in this subsection who did
17 not make the election under subsection (3).

18 (5) The retirement system shall calculate an amount to be
19 credited to a Tier 2 account for each qualified member who makes
20 the election under subsection (3). The amount must equal the
21 contributions made by the qualified member for hospital and
22 medical-surgical and sick care benefits under section 305(1)(a) or
23 714(6), as applicable. A qualified member who makes the election
24 under subsection (3) shall cease making contributions into the
25 reserve for health benefits for hospital and medical-surgical and
26 sick care benefits under section 305(1)(a) or 714(6), as
27 applicable, as determined by the retirement system, but no later
28 than the first payroll date after May 27, 2023. The amount
29 calculated under this subsection must be deposited as an employer

1 contribution into the qualified member's Tier 2 account as
2 determined by the retirement system, but no later than the first
3 payroll date after August 1, 2023. A qualified member is
4 immediately 100% vested in amounts deposited to his or her Tier 2
5 account under this subsection.

6 (6) A qualified member who has a break in service and is
7 reemployed retains the same election made under this section before
8 the break in service. If the qualified member did not make the
9 election under subsection (3), the qualified member shall continue
10 to make the contributions as provided under section 305(1)(a) or
11 714(6), as applicable.

12 (7) Instead of any other health insurance coverage premium
13 that might have been paid by the retirement system under sections
14 509 and 719, a credit to a health reimbursement account within the
15 trust created under the public employee retirement health care
16 funding act, 2010 PA 77, MCL 38.2731 to 38.2747, must be made by
17 the retirement system in the amounts and to the qualified
18 participants who are plan 1 or plan 2 members as follows:

19 (a) Two thousand dollars to an individual who first became a
20 qualified participant after March 4, 2023, who is 60 years of age
21 or older, and who has at least 10 years of service at his or her
22 first termination of employment.

23 (b) One thousand dollars to an individual who first became a
24 member or qualified participant after March 4, 2023, who is less
25 than 60 years of age, and who has at least 10 years of service at
26 his or her first termination of employment.

27 (8) The retirement system shall determine a method to
28 implement subsections (3) to (7), including a method for crediting
29 the amounts in those subsections to comply with any restrictions

1 imposed by the internal revenue code. Notwithstanding any provision
2 of this act to the contrary, the Tier 2 plan provisions of this
3 section must be implemented by the department as soon as feasible
4 but not later than August 1, 2023.

5 (9) Subsections (3) to (7) do not apply to a member or
6 qualified participant who is eligible for the payment of health
7 insurance coverage premiums by the retirement system as a result of
8 benefits provided under section 507.

9 (10) As used in this section:

10 (a) "Qualified member" means a member or qualified participant
11 who meets all of the following requirements:

12 (i) He or she first became a member or qualified participant
13 before March 5, 2023.

14 (ii) He or she has earned service credit in the 12 months
15 ending March 4, 2023 or was on an approved professional services or
16 military leave of absence on March 4, 2023.

17 (iii) He or she is a plan 1 member or plan 2 member who is
18 eligible to qualify for future health insurance coverage premium
19 from the retirement system.

20 (b) "Salary" means that term as defined in section 706.

21 Sec. 604. (1) This section is enacted under section 401(a) of
22 the internal revenue code, 26 USC 401, which imposes certain
23 administrative requirements and benefit limitations for qualified
24 governmental plans. This state intends that the retirement system
25 be a qualified pension plan created in trust under section 401 of
26 the internal revenue code, 26 USC 401, and that the trust be an
27 organization exempt from taxation under section 501 of the internal
28 revenue code, 26 USC 501. The department shall administer the
29 retirement system to fulfill the intent of this subsection.

1 (2) The retirement system ~~shall~~**must** be administered in
2 compliance with the provisions of section 415 of the internal
3 revenue code, 26 USC 415, and regulations under that section that
4 are applicable to governmental plans and, beginning January 1,
5 2010, applicable provisions of the final regulations issued by the
6 Internal Revenue Service on April 5, 2007. Employer-financed
7 benefits provided by the retirement system under this act must not
8 exceed the applicable limitations set forth in section 415 of the
9 internal revenue code, 26 USC 415, as adjusted by the commissioner
10 of internal revenue under section 415(d) of the internal revenue
11 code, 26 USC 415, to reflect cost-of-living increases, and the
12 retirement system shall adjust the benefits, including benefits
13 payable to retirants and retirement allowance beneficiaries,
14 subject to the limitation each calendar year to conform with the
15 adjusted limitation. For purposes of section 415(b) of the internal
16 revenue code, 26 USC 415, the applicable limitation applies to
17 aggregated benefits received from all qualified pension plans for
18 which the office of retirement services coordinates administration
19 of that limitation. If there is a conflict between this section and
20 another section of this act, this section prevails.

21 (3) The assets of the retirement system must be held in trust
22 and invested for the sole purpose of meeting the legitimate
23 obligations of the retirement system and must not be used for any
24 other purpose. The assets must not be used for or diverted to a
25 purpose other than for the exclusive benefit of the members, vested
26 former members, retirants, and retirement allowance beneficiaries
27 before satisfaction of all retirement system liabilities.

28 (4) The retirement system shall return post-tax member
29 contributions made by a member and received by the retirement

1 system to a member on retirement, under Internal Revenue Service
2 regulations and approved Internal Revenue Service exclusion ratio
3 tables.

4 (5) The required beginning date for retirement allowances and
5 other distributions must not be later than April 1 of the calendar
6 year following the calendar year in which the employee attains age
7 70-1/2 or April 1 of the calendar year following the calendar year
8 in which the employee retires. The required minimum distribution
9 requirements imposed by section 401(a)(9) of the internal revenue
10 code, 26 USC 401, apply to this act and must be administered in
11 accordance with a reasonable and ~~good faith~~ **good-faith**
12 interpretation of the required minimum distribution requirements
13 for all years in which the required minimum distribution
14 requirements apply to this act.

15 (6) If the retirement system is terminated, the interest of
16 the members, vested former members, retirants, and retirement
17 allowance beneficiaries in the retirement system is nonforfeitable
18 to the extent funded as described in section 411(d)(3) of the
19 internal revenue code, 26 USC 411, and related Internal Revenue
20 Service regulations applicable to governmental plans.

21 (7) Notwithstanding any other provision of this act to the
22 contrary that would limit a distributee's election under this act,
23 a distributee may elect, at the time and in the manner prescribed
24 by the retirement board, to have any portion of an eligible
25 rollover distribution paid directly to an eligible retirement plan
26 specified by the distributee in a direct rollover. This subsection
27 applies to distributions made after December 31, 1992.

28 (8) For purposes of determining actuarial equivalent
29 retirement allowances under sections 506(1)(a) and (b) and 602, the

1 actuarially assumed interest rate must be determined by the
2 director of the department and the retirement board in consultation
3 with the actuary using the mortality tables adopted by the
4 department and the retirement board. **Beginning with the state**
5 **fiscal year ending September 30, 2023 and for each subsequent state**
6 **fiscal year, for the purposes of determining actuarial equivalent**
7 **retirement allowances under sections 506(1)(a) and (b) and 602, the**
8 **actuarial assumed interest rate and discount rate must not exceed**
9 **6.75%.**

10 (9) Notwithstanding any other provision of this act, the
11 compensation of a member of the retirement system must be taken
12 into account for any year under the retirement system only to the
13 extent that it does not exceed the compensation limit established
14 in section 401(a)(17) of the internal revenue code, 26 USC 401, as
15 adjusted by the commissioner of internal revenue. This subsection
16 applies to an individual who first becomes a member of the
17 retirement system after September 30, 1996.

18 (10) Notwithstanding any other provision of this act,
19 contributions, benefits, and service credit with respect to
20 qualified military service will be provided under the retirement
21 system in accordance with section 414(u) of the internal revenue
22 code, 26 USC 414. This subsection applies to all qualified military
23 service after December 11, 1994. Beginning on January 1, 2007, in
24 accordance with section 401(a)(37) of the internal revenue code, 26
25 USC 401, if a member dies while performing qualified military
26 service, for purposes of determining any death benefits payable
27 under this act, the member is treated as having resumed and then
28 terminated employment on account of death.

29 Sec. 714. (1) This section is subject to the vesting

1 requirements of section 715.

2 (2) A qualified participant's employer shall contribute to the
3 qualified participant's account in Tier 2 an amount equal to 4% of
4 the qualified participant's salary.

5 (3) A qualified participant may periodically elect to
6 contribute up to 3% of his or her salary to his or her Tier 2
7 account. The qualified participant's employer shall make an
8 additional contribution to the qualified participant's Tier 2
9 account in an amount equal to the contribution made by the
10 qualified participant under this subsection.

11 (4) A qualified participant may make contributions in addition
12 to contributions made under subsection (3) to his or her Tier 2
13 account as permitted by the state treasurer and the internal
14 revenue code. The qualified participant's employer shall not match
15 contributions made by the qualified participant under this
16 subsection.

17 (5) A qualified participant who makes a written election under
18 section 701a may elect to contribute up to 6% of his or her salary
19 to his or her Tier 2 account. In lieu of employer contributions
20 under subsection (3), the qualified participant's employer shall
21 make an additional contribution to the qualified participant's Tier
22 2 account in an amount equal to the contribution made by the
23 qualified participant under this subsection. This subsection
24 applies for a period as determined by the department that equals
25 the time in which a Tier 1 member was not able to make
26 contributions to the Tier 2 plan because of the temporary
27 restraining order issued in the case of ~~Michigan judges assn v~~
28 ~~Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed~~
29 ~~Mi)-Michigan Judges Assn v Treasurer of Michigan, opinion of the~~

1 United States District Court for the Eastern District of Michigan
2 (Case No. 98-DT-72771-CV) .

3 (6) ~~Beginning~~ **Except as otherwise provided in section 509a,**
4 **beginning** January 1, 2002, ~~each~~ **a** qualified participant who is a
5 plan 1 member or a plan 2 member, ~~upon~~ **on** taking office and ~~so long~~
6 ~~as~~ **while** he or she remains in office, shall contribute 2.0% of the
7 qualified participant's compensation to the retirement system. The
8 retirement system shall deposit the contribution under this
9 subsection into the reserve for health benefits for hospital and
10 medical-surgical and sick care benefits as provided in section 719.

11 **Sec. 714a. Tier 2 and tax-deferred accounts are subject to the**
12 **following terms and conditions:**

13 (a) Before December 2, 2023, the retirement system shall
14 design an automatic enrollment feature that provides that unless a
15 qualified participant who makes contributions under section 714(3)
16 elects to contribute a lesser amount, the qualified participant
17 shall contribute the amount required to qualify for all eligible
18 matching contributions under this act. The retirement system shall
19 implement this automatic enrollment feature as soon as
20 administratively feasible, but no later than 12 months after the
21 effective date of the amendatory act that added this section.

22 (b) In addition to elective employee contributions to Tier 2
23 or a tax-deferred account, this state may use elective employee
24 contributions to the state 457 deferred compensation plan as a
25 basis for making employer matching contributions to Tier 2 or a
26 tax-deferred account.

27 (c) Employer matching contributions do not have to be made to
28 the same plan or account to which the elective employee
29 contributions were contributed as the basis for the matching

1 contributions.

2 (d) Elective employee contributions may not be used as the
3 basis for more than an equivalent amount of employer matching
4 contributions.

5 (e) The retirement system shall design and implement a method
6 to determine the proper allocation of employer matching
7 contributions based on elective employee contributions as provided
8 in this section.

9 Sec. 719. (1) A former qualified participant may elect health
10 insurance benefits in the manner prescribed in this section if he
11 or she meets both of the following requirements:

12 (a) The former qualified participant is vested in health
13 ~~benefits~~**insurance coverage** under section 715(2).

14 (b) The former qualified participant meets or exceeds the
15 benefit commencement age ~~employed~~**used** in the actuarial present
16 value calculation under section 702 and the service requirements
17 that would have applied to that former participant under Tier 1 for
18 receiving health insurance coverage under section 509, if that
19 former participant was a member of Tier 1.

20 (2) A former qualified participant who is eligible to elect
21 health insurance coverage under subsection (1) may elect health
22 insurance coverage in a health benefit plan or plans as authorized
23 by section 509, or in another plan as provided in subsection (6). A
24 former qualified participant who is eligible to elect health
25 insurance coverage under subsection (1) may also elect health
26 insurance coverage for his or her health benefit dependents, if
27 any. A surviving health benefit dependent of a deceased former
28 qualified participant who is eligible to elect health insurance
29 coverage under subsection (1) may elect health insurance coverage

1 in the manner prescribed in this section.

2 (3) Except as otherwise provided in subsection (6), an
3 individual who elects health insurance coverage under this section
4 ~~shall~~**will** become a member of a health insurance coverage group
5 authorized ~~pursuant to~~**under** section 509.

6 (4) For a former qualified participant who is eligible to
7 elect health insurance coverage under subsection (1) and who is
8 vested in those benefits under section 715(2)(a), and for his or
9 her health benefit dependents, this state shall pay a portion of
10 the health insurance premium as calculated under this subsection on
11 a cash disbursement method. An individual described in this
12 subsection who elects health insurance coverage under this section
13 shall pay to the retirement system the remaining portion of the
14 health insurance coverage premium not paid by this state under this
15 subsection. The portion of the health insurance coverage premium
16 paid by this state under this subsection ~~shall~~**must** be 50% of the
17 payments for health insurance coverage under section 509 if the
18 former qualified participant has 4 years of service; 75% of the
19 payments for health insurance coverage under section 509 if the
20 former qualified participant has 5 years of service; or 90% of the
21 payments for health insurance coverage under section 509 if the
22 former qualified participant has 6 years of service. If the
23 individual elects the health insurance coverage provided under
24 section 509, ~~the~~**this** state shall transfer its portion of the
25 amount calculated under this subsection to the reserve for health
26 benefits created by section 214.

27 (5) For a former qualified participant who is eligible to
28 elect health insurance coverage under subsection (1) and who is
29 vested in those benefits under section 715(2)(b), and for his or

1 her health benefit dependents, this state shall pay a portion of
 2 the health insurance premium as calculated under this subsection on
 3 a cash disbursement method. An individual described in this
 4 subsection who elects health insurance coverage under this section
 5 shall pay to the retirement system the remaining portion of the
 6 health insurance coverage premium not paid by this state under this
 7 subsection. The portion of the health insurance coverage premium
 8 paid by this state under this subsection ~~shall~~**must** be equal to the
 9 premium amounts paid on behalf of retirants of Tier 1 for health
 10 insurance coverage under section 509. If the individual elects the
 11 health insurance coverage provided under section 509, ~~the~~**this**
 12 state shall transfer its portion of the amount calculated under
 13 this subsection to the reserve for health benefits created by
 14 section 214.

15 (6) A former qualified participant or health benefit dependent
 16 who is eligible to elect health insurance coverage under this
 17 section and who elects health insurance coverage under a different
 18 plan than the plan authorized under section 509 may elect to have
 19 an amount up to the amount of the retirement system's share of the
 20 monthly health insurance premium subsidy provided in this section
 21 paid by the retirement system directly to the other health
 22 insurance plan or to a medical savings account established ~~pursuant~~
 23 ~~to~~**under** section 220 of the internal revenue code, **26 USC 220**, to
 24 the extent allowed by law or under the provisions and procedures of
 25 Tier 2.

26 (7) If the department of **technology**, management, and budget
 27 receives notification from the United States ~~internal revenue~~
 28 ~~service~~**Internal Revenue Service** that this section or any portion
 29 of this section will cause the retirement system to be disqualified

1 for tax purposes under the internal revenue code, then the portion
2 that will cause the disqualification does not apply.

3 (8) This section does not apply to an individual who first
4 became a member or qualified participant after March 4, 2023 or to
5 a qualified member who made an election to opt out of health
6 insurance coverage under section 509a. As used in this subsection,
7 "qualified member" means that term as defined in section 509a.