

**STATE POLICE RETIREMENT ACT OF 1986**  
**Act 182 of 1986**

AN ACT to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of technology, management, and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of technology, management, and budget, and certain state officers; and to repeal certain acts and parts of acts.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2015, Act 168, Imd. Eff. Nov. 3, 2015.

*The People of the State of Michigan enact:*

**38.1601 Short title.**

Sec. 1. This act shall be known and may be cited as the "state police retirement act of 1986".

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1602 Meanings of words and phrases.**

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1603 Definitions; B to L.**

Sec. 3. (1) "Banked leave time program" means the part B annual leave hours within the state's annual and sick leave program approved by a ruling of the Internal Revenue Service on September 5, 2003, in which a pay reduction or other concessions are applied to a member in exchange for additional part B annual leave hours.

(2) "Credited service" means the sum of the prior service and membership service credited to a member's account.

(3) "Deferred member" means a member who separates from service with entitlement to a deferred retirement allowance as provided in section 30, but who is not a retirant.

(4) "Department" means the department of technology, management, and budget.

(5) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(6) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(7) "DROP participant" means an officer who participates in the deferred retirement option plan established in section 24a.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means 1 or more of the following:

(a) An individual retirement account described in section 408(a) of the internal revenue code, 26 USC 408.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code, 26 USC 408.

(c) An annuity plan described in section 403(a) of the internal revenue code, 26 USC 403.

(d) A qualified trust described in section 401(a) of the internal revenue code, 26 USC 401.

(e) An annuity contract described in section 403(b) of the internal revenue code, 26 USC 403.

(f) An eligible plan under section 457(b) of the internal revenue code, 26 USC 457, that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into the eligible plan under section 457(b) of the internal revenue code, 26 USC 457, from this retirement system, that accepts the distributee's eligible rollover distribution.

(g) Beginning January 1, 2008, a Roth individual retirement account as described in section 408A of the internal revenue code, 26 USC 408A, subject to the rules that apply to rollovers from a traditional individual retirement account to a Roth individual retirement account.

(9) Beginning January 1, 2007, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code, 26 USC 401.

(d) The portion of any distribution that is not includable in federal gross income, except to the extent the portion of the distribution is paid to either of the following:

(i) An individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, 26 USC 408.

(ii) A qualified plan described in section 401(a) of the internal revenue code, 26 USC 401, or an annuity contract described in section 403(b) of the internal revenue code, 26 USC 403, and the plan providers agree to separately account for the amounts paid, including any portion of the distribution that is includable in federal gross income, and the portion of the distribution that is not so includable.

(10) "Final average compensation" means, except as otherwise provided in this subsection, the average annual salary for the last 2 years of service with the department of state police for which the member was compensated as defined in subsection (13). Except as otherwise provided in this subsection, for a nonclassified member of the department holding the rank of colonel, final average compensation means the same average annual salary as that computed for the highest salaried classified member of the department, or at the average annual salary for the last 2 years of service with the department of state police for which the member was compensated, whichever is greater. Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member on or after June 10, 2012, final average compensation means the average salary for the last 5 years of service for which the member was compensated as defined in subsection (14). Average annual salary includes only the following compensation items:

(a) Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member before June 10, 2012, only the following compensation items:

(i) Regular salary paid for the last 2 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(ii) Overtime, shift differential, and shift differential overtime paid for the last 2 years of service.

(iii) Gross pay adjustments paid affecting the last 2 years of service, including compensatory time and emergency response compensation.

(iv) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(v) Deferred hours under Plan B of the fiscal years ending September 30, 1981, and September 30, 1982, that are paid at the time of retirement separation.

(vi) Longevity pay equal to 2 full years.

(vii) Bomb squad pay paid for the last 2 years of service.

(viii) Post 29 freeway premium paid for the last 2 years of service.

(ix) On-call pay paid for the last 2 years of service.

(x) Beginning October 1, 2003, the value of any unpaid furlough hours or the value of any unpaid hours exchanged for part B annual leave hours, calculated at the member's then-current hourly rate or rates of pay, for a period during which a member is participating in the banked leave time program.

(xi) Beginning May 1, 2009, the value of temporary layoff hours. As used in this subparagraph, "temporary layoff hours" means hours attributable to the layoff of a member if the layoff does not exceed 1 month and has a fixed, predetermined, and announced recall date.

(b) Beginning with the effective date of the amendatory act that added section 42a, for a member who first became a member on or after June 10, 2012, only the following compensation items:

(i) Regular salary paid for the last 5 years of service, including, but not limited to, that salary that is deferred pursuant to a state deferred compensation program.

(ii) Shift differential.

(iii) Gross pay adjustments paid affecting the last 5 years of service, including compensatory time and emergency response compensation.

(iv) Up to a maximum of 240 hours of accumulated annual leave, paid at the time of retirement separation excluding part B annual leave hours paid at the time of retirement separation.

(v) Longevity pay equal to 5 full years.

(vi) Bomb squad pay paid for the last 5 years of service.

(vii) Post 29 freeway premium paid for the last 5 years of service.

(viii) On-call pay paid for the last 5 years of service.

(ix) The value of any unpaid furlough hours or the value of any unpaid hours exchanged for part B annual leave hours, calculated at the member's then-current hourly rate or rates of pay, for a period during which a member is participating in the banked leave time program.

(x) The value of temporary layoff hours. As used in this subparagraph, "temporary layoff hours" means

hours attributable to the layoff of a member if the layoff does not exceed 1 month and has a fixed, predetermined, and announced recall date.

(11) "Furlough hours" means unworked hours incurred in conjunction with the banked leave time program.

(12) "Internal revenue code" means the United States internal revenue code of 1986.

(13) "Last 2 years of service" means the 2-year period immediately preceding the member's last day of service or that period of 2 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted under section 29 or, if the officer participated in the deferred retirement option plan, the 2-year period immediately preceding participation in the deferred retirement option plan.

(14) "Last 5 years of service" means the 5-year period immediately preceding the member's last day of service or that period of 5 consecutive years of service with the department of state police immediately preceding the date the duty disability occurred according to the medical examinations conducted under section 29.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1989, Act 191, Imd. Eff. Aug. 25, 1989;—Am. 1995, Act 192, Imd. Eff. Nov. 7, 1995;—Am. 2000, Act 374, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 50, Eff. Apr. 22, 2004;—Am. 2004, Act 83, Imd. Eff. Apr. 22, 2004;—Am. 2008, Act 366, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 220, Imd. Eff. Dec. 9, 2010;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1604 Definitions; M to S.**

Sec. 4. (1) "Member", except where the context otherwise requires, means an employee of the department of state police who has subscribed to the constitutional oath of office.

(2) "Officer" means a nonexclusively represented member of the retirement system.

(3) "Qualified participant" means an individual who first becomes a member on or after June 10, 2012 and who is also a participant of Tier 2.

(4) "Regular interest" means a rate or rates per annum, compounded annually, as the retirement board determines. For the purposes of employee refunds, the interest rate payable must not exceed 4% per annum, compounded annually.

(5) "Retirant" means a member who separates from service and retires with a retirement allowance payable from the appropriate reserve of the retirement system.

(6) "Retirement allowance" means the annual amount, payable monthly, to which a retirant, retirement allowance beneficiary, or refund beneficiary is entitled under this act.

(7) "Retirement allowance beneficiary" means a person who is being paid or has entitlement to the payment of a retirement allowance in the event of the death of a member, deferred member, or retirant.

(8) "Retirement board" means the retirement board created in section 6.

(9) "Retirement system" means the system of benefits for members and qualified participants of the department of state police and their survivors and beneficiaries provided by this act.

(10) "Surviving spouse" means the spouse at the time of death of the member or retirant.

(11) "Tier 1" means the retirement plan available to a member under this act.

(12) "Tier 2" means the retirement plan established pursuant to section 401(k) of the internal revenue code, 26 USC 401, that is available to qualified participants under sections 62 to 74.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2004, Act 83, Imd. Eff. Apr. 22, 2004;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1605 Michigan state police retirement system; creation.**

Sec. 5. A Michigan state police retirement system is created for the state police officers who have subscribed to the constitutional oath of office.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1606 State police retirement board; creation; appointment, qualifications, and terms of members.**

Sec. 6. (1) Effective January 1, 1987, the state police retirement board is created within the department and shall consist of the following 9 members:

(a) One officer member of the retirement system having the rank of sergeant or below, to be selected from a list of at least 3 names submitted by the exclusive bargaining representative of those officers.

(b) One officer member of the retirement system having the rank of lieutenant or above from a list of at least 3 names which shall be the individuals who receive the greatest number of votes as the result of an election involving those members of the retirement system having the rank of lieutenant and above.

(c) One retirant.

(d) One member of the general public who shall have experience in the insurance, actuarial, or institutional investment field, and who is not an employee of the department of state police or a member or retirant of this system.

(e) The director of the department of state police or his or her authorized representative.

(f) The attorney general or his or her authorized representative.

(g) The state treasurer or his or her authorized representative.

(h) The deputy legislative auditor general or his or her authorized representative.

(i) The state employer or his or her authorized representative.

(2) Members of the retirement board described in subsection (1)(a) to (d) shall be appointed by the governor for terms of 3 years each, except that of the members first appointed, 1 shall serve for a term of 1 year, 2 shall serve for terms of 2 years, and 1 shall serve for a term of 3 years.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1607 State police retirement board; oath of member; conducting business at public meeting; notice; quorum; failure of member to attend 3 consecutive meetings; availability of writings to public; rules.**

Sec. 7. (1) A member of the retirement board, upon appointment, shall take an oath of office, which shall be filed immediately in the office of the secretary of state.

(2) The business which the retirement board may perform shall be conducted at a public meeting of the retirement board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A majority of the retirement board constitutes a quorum for the transaction of business at a meeting of the board. A member of the retirement board who fails to attend 3 consecutive regularly scheduled meetings of the board, without valid excuse, shall be considered as having resigned from retirement board membership, and the retirement board shall declare by resolution the member's office vacated as of the date of adoption of the resolution.

(3) A writing prepared, owned, used, in the possession of, or retained by the retirement board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(4) The retirement board may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, for the implementation and administration of this act.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1608 State police retirement board; per diem compensation; reimbursement of expenses; maximum number of meetings.**

Sec. 8. The per diem compensation of the retirement board and the schedule for reimbursement of expenses incurred in attending meetings of the retirement board and in performing the required services of the members shall be established annually by the legislature. The retirement board shall not have more than 12 meetings in a calendar year.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1609 State treasurer as treasurer of retirement system; investment authority; fiduciary responsibility; limitations on investment of funds; deposit of funds; disposition of income earned by reserves.**

Sec. 9. (1) The state treasurer shall be treasurer of the retirement system and shall have investment authority, including the custodianship of the funds of the retirement system, and shall have fiduciary responsibility with regard to the investment of funds from the reserves of the retirement system. The investment of the funds of the retirement system shall be subject to the limitations provided in Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws.

(2) The state treasurer shall deposit the funds of the retirement system in the same manner and subject to the law governing the deposit of state funds by the treasurer. Income earned by the retirement system's reserves shall be credited to the respective reserves under this act that have earned the income.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1989, Act 191, Imd. Eff. Aug. 25, 1989.

### **38.1610 Warrants.**

Sec. 10. The retirement system shall draw its warrants upon the state treasurer, payable out of the reserves

of the retirement system, for the payment of retirement allowances, the payment of salaries and wages, and other expenses necessary in the administration of the retirement system.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1611 Engagement of actuary; annual valuation; experience investigation and risk assumptions; report.**

Sec. 11. (1) The retirement board, in consultation with the department, shall engage an actuary, in conformance with section 261 of the management and budget act, 1984 PA 431, MCL 18.1261.

(2) The actuary shall prepare an annual valuation of the assets, liabilities, financial condition, and contribution rate of the retirement system, upon information supplied by the department.

(3) 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 must be periodically reviewed at least once every 5 years.

(4) Every April 1 following a periodic review of risk assumptions under subsection (3), 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, the senate and house fiscal agencies, and the department of state police. A report required under this subsection must be published on the office of retirement 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.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1612 State police retirement board; chairperson; executive secretary.**

Sec. 12. The retirement board shall elect from its membership a chairperson who shall take office immediately on election and serve until a successor is elected. The director of the office of retirement service, department of technology, management, and budget, is the executive secretary of the retirement system.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1613 Summary of fiscal transactions.**

Sec. 13. By April 15 of each year, the department shall furnish to the governor, the legislature, each retirant or beneficiary of a deceased retirant, and each member, a summary of the fiscal transactions of the retirement system for the last completed fiscal year. The summary shall contain at least the following information from the actuarial and financial statements:

(a) A statement of assets and liabilities.

(b) A statement of investments by, and amount earned in, each category.

(c) A statement of revenues and expenditures.

(d) A statement of the estimated number of members having vested pension benefits for which the retirement system is liable.

(e) Other information the department or retirement board considers necessary.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1613a Correction of error; benefit payment adjustment.**

Sec. 13a. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall as far as practical correct the error, and may adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance

beneficiary, refund beneficiary, estate, or legal representative was correctly entitled. The retirement system shall not make an adjustment in benefits for an error totaling \$20.00 or less annually.

**History:** Add. 2000, Act 374, Imd. Eff. Jan. 2, 2001.

**38.1614 Funding objective of retirement system; annual level percentage of payroll contribution rate; submission of differences to legislature for appropriation; allocation and deposit of funds; pension and retiree health care payroll growth assumption rate; normal cost contribution rate.**

Sec. 14. (1) The funding objective of the retirement system is to establish and receive contributions during each fiscal year that are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of services rendered by members during the fiscal year, the normal cost requirements of the retirement system, and finance the unfunded actuarial costs of benefits likely to be paid on account of service rendered before the fiscal year, the unfunded actuarial accrued liability of the retirement system, and health, dental, and vision insurance.

(2) Subject to subsections (5) to (7), the annual level percentage of payroll contribution rate must be actuarially determined using experience assumptions and level percent of payroll actuarial cost methods adopted by the retirement board and the department pursuant to an annual actuarial valuation, which must be sufficient to finance benefits being provided and to be provided by the retirement system.

(3) Subject to subsections (5) to (7), for differences occurring in fiscal years beginning on or after October 1, 2001, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (2), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference must be submitted in the executive budget to the legislature for appropriation 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.

(4) For each fiscal year that begins on or after October 1, 2003, if the actuarial valuation prepared under this section for each fiscal year 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 section 42.

(5) Beginning with the state fiscal year ending September 30, 2022 until the pension and retiree health care payroll growth assumption rate is zero, the payroll growth assumption rate must be reduced by 50 basis points. Beginning with the state fiscal year ending September 30, 2022, the office of retirement services within the department of technology, management, and budget and the retirement board may agree to reduce the rate described in this subsection by any number of additional basis points.

(6) Beginning with the state fiscal year ending September 30, 2019 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 fiscal year. Additionally, the employer portion of the contribution rate must not be less than the employer portion of the contribution rate in the immediately preceding fiscal year.

(7) Subject to this subsection, beginning with the state fiscal year ending September 30, 2019 and for each subsequent fiscal year until the unfunded actuarial accrued liability is paid off, the unfunded actuarial accrued liability contribution sum and due payable must not be less than the unfunded actuarial accrued liability contribution sum and due payable in the immediately preceding fiscal year. The unfunded actuarial accrued liability must be paid off no later than September 30, 2038. Additionally, the employer portion of the unfunded actuarial accrued liability contribution sum and due payable must not be less than the employer portion of the unfunded actuarial accrued liability contribution sum and due payable in the immediately preceding fiscal year.

(8) 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.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1989, Act 191, Imd. Eff. Aug. 25, 1989;—Am. 2000, Act 374, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 50, Eff. Apr. 22, 2004;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1614a Intent; retirement system as qualified pension plan and trust as exempt organization; administration; employer-financed benefit limitation; use and investment of assets; return of post-tax member contributions; beginning date of distributions; termination of retirement system; election to rollover to retirement plan; qualified military service.**

Sec. 14a. (1) This section is enacted under section 401(a) of the internal revenue code, 26 USC 401, that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

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

(3) The assets of the retirement system must be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and must not be used for any other purpose. The assets must not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and beneficiaries before satisfaction of all retirement system liabilities.

(4) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to Internal Revenue Service regulations and approved Internal Revenue Service exclusion ratio tables.

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

(6) If the retirement system is terminated, the interest of the members, deferred members, retirants, and beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code, 26 USC 411, and related internal revenue service regulations applicable to governmental plans.

(7) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993. Beginning October 1, 2010, a nonspouse beneficiary may elect to have any portion of an amount payable under this act that is an eligible rollover distribution treated as a direct rollover that will be paid in a direct trustee-to-trustee transfer to an individual retirement account or individual retirement annuity described in section 408(a) or (b) of the internal revenue code, 26 USC 408, that is established for the purpose of receiving a distribution on behalf of the beneficiary and that will be treated as an inherited individual retirement account or individual retirement annuity pursuant to section 402(c)(11) of the internal revenue code, 26 USC 402.

(8) Notwithstanding any other provision of this act, the compensation of a member of the retirement system must be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, 26 USC 401, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a

member of the retirement system on or after October 1, 1996.

(9) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code, 26 USC 414. This subsection applies to all qualified military service on or after December 12, 1994. Effective January 1, 2007, in accordance with section 401(a)(37) of the internal revenue code, 26 USC 401, if a member dies while performing qualified military service for purposes of determining any death benefits payable under this act, the member is treated as having resumed and then terminated employment on account of death.

**History:** Add. 1995, Act 192, Imd. Eff. Nov. 7, 1995;—Am. 2004, Act 50, Eff. Apr. 22, 2004;—Am. 2008, Act 366, Imd. Eff. Dec. 23, 2008;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1615 Reserve for employee contributions; subaccounts; transfer of accumulated member contributions.**

Sec. 15. (1) The reserve for employee contributions is the account in which member contributions are accumulated and from which must be made refunds and transfers of accumulated member contributions. The retirement system shall maintain 1 or more separate subaccounts for each person having an interest in this account. Member contributions must be accumulated at regular interest to the subaccounts of the members.

(2) Accumulated member contributions must be transferred from the reserve for employee contributions to the reserve for retired benefit payments on the retirement or death of a member or deferred member.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1615a Mandatory contributions into the reserve for employee contributions.**

Sec. 15a. (1) Beginning with his or her first pay date and ending on the member's termination of employment, each member first employed on or after June 10, 2012 shall contribute an amount equal to 4% of his or her compensation to the reserve for employee contributions to provide for the amount of retirement allowance that is calculated only on the credited service and compensation received by that member.

(2) Beginning on October 1, 2012, and ending on the member's termination of employment, each member hired before June 10, 2012 who, on October 1, 2012, was a bargaining unit employee covered by the state police defined benefit retirement plan shall contribute an amount equal to 1% of his or her compensation to the reserve for employee contributions. Beginning on October 1, 2013, members described in this subsection shall contribute an additional amount equal to 1% of his or her compensation to the reserve for employee contributions.

(3) The retirement system and state budget director shall determine a method of deducting the contributions provided for in this section from the compensation of each member for each payroll and each payroll period.

(4) The state shall pick up the member contributions required under subsections (1) and (2). Contributions picked up must be treated as employer contributions in determining tax treatment under the internal revenue code. The state shall pay these member contributions from the same source of funds that is used in paying compensation to the member.

(5) A member is entitled to the benefit of all contributions made under this section in the same manner as provided under section 15.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1616 Reserve for employer contributions; transfer of accumulated employer contributions.**

Sec. 16. (1) The reserve for employer contributions is the account to which contributions by the state shall be credited.

(2) Accumulated employer contributions shall be transferred from the reserve for employer contributions to the reserve for retired benefit payments upon the retirement or death of a member or deferred member.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1617 Reserve for retired benefit payments; transfer between reserve for employer contributions and reserve for retired benefit payments.**

Sec. 17. (1) The reserve for retired benefit payments is the account from which shall be paid all retirement allowances and residual refunds of accumulated contributions.

(2) At the end of each year in which a biennial actuarial valuation is prepared, the balance in the reserve for retired benefit payments shall be brought into balance with the actuarial present value of retirement allowances in payment status by a transfer between the reserve for employer contributions and the reserve for

retired benefit payments. The pending transfer shall be taken into account by the actuary when making the next biennial actuarial valuation.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1618 Reserve for casualty experience; initial casualty valuation as determining full funding reserve requirements; allocation from assets; retiree casualty payments; "casualty" defined.**

Sec. 18. (1) The reserve for casualty experience is the account in which shall be accumulated contributions by the state pursuant to actual and expected experience as determined by the actuarial valuations. The initial casualty valuation shall determine the full funding reserve requirements which shall be allocated from assets of the reserve. All retiree casualty payments shall be made from this account.

(2) For purposes of this section, the term "casualty" shall mean injury to or death of a member or vested former member.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1619 Reserve for undistributed investment income; amounts to be transferred; providing contingency reserves or meeting requirements of other reserve accounts; insufficient balance.**

Sec. 19. The reserve for undistributed investment income is the account to which is credited all interest, dividends, and other income from the investment of retirement system assets; all gifts, bequests, and rewards offered or due to the members of the department received by the retirement system; all unclaimed accumulated contributions and retirement allowances; and all other money received by the retirement system, the disposition of which is not specifically provided. There shall be transferred from the reserve for undistributed investment income all amounts required to credit interest to the reserve for employee contributions, reserve for employer contributions, and the reserve for retired benefit payments; and to fund the reserve for administrative expenses. Whenever the department determines the balance in the reserve for undistributed investment income is more than sufficient to cover current charges to the reserve, all or any part of the excess may be used to provide contingency reserves or to meet special requirements of the other reserve accounts of the retirement system. Whenever the balance in the reserve for undistributed investment income is insufficient to meet the current charges to the account, the amount of the insufficiency shall be transferred from the reserve for employer contributions.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1620 Administrative expenses; appropriation.**

Sec. 20. The expenses for the administration of the retirement system shall be paid from the reserve for administrative expenses account. There shall be appropriated annually from the reserve for undistributed investment income an amount sufficient to cover the necessary expenses of administering this act.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1621 Allocation of undistributed investment income; charging amounts allocated; allocation rates.**

Sec. 21. The department shall at least annually allocate all or a portion of undistributed investment income to the individual balances in the reserve for employee contributions, the reserve for employer contributions, and the reserve for retired benefit payments and on the aggregate balance in the reserve for excess casualty experience. The amounts allocated shall be charged to the reserve for undistributed investment income. The allocation rates shall be determined by the department. Allocation rates may vary by reserve account but shall be uniformly applied to each subaccount within a reserve account.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1622 Payment date of retirement allowance; payment upon cessation of retirement allowance.**

Sec. 22. Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance shall be payable for the month in which a retirement allowance ceases.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1623 Employees of department of state police as members of retirement system; Tier 1 or**

**Tier 2 plan; resignation, death, transfer, or dismissal of member; lump sum; transfer of unclaimed contributions.**

Sec. 23. (1) Except as otherwise provided under 1935 PA 59, MCL 28.1 to 28.16, an employee of the department of state police who has subscribed to the constitutional oath of office is a member of this retirement system.

(2) A member of this retirement system who first becomes a member on or after June 12, 2012 is a member of the Tier 1 plan and also participates in the Tier 2 plan until the member terminates employment or retires and receives a retirement allowance calculated under section 24.

(3) A member who resigns, dies, is transferred to a position not covered by the retirement system, or is dismissed for a reason other than his or her retirement or breach of the public trust, on application is entitled to receive in a lump sum, payable to him or her or his or her legal representative if the member dies or is legally disabled, 100% of the contributions made into the reserve for employee contributions. Any unclaimed contributions must be transferred from the reserve for employee contributions to the reserve for retired benefit payments.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1624 Eligibility for retirement; application for retirement; mandatory retirement; amount of retirement allowance; death of retirant; appeal to retirement board; retirement allowance payment options; retirement allowance beneficiary; exception; written request.**

Sec. 24. (1) Except as provided in section 24b and subject to subsection (14), a member who first became a member before June 10, 2012 and who has 25 years or more of credited service under this act or former 1935 PA 251, or both, may retire on his or her written application to the retirement board, stating a date, not less than 30 nor more than 90 days after the execution and filing of the application, he or she desires to retire. However, a member described in this subsection who becomes 56 years of age shall retire. A member retiring under this subsection is entitled to receive a retirement allowance equal to 60% of his or her final average compensation.

(2) Subject to subsection (4), if a retirant receiving a retirement allowance under subsection (1) dies, the retirement allowance must continue to be paid to the surviving spouse of the retirant for the rest of the spouse's life. If there is not a surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the retirant, share and share alike. If the surviving spouse dies and there are not eligible children, the retirement system shall pay to the retirant's estate or his or her legal representative any residual accumulated contributions and interest made by the retirant into the fund.

(3) If the director of the department of state police orders the retirement of any member eligible to retire for reason or reasons other than having become 56 years of age, and that member is aggrieved by the order, the member affected by an order described in this subsection is entitled to appeal to the retirement board. An appeal must be in writing and filed with the retirement board within 30 days after receipt of the order of retirement. The retirement board shall set the appeal for hearing within 30 days after the filing of the appeal and shall review the facts as presented and determine whether the order of retirement will continue or be revoked.

(4) A member who first becomes a member on or after July 1, 2006 as a new bargaining unit employee shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election must be in writing and filed with the retirement board at least 15 days before the effective date of the retirement allowance except as provided for a disability retirant under sections 26, 27, and 28. The amount of retirement allowance under subdivision (b), (c), or (d) is the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

(a) The retirant will be paid a straight retirement allowance for life computed under section 24. An additional retirement allowance payment will not be made on the retirant's death.

(b) The retirant will be paid a reduced retirement allowance for life with a provision that on the retirant's death, payment of the reduced retirement allowance will be continued throughout the lifetime of the retirement allowance beneficiary whom the member or deferred member designated in a writing filed with the retirement board at the time of election of this option. A member or deferred member may elect this option and designate a retirement allowance beneficiary under the conditions set forth in subsection (5).

(c) A retirant must be paid a reduced retirement allowance for life with the provision that on the retirant's death, payment of 1/2 of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(d) A retirant must be paid a reduced retirement allowance for life with the provision that on the retirant's

death, payment of 75% of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(5) Except as otherwise provided in this section, the retirement allowance beneficiary selected under subsection (4)(b), (c), or (d) must not be changed on or after the effective date of the retirement allowance and must be either a spouse, brother, sister, parent, or child, including an adopted child, of the member, deferred member, retiring member, or retiring deferred member entitled to make the election under this act. Another retirement allowance beneficiary must not be selected. If a member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date, an election under subsection (4), other than an election under subsection (4)(b), naming the spouse as retirement allowance beneficiary, is not effective unless the election is signed by the spouse, except that this requirement may be waived by the board if the signature of a spouse cannot be obtained because of extenuating circumstances. For purposes of this subsection, "spouse" means the individual to whom the member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date. Payment to a retirement allowance beneficiary must start the first day of the month following the retirant's death.

(6) Except as otherwise provided in subsection (9), if the retirement allowance beneficiary selected under subsection (4)(b), (c), or (d) predeceases the retirant, the retirant's benefit must revert to a straight retirement allowance including postretirement adjustments, if any; is effective the first of the month following the death; and must be paid during the remainder of the retirant's life.

(7) If a retirant receiving a reduced retirement allowance under subsection (4)(b), (c), or (d) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under subsection (4)(b), (c), or (d), the election of a reduced retirement allowance payment option is considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689, and dated after June 27, 1991 provides that the election of a reduced retirement allowance payment option under subsection (4)(b), (c), or (d) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance payment option under subsection (4)(b), (c), or (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance must revert to a straight retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689. The retirement allowance must revert to a straight retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(8) A retirant, who is divorced after payment of his or her retirement allowance begins and whose former spouse is his or her retirement allowance beneficiary, may change his or her survivor option to the straight life option only if an order of the court states that the election of a survivor option under subsection (4) is considered void by the retirement system. A retirant who subsequently remarries may elect a survivor retirement allowance option for his or her spouse of 100%, 75%, or 50% of his or her actuarially reduced monthly payments, unless otherwise precluded by court order.

(9) If the retirement allowance payments terminate before an aggregate amount equal to the retirant's accumulated contributions has been paid, the difference between the retirant's accumulated contributions and the aggregate amount of retirement allowance payments made must be paid to the person designated in a writing filed with the retirement board on a form provided by the retirement board. If the designated person does not survive the retirant or retirement allowance beneficiary, the difference must be paid to the deceased recipient's estate or to the legal representative of the deceased recipient.

(10) A retirant who selected a retirement allowance beneficiary under subsection (4)(b), (c), or (d) may change his or her retirement allowance beneficiary if all of the following apply:

(a) The first retirement allowance beneficiary is a spouse.

(b) The first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date.

(c) The retirant marries another spouse after the retirement allowance effective date.

(d) Except as otherwise provided in an applicable collective bargaining agreement, the retirant files a written request with the retirement system to name his or her current spouse as a retirement allowance

beneficiary not earlier than 180 days and not later than 1 year after the marriage of the retirant and the current spouse, except that a retirant whose first retirement allowance beneficiary predeceases the retirant after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection has 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(11) A retirant who was not married on his or her retirement allowance effective date and who did not select a payment option provided in this section may select an optional form of benefit payment under subsection (4)(b), (c), or (d) and designate a retirement allowance beneficiary subject to all of the following:

(a) The retirant marries after his or her retirement allowance effective date.

(b) The retirement allowance beneficiary is the retirant's spouse.

(c) The retirement allowance beneficiary is only designated as the retirement allowance beneficiary for that portion of the retirant's retirement allowance that is not subject to an eligible domestic relations order assigning a previous spouse a reduced benefit under section 4(b) of the eligible domestic relations order act, 1991 PA 46, MCL 38.1704.

(d) Except as otherwise provided in an applicable collective bargaining agreement, the retirant files a written request with the retirement system to select the optional form of benefit payment under subsection (4)(b), (c), or (d) and to designate his or her spouse as the retirement allowance beneficiary, not earlier than 180 days and not later than 1 year after the retirant's marriage except that a retirant who marries after the retirement allowance effective date and before the effective date of the amendatory act that added this subsection has 180 days from the effective date of the amendatory act that added this subsection to file a written request with the retirement system.

(e) A spouse who is added as a survivor under this subsection is not eligible for the payment of insurance premiums under section 42.

(12) The retirement allowance of the retirant who makes an election under subsection (10) or (11) must not be greater than the actuarial equivalent of the retirement allowance as determined by the retirement board that the retirant would otherwise be entitled to under subsection (4)(a) and must become effective the first day of the month following the filing of the written request with the retirement system.

(13) For purposes of determining actuarial equivalent retirement allowances under this section, the actuarially assumed interest rate is determined by the director of the department and the retirement board in consultation with the actuary with utilization of the mortality tables adopted by the department and the retirement board.

(14) If the retirant dies no later than 12 months after the effective date of his or her election under subsection (8), (10), or (11), the retirement allowance for the surviving spouse established under subsection (8), (10), or (11) must terminate 12 months after the death of the retirant.

(15) Unless otherwise provided in an applicable collective bargaining agreement, or by order of the director of the department of state police, a retirement allowance must not be paid under this section if at the time the member submits his retirement application the member is on suspension without pay for conduct involving the breach of the public trust.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1624a Deferred retirement option plan.**

Sec. 24a. (1) A deferred retirement option plan is established within the defined benefit plan that is part of the retirement system, and it is to be administered by the office of retirement services. Exclusively represented members of the retirement system may only participate in the deferred retirement option plan pursuant to notice from their collective bargaining agent that the agent agrees to the terms of the deferred retirement option plan. For each fiscal year that begins on or after October 1, 2004, the director of state police and the retirement board may elect to discontinue accepting applications for the deferred retirement option plan.

(2) An officer who has 25 years or more of credited service under this act or former act 1935 PA 251, or both, may elect to participate in the deferred retirement option plan by executing the application provided by the office of retirement services. Once the application is accepted by the office of retirement services, the officer's participation in the deferred retirement option plan is irrevocable and he or she becomes a DROP participant. The officer is solely responsible for any federal, state, or local tax due as a result of his or her participation in the deferred retirement option plan.

(3) Participation in the deferred retirement option plan does not guarantee continued employment. Except as otherwise provided in this section, an officer who elects to participate in the deferred retirement option plan will remain an active employee eligible to receive any applicable wage changes and benefits, will be subject to civil service rules and regulations, and will be subject to the policies and procedures of the department of

state police and subject to removal by the governor, if applicable, in the same manner as if he or she had not elected to participate in the deferred retirement option plan.

(4) An officer shall indicate on the application for the deferred retirement option plan the number of years that the officer wants to participate in the deferred retirement option plan, up to a maximum of 6 years. As a condition for participation, the officer agrees to retire at the conclusion of his or her participation in the deferred retirement option plan.

(5) A deferred retirement option plan account shall be created in the accounting records of the retirement system for each DROP participant. Each deferred retirement option plan account shall earn interest at the rate of 3% per annum, prorated for any fraction of a year. The deferred retirement option plan account of a DROP participant shall be credited with the following percentage of his or her monthly retirement allowance as calculated pursuant to section 24 as if he or she had retired on the day prior to becoming a DROP participant:

- (a) 100% if the officer remains in the deferred retirement option plan for 6 years.
- (b) 90% if the officer remains in the deferred retirement option plan for 5 years but less than 6 years.
- (c) 80% if the officer remains in the deferred retirement option plan for 4 years but less than 5 years.
- (d) 70% if the officer remains in the deferred retirement option plan for 3 years but less than 4 years.
- (e) 60% if the officer remains in the deferred retirement option plan for 2 years but less than 3 years.
- (f) 50% if the officer remains in the deferred retirement option plan for 1 year but less than 2 years.
- (g) 30% if the officer remains in the deferred retirement option plan for less than 1 year.

(6) A DROP participant shall not receive a monthly retirement allowance, as calculated pursuant to section 24, until termination of his or her deferred retirement option plan participation and commencement of retirement. A DROP participant shall not have any claim to any funds in his or her deferred retirement option plan account until he or she retires at the termination of his or her deferred retirement option plan participation.

(7) Upon termination of the deferred retirement option plan participation and commencement of retirement, the former DROP participant shall select 1 or more of the following options with regard to his or her deferred retirement option plan account:

- (a) A total lump-sum distribution.
- (b) A partial lump-sum distribution.
- (c) A lump-sum direct rollover to another qualified plan if allowed by federal law and subject to the procedures of the retirement system.
- (d) Maintain the funds in the account.

A former DROP participant shall remove all funds from his or her deferred retirement option plan account no later than April 1 following the later of the calendar year in which the DROP participant attains 70 years, 6 months of age or the calendar year in which the DROP participant is retired.

(8) If a DROP participant or former DROP participant dies before removing all funds from his or her deferred retirement option plan account, the former DROP participant's designated beneficiary shall receive any remaining balances. If the former DROP participant has not named a beneficiary for his or her deferred retirement option plan account, the amount in the deferred retirement option plan account shall be paid to the beneficiary of the former DROP participant's retirement allowance. If the former DROP participant has not named a beneficiary to his or her retirement allowance, the balance in the former DROP participant's account shall be paid to the former DROP participant's estate.

(9) If a DROP participant is found to be disabled under section 29, his or her participation in the deferred retirement option plan shall immediately cease and he or she shall be retired.

(10) The deferred retirement option plan shall be administered in compliance with section 415 of the internal revenue code, 26 USC 415, and regulations under that section that are applicable to a governmental deferred retirement option plan. If there is a conflict between this subsection and another subsection of this section, this subsection prevails.

(11) A deferred retirement option plan shall not be implemented until the civil service commission adopts rules to regulate all of the following:

- (a) A DROP participant's payment for sick leave, annual leave, longevity, and related items.
- (b) A DROP participant's accrual of sick leave, annual leave, compensatory time, and related items.
- (c) A DROP participant's payment of group insurance plan premiums.

(12) If the department receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, 26 USC 1 to 1789, then the portion that will cause the disqualification does not apply.

**History:** Add. 2004, Act 83, Imd. Eff. Apr. 22, 2004.

### **38.1624b Members on or after June 10, 2012; minimum eligibility for retirement; application**

**for retirement; amount of retirement allowance.**

Sec. 24b. (1) A member who first became a member on or after June 10, 2012, who is at least 55 years of age and has at least 25 years of credited service under this act, or who is at least 60 years of age and has at least 10 years of credited service under this act, may retire on his or her written application to the retirement board, stating a date, not less than 30 days and not more than 90 days after the execution and filing of the application, he or she desires to retire.

(2) The calculation of a retirement allowance under this act for a member who first becomes a member on or after June 10, 2012 includes only the following, as applicable:

(a) 2% of final average compensation multiplied by years of service that do not exceed 25 years.

(b) For each year of service that exceeds 25 years, the 2% provided under this section must be reduced by 40 basis points for that applicable year until the percentage reaches 0% after years of service have exceeded 30 years.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1625 Payment of retirement allowance to surviving spouse, children, mother, father, sisters, or brothers; payment to deceased member's estate; applicability of supplements to retirement allowances and minimum annual retirement allowance provisions; maximum retirement allowance; eligibility for health insurance coverage.**

Sec. 25. (1) Except as provided in section 24(4) and subject to subsection (4), the retirement system shall pay a retirement allowance to the surviving spouse of a member who, while in the discharge of his or her duty, is killed or receives injuries or contracts a disease or illness, by reason of his or her occupation, that results in his or her death. The retirement allowance must be equal to 60% of the member's final average compensation. On the death of the surviving spouse, or if there is no surviving spouse at the time of the death of the member, the retirement allowance must be paid to the children of the member under the age of 18 years, share and share alike. When each respective child attains the age of 18 years, payment to him or her must cease and his or her share must be prorated among the remaining children under 18 years of age. If there is a retirement allowance payable to a surviving spouse under this section, a retirement allowance of \$100.00 per month must be paid to each of the children under the age of 18 years, if any, of the deceased member, and all payments to the children must continue until each respective child reaches the age of 18 years. If there is not a surviving spouse, nor children under the age of 18 years, a retirement allowance equal to 60% of the member's final average compensation must be paid to the mother or father, or both, of the member, if dependent on him or her for support, until the dependency ceases. If there is not a dependent mother or father, a retirement allowance of \$100.00 per month must be paid to each of the sisters or brothers, if there are any under 18 years of age dependent upon the member for support. If there are not any dependents, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions, or \$1,500.00, whichever is greater.

(2) The supplements to retirement allowances and minimum annual retirement allowance provisions of this act do not apply to the special \$100.00 per month allowance to children and the allowance to dependent parents and siblings.

(3) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, must not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police before his or her death.

(4) For a member who first becomes a member on or after June 10, 2012, who while in the discharge of his or her duty is killed or receives injuries or contracts a disease or illness, by reason of his or her occupation, that results in his or her death, a retirement allowance must be paid in the same manner as provided for a duty disabled retirant under section 26. The retirement allowance payable under this section to a duly designated survivor beneficiary of a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of the employer-funded portion of the member's defined contribution account balance.

(5) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2000, Act 374, Imd. Eff. Jan. 2, 2001;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1626 Retirement due to duty incurred disability; amount of retirement allowance; payment to surviving spouse or children; payment to deceased member's estate; maximum**

**retirement allowance; eligibility for health insurance coverage.**

Sec. 26. (1) Except as provided in section 24(4) and subject to subsection (5), a member who retires due to duty incurred disability after September 30, 1986, is entitled to receive a retirement allowance equal to 60% of the member's final average compensation.

(2) If a retirant receiving a retirement allowance under this section dies, the retirement system shall continue to pay the retirement allowance to the surviving spouse of the deceased retirant for the rest of the spouse's life.

(3) For purposes of this section, if there is no surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(4) The retirement allowance payable under this section, when added to the statutory worker's compensation benefits applicable in the case, must not exceed the average annual salary paid to the member for the member's last 2 years of service with the department of state police before the duty disability retirement allowance effective date.

(5) The retirement allowance payable under this section to a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of the employer-funded portion of the member's defined contribution account balance.

(6) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2000, Act 374, Imd. Eff. Jan. 2, 2001;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1627 Nonduty related death prior to effective date of retirement; payment to surviving spouse or children; payment to deceased member's estate; prohibited payment; commencement of retirement allowance; eligibility for health insurance coverage.**

Sec. 27. (1) Except as provided in section 24(4) and subject to subsection (3), if a member continues as a member of the retirement system on or after the date he or she acquires 10 years of service credit and suffers a nonduty related death leaving a surviving spouse before the effective date of the member's retirement, while a member of the retirement system, the surviving spouse is entitled to receive a retirement allowance equal to 2.4% of the member's final average compensation times the number of years, including any fraction of a year, of service credited to the member under this act or former 1935 PA 251, or both, but not to exceed 25 years, as if the member had retired effective the day preceding the date of death and nominated the spouse as beneficiary. If there is not a surviving spouse, or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 years of the member, share and share alike. On the spouse's death, if there are not eligible children, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions. A retirement allowance is not payable under this section if a retirement allowance is payable under any other section of this act.

(2) Payment of the retirement allowance must begin the first day of the calendar month next following the month in which the member died.

(3) The retirement allowance payable under this section to a member who first becomes a member on or after June 10, 2012 must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth of any employer contributions made under section 15a and forfeits the contributions and earnings on the contributions.

(4) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1628 Retirement due to nonduty incurred disability; amount of retirement allowance; payment to surviving spouse or children; payment to deceased member's estate; eligibility for health insurance coverage.**

Sec. 28. (1) Except as provided in section 24(4) and subject to subsection (3), a member who retires due to nonduty incurred disability on or after the effective date of this act and after completing 10 years of credited service under this act or former 1935 PA 251, or both, is entitled to receive a retirement allowance equal to 2.4% of the member's final average compensation times the number of years, including any fraction of a year, of service credited to the member pursuant to this act or former 1935 PA 251, or both, but not to exceed 25 years, during the period of disability. Except as provided in section 24(4), if a retirant receiving a retirement allowance under this section dies, the retirement allowance must continue to be paid to the surviving spouse for the rest of the spouse's life in an amount equal to the retirement allowance that the member was receiving on the date of his or her death.

(2) For purposes of this section, if there is no surviving spouse or on the spouse's death, the retirement allowance must be paid to the children under the age of 18 of the member, share and share alike. If there are no eligible children remaining after the spouse's death, there must be paid to the deceased member's estate any residual accumulated contributions and interest made by him or her into the reserve for employee contributions.

(3) The retirement allowance payable under this section must be offset by the actuarially determined value of the employer-funded portion plus the associated investment growth and employer contributions made under section 15a and earnings on the contributions.

(4) A member, former member, or beneficiary of a deceased member, which member first becomes a member on or after June 10, 2012 and who is eligible for a retirement allowance under this section, is eligible for health insurance coverage under section 42 in all respects and under the same terms as would be a member who first becomes a member before June 10, 2012. A member who is eligible for health insurance coverage under section 42 as described in this subsection is not vested in any employer contributions under section 42a(1).

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1629 Retirement allowance on grounds of disability; medical examination; certification of findings; failure to return to active duty; forfeiture of rights.**

Sec. 29. (1) A physician designated by the director of public health and 2 other reputable physicians, 1 to be appointed by the department, and 1 by the applicant, shall examine each applicant for a retirement allowance on the grounds of disability, shall determine the extent of the disability, and shall certify the results of their findings to the director of the department of state police and the retirement board, which findings shall be binding upon the director and the retirement board.

(2) The retirement board may require a person receiving a retirement allowance due to disability to submit to a medical examination periodically. If upon examination it is determined that the person is no longer disabled, the director of the department of state police may order the person to return to active duty. A person who fails to return to active duty following an order to do so by the director of the department of state police forfeits all rights to a retirement allowance under this act unless the person is otherwise eligible to retire.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

**38.1630 Deferred retirement allowance in lieu of refund of contributions; amount; commencement and duration of payments; forfeiture; payment to surviving spouse or dependent children; effect of reemployment; combining prior and subsequent service; recomputation of retirement allowance; service credit for member not meeting vision screening standards.**

Sec. 30. (1) A member who resigns, dies, is transferred to a position not covered by the retirement system, or is dismissed for a reason other than his or her retirement or breach of the public trust, and who meets the requirements of subsection (3) or who has been a member under this act or former Act No. 251 of the Public Acts of 1935, or both, for 10 or more years, is entitled to a deferred retirement allowance in lieu of a payment of a refund of his or her contributions as provided in section 23. The retirement allowance of a deferred member who retires under this section on or after October 1, 1986 shall equal 2% of the deferred member's final average compensation times the number of years, including any fraction of a year, of service credited to the deferred member pursuant to this act or former Act No. 251 of the Public Acts of 1935, or both, but not to exceed 25 years. The payment shall not begin before the date the deferred member becomes 50 years of age,

and shall continue during the life of a surviving spouse. The entitlement to a deferred retirement allowance under this section is forfeited if a deferred member is paid a refund of his or her contributions. If a deferred member dies before becoming 50 years of age, the deferred retirement allowance shall be paid to his or her surviving spouse or dependent children on the first day of the month following the date the retirant would have attained 50 years of age.

(2) If a member has qualified for a deferred retirement allowance under subsection (1) and has not forfeited his or her retirement allowance and subsequently is reemployed and becomes an employee of the department of state police by subscribing to the constitutional oath of office, he or she shall again become a member of this retirement system. If the member again serves for at least 5 years, his or her prior service shall be combined with his or her subsequent service and the member's retirement allowance shall be recomputed with credit for his or her total number of years served in accordance with section 24.

(3) A member who has been a member under this act or former Act No. 251 of the Public Acts of 1935, or both, for less than 10 years, shall receive the service credit needed to equal 10 years if the member does not meet the vision screening standards as required for continued employment developed by the department of state police. However, a member shall not receive the grant of service credit under this subsection if 1 or more of the following circumstances exist:

(a) The department of state police has made reasonable accommodation for the continued employment of the member.

(b) The member's failure to meet the vision screening standards is directly related to and arose out of a nonduty illness, injury, or occurrence.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1989, Act 191, Imd. Eff. Aug. 25, 1989.

### **38.1631 Remarriage of surviving spouse.**

Sec. 31. The remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive the retirement allowance benefits provided for in this act, regardless of the date of the remarriage.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1632 Purchase of service credit for active duty with armed forces.**

Sec. 32. (1) A member of the retirement system who has accumulated 10 or more years of retirement system service credit under this act or former 1935 PA 251, or both, and who, while an employee of the department of state police, was or is drafted, enlisted, inducted, or commissioned into active duty with the military, naval, marine, or other armed service of the United States government and who is accepted for reemployment as an employee of the department of state police who subscribes to the constitutional oath of office within 6 months following discharge from active service, or if hospitalized at date of discharge, is accepted for reemployment as an employee of the department who subscribes to the constitutional oath of office within 6 months following release from the military facility, has not more than 2 years of the active service credited as a member of the retirement system, in the same manner as if the member had served uninterruptedly. During the period of active service, and until reemployment, the member's contributions to the reserve for employee contributions must be suspended and the member's balance in his or her account standing to the member's credit as of the last payroll date preceding the member's leave of absence must be accumulated at regular interest. If the member withdraws all or part of the accumulated contributions from his or her account, the active service must not be credited until the member returns to the reserve for employee contributions those amounts withdrawn, together with regular interest computed from the date of withdrawal to the date of repayment.

(2) A member of this retirement system who does not meet the requirements of subsection (1) and who was drafted, enlisted, inducted, or commissioned into active duty with the military or other armed service of the United States government may elect to receive service credit for not more than 2 years of active duty upon request and payment to the retirement system of an amount equal to 5% of the member's full-time compensation for the fiscal year in which the payment is made multiplied by the years and months the member elects to purchase up to the maximum. For the purposes of computing payment under this subsection, the compensation amount used must not be less than the highest fiscal year compensation previously received by the member. Service must not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, but this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. Armed service must not be credited under this subsection until the member has accumulated 10 years of credited service, of which the last 5 are continuous.

(3) Service credit may be purchased under this section instead of, but not in addition to, purchasing service credit under section 33.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1633 Purchase of service credit for service in VISTA or Peace Corps; eligibility exception.**

Sec. 33. (1) Except as otherwise provided in this section, a member may elect to purchase service credit for not more than 2 years of full-time service as a volunteer in the VISTA program provided for under sections 101 to 108 of title I of Public Law 93-113, 42 USC 4951 to 4958, or as a volunteer, volunteer leader, or employee in the Peace Corps under sections 5 to 7 of title I of Public Law 87-293, 22 USC 2504 to 2506, on request and presentation of documentation of the employment rendered that is verifiable from official reporting unit records or other acceptable documentation as determined by the retirement board, and on payment to the retirement system of an amount that is equal to the actuarial cost of the service. For the purpose of computing payment under this subsection, the compensation amount used must not be less than the highest fiscal year compensation previously received by the member.

(2) Service must not be credited under this section until the member has accumulated 10 years of credited service.

(3) Service credit purchased under this section is not creditable toward retirement under this act if the member is or will be receiving a pension or annuity for the same service from another retirement system.

(4) A member may purchase credit under this section instead of, but not in addition to, purchasing service credit under section 32.

(5) A member who first became a member on or after June 10, 2012 is not eligible to purchase service under this section.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1634 Leaving service or reducing hours of employment for purposes of maternity or paternity or child rearing; purchase of service credit; eligibility exception.**

Sec. 34. (1) Except as otherwise provided in this section, a member who left or leaves service as an employee of the department of state police for purposes of maternity or paternity or child rearing, and returns to service as an employee of the department of state police, without other intervening employment of more than 20 hours per week for each week for which service credit is claimed, may purchase service credit for the time period or periods during which the individual was separated from service as an employee of the department of state police on request and payment to the board of an amount determined by the board to be the actuarial cost. The total service credited under this section must not exceed 2 years. A member requesting purchase of service credit under this section shall certify to the board the purpose for which the member took leave and was separated from service as an employee of the department of state police.

(2) Service credit purchased under this section may not be used to satisfy the minimum of 10 years of service credit required to receive a retirement allowance under this act.

(3) If a member who made payment under this section dies and a retirement allowance beneficiary has not been designated, or if the member leaves employment before his or her retirement becomes effective, the payment made by the member must be refunded on request to the member or to the member's legal representative.

(4) Except as otherwise provided in this section, a member who reduces hours of employment with the department of state police for purposes of maternity, paternity, or child rearing may purchase service credit for those hours by which employment was reduced if all other requirements of this section are met.

(5) A member who first became a member on or after June 10, 2012 is not eligible to purchase service under this section.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1635 Partial purchase of service credit.**

Sec. 35. A member who is otherwise entitled to purchase service credit for active duty in the armed forces under section 32 for service in the Peace Corps or VISTA under section 33, or for maternity or paternity or child rearing under section 34, may purchase such service credit in separate increments equal to 1 or more full years, or a remaining fraction of a year, if any, or both. Partial purchase of service credit under this section shall not bar future such purchases otherwise in compliance with this section and sections 32, 33, and 34, but computation of the amount of payment due shall be made separately for each purchase.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1636 Reinstatement of disability retirant.**

Sec. 36. A person who retires under section 26 due to a duty incurred disability and who has been or is reinstated in active service shall again become a member of the retirement system from the date of the

reinstatement. Upon reinstatement of the disability retirant to active service, any balance the retirant may have in the reserve for retired benefit payments at the time of reinstatement to active service shall be transferred from that reserve to the reserve for employee contributions and credited to his or her individual account in that reserve. Any service, on the basis of which his or her retirement allowance was computed at the time of retirement, shall be restored to full force and effect, and he or she shall be given service credit for the period of time he or she was out of service due to the disability.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1637 Supplement to retirement allowance under former MCL 28.107(5).**

Sec. 37. The supplement to the retirement allowance payable under section 7(5) of former Act No. 251 of the Public Acts of 1935, described as follows, is retained:

| Effective Date of Retirement  | Percent of Increase |
|-------------------------------|---------------------|
| July 1, 1972 to June 30, 1973 | 2                   |
| July 1, 1971 to June 30, 1972 | 4                   |
| July 1, 1970 to June 30, 1971 | 6                   |
| July 1, 1969 to June 30, 1970 | 8                   |
| July 1, 1968 to June 30, 1969 | 10                  |
| July 1, 1967 to June 30, 1968 | 12                  |
| July 1, 1966 to June 30, 1967 | 14                  |
| July 1, 1965 to June 30, 1966 | 16                  |
| July 1, 1964 to June 30, 1965 | 18                  |
| July 1, 1963 to June 30, 1964 | 20                  |
| July 1, 1962 to June 30, 1963 | 22                  |
| July 1, 1961 to June 30, 1962 | 24                  |
| July 1, 1960 to June 30, 1961 | 26                  |
| July 1, 1959 to June 30, 1960 | 28                  |
| Any time before July 1, 1959  | 30                  |

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1638 Supplement to retirement allowance under former MCL 28.108c.**

Sec. 38. The supplement to the retirement allowance payable under section 8c of former Act No. 251 of the Public Acts of 1935, described as follows, is retained:

| Effective Date of Retirement  | Percent Supplemented |         |
|-------------------------------|----------------------|---------|
|                               | 10-1-76              | 10-1-77 |
| July 1, 1975 to June 30, 1976 | 1                    | 1       |
| July 1, 1974 to June 30, 1975 | 2                    | 2       |
| July 1, 1973 to June 30, 1974 | 3                    | 3       |
| July 1, 1972 to June 30, 1973 | 4                    | 4       |
| July 1, 1971 to June 30, 1972 | 5                    | 5       |
| July 1, 1970 to June 30, 1971 | 6                    | 6       |
| July 1, 1969 to June 30, 1970 | 7                    | 7       |
| July 1, 1968 to June 30, 1969 | 8                    | 8       |
| Before July 1, 1968           | 8                    | 8       |

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1639 Supplement to retirement allowance on or after October 1, 1986.**

Sec. 39. On or after October 1, 1986, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary who was on the rolls as such for September, 1984 is supplemented as follows:

| Effective Date of Retirement          | Percent of Increase |
|---------------------------------------|---------------------|
| October 1, 1983 to September 30, 1984 | 2                   |
| October 1, 1982 to September 30, 1983 | 4                   |
| October 1, 1981 to September 30, 1982 | 6                   |
| October 1, 1980 to September 30, 1981 | 8                   |
| October 1, 1979 to September 30, 1980 | 10                  |
| October 1, 1978 to September 30, 1979 | 12                  |

|                                       |    |
|---------------------------------------|----|
| October 1, 1977 to September 30, 1978 | 14 |
| October 1, 1976 to September 30, 1977 | 16 |
| October 1, 1975 to September 30, 1976 | 18 |
| October 1, 1974 to September 30, 1975 | 20 |
| October 1, 1973 to September 30, 1974 | 22 |
| October 1, 1972 to September 30, 1973 | 24 |
| October 1, 1971 to September 30, 1972 | 26 |
| October 1, 1970 to September 30, 1971 | 28 |
| Before October 1, 1970                | 30 |

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1639a Monthly retirement allowance of retirant or beneficiary of deceased retirant; increase in payments; requirements; basis for calculations of future adjustments.**

Sec. 39a. (1) Effective October 1, 1996, the monthly retirement allowance payable to a retirant or retirement allowance beneficiary of a deceased retirant or member who meets the requirements of this section is increased 10%. This section only applies to a retirant or retirement allowance beneficiary of a deceased retirant or member who meets all of the following requirements:

(a) The retirant's or deceased retirant's effective date of retirement was before October 1, 1986 or the retirement allowance effective date for the retirement allowance beneficiary of the deceased member was before October 1, 1986.

(b) The retirant or deceased retirant retired after 25 years of service or because of duty-incurred total disability under section 5 of former Act No. 251 of the Public Acts of 1935 or the retirement allowance beneficiary of a deceased member is receiving duty death benefits under section 8 or former Act No. 251 of the Public Acts of 1935.

(c) The retirant or retirement allowance beneficiary was in payment status on the rolls of the retirement system on October 1, 1995.

(2) The increased retirement allowance under this section shall be the basis upon which future adjustments to the retirement allowance, including the increases under sections 40 and 40a, if applicable, are calculated.

**History:** Add. 1996, Act 201, Imd. Eff. May 17, 1996.

**Compiler's note:** In subsection (1)(b), the phrase "under section 8 or former Act No. 251 of the Public Acts of 1935" evidently should read "under section 8 of former Act No. 251 of the Public Acts of 1935."

### **38.1640 Total retirement allowance of retirant or beneficiary of deceased retirant; increase; basis for calculations of future adjustments.**

Sec. 40. (1) Effective October 1, 1986, after the retirant and retirement allowance beneficiary monthly allowance recomputation as determined in section 39 has been determined, a retirant or retirement allowance beneficiary of a deceased retirant shall receive a total retirement allowance of not less than \$6,000.00 per annum. This subsection does not apply to a retirant or retirement allowance beneficiary of a deceased retirant who is eligible for an increased retirement allowance under subsection (2).

(2) Effective October 1, 1996, after the retirant's or retirement allowance beneficiary's retirement allowance is increased under section 39a, if applicable, a retirant or retirement allowance beneficiary of a deceased retirant who meets the requirements of this subsection shall receive a total retirement allowance of not less than \$10,800.00 per annum. This subsection only applies to a retirant or retirement allowance beneficiary of a deceased retirant, which retirant or deceased retirant retired after 25 years of service or because of duty-incurred total disability under section 5 of former Act No. 251 of the Public Acts of 1935, with a retirement allowance payable under section 24, or with a duty-incurred disability retirement allowance payable under section 26.

(3) The increased retirement allowance under this section shall be the basis upon which future adjustments to the retirement allowance, including the increase under section 40a, if applicable, are calculated.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1996, Act 201, Imd. Eff. May 17, 1996.

### **38.1640a Retirement allowance of retirant or retirement allowance beneficiary; increase; amount; limitation.**

Sec. 40a. (1) Effective October 1, 1996, after the retirant's or retirement allowance beneficiary's retirement allowance is increased under section 39a or 40, as applicable, a retirant or a retirement allowance beneficiary is entitled to have his or her retirement allowance increased as provided in this section. The retirement allowance of a retirant or retirement allowance beneficiary shall be increased each October 1, beginning with the later of October 1, 1995 or the first October 1 that is at least 12 months after the retirement allowance

effective date.

(2) The amount of the annual increase under this section shall be 2% of the retirement allowance that would be payable without application of this section. The annual increase under this section shall not exceed \$500.00.

**History:** Add. 1992, Act 139, Imd. Eff. July 15, 1992;—Am. 1996, Act 201, Imd. Eff. May 17, 1996.

### **38.1640b Recalculation of retirement allowance.**

Sec. 40b. The retirement system shall recalculate each retirant's or beneficiary's retirement allowance who retired under section 26 based upon the definition of last 2 years of service added under section 3(10) by the amendatory act that added this section. If the recalculation results in an increased retirement allowance, the retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning the first day of the month following the month that this section takes effect.

**History:** Add. 2000, Act 374, Imd. Eff. Jan. 2, 2001.

### **38.1640c Supplemental benefit; conditions.**

Sec. 40c. (1) Beginning October 1, 2015, and subject to an annual appropriation, if the annual retirement allowance payable to a retirant or a retirement allowance beneficiary of a deceased retirant or member is less than \$16,000.00 in the preceding fiscal year, the retirement system shall pay the retirant or retirement allowance beneficiary a supplemental benefit in the amount sufficient to produce an annual retirement allowance of \$16,000.00 for the current fiscal year. This section only applies to a retirant or retirement allowance beneficiary of a deceased retirant or member who meets both of the following requirements:

(a) The retirant's or deceased retirant's effective date of retirement was before October 1, 1986 or the retirement allowance effective date for the retirement allowance beneficiary of the deceased member was before October 1, 1986.

(b) The retirant or retirement allowance beneficiary was in payment status on the rolls of the retirement system on or before the effective date of the amendatory act that added this section.

(2) The payment of the supplemental benefit provided in subsection (1) must be made on a schedule and in a manner determined by the office of retirement services.

**History:** Add. 2015, Act 168, Imd. Eff. Nov. 3, 2015.

### **38.1641 Retirement allowance increases for command officers; effect on salary adjustments.**

Sec. 41. The retirement allowance increases being given to command officers under this act shall be considered by the coordinated compensation panel of the civil service commission when determining salary adjustments for command officers for the fiscal year ending September 30, 1987.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1641a Retirant participating and accruing leave time in bank time hours program established December 22, 1957 to July 13, 1963; supplement.**

Sec. 41a. (1) On or after January 1, 2007, the monthly retirement allowance payable to a retirant who participated and accrued leave time in the bank time hours program established by the civil service system and operating from December 22, 1957 to July 13, 1963 when the retirant was a member is supplemented by an increase calculated under subsection (3).

(2) On or after January 1, 2007, the retirement allowance beneficiary of a deceased retirant who would have been eligible for an increased retirement allowance under subsection (1) shall have his or her retirement allowance supplemented by an increase calculated under subsection (3).

(3) A retirant or the retirement allowance beneficiary of a deceased retirant who accrued no less than 5,276 bank time hours shall have his or her annual retirement allowance supplemented by an increase of 17%. A retirant or the retirement allowance beneficiary of a deceased retirant who has accrued fewer than 5,276 bank time hours shall have his or her retirement allowance supplemented by an increase of a percentage determined by multiplying 17% by a fraction, the numerator of which is the number of bank time hours accrued by the retirant or deceased retirant and the denominator of which is 5,276. If this calculation results in a retirement allowance supplement of less than \$600.00 annually, then the supplement received by the retirant or retirement allowance beneficiary entitled to a supplement under this section shall be \$600.00 annually.

(4) The increase in retirement allowance under this section shall be included in the basis upon which future adjustments to the retirement allowance are calculated.

**History:** Add. 2006, Act 606, Imd. Eff. Jan. 3, 2007.

### **38.1642 Payment of hospitalization and medical, dental, and vision coverage insurance**

**premiums; creation and function of health-dental-and vision benefits fund; health advance funding subaccount; transfer of funds; application of section to certain members.**

Sec. 42. (1) Hospitalization and medical coverage insurance premiums payable by a retirant or his or her retirement allowance beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department must be paid in amounts provided by this subsection from appropriations for this purpose made to the retirement system. Until October 1, 1989, the amount payable by the retirement system must be 90% of the entire monthly premium payable for hospitalization and medical coverage insurance. Beginning October 1, 1989, the amount payable by the retirement system must be 95% of the entire monthly premium payable for hospitalization and medical coverage insurance.

(2) Effective October 1, 1989, dental coverage and vision coverage insurance premiums payable by a retirant or his or her retirement allowance beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department must be paid in amounts provided by this subsection from appropriations for this purpose made to the retirement system. The amount payable by the retirement system must be 90% of the entire monthly premium payable for dental coverage and vision coverage insurance.

(3) The health-dental-vision benefits fund is created and is the fund into which appropriations of this state for health, dental, and vision benefits are paid. Benefits payable under subsections (1) and (2) are payable from the health-dental-vision benefits fund. The assets and any earnings on the assets contained in the health-dental-vision benefits fund and the health advance funding subaccount are not to be treated as pension assets.

(4) The health advance funding subaccount is the account to which amounts transferred under section 14(3) are credited. Any amounts received from the health advance funding subaccount and accumulated earnings on those amounts must not be expended until the actuarial accrued liability for health benefits under this section is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under this section if the actuarial accrued liability for health benefits under this section is at least 100% funded.

(5) Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the reserve for employer contributions created by section 16 if the actuarial valuation prepared under section 14 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 does not exceed the actuarial present value of benefits.

(6) Except as otherwise provided in sections 25 to 28, this section does not apply to a member who first becomes a member on or after June 10, 2012.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1989, Act 191, Imd. Eff. Aug. 25, 1989;—Am. 2004, Act 50, Eff. Apr. 22, 2004;—Am. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

**38.1642a Elimination of health insurance coverage premium for certain members; contributions into Tier 2 account; credit to health reimbursement account.**

Sec. 42a. (1) A member who first becomes a member on or after June 10, 2012 must not receive any health insurance coverage premium from the retirement system under section 42. In lieu of any health insurance coverage premium that might have been paid by the retirement system under section 42, a member's employer shall make a matching contribution up to 2% of the member's compensation to the Tier 2 plan for each member who first becomes a member on or after June 10, 2012. A matching contribution under this subsection must not be used as the basis for a loan from an employee's Tier 2 account.

(2) A member who first becomes a member on or after June 10, 2012 may make a contribution up to 2% of the member's compensation to a Tier 2 account. A member described in this subsection may make additional contributions to his or her Tier 2 account as permitted by the department and the internal revenue code.

(3) Except as otherwise provided in this subsection, a member is vested in employer contributions made to his or her Tier 2 account under subsections (1) and (2) according to the vesting provisions under section 42b(2). A member who is eligible for health insurance coverage under section 42 or as a result of benefits provided under sections 25 to 28 is not vested in any employer contributions under subsection (1) and forfeits the contributions and earnings on the contributions.

(4) The contributions described in this section must begin with the first payday after the member is employed and end on his or her termination of employment.

(5) An individual who was a former member on June 9, 2012 and who is reemployed by the department of state police and who subscribes to the constitutional oath of office after June 10, 2012 is treated in a manner as determined by the retirement system in consultation with the office of state employer.

(6) In lieu of any other health insurance coverage that might have been paid by the retirement system, a \$2,000.00 credit to a health reimbursement account within the trust created under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, must be made by the employer for a member who first becomes a member on or after June 10, 2012 who has at least 10 years of service at his or her first termination of employment.

(7) The retirement system shall determine a method to implement subsections (5) and (6), including a method for crediting the amounts in subsection (6) to comply with any agreements between the office of state employer and members, and the internal revenue code, as applicable.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1642b Qualified participant; Tier 1 and Tier 2 vesting schedule.**

Sec. 42b. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2.

(2) A qualified participant who is a member of Tier 1 vests in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

- (a) On completion of 2 years of service, 50%.
- (b) On completion of 3 years of service, 75%.
- (c) On completion of 4 years of service, 100%.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1643 Right of member, retirant, or beneficiary to retirement allowance or other benefit.**

Sec. 43. The right of a member, retirant, or beneficiary to a retirement allowance, deferred retirement allowance, accumulated contributions, or other benefit under this act is subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

**History:** 1986, Act 182, Eff. Oct. 1, 1986;—Am. 1991, Act 53, Imd. Eff. June 27, 1991;—Am. 2002, Act 96, Imd. Eff. Mar. 27, 2002;—Am. 2004, Act 50, Eff. Apr. 22, 2004.

### **38.1644 Transfer of records, personnel, property, or funds to retirement system.**

Sec. 44. Effective January 1, 1987, all records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Michigan state police, pension, accident and disability fund created by former Act No. 251 of the Public Acts of 1935, are hereby transferred to the Michigan state police retirement system created by this act.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1645 General administration, management, and responsibility for operation of retirement system.**

Sec. 45. Through December 31, 1986, the general administration, management, and responsibility for the operation of the retirement system created by this act shall continue to be the responsibility of the director of the department of state police under the supervision of the state administrative board, as provided by section 2 of former Act No. 251 of the Public Acts of 1935.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1646 Savings clause.**

Sec. 46. All proceedings pending and all rights and liabilities existing, acquired, or incurred under former Act No. 251 of the Public Acts of 1935 at the time this act takes effect are saved. Those proceedings shall be consummated pursuant to the law in effect when the proceedings were commenced. Those rights and liabilities shall be preserved pursuant to the law in effect on the day immediately preceding the effective date of this act. To the extent that either the kinds of benefits available under former Act No. 251 of the Public Acts of 1935 are in effect on the day immediately preceding the effective date of this act or the manner of calculating those benefits under former Act No. 251 of the Public Acts of 1935 results in a greater benefit of any kind than would otherwise be available under this act or includes a benefit not otherwise available under this act, the determinations of those kinds of benefits available and the manner of calculating those benefits shall be made pursuant to former Act No. 251 of the Public Acts of 1935 for those members who participated in the retirement system as set forth in former Act No. 251 of the Public Acts of 1935 before the effective date of this act.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1647 Repeal of MCL 28.101 to 28.110.**

Sec. 47. Act No. 251 of the Public Acts of 1935, being sections 28.101 to 28.110 of the Michigan Compiled Laws, is repealed.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1648 Effective date; exceptions.**

Sec. 48. Except as provided in sections 6 and 44, this act shall take effect October 1, 1986.

**History:** 1986, Act 182, Eff. Oct. 1, 1986.

### **38.1660 Implementation of Tier 2 plan.**

Sec. 60. Notwithstanding any other provision of this act, the department shall implement the Tier 2 plan as soon as administratively feasible, but not later than September 30, 2019.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1661 Meanings of words and phrases.**

Sec. 61. For the purposes of this section and sections 62 to 74, the words and phrases defined in sections 62 to 64 have the meanings ascribed to them in those sections.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1662 Definitions; A to C.**

Sec. 62. (1) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

(2) "Compensation" means the remuneration paid to a participant on account of the participant's services rendered to his or her employer equal to the sum of the following:

(a) A participant's W-2 earnings for services performed for the employer.

(b) Any amount contributed or deferred at the election of the participant that is excluded from gross income under section 125, 132(f)(4), 401(k), 403(b), or 457 of the internal revenue code, 26 USC 125, 132, 401, 403, and 457.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1663 Definitions; E to F.**

Sec. 63. (1) "Employer" means this state.

(2) "Former qualified participant" means an individual who was a qualified participant and who terminates the employment on which his or her participation is based for any reason.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1664 Definitions; P to R.**

Sec. 64. (1) "Plan document" means the document that contains the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

(2) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 72 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 73.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1665 Administration of Tier 2 plan; department as fiduciary and trustee; plan document; employ or contract personnel.**

Sec. 65. (1) The department shall administer Tier 2 and shall be the fiduciary and trustee of Tier 2. The department may appoint an advisory board to assist the department in carrying out its duties as fiduciary and trustee. The department and the state treasurer shall comply with Executive Reorganization Order No. 1999-5, MCL 38.2721, in the administration of Tier 2.

(2) The department shall determine the provisions and procedures of Tier 2 and the plan document in conformity with this act and the internal revenue code.

(3) The department has the exclusive authority and responsibility to employ or contract with personnel and for services that the department determines necessary for the proper administration of and investment of assets of Tier 2, including, but not limited to, managerial, professional, legal, clerical, technical, and administrative personnel or services.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1666 Claim of rights under Tier 2; hearing; application of administrative procedures act to Tier 2.**

Sec. 66. (1) A qualified participant, former qualified participant, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. On written request, the department shall provide

for a hearing that must be conducted under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288. An individual may be represented by counsel or other authorized agent at a hearing conducted under this section.

(2) Chapters 2, 3, and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.224 to 24.266 and 24.291 to 24.292, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1667 Investment options under Tier 2 plan; limitations do not apply.**

Sec. 67. Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual's accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the department. The limitations on the percentage of total assets for investments provided in the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1668 Payment of administrative expenses of Tier 2 plan.**

Sec. 68. The administrative expenses of Tier 2 must be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the department.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1669 Participation in other public sector retirement benefits plan prohibited; exception.**

Sec. 69. A qualified participant shall not participate in any other public sector retirement benefits plan for simultaneous service rendered to the same public sector employer. Except as otherwise provided in this act or by the department, this section does not prohibit a qualified participant from participating in a retirement plan established by this state or other public sector employer under the internal revenue code. For the purposes of this section, "public sector employer" includes, but is not limited to, a reporting unit.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1670 Tier 2 vesting and contribution requirements.**

Sec. 70. (1) This section is subject to the vesting requirements of section 42b.

(2) Unless the qualified participant affirmatively elects not to contribute or elects to contribute a lesser amount, the qualified participant shall contribute 2% of his or her compensation to his or her Tier 2 account. The qualified participant's employer shall make a contribution to the qualified participant's Tier 2 account in an amount equal to 50% of the first 2% of compensation contribution made by the qualified participant under this subsection.

(3) A qualified participant may make contributions in addition to contributions made under subsection (2) to his or her Tier 2 account as permitted by the department and the internal revenue code.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1672 Nomination of refund beneficiary; requirements.**

Sec. 72. A qualified participant or former qualified participant may nominate 1 or more individuals as a refund beneficiary by filing written notice of nomination with the department. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's spouse if the signature of the participant's spouse is required by the plan document. However, the department may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1673 Distribution of accumulated balance in Tier 2; death of participant; optional methods of distribution.**

Sec. 73. (1) A qualified participant is eligible to receive distribution of his or her accumulated balance in Tier 2 upon becoming a former qualified participant.

(2) Upon the death of a qualified participant or former qualified participant, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the department, the department, in a lump sum distribution, shall distribute the accumulated balance in accordance with the plan document.

(3) A former qualified participant or refund beneficiary may elect 1 or a combination of several of the following methods of distribution of the accumulated balance:

(a) A lump sum distribution to the recipient.

(b) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.

(c) Periodic distributions, as authorized by the department.

(d) No current distribution, in which case the accumulated balance shall remain in Tier 2 until the former qualified participant or refund beneficiary elects a method or methods of distribution under subdivisions (a) to (c), to the extent allowed by federal law.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

### **38.1674 Right of setoff; overpayments; embezzlement or fraud; correction of errors.**

Sec. 74. (1) The department has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(2) The department shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

**History:** Add. 2018, Act 674, Imd. Eff. Dec. 28, 2018.

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