

**SUBSTITUTE FOR
HOUSE BILL NO. 4188**

A bill to amend 1980 PA 300, entitled
"The public school employees retirement act of 1979,"
by amending section 127 (MCL 38.1427), as amended by 2017 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 127. (1) Each qualified participant, former qualified
2 participant, and refund beneficiary shall direct the investment of
3 the individual's accumulated employer and employee contributions
4 and earnings to 1 or more investment choices within available
5 categories of investment provided by the department. The
6 limitations on the percentage of total assets for investments
7 provided in the public employee retirement system investment act,
8 1965 PA 314, MCL 38.1132 to 38.1141, do not apply to Tier 2.

9 (2) In addition to the categories of investment provided by

1 the department under subsection (1), the retirement system shall
2 offer access to 1 or more fixed annuity options and **may offer**
3 **access to 1 or more variable annuity options provided by an annuity**
4 **provider selected under this subsection. While a qualified**
5 **participant is employed by the employer, the annuity options**
6 **offered under this subsection must allow a qualified participant**
7 **the ability to purchase a fixed rate annuity and an annuity with a**
8 **guaranteed lifetime income option, and may allow a qualified**
9 **participant the ability to purchase a variable rate annuity. The**
10 **annuity options offered under this subsection must allow a**
11 **qualified participant the ability to purchase an annuity while the**
12 **qualified participant is employed by a reporting unit. Subject to**
13 **subsections (4) and (6), the investment board shall select 2 or**
14 **more annuity providers based on a competitive proposal process.**
15 **Subject to subsection (4) and (6), the investment board shall**
16 **contract with 2 or more annuity providers to provide the annuity**
17 **options under this subsection. Subject to subsection (6), the**
18 **investment board shall select and contract with an annuity provider**
19 **that meets all of the following conditions, as determined by the**
20 **investment board:**

21 (a) The annuity provider and its subsidiaries and affiliates
22 have the appropriate financial strength and stability. In
23 determining the financial strength and stability under this
24 subdivision, the investment board shall obtain written
25 representation from the annuity provider of all of the following:

26 (i) That the annuity provider is an authorized insurer as that
27 term is defined in section 108 of the insurance code of 1956, 1956
28 PA 218, MCL 500.108.

29 (ii) That all of the following apply to the annuity provider,

1 at the time of selection and for each of the immediately preceding
2 7 years:

3 (A) The annuity provider operates under a certificate of
4 authority from the insurance commissioner of its domiciliary state
5 that has not been revoked or suspended.

6 (B) The annuity provider has filed audited financial
7 statements in accordance with the laws of its domiciliary state
8 under applicable statutory accounting principles.

9 (C) The annuity provider maintains and has maintained reserves
10 that satisfy the statutory requirements of each state where the
11 annuity provider does business.

12 (D) The annuity provider is not operating under an order of
13 rehabilitation or liquidation.

14 (iii) That the annuity provider undergoes, at least every 5
15 years, a financial examination, within the meaning of the law of
16 its domiciliary state, by the insurance commissioner of the
17 domiciliary state or representative, designee, or other party
18 approved by the insurance commissioner of the domiciliary state.

19 (iv) That the annuity provider will notify the retirement
20 system of any change in circumstances occurring after the
21 representations made in subparagraphs (i), (ii), and (iii) that would
22 preclude the annuity provider from making the representations at
23 the time the annuity provider issues the annuity.

24 (v) That the annuity provider meets at least 2 of the
25 following conditions:

26 (A) The annuity provider has a claims-paying ability rating of
27 no less than "A2" insurer financial strength rating from Moody's
28 rating services.

29 (B) The annuity provider has a claims-paying ability rating of

1 no less than "A" insurer financial strength rating from Standard &
2 Poor's rating services.

3 (C) The annuity provider has a claims-paying ability rating of
4 no less than "A" insurer financial strength rating from Fitch
5 rating services.

6 (D) The annuity provider has a claims-paying ability rating of
7 no less than "A" insurer financial strength rating from AM Best
8 rating services.

9 (b) The annuity provider is able to provide contracted rights
10 and benefits to a qualified participant.

11 (c) The costs, including fees and commissions, of the annuity
12 options in relation to the benefits and product features of the
13 annuity option are reasonable.

14 (d) The administrative services to be provided under the
15 annuity option are appropriate. At a minimum, the administrative
16 services must include periodic reports to the investment board
17 about all of the following:

18 (i) The number of annuitants.

19 (ii) The types of annuities provided.

20 (iii) Any other information that the investment board may
21 require.

22 (e) The annuity provider is experienced in paying lifetime
23 retirement income through annuities offered to public employee
24 defined contribution retirement plans.

25 (f) The annuity provider offers annuity options that meet all
26 of the following conditions:

27 (i) The annuity options are suitable for qualified
28 participants, former qualified participants, and refund
29 beneficiaries.

1 (ii) The contract terms and income benefits are clearly stated,
2 based on reasonable assumptions.

3 (iii) The annuity options offer a range of lifetime income
4 options.

5 (iv) If the annuity is a variable annuity, the annuity offers a
6 fixed account option along with its variable account options.

7 (g) The annuity provider is able to offer objective and
8 participant-specific education and tools that help participants
9 understand the appropriate use of annuities as a long-term
10 retirement savings vehicle.

11 (3) The office of retirement services shall verify the
12 information in a report submitted under subsection (2) (d). A report
13 submitted under subsection (2) (d) must be published on the office
14 of retirement services's website.

15 (4) After the competitive proposal process under subsection
16 (2) is complete, the investment board may select and contract with
17 only 1 annuity provider to provide annuity options to qualified
18 participants under subsection (2) if either of the following
19 applies:

20 (a) The investment board determines that selecting more than 1
21 annuity provider is not in the interests of qualified participants.

22 (b) Only 1 annuity provider meets the conditions under
23 subsection (2).

24 (5) If the investment board selects only 1 annuity provider to
25 provide annuity options under subsection (2) as provided in
26 subsection (4), the investment board shall notify the speaker of
27 the house of representatives, the minority leader of the house of
28 representatives, the senate majority leader, and the senate
29 minority leader within 30 days after selecting and contracting with

1 an annuity of the reasons for selecting only 1 annuity provider.

2 (6) If after the competitive proposal process under subsection
3 (2) is complete the investment board determines that no annuity
4 provider meets the conditions under subsection (2), both of the
5 following apply:

6 (a) The investment board shall not select an annuity provider
7 under subsection (2).

8 (b) The office of retirement services shall issue a new
9 competitive proposal process under subsection (2) within 60 days
10 after the investment board makes its determination described in
11 this subsection.

12 (7) As used in this section, "investment board" means the
13 state of Michigan investment board within the department of
14 treasury created under Executive Reorganization Order No. 2018-5,
15 MCL 38.1176.

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

18 Enacting section 2. This amendatory act does not take effect
19 unless House Bill No. 4733 of the 101st Legislature is enacted into
20 law.