

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4733

A bill to amend 1943 PA 240, entitled
"State employees' retirement act,"
by amending section 58 (MCL 38.58), as added by 1996 PA 487.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 58. **(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 ~~state treasurer.~~
6 **investment board.** The limitations on the percentage of total assets
7 for investments provided in ~~Act No. 314 of the Public Acts of 1965,~~
8 ~~being sections 38.1132 to 38.1140i of the Michigan Compiled Laws,~~
9 **the public employee retirement system investment act, 1965 PA 314,**

1 MCL 38.1132 to 38.1141, do not apply to Tier 2.

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

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

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

28 (ii) That all of the following apply to the annuity provider,
29 at the time of selection and for each of the immediately preceding

1 7 years:

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

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

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

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

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

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

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

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

28 (B) The annuity provider has a claims-paying ability rating of
29 no less than "A" insurer financial strength rating from Standard &

1 Poor's rating services.

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

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

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

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

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

17 (i) The number of annuitants.

18 (ii) The types of annuities provided.

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

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

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

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

29 (ii) The contract terms and income benefits are clearly stated,

1 based on reasonable assumptions.

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

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

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

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

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

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

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

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

1 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. 4188 of the 101st Legislature is enacted into
20 law.