

# HOUSE BILL No. 5231

November 8, 2017, Introduced by Reps. Albert and Marino and referred to the Committee on Financial Liability Reform.

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. The  
 6 limitations on the percentage of total assets for investments  
 7 provided in ~~Act No. 314 of the Public Acts of 1965, being sections~~  
 8 ~~38.1132 to 38.1140i of the Michigan Compiled Laws,~~ **THE PUBLIC**  
 9 **EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT, 1965 PA 314, MCL 38.1132**  
 10 **TO 38.1141,** do not apply to Tier 2.

1           (2) IN ADDITION TO THE CATEGORIES OF INVESTMENTS PROVIDED BY  
2 THE STATE TREASURER UNDER SUBSECTION (1), THE RETIREMENT SYSTEM  
3 SHALL OFFER ACCESS TO 1 OR MORE FIXED ANNUITY OPTIONS AND 1 OR MORE  
4 VARIABLE ANNUITY OPTIONS. THE ANNUITY OPTIONS OFFERED UNDER THIS  
5 SUBSECTION MUST ALLOW A QUALIFIED PARTICIPANT THE ABILITY TO  
6 PURCHASE AN ANNUITY WHILE THE QUALIFIED PARTICIPANT IS EMPLOYED BY  
7 THE EMPLOYER. THE RETIREMENT SYSTEM SHALL SELECT AN ANNUITY  
8 PROVIDER BASED ON A COMPETITIVE PROPOSAL PROCESS. THE RETIREMENT  
9 SYSTEM SHALL CONTRACT WITH AN ANNUITY PROVIDER TO PROVIDE THE  
10 ANNUITY OPTIONS UNDER THIS SUBSECTION. THE RETIREMENT SYSTEM SHALL  
11 CONSIDER ALL OF THE FOLLOWING IN SELECTING AN ANNUITY PROVIDER  
12 UNDER THIS SUBSECTION:

13           (A) THE FINANCIAL STRENGTH AND STABILITY OF THE ANNUITY  
14 PROVIDER AND ITS SUBSIDIARIES AND AFFILIATES. IN CONSIDERING THE  
15 FINANCIAL STRENGTH AND STABILITY UNDER THIS SUBDIVISION, THE  
16 RETIREMENT SYSTEM SHALL OBTAIN WRITTEN REPRESENTATION FROM THE  
17 ANNUITY PROVIDER OF ALL OF THE FOLLOWING:

18           (i) THAT THE ANNUITY PROVIDER IS AN AUTHORIZED INSURER AS THAT  
19 TERM IS DEFINED IN SECTION 108 OF THE INSURANCE CODE OF 1956, 1956  
20 PA 218, MCL 500.108.

21           (ii) THAT ALL OF THE FOLLOWING APPLY TO THE ANNUITY PROVIDER,  
22 AT THE TIME OF SELECTION AND FOR EACH OF THE IMMEDIATELY PRECEDING  
23 7 YEARS:

24           (A) THE ANNUITY PROVIDER OPERATES UNDER A CERTIFICATE OF  
25 AUTHORITY FROM THE INSURANCE COMMISSIONER OF ITS DOMICILIARY STATE  
26 THAT HAS NOT BEEN REVOKED OR SUSPENDED.

27           (B) THE ANNUITY PROVIDER HAS FILED AUDITED FINANCIAL

1 STATEMENTS IN ACCORDANCE WITH THE LAWS OF ITS DOMICILIARY STATE  
2 UNDER APPLICABLE STATUTORY ACCOUNTING PRINCIPLES.

3 (C) THE ANNUITY PROVIDER MAINTAINS AND HAS MAINTAINED RESERVES  
4 THAT SATISFY THE STATUTORY REQUIREMENTS OF EACH STATE WHERE THE  
5 ANNUITY PROVIDER DOES BUSINESS.

6 (D) THE ANNUITY PROVIDER IS NOT OPERATING UNDER AN ORDER OF  
7 SUPERVISION, REHABILITATION, OR LIQUIDATION.

8 (iii) THAT THE ANNUITY PROVIDER UNDERGOES, AT LEAST EVERY 5  
9 YEARS, A FINANCIAL EXAMINATION, WITHIN THE MEANING OF THE LAW OF  
10 ITS DOMICILIARY STATE, BY THE INSURANCE COMMISSIONER OF THE  
11 DOMICILIARY STATE OR REPRESENTATIVE, DESIGNEE, OR OTHER PARTY  
12 APPROVED BY THE INSURANCE COMMISSIONER OF THE DOMICILIARY STATE.

13 (iv) THAT THE ANNUITY PROVIDER WILL NOTIFY THE RETIREMENT  
14 SYSTEM OF ANY CHANGE IN CIRCUMSTANCES OCCURRING AFTER THE  
15 REPRESENTATIONS MADE IN SUBPARAGRAPHS (i), (ii), AND (iii) THAT  
16 WOULD PRECLUDE THE ANNUITY PROVIDER FROM MAKING THE REPRESENTATIONS  
17 AT THE TIME THE ANNUITY PROVIDER ISSUES THE ANNUITY.

18 (B) THE ABILITY OF THE ANNUITY PROVIDER TO PROVIDE CONTRACTED  
19 RIGHTS AND BENEFITS TO A QUALIFIED PARTICIPANT.

20 (C) THE REASONABLENESS OF THE COSTS, INCLUDING FEES AND  
21 COMMISSIONS, OF THE ANNUITY OPTIONS IN RELATION TO THE BENEFITS AND  
22 PRODUCT FEATURES OF THE ANNUITY OPTION.

23 (D) THE ADMINISTRATIVE SERVICES TO BE PROVIDED UNDER THE  
24 ANNUITY OPTION. AT A MINIMUM, THE ADMINISTRATIVE SERVICES MUST  
25 INCLUDE PERIODIC REPORTS TO THE RETIREMENT SYSTEM ABOUT ALL OF THE  
26 FOLLOWING:

27 (i) THE NUMBER OF ANNUITANTS.

1           (ii) THE TYPES OF ANNUITIES PROVIDED.

2           (iii) ANY OTHER INFORMATION THAT THE RETIREMENT SYSTEM MAY  
3 REQUIRE.

4           (E) THE EXPERIENCE OF THE ANNUITY PROVIDER IN PAYING LIFETIME  
5 RETIREMENT INCOME THROUGH ANNUITIES OFFERED TO PUBLIC EMPLOYEE  
6 DEFINED CONTRIBUTION RETIREMENT PLANS.

7           (F) WHETHER THE ANNUITY PROVIDER OFFERS ANNUITY OPTIONS THAT  
8 MEET ALL OF THE FOLLOWING CONDITIONS:

9           (i) THE ANNUITY OPTIONS ARE SUITABLE FOR QUALIFIED  
10 PARTICIPANTS, FORMER QUALIFIED PARTICIPANTS, AND REFUND  
11 BENEFICIARIES.

12           (ii) THE CONTRACT TERMS AND INCOME BENEFITS ARE CLEARLY  
13 STATED, BASED ON REASONABLE ASSUMPTIONS.

14           (iii) THE ANNUITY OPTIONS OFFER A RANGE OF LIFETIME INCOME  
15 OPTIONS.

16           (G) THE ABILITY OF THE ANNUITY PROVIDER TO OFFER OBJECTIVE AND  
17 PARTICIPANT-SPECIFIC EDUCATION, TOOLS, AND COUNSELING PROGRAMS THAT  
18 HELP PARTICIPANTS UNDERSTAND THE APPROPRIATE USE OF ANNUITIES AS A  
19 LONG-TERM RETIREMENT SAVINGS VEHICLE.

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