

**SUBSTITUTE FOR  
HOUSE BILL NO. 4265**

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 301. (1) The retirement system shall direct the actuary  
2 to do all of the following:

3           (a) Determine the annual level percent of payroll contribution  
4 rate to finance the benefits provided under this act by actuarial  
5 valuation ~~pursuant to~~**under** subsections (2) and (3), and ~~upon~~**on**

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

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

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

12 (d) **Beginning with the state fiscal year ending September 30,**  
13 **2023 and for each subsequent fiscal year, assume a rate of return**  
14 **on investments and a discount rate not to exceed 6.25% for pension**  
15 **and 7% for retiree health care.**

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

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

1 ~~actuarial~~-valuation.

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

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

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

28 (a) ~~A~~~~Except as otherwise provided in section 509a, a~~ plan 1  
 29 member or a plan 2 member shall contribute 5% of the member's

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

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

7 (c) A plan 3c member, a plan 4 member, a plan 6 member, or a  
8 plan 7 member shall contribute 7% of the member's compensation.  
9 However, a plan 6 member shall not contribute more than \$980.00  
10 annually.

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

15 (3) ~~Upon~~ **On** written notice from the executive secretary to the  
16 state court administrator, the state treasurer shall withhold  
17 payment of the amount due from the salary standardization payment  
18 payable to a county or district control unit for member  
19 contributions that are not received by the retirement system within  
20 60 days after the due date.

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

1 ~~of 1943, being section 38.1 to 38.48 of the Michigan Compiled~~  
2 ~~Laws 1943 PA 240, MCL 38.1 to 38.69.~~

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

7 (3) This section does not apply to an individual who first  
8 became a member or qualified participant on or after July 1, 2021  
9 or to a qualified member who made an election to opt out of health  
10 insurance coverage under section 509a. As used in this subsection,  
11 "qualified member" means that term as defined in section 509a.

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

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

25 (3) Except as otherwise provided in this section, beginning  
26 July 1, 2021 and ending at 5 p.m. eastern daylight time on  
27 September 15, 2021, the retirement system shall permit each  
28 qualified member to make an election to opt out of health insurance  
29 coverage premiums that would have been paid by the retirement

1 system under sections 509 and 719 and opt into the Tier 2 account  
2 provisions of this section effective October 1, 2021. A qualified  
3 member who makes the election under this subsection shall cease  
4 accruing years of service credit for purposes of calculating a  
5 portion of the health insurance coverage premiums that would have  
6 been paid by the retirement system under sections 509 and 719 as if  
7 that coverage continued to apply. The election under this  
8 subsection must be completed in a manner and by methods as  
9 determined by the retirement system.

10 (4) A qualified member who does not make the election under  
11 subsection (3) continues to be eligible for the payment of health  
12 insurance coverage premiums by the retirement system under sections  
13 509 and 719 and is not eligible for the Tier 2 account provisions  
14 of this section. The retirement system shall treat an individual  
15 who is not a qualified member, who is a former member on June 30,  
16 2021, and who is reemployed by an employer after June 30, 2021 in  
17 the same manner as a member described in this subsection who did  
18 not make the election under subsection (3).

19 (5) The retirement system shall calculate an amount to be  
20 credited to a Tier 2 account for each qualified member who makes  
21 the election under subsection (3). The amount must equal the  
22 contributions made by the qualified member for hospital and  
23 medical-surgical and sick care benefits under section 305(1)(a) or  
24 714(6), as applicable. A qualified member who makes the election  
25 under subsection (3) shall cease making contributions into the  
26 reserve for health benefits for hospital and medical-surgical and  
27 sick care benefits under section 305(1)(a) or 714(6), as  
28 applicable, as determined by the retirement system, but no later  
29 than the first payroll date after October 1, 2021. The amount

1 calculated under this subsection must be deposited as an employer  
2 contribution into the qualified member's Tier 2 account as  
3 determined by the retirement system, but no later than the first  
4 payroll date after January 1, 2022. A qualified member is  
5 immediately 100% vested in amounts deposited to his or her Tier 2  
6 account under this subsection.

7 (6) A qualified member who has a break in service and is  
8 reemployed retains the same election made under this section before  
9 the break in service. If the qualified member did not make the  
10 election under subsection (3), the qualified member shall continue  
11 to make the contributions as provided under section 305(1)(a) or  
12 714(6), as applicable.

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

20 (a) Two thousand dollars to an individual who first became a  
21 qualified participant after September 30, 2021, who is 60 years of  
22 age or older, and who has at least 10 years of service at his or  
23 her first termination of employment.

24 (b) One thousand dollars to an individual who first became a  
25 member or qualified participant after September 30, 2021, who is  
26 less than 60 years of age, and who has at least 10 years of service  
27 at his or her first termination of employment.

28 (8) The retirement system shall determine a method to  
29 implement subsections (3) to (7), including a method for crediting

1 the amounts in those subsections to comply with any restrictions  
2 imposed by the internal revenue code. Notwithstanding any provision  
3 of this act to the contrary, the Tier 2 plan provisions of this  
4 section must be implemented by the department as soon as feasible  
5 but not later than January 1, 2022.

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

10 (10) As used in this section:

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

13 (i) He or she first became a member or qualified participant  
14 before July 1, 2021.

15 (ii) He or she has earned service credit in the 12 months  
16 ending June 30, 2021 or was on an approved professional services or  
17 military leave of absence on June 30, 2021.

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

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

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



1 retirement system to fulfill the intent of this subsection.

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

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

29 (4) The retirement system shall return post-tax member

1 contributions made by a member and received by the retirement  
2 system to a member on retirement, under Internal Revenue Service  
3 regulations and approved Internal Revenue Service exclusion ratio  
4 tables.

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

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

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

29 (8) For purposes of determining actuarial equivalent

1 retirement allowances under sections 506(1)(a) and (b) and 602, the  
2 actuarially assumed interest rate must be determined by the  
3 director of the department and the retirement board in consultation  
4 with the actuary using the mortality tables adopted by the  
5 department and the retirement board. **Beginning with the state  
6 fiscal year ending September 30, 2023 and for each subsequent state  
7 fiscal year, for the purposes of determining actuarial equivalent  
8 retirement allowances under sections 506(1)(a) and (b) and 602, the  
9 actuarial assumed interest rate and discount rate must not exceed  
10 6.75%.**

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

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

1           Sec. 714. (1) This section is subject to the vesting  
2 requirements of section 715.

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

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

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

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

1 ~~Michigan Judges Assn v Treasurer of Michigan~~, opinion of the  
2 United States District Court for the Eastern District of Michigan  
3 (Case No. 98-DT-72771-CV).

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

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

14 (a) Before April 2, 2022, the retirement system shall design  
15 an automatic enrollment feature that provides that unless a  
16 qualified participant who makes contributions under section 714(3)  
17 elects to contribute a lesser amount, the qualified participant  
18 shall contribute the amount required to qualify for all eligible  
19 matching contributions under this act. The retirement system shall  
20 implement this automatic enrollment feature as soon as  
21 administratively feasible, but no later than 12 months after the  
22 effective date of the amendatory act that added this section.

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

28 (c) Employer matching contributions do not have to be made to  
29 the same plan or account to which the elective employee

1 contributions were contributed as the basis for the matching  
2 contributions.

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

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

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

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

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

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

1 coverage under subsection (1) may elect health insurance coverage  
2 in the manner prescribed in this section.

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

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

28 (5) For a former qualified participant who is eligible to  
29 elect health insurance coverage under subsection (1) and who is

1 vested in those benefits under section 715(2)(b), and for his or  
 2 her health benefit dependents, this state shall pay a portion of  
 3 the health insurance premium as calculated under this subsection on  
 4 a cash disbursement method. An individual described in this  
 5 subsection who elects health insurance coverage under this section  
 6 shall pay to the retirement system the remaining portion of the  
 7 health insurance coverage premium not paid by this state under this  
 8 subsection. The portion of the health insurance coverage premium  
 9 paid by this state under this subsection ~~shall~~**must** be equal to the  
 10 premium amounts paid on behalf of retirants of Tier 1 for health  
 11 insurance coverage under section 509. If the individual elects the  
 12 health insurance coverage provided under section 509, ~~the~~**this**  
 13 state shall transfer its portion of the amount calculated under  
 14 this subsection to the reserve for health benefits created by  
 15 section 214.

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

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



1 of this section will cause the retirement system to be disqualified  
2 for tax purposes under the internal revenue code, then the portion  
3 that will cause the disqualification does not apply.

4       **(8) This section does not apply to an individual who first**  
5 **became a member or qualified participant after June 30, 2021 or to**  
6 **a qualified member who made an election to opt out of health**  
7 **insurance coverage under section 509a. As used in this subsection,**  
8 **"qualified member" means that term as defined in section 509a.**