

Sec. 11. Termination of Participation by Participating Municipality; Effect of Termination; Disposition of Assets and Liabilities; Closed Divisions; Closed Division Funding; Adoption of Non-MERS Defined Contribution Plans; Restrictions.

(1) Termination of Participation.

- (a) The termination of a municipality's participation in the Retirement System results in the cessation of benefit accruals by the municipality's employees in the Defined Benefit Plan, Defined Contribution Plan, and Hybrid Plan. A termination of participation occurs under any of the following circumstances:
 - (i) The participating municipality elects to terminate participation in the Retirement System by an affirmative vote by the qualified electors of the municipality. The clerk or secretary of the municipality shall certify to the Retirement System, in the manner and form prescribed by the Retirement Board, the determination of the participating municipality to terminate participation. The certification shall be made within 10 days after the canvass of votes of the qualified electors. The effective date of termination of participation shall be the first day of the municipality's fiscal year that is at least 6 months after the date of the vote by the qualified electors.
 - (ii) The participating municipality ceases to qualify as a municipality under section 2(23) and becomes ineligible to participate in the Retirement System due to privatization, dissolution, or other change in corporate structure.
 - (iii) A participating municipality which covers all of its members, vested former members, retirees, beneficiaries, and participants under the Defined Contribution Plan elects by a two-thirds vote of its governing body to terminate participation in the Retirement System and adopt a non-MERS defined contribution plan qualified under 401(a) of the IRC for participants who are currently enrolled in the Defined Contribution Plan. The governing body shall introduce a resolution to that effect at a regularly scheduled meeting and shall not vote on the resolution before its next regularly scheduled meeting. Amounts shall be transferred from the Defined Contribution Plan to the successor defined contribution plan. The transfer amount for a participant currently enrolled in the Defined Contribution Plan shall be the fair market value of the participant's vested and non-vested accumulated balance as of the date of transfer. Transfer of membership and funds shall be implemented as expeditiously as possible pursuant to a joint transition

agreement between the governing body of the municipality and the Retirement System.

- (b) A municipality that terminates participation in the Retirement System under subsection 1(a)(i) or 1(a)(ii) remains responsible under Article 9, section 24 of the Michigan Constitution for payment of accrued pension benefits. As of the date of termination, the municipality's members and participants acquire full vesting of accrued retirement allowances and defined contribution accumulated balances. All of the municipality's members become vested former members.
 - (i) Unless otherwise authorized by the Retirement Board, the participating municipality shall leave with MERS all or a portion of its actuarial accrued liabilities for accrued retirement allowance payments for retirees, beneficiaries, and vested former members in the Defined Benefit Plan and Hybrid Plan Defined Benefit Component, together with assets in the amount required by the Retirement Board pursuant to the Restated Policy for Closed Municipalities. The Retirement System shall adjust the balance in the reserve for employer contributions to a market value basis for the purpose of determining the amount of an insufficiency or the amount of an overage under this subsection. The adjusted balance in the reserve for employer contributions shall be periodically compared to the actuarial accrued liabilities, including a margin for experience fluctuation, for accrued pensions payable and to be paid persons on account of the municipality's participation in the Retirement System. If at the time of a comparison the adjusted balance is insufficient to fully cover the actuarial accrued liabilities, the insufficiency shall be an obligation of the municipality and shall be liquidated as determined by the Retirement System. If at the time of a comparison the adjusted balance is more than sufficient to fully cover the actuarial accrued liabilities, the overage shall be returned to the municipality in a single sum or, at the request of the municipality, transferred to another retirement plan covering the employees of the municipality.
 - (ii) For participants in the Defined Contribution Plan and Hybrid Plan Defined Contribution Component, the vested accumulated balance shall be distributed to each participant as provided in Article IV and Article V.
 - (iii) The conditions and requirements of the Retirement System pertaining to termination of participation and the disposition of assets and liabilities shall be specified in a joint withdrawal agreement between the governing body of the municipality and the Retirement System.

(2) Closed Divisions.

- (a) A participating municipality may close one or more employee classifications (“divisions”) in the Defined Benefit Plan without terminating participation in the Retirement System. A closed division arises when there are no longer any members in a division or when the participating municipality notifies MERS that there will be no new employees in a division. Current members that remain in a closed division continue to accrue future service benefits.
- (b) A participating municipality that has closed a defined benefit division and adopted the Defined Contribution Plan, or which is eligible to close a defined benefit division to adopt the Defined Contribution Plan for new hires under section 48(1) and current members under section 64, may elect by a two-thirds vote of its governing body to adopt a non-MERS defined contribution plan qualified under 401(a) of the IRC. The governing body shall introduce the resolution at a regularly scheduled meeting and shall not vote on the resolution before its next regularly scheduled meeting. Amounts shall be transferred from the Defined Contribution Plan to the successor defined contribution plan. The transfer amount for a participant currently enrolled in the Defined Contribution Plan shall be the fair market value of the participant’s vested and non-vested accumulated balance as of the date of transfer. The transfer amount for a member currently enrolled in the Defined Benefit Plan who is eligible to be enrolled in the Defined Contribution Plan and elects coverage under the successor defined contribution plan shall be determined in a manner consistent with section 64(4). Transfer of membership and funds shall be implemented as expeditiously as possible pursuant to a joint transition agreement between the governing body of the municipality and the Retirement System. This subsection shall not apply to conversions under section 64(5).
- (c) To effectuate funding consistent with Article 9, section 24 of the Michigan Constitution, participating municipalities with closed divisions shall finance the unfunded actuarial accrued liability of such divisions pursuant to the Retirement Board’s Amended Amortization Policy for Closed Divisions within Open Municipalities.

(3) Restrictions.

- (a) A municipality that terminates participation in the Retirement System pursuant to subsection (1)(a)(i) shall be precluded from again becoming a participating municipality during the 5-year period immediately following the effective date of the termination of participation.

- (b) A municipality that becomes a participating municipality by authority of an emergency manager under 2012 PA 436, MCL 141.1541 to 141.1575, is precluded from taking action to terminate participation in the Retirement System under subsection (1)(a)(i) or (iii), or closing one or more divisions under subsection 2(b), for a period of 10 years from the municipality's date of participation in the Retirement System.