

SENATE BILL No. 536

July 28, 1989, Introduced by Senators CARL, DI NELLO,
EHLERS and NICHOLS and referred to the Committee on
Judiciary.

A bill to create a retirement system for volunteer fire fighters; to provide for the funding, maintenance, and administration of the system; to create a state volunteer fire fighters retirement board; to provide for participation in the retirement system by local units of government; to prescribe the powers and duties of certain public officers and agencies; to create funds; and to provide for benefits.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "volunteer fire fighters retirement act".

3 Sec. 2. As used in this act:

4 (a) "Accumulation fund" means the fund created by section
5 24.

6 (b) "Credited service" means qualified service that is used
7 to calculate a retirement allowance under this act.

1 (c) "Deferred member" means a person who is entitled to a
2 deferred retirement allowance under section 17. Deferred member
3 does not include a member fire fighter or retirant.

4 (d) "Department" means the department of management and
5 budget.

6 (e) "Expense fund" means the fund created by section 27.

7 (f) "Income fund" means the fund created by section 26.

8 (g) "Local board" means a local volunteer fire fighters
9 retirement board established under section 10.

10 (h) "Local unit" means a city, village, township, or county
11 within this state.

12 (i) "Member fire fighter" means a person who provides serv-
13 ices as a volunteer fire fighter in a local unit that has an
14 election to participate under this act in effect pursuant to sec-
15 tion 12, and a person who is not otherwise excluded from member-
16 ship in the retirement system under this act. Member fire
17 fighter does not include a deferred member or retirant.

18 (j) "Organized fire department" means the body that is
19 responsible for fire suppression and other fire related services
20 within a city, village, township, or county, whether the body is
21 a fire department of a city, village, township, or county or a
22 fire service designated to provide fire related services by a
23 city, village, township, or county pursuant to a contract.

24 (k) "Participating local unit" means a local unit that has
25 elected to participate under this act pursuant to section 12.
26 Two or more local units that elect to participate jointly under

1 this act shall be considered as a single participating local
2 unit.

3 (l) "Pension reserve fund" means the fund created by section
4 25.

5 (m) "Qualified service" means fire suppression and other
6 related fire services rendered by a volunteer fire fighter who
7 attends not fewer than 2 2-hour drills per month, and who is
8 present at not less than 75% of the drills and 25% of the alarms
9 of the organized fire department of which he or she is a member.

10 (n) "Retirant" means a person who has retired with a retire-
11 ment allowance payable under this act.

12 (o) "Retirement allowance" means the annual amount, payable
13 monthly, to which a retirant is entitled under this act.

14 (p) "Retirement system" means the Michigan volunteer fire
15 fighters retirement system created by section 3.

16 (q) "State board" means the state volunteer fire fighters
17 retirement board created by section 4.

18 (r) "Volunteer fire fighter" means a person who is a member
19 of an organized fire department and who is paid for each
20 attendance at an alarm of the organized fire department or who
21 serves on a part-time basis for the organized fire department.

22 Sec. 3. A Michigan volunteer fire fighters retirement
23 system is created for the volunteer fire fighters of this state.

24 Sec. 4. (1) The state volunteer fire fighters retirement
25 board is created within the department and shall consist of the
26 following 5 members:

1 (a) Four members of the retirement system, who shall be
2 appointed by the governor from a list of not less than 6 nominees
3 of the Michigan state fireman's association. Not less than 2 of
4 the appointees shall be residents of the Upper Peninsula.

5 (b) The state treasurer or his or her authorized
6 representative.

7 (2) Except as otherwise provided in this subsection, each
8 member of the state board described in subsection (1)(a) shall
9 serve for a 4-year term. The initial term of office for the mem-
10 bers first serving shall be determined at the first meeting of
11 the state board by the drawing of lots among the state board mem-
12 bers with 1 member serving for 2 years, 1 member serving for 3
13 years, and 2 members serving for 4 years. A vacancy occurring on
14 the state board 90 days or more before the expiration of a term
15 of office shall be filled for the remainder of the unexpired term
16 according to the method by which the position was originally
17 filled.

18 (3) A member of the state board, upon appointment, shall
19 subscribe to an oath of office, which shall be filed immediately
20 in the office of the secretary of state.

21 (4) Members of the state board shall serve without compensa-
22 tion with respect to their duties, but shall be reimbursed by the
23 retirement system for their actual and necessary expenses
24 incurred in the performance of their duties as state board
25 members.

26 (5) A member of the state board who fails to attend 3
27 consecutive regularly scheduled meetings of the state board,

1 without an excuse approved by majority vote of the remaining
2 members, shall be considered as having resigned from state board
3 membership. The state board shall declare by resolution the
4 member's office vacated as of the date of adoption of the
5 resolution.

6 Sec. 5. (1) The state board shall keep records of its meet-
7 ings and proceedings. The business that the state board may per-
8 form shall be conducted at a public meeting of the state board
9 held in compliance with the open meetings act, Act No. 267 of the
10 Public Acts of 1976, being sections 15.261 to 15.275 of the
11 Michigan Compiled Laws. Public notice of the time, date, and
12 place of the meeting shall be given in the manner required by Act
13 No. 267 of the Public Acts of 1976.

14 (2) A majority of the state board constitutes a quorum for
15 the transaction of business at a meeting of the state board.
16 Decisions of the state board shall be made by majority vote of
17 the members present. The vote shall be recorded in the minutes
18 of the meeting of the state board.

19 (3) A writing prepared, owned, used, in the possession of,
20 or retained by the state board in the performance of an official
21 function shall be made available to the public in compliance with
22 the freedom of information act, Act No. 442 of the Public Acts of
23 1976, being sections 15.231 to 15.246 of the Michigan Compiled
24 Laws.

25 (4) The retirement board may promulgate rules pursuant to
26 the administrative procedures act of 1969, Act No. 306 of the
27 Public Acts of 1969, being sections 24.201 to 24.328 of the

1 Michigan Compiled Laws, for the implementation and administration
2 of this act.

3 Sec. 6. (1) The state board shall annually select from its
4 members a chairperson who shall take office immediately upon
5 election and serve until a successor is elected. The director of
6 the bureau of retirement systems, department of management and
7 budget, shall be the executive secretary of the retirement
8 system.

9 (2) The state board may retain medical, actuarial, clerical,
10 or other services that are necessary to conduct the business of
11 the retirement system and may pay the reasonable cost for the
12 services retained.

13 (3) The state board shall hear appeals from decisions of the
14 local boards, pursuant to chapter 4 of the administrative proce-
15 dures act of 1969, Act No. 306 of the Public Acts of 1969, being
16 sections 24.271 to 24.287 of the Michigan Compiled Laws.

17 Sec. 7. (1) The state treasurer shall be the treasurer of
18 the retirement system and shall have investment authority,
19 including the custodianship of the funds of the retirement
20 system. The state treasurer shall have fiduciary responsibility
21 with regard to the investment of funds from the reserves of the
22 retirement system. The investment of funds of the retirement
23 system shall be subject to the limitations provided in Act
24 No. 314 of the Public Acts of 1965, being sections 38.1132 to
25 38.1140i of the Michigan Compiled Laws.

26 (2) The state treasurer shall deposit the funds of the
27 retirement system subject to Act No. 105 of the Public Acts of

1 1855, being sections 21.141 to 21.147 of the Michigan Compiled
2 Laws.

3 Sec. 8. The retirement system shall draw its warrants upon
4 the state treasury, payable out of the funds of the retirement
5 system, for the payment of retirement allowances and other
6 expenses necessary in the administration of the retirement
7 system.

8 Sec. 9. (1) The state board shall prepare an annual report
9 for each fiscal year. The report shall contain information
10 regarding the financial, actuarial, and other activities of the
11 retirement system during the fiscal year. The state board shall
12 furnish a copy of the report to any individual or organization
13 requesting a copy.

14 (2) The state board shall certify the actuarial and finan-
15 cial soundness of the retirement system not less than 5 years
16 after the effective date of this act and not less than every 2
17 years after the first certification.

18 Sec. 10. (1) A local volunteer fire fighters board shall be
19 established for each local unit of government electing to partic-
20 ipate under this act pursuant to section 12. However, a single
21 local board shall be established for 2 or more local units elect-
22 ing jointly to participate under this act. If the participating
23 local unit consists of 2 or more local units electing jointly to
24 participate under this act, then board members required to be
25 selected by majority vote of the governing body of a participat-
26 ing local unit shall be selected by majority vote of each

1 affected local unit. Each local board shall consist of the
2 following 5 members:

3 (a) Two volunteer fire fighters who are members of the orga-
4 nized fire department that services the participating local unit,
5 to be selected by majority vote of the member fire fighters serv-
6 ing in the participating local unit.

7 (b) One person who is not a public official, who owns prop-
8 erty in, is registered to vote in, and resides in the participat-
9 ing local unit serviced by the organized fire department, to be
10 selected by the governing body of the participating local unit.

11 (c) The treasurer of the participating local unit, if the
12 treasurer is an elected official. If the treasurer of the par-
13 ticipating local unit is not an elected official, 1 additional
14 member shall be selected as provided in subdivision (b). If the
15 participating local unit consists of 2 or more local units elect-
16 ing to participate jointly under this act, the treasurer of 1 of
17 the local units, if an elected official, shall be selected by
18 majority vote of each affected local unit.

19 (d) One elected council or board official selected by the
20 governing body of the participating local unit.

21 (2) Except as otherwise provided in this subsection, each
22 member of the local board shall serve for a 2-year term. The
23 initial term of office for the members first serving shall be
24 determined at the first meeting of the local board by the drawing
25 of lots among the local board members with 2 members serving for
26 1 year and 3 members serving for 2 years. A vacancy occurring on
27 the local board 90 days or more before the expiration of a term

1 of office shall be filled for the remainder of the unexpired term
2 according to the method by which the position was originally
3 filled.

4 (3) A member of the local board, upon appointment, shall
5 subscribe to an oath of office, which shall be filed immediately
6 in the office of the secretary of state.

7 (4) Members of the local board shall serve without compensa-
8 tion with respect to their duties, but shall be reimbursed by the
9 participating local unit for their actual and necessary expenses
10 incurred in the performance of their duties as local board
11 members.

12 (5) A member of the local board who fails to attend 3 con-
13 secutive regularly scheduled meetings of the local board, without
14 an excuse approved by majority vote of the remaining members,
15 shall be considered as having resigned from local board
16 membership. The local board shall declare by resolution the
17 member's office vacated as of the date of adoption of the
18 resolution.

19 (6) Each local board shall elect a chairperson and secretary
20 from its members at the first meeting and annually after its
21 first meeting.

22 Sec. 11. (1) A local board shall keep records of its meet-
23 ings and proceedings. The business that the local board may per-
24 form shall be conducted at a public meeting of the local board
25 held in compliance with the open meetings act, Act No. 267 of the
26 Public Acts of 1976, being sections 15.261 to 15.275 of the
27 Michigan Compiled Laws. Public notice of the time, date, and

1 place of the meeting shall be given in the manner required by Act
2 No. 267 of the Public Acts of 1976.

3 (2) A majority of the local board constitutes a quorum for
4 the transaction of business at a meeting of the local board.
5 Decisions of the local board shall be made by majority vote of
6 the members present. The vote shall be recorded in the minutes
7 of the meeting of the local board.

8 (3) A writing prepared, owned, used, in the possession of,
9 or retained by the local board in the performance of an official
10 function shall be made available to the public in compliance with
11 the freedom of information act, Act No. 442 of the Public Acts of
12 1976, being sections 15.231 to 15.246 of the Michigan Compiled
13 Laws.

14 Sec. 12. (1) A local unit by a majority vote of its govern-
15 ing body may elect to participate under this act. A local unit
16 making an election to participate under this section shall by
17 majority vote select both of the following:

18 (a) An effective date for participation, which date shall be
19 the first day of a calendar month following the election.

20 (b) A level of contribution to be paid by the local unit to
21 finance retirement allowances as provided in this act, which
22 shall not be less than \$5.00 per month for each member fire
23 fighter servicing the local unit.

24 (2) Two or more local units that are serviced by the same
25 organized fire department may, by a majority vote of the govern-
26 ing body of each affected local unit, elect to participate
27 jointly under this act. Each local unit, by majority vote of the

1 local unit's governing body, shall make the selections required
2 in subsection (1). The level of contribution to be paid by each
3 local unit shall be as provided by agreement of all the jointly
4 participating local units under this subsection.

5 (3) Within 10 days after the vote of the governing body
6 under this section, the clerk or secretary of a local unit making
7 an election to participate under this section shall certify to
8 the state board, in the manner and form prescribed by the state
9 board, the determination of the local unit, including the effec-
10 tive date of participation and the level of contribution of that
11 local unit.

12 Sec. 13. (1) Except as provided in subsections (2) and (3),
13 each volunteer fire fighter serving in a local unit electing to
14 participate under this act pursuant to section 12 shall become a
15 member fire fighter as of the effective date of the local unit's
16 participation unless within 60 days after the certification
17 required by section 12, or within 60 days after beginning service
18 as a volunteer fire fighter in a participating local unit, which-
19 ever is later, the volunteer fire fighter files with the state
20 board a written notice of election not to participate in the
21 retirement system.

22 (2) A person who begins serving as a volunteer fire fighter
23 in a participating local unit after the effective date of this
24 act shall not become a member fire fighter unless he or she is
25 certified by a licensed Michigan physician as physically able to
26 perform fire fighting services.

1 (3) The membership of the retirement system shall not
2 include a person who is a member of another retirement system
3 that allows service credit for qualified service creditable under
4 this act. Service shall not be credited under this act if that
5 service is credited under any other public employees retirement
6 system.

7 (4) Within 30 days after becoming a member fire fighter and
8 at such other times after becoming a member fire fighter as the
9 state board requires, a volunteer fire fighter shall submit to
10 the state board a statement showing his or her name, date of
11 birth, length of service as a volunteer fire fighter, and other
12 information as required by the state board for the operation of
13 the retirement system.

14 Sec. 14. (1) Qualified service actually performed by a
15 member fire fighter before the effective date of this act shall
16 be credited to the member fire fighter upon payment by the member
17 fire fighter into the accumulation fund of an amount equal to the
18 number of months of such service the member wishes to purchase,
19 up to the maximum, multiplied by the contribution rate of the
20 participating local unit in effect for the member fire fighter on
21 the date of purchase, plus interest as determined by the state
22 board.

23 (2) Not more than 5 years of service may be credited to a
24 member fire fighter under this section.

25 (3) A person who has purchased service credit under this
26 section and who ceases to be a member fire fighter, upon
27 application to the state board, shall be entitled to receive a

1 refund of the contributions made under this section, plus
2 interest as determined by the state board. If a person who would
3 be entitled to a refund under this section is deceased, the
4 refund, upon application to the state board, shall be paid to the
5 person's estate. A retirement allowance shall not be paid based
6 upon service credit for which a refund was made under this
7 section.

8 Sec. 15. (1) A member fire fighter who is 55 years of age
9 or older and who has 10 or more years of credited service under
10 this act may retire upon his or her application to the state
11 board, stating a date, not less than 30 days nor more than 90
12 days after the execution and filing of the application, on which
13 he or she desires to retire.

14 (2) A member fire fighter who retires under subsection (1)
15 is entitled to receive a monthly retirement allowance equal to
16 the prorated actuarial equivalent of the accumulated contribu-
17 tions standing to the member fire fighter's credit in the accumu-
18 lation fund at the time of his or her retirement. Payment of the
19 retirement allowance shall cease upon the retirant's death.

20 (3) Each retirement allowance payable under this section
21 shall date from the first of the month following the month in
22 which the applicant satisfies the age and service or other
23 requirements provided in this act for receiving the retirement
24 allowance and terminates service as a volunteer fire fighter. A
25 full month's retirement allowance shall be payable for the month
26 in which a retirement allowance ceases.

1 Sec. 16. (1) Notwithstanding section 15(1) and subject to
2 subsections (2) and (3), upon the written application of a member
3 fire fighter to the state board, a member fire fighter who
4 becomes totally and permanently disabled for duty as a volunteer
5 fire fighter, without willful negligence on his or her part, by
6 reason of a personal injury or mental or physical illness that
7 the state board finds to have occurred as the natural and proximate
8 result of the member's actual performance as a volunteer
9 fire fighter shall be retired and entitled to the retirement
10 allowance provided under section 15(2).

11 (2) Once each year during the first 5 years following the
12 retirement of a member fire fighter under subsection (1), and not
13 less than once in every 3-year period after the first 5 years,
14 the state board may, and upon the disability retirant's written
15 application to the state board shall, require a disability retir-
16 ant who has not reached 55 years of age to undergo a medical
17 examination.

18 (3) A disability retirant who has not reached 55 years of
19 age and who refuses to submit to the medical examination required
20 under subsection (2), or who submits to the examination and is
21 determined not to be disabled, shall not be entitled to a dis-
22 ability retirement allowance under this section.

23 Sec. 17. A member fire fighter who ceases to be employed as
24 a volunteer fire fighter for a reason other than retirement or
25 death, and who has 10 or more years of credited service under
26 this act, shall cease to be a member fire fighter and shall be
27 entitled to receive a deferred retirement allowance computed

1 according to section 15 upon becoming 55 years of age or older.
2 This section shall not preclude a person entitled to a deferred
3 retirement allowance from again becoming a member fire fighter
4 and earning additional service credit under this act.

5 Sec. 18. (1) Each local board shall pay to the state board
6 not less than quarterly the amount of contribution selected by
7 the local unit under section 12 for each member fire fighter
8 serving in the local unit.

9 (2) The state board shall certify to each local unit quar-
10 terly the amount payable by the local unit under this section.
11 Payments received more than 30 days after the date specified in
12 the certification shall be subject to a penalty of 8% of the
13 amount due.

14 Sec. 19. A participating local unit by a majority vote of
15 its governing body may elect to change the level of contributions
16 applicable to its member fire fighters and elect an effective
17 date for the change in coverage. In electing an effective date
18 for the change in coverage, a local unit shall be restricted to
19 the first day of a calendar month following the election. A
20 change in coverage shall not diminish the value of benefits
21 already financed by the local unit. Within 10 days after the
22 vote of the governing body, the clerk or secretary of the partic-
23 ipating local unit shall certify to the state board, in the
24 manner and form prescribed by the state board, the determination
25 of the local unit under this section.

26 Sec. 20. A participating local unit may elect to withdraw
27 from participation in the retirement system and the provisions of

1 this act by a majority vote of the governing body of the
2 participating local unit. Within 10 days after the vote of the
3 governing body, the clerk or secretary of each participating
4 local unit electing to withdraw from participation shall certify
5 the determination of the participating local unit to the state
6 board. The effective date of any local unit's withdrawal from
7 participation in the retirement system shall be the first day of
8 the budgetary year of the local unit occurring not less than 1
9 year after the election. If a participating local unit elects to
10 withdraw from participation in the retirement system, the partic-
11 ipating local unit shall not again be eligible to become a par-
12 ticipating local unit until the expiration of a period of 5 years
13 following the effective date of the local unit's withdrawal. The
14 rights and benefits accrued to member fire fighters, deferred
15 members, and retirants and the disposition of any balances cred-
16 ited to the withdrawing local unit in the funds of the retirement
17 system shall be treated as provided for in section 21.

18 Sec. 21. If a participating local unit elects to withdraw
19 from participation in the retirement system under section 20, the
20 balance in the accumulation fund standing to the credit of the
21 participating local unit shall be first applied to the establish-
22 ment of full reserves, as computed by the actuary upon the basis
23 of the mortality and other tables of experience and regular
24 interest that the state board adopts, to cover benefits vested
25 prior to the local unit's withdrawal from participation to retir-
26 ants and deferred members on account of service rendered the
27 local unit. The state board and the governing body of the local

1 unit shall by agreement determine how to disburse any remaining
2 balance in the fund.

3 Sec. 22. The local unit shall pay for any clerical, legal,
4 actuarial, or other expenses of a local board.

5 Sec. 23. The state and local boards established under this
6 act may accept gifts, grants, or bequests of money or securities
7 for the purpose of reducing the costs of local units or of the
8 state for making payments or providing benefits under this act.

9 Sec. 24. The accumulation fund is the fund into which shall
10 be deposited and in which shall be accumulated the contributions
11 collected by the state board from local boards under this act.
12 Upon the retirement of a member fire fighter, the money for the
13 retirement allowance for the member fire fighter shall be trans-
14 ferred from the accumulation fund to the pension reserve fund.
15 If in any year the pension reserve fund is insufficient to cover
16 the reserves for retirement allowances and other benefits being
17 paid from the pension reserve fund, the amount of the insuffi-
18 ciency shall be transferred from the accumulation fund to the
19 pension reserve fund.

20 Sec. 25. The pension reserve fund is the fund into which
21 money from the accumulation fund is deposited and from which all
22 retirement allowances and other benefits are paid pursuant to
23 this act.

24 Sec. 26. The income fund is the fund to which regular
25 interest on the amounts in the accumulation fund and the pension
26 reserve fund shall be credited. At the close of each fiscal
27 year, the state board shall credit to the accumulation and

1 pension reserve funds regular interest on the mean balances in
2 those funds, and shall credit to the expense fund any excess
3 interest remaining in the income fund.

4 Sec. 27. The expense fund is the fund to which shall be
5 credited all money received from appropriations of the state,
6 from the income fund as provided in section 26, and from any
7 other source to pay the administrative expenses of the retirement
8 system, and from which shall be paid all expenses necessary for
9 the administration of the retirement system, except as provided
10 in sections 10 and 22.