

Michigan Association of Public Employee Retirement Systems (MAPERS)  
Overview of Proposed Legislative Changes to PA 314

**HB 5323, September 9, 2009**

**Sponsor:** Representative Richard Hammel (D-Flushing) and 21 co-sponsors, with bipartisan and geographically diverse co-sponsorship.

**Committee Assignment:** House Banking and Financial Services (Chm. Andy Coulouris, D- Saginaw and other members including Representatives Dan Scripps (D-Northport), Ed Clemente (D- Lincoln Park), Bert Johnson (D-Highland Park), Jeff Mayes (D-Bay City), David Nathan (D-Detroit), Darwin Booher (R-Evart), Eileen Kowall (R-White Lake), and Brian Calley (R-Portland).

The goal of the legislation is to update the underlying investment act for local pension plans to permit them to diversify investments better and protect themselves in various kinds of financial markets. Improving investment selection helps local plans preserve pension benefits. Changes being proposed include:

- Adding language to enable local plans to utilize earnings on funds to provide professional training and education to plan trustees so that new trustees can understand their fiduciary responsibilities and all trustees will be informed about changes in the law, in rules and in the marketplace that affect their roles;
- Requiring all investment service providers to provide complete written disclosure of all fees associated with providing services before the services are provided and mandating annual written disclosures afterwards;
- Removing the investment of *private equities* from the basket clause and setting up asset allocations appropriate to the size of each pension plan, with a requirement that the smallest plans make these investments through a “fund of fund” vehicle ;
- Increasing the real estate investment asset limitation whether via a real estate investment trust (REIT) or physical real property for local plans;
- Creating an asset category for high yield investment;
- Increasing options to invest in the “basket clause”, graded by the asset size of the plan, in order to increase the ability of local plans to diversify their asset allocation quickly as the market and investment options change.

**If you have questions, please call MAPERS’ lobbyists at Capitol Services, Inc., Ellen Hoekstra or Noah Smith at 517-372-0860**



**Comparison - Proposal vs. Current PA 314  
As of 9/10/09**

Asset Class	Plan Size	Current Limits	Proposed Limits
<b>High Yield (17)</b>	0 < \$250,000,000		10%
	\$250,000,000 < \$1,000,000,000	Allowable only under Basket Clause	10%
	> \$1,000,000,000	limits	10%
	State Treasurer		10%
<b>Private Equity (19A)</b>	< \$100,000,000		10% (Fund of Funds Only)
	< \$500,000,000		10%
	\$500,000,000 < \$1,000,000,000	Allowable only under Basket Clause	15%
	> \$1,000,000,000	limits	20%
State Treasurer		30%	
<b>Real Estate (19)</b>	< \$100,000,000		10%
	> \$100,000,000		20%
	State Treasurer	No Limit	No Limit
<b>Basket Clause (20D)</b>	0 < \$250,000,000		N/A
	\$250,000,000 < \$1,000,000,000		N/A
	> \$1,000,000,000		N/A
	State Treasurer		N/A
	< \$500,000,000		10%
	\$500,000,000 < \$1,000,000,000		15%
	> \$1,000,000,000		20%
	State Treasurer		25%
<b>Derivatives (20J)</b>	No limits	15%	30%

Summary Comparison was authored by Michael Holycross and Brian Green of Morgan Stanley Smith Barney.

**Plan Size Restrictions - New Proposal vs. Current PA 314**

Plan Size	Asset Class	Current Limits	Proposed Limits	Impact
<b>\$75,000,000</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	5%	10%	5%
	Private Equity	5% (Basket Clause)	10%	5%
	High Yield		10%	10%
	Real Estate	5%	10%	5%
	Derivatives	15%	30%	15%
<b>\$150,000,000</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	5%	10%	5%
	Private Equity	5% (Basket Clause)	10%	5%
	High Yield		10%	5%
	Real Estate	10%	20%	10%
	Derivatives	15%	30%	15%
<b>\$500,000,000</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	10%	15%	5%
	Private Equity	10% (Basket Clause)	15%	5%
	High Yield		10%	0%
	Real Estate	10%	20%	10%
	Derivatives	15%	30%	15%
<b>\$1,000,000,000</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	15%	15%	0%
	Private Equity	15% (Basket Clause)	20%	5%
	High Yield		10%	-5%
	Real Estate	10%	20%	10%
	Derivatives	15%	30%	15%
<b>\$3,000,000,000</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	15%	20%	5%
	Private Equity	15% (Basket Clause)	20%	5%
	High Yield		10%	-5%
	Real Estate	10%	20%	10%
	Derivatives	15%	30%	15%
<b>State Treasurer</b>	Equities	70% Domestic / 20% International	Identical	--
	Basket Clause	20%	2.5%	5%
	Private Equity	20% (Basket Clause)	30%	10%
	High Yield		10%	-10%
	Real Estate	No Limit	No Limit	--
	Derivatives	15%	30%	15%

## PRIVATE EQUITY INVESTMENTS AND PUBLIC PENSIONS

Private equity investments offer the potential for enhanced portfolio diversification and the attainment of attractive long-term investment returns by investing directly in non-public companies. Many companies seek private equity investors in order to benefit from long-term capital commitment and direct management involvement.

Over the long term, which is the true measure of success for pension plans, private equity investments have outperformed the S&P 500. Many public pension funds are finding private equity a profitable investment and an increasingly important component to a well-diversified portfolio. Investment in private equity is becoming more common. An August 2008 GAO Report indicated that over 40% of mid to large sized public pension funds nationally have invested in private equity.

We offer the following historical comparison of the S&P 500 and Dow Jones Industrial Average versus Private Equity. Please note performance is as of 12/31/2008.

	S&P 500	Dow Jones Industrial Average	Cambridge US Private Equity
Trailing 1 Year	-37.00%	-31.93%	-23.26%
Trailing 3 Year	-8.36%	-4.09%	4.99%
Trailing 5 Year	-2.19%	-1.12%	13.08%
Trailing 7 Year	-1.53%	0.43%	11.14%
Trailing 10 Year	-1.38%	1.66%	9.50%

The Cambridge US Private Equity Index is based on data compiled from 757 U.S. private equity funds (U.S. Buyouts, Private Equity Energy, Growth Equity and Mezzanine), including fully liquidated partnerships, formed between 1986 and 2008.

Local pension plans are seeking the ability for further diversification of their investments, particularly into private equities. The more that they are able to enhance the earnings from their investments, the better for their active and retired members and the municipalities they serve.