

HOUSE BILL No. 5725

June 5, 2012, Introduced by Reps. MacGregor, Opsommer, Shaughnessy, McMillin,
Jacobsen, Price and Franz and referred to the Committee on Appropriations.

A bill to amend 1984 PA 427, entitled
"Municipal employees retirement act of 1984,"
by amending section 36 (MCL 38.1536), as amended by 2004 PA 490,
and by adding section 41a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36. (1) A retirement board is created to administer this
2 act. Before the certification date, the retirement board shall
3 operate within the department of **TECHNOLOGY**, management, and
4 budget. On and after the certification date, the retirement system
5 shall become a public corporation and shall no longer operate
6 within the executive branch of this state.

7 (2) On and after the certification date, **EXCEPT AS OTHERWISE**
8 **PROVIDED IN SECTION 41A**, the retirement board has all of the
9 following powers and duties:

10 (a) The retirement board shall determine and establish all of

1 the provisions of the retirement system affecting benefit
2 eligibility, benefit programs, contribution amounts, and the
3 election of municipalities, judicial circuit courts, judicial
4 district courts, and judicial probate courts to be governed by the
5 provisions of the retirement system. The retirement board shall
6 establish all retirement system provisions. As of 12:01 a.m. on the
7 certification date, the retirement system provisions shall not
8 differ materially from the defined benefit provisions that are in
9 effect under this act at 11:59 p.m. on the day immediately before
10 the certification date. This subdivision does not limit the
11 retirement board's authority after the certification date to
12 establish additional programs, including, but not limited to,
13 defined benefit, defined contribution, ancillary benefits, health
14 and welfare benefits, and other postemployment benefit programs.
15 The retirement board may adopt the provisions of the reciprocal
16 retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, on behalf of
17 the employees of the retirement board.

18 (b) The retirement board has the full and exclusive authority
19 and full responsibility to employ and pay for all professional
20 services, including, but not limited to, actuarial, investment,
21 legal, accounting, and any other services that the retirement board
22 considers necessary for the proper operation of the retirement
23 system. The power granted to the retirement board in this
24 subdivision includes complete control of the procurement process.

25 (c) The retirement board shall appoint a chief executive
26 officer and any other employees for which the retirement board
27 establishes positions. The retirement board shall establish the

1 compensation of all persons appointed by the board. On and after
2 the certification date, a person employed by the public corporation
3 is not an employee of this state for any purpose.

4 (d) The retirement board shall arrange for an annual actuarial
5 valuation and report of the actuarial soundness of each
6 participating municipality and court to be prepared by an
7 independent actuary based upon data compiled and supplied by
8 employees of the retirement system. The retirement board shall
9 adopt actuarial tables, assumptions, and formulas after
10 consultation with the actuary.

11 (e) The retirement board shall arrange for annual audits of
12 the records and accounts of the retirement system by a certified
13 public accountant or by a firm of certified public accountants
14 pursuant to generally accepted auditing standards and the uniform
15 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

16 (f) The retirement board shall prepare an annual report for
17 each fiscal year in compliance with generally accepted accounting
18 principles. The report shall contain information regarding the
19 financial, actuarial, and other activities of the retirement system
20 during the fiscal year. The retirement board shall furnish a copy
21 of the annual report to the governor and a copy in print or
22 electronic format to each house of the legislature, each
23 participating municipality, and each participating court. The
24 retirement board shall make the report available to all members
25 upon request. The report shall also contain a review of the
26 actuarial valuation required under subdivision (d), if available.

27 (g) The retirement board shall appoint an attorney to be the

1 legal advisor of the board and to represent the board in all
2 proceedings.

3 (h) The retirement board shall appoint or employ custodians of
4 the assets of the retirement system. The custodians shall perform
5 all duties necessary and incidental to the custodial responsibility
6 and make disbursements of authorized retirement system payments
7 from the funds of the retirement system.

8 (i) The retirement board shall perform other functions that
9 are required for the execution of the provisions of this act.

10 (j) The retirement board shall establish the time and location
11 of the meetings of the retirement board and the time and location
12 of the annual meeting of the retirement system, consistent with the
13 provisions of the open meetings act, 1976 PA 267, MCL 15.261 to
14 15.275.

15 (3) Before the certification date, the provisions of the
16 executive organization act of 1965, 1965 PA 380, MCL 16.101 to
17 16.608, and the management and budget act, 1984 PA 431, MCL 18.1101
18 to 18.1594, shall govern the administrative functions of the
19 retirement system. However, any provision of law in actual conflict
20 with the provisions of ~~the amendatory act that added this sentence~~
21 ~~shall~~ **2004 PA 490 DO** not apply.

22 (4) On and after the certification date, the retirement board
23 consists of the following 9 members, each of whom, excepting the
24 retiree member and the retirement board appointees, shall be from a
25 different county at the time of appointment:

26 (a) Two members appointed by the retirement board who have
27 knowledge or experience in retirement systems, administration of

1 retirement systems, or investment management or advisory services.

2 (b) One member who is a retiree of the system appointed by the
3 board.

4 (c) Three members of the retirement system who are officers of
5 participating municipalities or courts, who shall be designated as
6 officer board members.

7 (d) Three employee members of the retirement system who are
8 not officers of a participating municipality or court, who shall be
9 designated as employee board members.

10 (5) The retirement board shall adopt its own rules of
11 procedure and shall keep a record of its proceedings. Five members
12 of the retirement board shall constitute a quorum at any meeting of
13 the retirement board and at least 5 concurring votes shall be
14 necessary for any decision by the retirement board. Each member of
15 the retirement board shall be entitled to 1 vote on each question
16 before the retirement board.

17 (6) The regular term of office of members of the retirement
18 board is 3 years. Each member of the retirement board shall take an
19 oath of office before assuming the duties of the position. Members
20 of the retirement board shall serve without compensation with
21 respect to their duties, but shall be reimbursed by the retirement
22 system for their actual and necessary expenses incurred in the
23 performance of their duties. A participating municipality or court
24 employing a member of the retirement board shall treat absences
25 from work on account of retirement board business in such a manner
26 that the individual does not suffer loss of pay or benefits.

27 (7) A vacancy shall occur on the retirement board upon the

1 occurrence of any of the following events:

2 (a) An officer board member ceases to be eligible for
3 nomination as an officer board member.

4 (b) An employee board member ceases to be eligible for
5 nomination as an employee board member.

6 (c) Failure to attend 3 consecutive scheduled meetings of the
7 retirement board, unless excused for cause by majority vote of the
8 board members attending the meeting.

9 (8) A vacancy occurring on the retirement board at least 120
10 days before the expiration of a term of office shall be filled by
11 the retirement board. Board appointments under this subsection
12 shall be for the period ending on the December 31 next following
13 the date of the vacancy. For the officer board members and employee
14 board members, a replacement for any further portion of the
15 unexpired term shall be filled pursuant to section 45. For the 2
16 appointed board members and the retiree board member, a replacement
17 for any further portion of the unexpired term shall be filled
18 pursuant to subsection (4).

19 (9) The retirement board shall select from its members a
20 chairperson and a chairperson pro-tem.

21 (10) The retirement board shall employ a chief executive
22 officer. The chief executive officer shall do all of the following:

23 (a) Manage and administer the retirement system under the
24 supervision and direction of the retirement board.

25 (b) Invest the assets of the retirement system, as directed by
26 the retirement board, consistent with the public employee
27 retirement system investment act, 1965 PA 314, MCL 38.1132 to

1 38.1140m, which act governs the investment of assets of public
2 employee retirement systems.

3 (c) Annually prepare and submit to the retirement board for
4 review, amendment, and adoption an itemized budget showing the
5 amount required to pay the retirement system's expenses for the
6 following fiscal year.

7 (d) Perform other duties as the retirement board, in its
8 discretion, shall delegate to the chief executive officer.

9 SEC. 41A. (1) BY MAJORITY VOTE OF ITS GOVERNING BODY, A
10 PARTICIPATING MUNICIPALITY MAY DO ANY OF THE FOLLOWING:

11 (A) REVOKE ITS ELECTION TO BE GOVERNED BY THE PROVISIONS OF
12 THE RETIREMENT SYSTEM. A PARTICIPATING MUNICIPALITY MAY REVOKE ITS
13 ELECTION FOR ALL MEMBERS IN A PLAN, OR FOR ANY DIVISION, SUBSET, OR
14 COLLECTIVE BARGAINING UNIT OF THE MUNICIPALITY.

15 (B) CHANGE THE BENEFIT PROGRAM AND MEMBER CONTRIBUTION
16 PROGRAMS THAT APPLY TO EMPLOYEES OF THE PARTICIPATING MUNICIPALITY.
17 CHANGES INCLUDE, BUT ARE NOT LIMITED TO, CURTAILING OR ELIMINATING
18 A MEMBER'S ACCRUAL OF FUTURE BENEFITS OR SETTING ELIGIBILITY
19 CRITERIA FOR AN EMPLOYEE TO PARTICIPATE IN THE DEFINED BENEFIT
20 PROVISION OF THE RETIREMENT SYSTEM. A PARTICIPATING MUNICIPALITY
21 MAY MAKE A CHANGE FOR ALL MEMBERS IN A PLAN, OR FOR ANY DIVISION,
22 SUBSET, OR COLLECTIVE BARGAINING UNIT OF THE MUNICIPALITY.

23 (2) IF A PARTICIPATING MUNICIPALITY TAKES AN ACTION DESCRIBED
24 IN SUBSECTION (1), THE PARTICIPATING MUNICIPALITY SHALL SELECT AN
25 ACTUARY TO PREPARE AN ACTUARIAL ANALYSIS. THE ACTUARIAL ANALYSIS
26 SHALL INCLUDE AN ANALYSIS OF THE PARTICIPATING MUNICIPALITY'S
27 CONTRIBUTION REQUIREMENTS ASSOCIATED WITH A REVOCATION OF

1 PARTICIPATION OR CHANGE IN COVERAGE. SUBJECT TO SECTION 20M OF THE
2 PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT, 1965 PA 314, MCL
3 38.1140M, THE ACTUARY MAY USE 1 OR MORE ACTUARIAL METHODS OR
4 ALTERNATIVE AMORTIZATION PERIODS, OR BOTH, THAT ARE GENERALLY
5 ACCEPTED WITHIN THE ACTUARIAL PROFESSION. THE PARTICIPATING
6 MUNICIPALITY SHALL SELECT AND APPROVE A METHODOLOGY OR AMORTIZATION
7 PERIOD, OR BOTH, TO BE USED TO DETERMINE THE PARTICIPATING
8 MUNICIPALITY'S CONTRIBUTION REQUIREMENT. THE ACTUARY SHALL NOT
9 CHANGE OTHER ASSUMPTIONS WITHOUT THE APPROVAL OF THE RETIREMENT
10 SYSTEM. THE RETIREMENT SYSTEM SHALL PAY THE COST OF ACTUARIAL
11 ANALYSIS FROM PLAN ASSETS.

12 (3) A PARTICIPATING MUNICIPALITY THAT TAKES AN ACTION
13 DESCRIBED IN SUBSECTION (1) SHALL BE RESPONSIBLE FOR FUNDING ITS
14 CONTRIBUTION REQUIREMENTS AS DETERMINED UNDER SUBSECTION (2) AND
15 SECTION 24 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963.

16 (4) THE RETIREMENT SYSTEM SHALL NOT REQUIRE A PARTICIPATING
17 MUNICIPALITY THAT TAKES AN ACTION DESCRIBED IN SUBSECTION (1) TO
18 PARTICIPATE IN ANOTHER RETIREMENT PLAN ADMINISTERED BY THE
19 RETIREMENT SYSTEM AS A CONDITION FOR A PARTICIPATING MUNICIPALITY
20 TO TAKE AN ACTION DESCRIBED IN SUBSECTION (1).