

HOUSE BILL No. 5310

November 30, 2017, Introduced by Reps. Lower, Leutheuser, Albert and Crawford and referred to the Committee on Michigan Competitiveness.

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, AUGUST 15, 1996,~~ the retirement
3 board shall operate within the department of management and budget.

4 ~~On and after the certification date, AFTER AUGUST 14, 1996,~~ the
5 retirement system ~~shall become~~ **IS** a public corporation and ~~shall no~~
6 ~~longer~~ **DOES NOT** operate within the executive branch of this state.

7 (2) ~~On and after the certification date, AFTER AUGUST 14,~~
8 **1996, EXCEPT AS OTHERWISE PROVIDED IN SECTION 41A AND SUBJECT TO**
9 **THE PROTECTING LOCAL GOVERNMENT RETIREMENT AND BENEFITS ACT,** the
10 retirement board has all of the following powers and duties:

1 (a) The retirement board shall determine and establish all of
2 the provisions of the retirement system affecting benefit
3 eligibility, benefit programs, contribution amounts, and the
4 election of municipalities, judicial circuit courts, judicial
5 district courts, and judicial probate courts to be governed by the
6 provisions of the retirement system. The retirement board shall
7 establish all retirement system provisions. As of 12:01 a.m. on ~~the~~
8 ~~certification date, AUGUST 15, 1996,~~ the retirement system
9 provisions ~~shall~~ **MUST** not differ materially from the defined
10 benefit provisions that are in effect under this act at 11:59 p.m.
11 ~~on the day immediately before the certification date. AUGUST 14,~~
12 **1996.** This subdivision does not limit the retirement board's
13 authority after ~~the certification date AUGUST 15, 1996~~ to establish
14 additional programs, including, but not limited to, defined
15 benefit, defined contribution, ancillary benefits, health and
16 welfare benefits, and other postemployment benefit programs. The
17 retirement board may adopt the provisions of the reciprocal
18 retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, on behalf of
19 the employees of the retirement board.

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

27 (c) The retirement board shall appoint a chief executive

1 officer and any other employees for which the retirement board
2 establishes positions. The retirement board shall establish the
3 compensation of all persons appointed by the board. ~~On and after~~
4 ~~the certification date,~~ **AFTER AUGUST 14, 1996**, a person employed by
5 the public corporation is not an employee of this state. ~~for any~~
6 ~~purpose.~~

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

14 (e) The retirement board shall arrange for annual audits of
15 the records and accounts of the retirement system by a certified
16 public accountant or by a firm of certified public accountants
17 ~~pursuant to~~ **UNDER** generally accepted auditing standards and the
18 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
19 141.440a.

20 (f) The retirement board shall prepare an annual report for
21 each fiscal year in compliance with generally accepted accounting
22 principles. The report ~~shall contain~~ **MUST INCLUDE** information
23 regarding the financial, actuarial, and other activities of the
24 retirement system during the fiscal year. The retirement board
25 shall furnish a copy of the annual report to the governor and a
26 copy in print or electronic format to each house of the
27 legislature, each participating municipality, and each

1 participating court. The retirement board shall make the report
2 available to all members ~~upon~~ **ON** request. The report ~~shall~~ **MUST**
3 also ~~contain~~ **INCLUDE** a review of the actuarial valuation required
4 under subdivision (d), if available.

5 (g) The retirement board shall appoint an attorney to be the
6 legal advisor of the board and to represent the board in all
7 proceedings.

8 (h) The retirement board shall appoint or employ custodians of
9 the assets of the retirement system. The custodians shall perform
10 all duties necessary and incidental to the custodial responsibility
11 and make disbursements of authorized retirement system payments
12 from the funds of the retirement system.

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

15 (j) The retirement board shall establish the time and location
16 of the meetings of the retirement board and the time and location
17 of the annual meeting of the retirement system, consistent with the
18 ~~provisions of the open meetings act, 1976 PA 267, MCL 15.261 to~~
19 15.275.

20 (3) Before ~~the certification date,~~ **AUGUST 15, 1996,** the
21 ~~provisions of the executive organization act of 1965, 1965 PA 380,~~
22 MCL 16.101 to 16.608, and the management and budget act, 1984 PA
23 431, MCL 18.1101 to 18.1594, ~~shall~~ govern the administrative
24 functions of the retirement system. However, any provision of law
25 in actual conflict with ~~the provisions of the amendatory act that~~
26 ~~added this sentence shall~~ **1996 PA 220 DOES** not apply.

27 (4) ~~On and after the certification date,~~ **AFTER AUGUST 14,**

1 1996, the retirement board consists of the following 9 members,
2 each of whom, excepting the retiree member and the retirement board
3 appointees, ~~shall~~**MUST** be from a different county at the time of
4 appointment:

5 (a) Two members appointed by the retirement board who have
6 knowledge or experience in retirement systems, administration of
7 retirement systems, or investment management or advisory services.

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

10 (c) Three members of the retirement system who are officers of
11 participating municipalities or courts, who ~~shall~~**MUST** be
12 designated as officer board members.

13 (d) Three employee members of the retirement system who are
14 not officers of a participating municipality or court, who ~~shall~~
15 **MUST** be designated as employee board members.

16 (5) The retirement board shall adopt its own rules of
17 procedure and shall keep a record of its proceedings. Five members
18 of the retirement board ~~shall~~ constitute a quorum at ~~any~~**A** meeting
19 of the retirement board and at least 5 concurring votes ~~shall be~~
20 **ARE** necessary for any decision by the retirement board. Each member
21 of the retirement board ~~shall be~~**IS** entitled to 1 vote on each
22 question before the retirement board.

23 (6) The regular term of office of members of the retirement
24 board is 3 years. Each member of the retirement board shall take an
25 oath of office before assuming the duties of the position. Members
26 of the retirement board shall serve without compensation with
27 respect to their duties, but ~~shall~~**MUST** be reimbursed by the

1 retirement system for their actual and necessary expenses incurred
2 in the performance of their duties. A participating municipality or
3 court employing a member of the retirement board shall treat
4 absences from work ~~on account~~ **BECAUSE** of retirement board business
5 in ~~such~~ a manner that the individual does not suffer loss of pay or
6 benefits.

7 (7) A vacancy ~~shall occur~~ **OCCURS** on the retirement board ~~upon~~
8 **ON** the occurrence of any of the following events:

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

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

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

16 (8) ~~A~~ **THE RETIREMENT SYSTEM BOARD SHALL FILL A** vacancy
17 occurring on the retirement board at least 120 days before the
18 expiration of a term of office. ~~shall be filled by the retirement~~
19 ~~board.~~ Board appointments under this subsection ~~shall be~~ **ARE** for
20 the period ending on the December 31 next following the date of the
21 vacancy. For the officer board members and employee board members,
22 a replacement for any further portion of the unexpired term ~~shall~~
23 **MUST** be filled ~~pursuant to~~ **UNDER** section 45. For the 2 appointed
24 board members and the retiree board member, a replacement for any
25 further portion of the unexpired term ~~shall~~ **MUST** be filled ~~pursuant~~
26 ~~to~~ **UNDER** subsection (4).

27 (9) The retirement board shall select from its members a

1 chairperson and a chairperson pro-tem.

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

4 (a) Manage and administer the retirement system under the
5 supervision and direction of the retirement board.

6 (b) Invest the assets of the retirement system, as directed by
7 the retirement board, consistent with the public employee
8 retirement system investment act, 1965 PA 314, MCL 38.1132 to
9 ~~38.1140m, which act governs the investment of assets of public~~
10 ~~employee retirement systems.~~**38.1141.**

11 (c) Annually prepare and submit to the retirement board for
12 review, amendment, and adoption an itemized budget showing the
13 amount required to pay the retirement system's expenses for the
14 following fiscal year.

15 (d) Perform other duties as the retirement board ~~, in its~~
16 ~~discretion, shall delegate~~**DELEGATES** to the chief executive
17 officer.

18 **SEC. 41A. (1) BY MAJORITY VOTE OF ITS GOVERNING BODY, A**
19 **PARTICIPATING MUNICIPALITY MAY REVOKE ITS ELECTION TO BE GOVERNED**
20 **BY THE PROVISIONS OF THE RETIREMENT SYSTEM. A PARTICIPATING**
21 **MUNICIPALITY MAY REVOKE ITS ELECTION FOR ALL MEMBERS IN A PLAN, OR**
22 **FOR ANY DIVISION, SUBSET, OR COLLECTIVE BARGAINING UNIT OF THE**
23 **MUNICIPALITY.**

24 **(2) IF A PARTICIPATING MUNICIPALITY TAKES AN ACTION DESCRIBED**
25 **IN SUBSECTION (1), THE PARTICIPATING MUNICIPALITY SHALL SELECT AN**
26 **ACTUARY TO PREPARE AN ACTUARIAL ANALYSIS USING ACTUARIAL STANDARDS**
27 **OF PRACTICE ADOPTED BY THE ACTUARIAL STANDARDS BOARD. THE ACTUARIAL**

1 ANALYSIS MUST INCLUDE AN ANALYSIS OF THE PARTICIPATING
2 MUNICIPALITY'S CONTRIBUTION REQUIREMENTS ASSOCIATED WITH A
3 REVOCATION OF PARTICIPATION. SUBJECT TO SECTION 20M OF THE PUBLIC
4 EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT, 1965 PA 314, MCL
5 38.1140M, THE ACTUARY MAY USE 1 OR MORE ACTUARIAL METHODS OR
6 ALTERNATIVE AMORTIZATION PERIODS, OR BOTH, THAT ARE CONSISTENT WITH
7 ACTUARIAL STANDARDS OF PRACTICE ADOPTED BY THE ACTUARIAL STANDARDS
8 BOARD. THE PARTICIPATING MUNICIPALITY SHALL SELECT AND APPROVE A
9 METHODOLOGY OR AMORTIZATION PERIOD, OR BOTH, TO BE USED TO
10 DETERMINE THE PARTICIPATING MUNICIPALITY'S CONTRIBUTION
11 REQUIREMENT. THE ACTUARY SHALL NOT CHANGE OTHER ASSUMPTIONS WITHOUT
12 THE APPROVAL OF THE RETIREMENT SYSTEM. THE RETIREMENT SYSTEM SHALL
13 PAY THE COST OF ACTUARIAL ANALYSIS FROM PLAN ASSETS.

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

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

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. _____ or House Bill No. 5298 (request no.
25 00251'17 *) of the 99th Legislature is enacted into law.