

SENATE BILL No. 517

May 22, 2003, Introduced by Senator HAMMERSTROM and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1984 PA 427, entitled "Municipal employees retirement act of 1984," by amending sections 2a, 2b, and 36 (MCL 38.1502a, 38.1502b, and 38.1536), as amended by 1996 PA 220; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2a. (1) "Certification date" means ~~the date certified~~
 2 ~~in the election results filed with the secretary of state~~
 3 ~~pursuant to enacting section 4 of the amendatory act that added~~
 4 ~~this sentence~~ **August 15, 1996.**

5 (2) "Chief judge" means the chief judge of a judicial circuit
 6 court, a judicial district court, or a judicial probate court as
 7 provided in the revised judicature act of 1961, ~~Act No. 236 of~~
 8 ~~the Public Acts of 1961, being sections 600.101 to 600.9947 of~~
 9 ~~the Michigan Compiled Laws~~ **1961 PA 236, MCL 600.101 to**

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1 600.9948.

2 (3) "Governing body" means the representative legislative
3 body of a municipality, or the administrative board or commission
4 of a public corporation or instrumentality that does not have a
5 representative legislative body.

6 (4) "Judicial circuit court" means a judicial circuit of the
7 circuit court as provided in section 11 of article VI of the
8 state constitution of 1963.

9 (5) "Judicial district court" means a judicial district of
10 the district court as provided in section 8101 of the revised
11 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
12 ~~being section 600.8101 of the Michigan Compiled Laws 1961 PA~~
13 **236, MCL 600.8101.**

14 (6) "Judicial probate court" means a county probate court or
15 probate court district as provided in section 15 of article VI of
16 the state constitution of 1963.

17 Sec. 2b. (1) "Member" means an individual who is included
18 in the membership of the retirement system, as determined by the
19 retirement board.

20 (2) "Municipality" ~~means a county, county road commission,~~
21 ~~city, village, township, or a combination of these units; a~~
22 ~~lawful public corporation or instrumentality established by 1 or~~
23 ~~more counties, cities, villages, townships, or a combination of~~
24 ~~these units; or a public corporation or instrumentality charged~~
25 ~~by law with the performance of a governmental function and whose~~
26 ~~jurisdiction is coextensive with 1 or more counties, cities,~~
27 ~~villages, townships, or a combination of these units. includes,~~

1 but is not limited to, 1 or more of the following:

2 (a) A county, county road commission, city, village, or
3 township.

4 (b) A public corporation or instrumentality established by 1
5 or more counties, cities, villages, or townships.

6 (c) A public corporation or instrumentality charged by law
7 with the performance of a governmental function and whose
8 jurisdiction is coextensive with 1 or more counties, cities,
9 villages, or townships.

10 (d) A political subdivision of this state or another adjacent
11 state of the United States, including, but not limited to, the
12 entities named in subdivision (a), (b), or (c), or any
13 combination of those units.

14 (e) A metropolitan government borough, or other political
15 subdivision of the province of Ontario, an agency of the United
16 States, or a similar entity of adjacent states of the United
17 States and the province of Ontario.

18 (f) A federally recognized Indian tribal government located
19 in this state and exercising its sovereign powers solely within
20 this state or in this state and another adjacent state of the
21 United States pursuant to terms of participation established by
22 the retirement system.

23 (g) A state university whose employees are not public school
24 employees who are members under the public school employees
25 retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

26 Sec. 36. (1) A retirement board is created to administer
27 this act. Before the certification date, the retirement board

1 shall operate within the department of management and budget. On
2 and after the certification date, the retirement system shall
3 become a public corporation and shall no longer operate within
4 the executive branch of this state.

5 (2) On and after the certification date, the retirement board
6 has all of the following powers and duties:

7 (a) The retirement board shall determine **and establish** all of
8 the provisions of the retirement system affecting benefit
9 eligibility, benefit programs, contribution amounts, and the
10 election of municipalities, judicial circuit courts, judicial
11 district courts, and judicial probate courts to be governed by
12 the provisions of the retirement system. The retirement board
13 shall establish all retirement system provisions. As of 12:01
14 a.m. on the certification date, the retirement system provisions
15 shall not differ materially from the defined benefit provisions
16 that are in effect under this act at 11:59 p.m. on the day
17 immediately ~~preceding~~ **before** the certification date. This
18 subdivision does not limit the retirement board's authority after
19 the certification date to establish additional programs including
20 but not limited to defined benefit, ~~and~~ defined contribution,
21 **ancillary benefits, and other postemployment benefit** programs.
22 The retirement board may adopt the provisions of the reciprocal
23 retirement act, ~~Act No. 88 of the Public Acts of 1961, being~~
24 ~~sections 38.1101 to 38.1106 of the Michigan Compiled Laws 1961~~
25 **PA 88, MCL 38.1101 to 38.1106**, on behalf of the employees of the
26 retirement board. ~~in the manner prescribed in Act No. 88 of the~~
27 ~~Public Acts of 1961.~~

1 (b) The retirement board has the full and exclusive authority
2 and full responsibility to employ and pay for all professional
3 services including but not limited to actuarial, investment,
4 legal, accounting, and any other services that the retirement
5 board considers necessary for the proper operation of the
6 retirement system. The power granted to the retirement board in
7 this subdivision includes complete control of the procurement
8 process.

9 (c) The retirement board shall appoint ~~an~~ **a chief** executive
10 ~~director~~ **officer** and any other employees for which the
11 retirement board establishes positions. The retirement board
12 shall establish the compensation of all persons appointed by the
13 board. ~~Before the certification date, the retirement board~~
14 ~~shall offer all employees of the retirement system a position~~
15 ~~with the public corporation for a guaranteed period of at least 1~~
16 ~~year. An employee who accepts a position with the newly formed~~
17 ~~public corporation shall become an employee of the public~~
18 ~~corporation on the certification date.~~ On and after the
19 certification date, a person employed by the public corporation
20 is not an employee of this state for any purpose.

21 (d) The retirement board shall arrange for an annual
22 actuarial valuation and report of the actuarial soundness of each
23 participating municipality **and court** to be prepared by an
24 independent actuary based upon data compiled and supplied by
25 employees of the retirement system. The retirement board shall
26 adopt actuarial tables, assumptions, and formulas after
27 consultation with the actuary.

1 (e) The retirement board shall arrange for annual audits of
2 the records and accounts of the retirement system by a certified
3 public accountant or by a firm of certified public accountants
4 pursuant to generally accepted auditing standards and the uniform
5 budgeting and accounting act, ~~Act No. 2 of the Public Acts of~~
6 ~~1968, being sections 141.421 to 141.440a of the Michigan Compiled~~
7 ~~Laws~~ **1968 PA 2, MCL 141.421 to 141.440a.**

8 (f) The retirement board shall prepare an annual report for
9 each fiscal year in compliance with generally accepted accounting
10 principles. The report shall contain information regarding the
11 financial, actuarial, and other activities of the retirement
12 system during the fiscal year. The retirement board shall
13 furnish a copy of the annual report to the governor ~~—~~ **and a**
14 **copy in print or electronic format to** each ~~member~~ **house** of the
15 legislature, each participating municipality, and each
16 participating court. The retirement board shall make the report
17 available to all members upon request. The report shall also
18 contain a review of the actuarial valuation required under
19 subdivision (d), if available.

20 (g) The retirement board shall appoint an attorney to be the
21 legal advisor of the board and to represent the board in all
22 proceedings.

23 (h) The retirement board shall appoint or employ custodians
24 of the assets of the retirement system. The custodians shall
25 perform all duties necessary and incidental to the custodial
26 responsibility and make disbursements of authorized retirement
27 system payments from the funds of the retirement system.

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

3 (j) The retirement board shall establish the time and
4 location of the meetings of the retirement board and the time and
5 location of the annual meeting of the retirement system,
6 consistent with the provisions of the open meetings act, ~~Act~~
7 ~~No. 267 of the Public Acts of 1976, being sections 15.261 to~~
8 ~~15.275 of the Michigan Compiled Laws~~ **1976 PA 267, MCL 15.261 to**
9 **15.275.**

10 (3) Before the certification date, the provisions of the
11 executive organization act of 1965, ~~Act No. 380 of the Public~~
12 ~~Acts of 1965, being sections 16.101 to 16.608 of the Michigan~~
13 ~~Compiled Laws~~ **1965 PA 380, MCL 16.101 to 16.608**, and the
14 management and budget act, ~~Act No. 431 of the Public Acts of~~
15 ~~1984, being sections 18.1101 to 18.1594 of the Michigan Compiled~~
16 ~~Laws~~ **1984 PA 431, MCL 18.1101 to 18.1594**, shall govern the
17 administrative functions of the retirement system. However, any
18 provision of law in actual conflict with the provisions of the
19 amendatory act that added this sentence shall not apply.

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

24 (a) Two members appointed by the retirement board who have
25 knowledge or experience in retirement systems, administration of
26 retirement systems, or investment management or advisory
27 services.

1 (b) One member who is a retiree of the system, nominated by
2 the board and elected by the delegates to an annual meeting of
3 the retirement system.

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

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

11 ~~(5) On the certification date, all officer and employee~~
12 ~~board members shall continue as board members until their term of~~
13 ~~office expires. The state treasurer shall no longer be a board~~
14 ~~member on and after the certification date. The initial terms of~~
15 ~~the 3 newly established board positions will be set by the~~
16 ~~retirement board to coincide with the terms of the existing~~
17 ~~elected board members. Following expiration of the term of~~
18 ~~office of the existing elected board members, subsections (7)~~
19 ~~through (10) shall govern.~~

20 (5) ~~(6)~~ The retirement board shall adopt its own rules of
21 procedure and shall keep a record of its proceedings. Five
22 members of the retirement board shall constitute a quorum at any
23 meeting of the retirement board and at least 5 concurring votes
24 shall be necessary for any decision by the retirement board.
25 Each member of the retirement board shall be entitled to 1 vote
26 on each question before the retirement board.

27 (6) ~~(7)~~ The regular term of office of members of the

1 retirement board is 3 years. Each member of the retirement board
2 shall take an oath of office before assuming the duties of the
3 position. ~~The oath of office shall be filed with the secretary~~
4 ~~of state.~~ Members of the retirement board shall serve without
5 compensation with respect to their duties, but shall be
6 reimbursed by the retirement system for their actual and
7 necessary expenses incurred in the performance of their duties.
8 A participating municipality or ~~participating~~ court employing a
9 member of the retirement board shall treat absences from work on
10 account of retirement board business in such a manner that the
11 individual does not suffer loss of pay or benefits.

12 (7) ~~-(8)-~~ A vacancy shall occur on the retirement board upon
13 the occurrence of any of the following events:

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

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

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

21 (8) ~~-(9)-~~ A vacancy occurring on the retirement board at
22 least 120 days before the expiration of a term of office shall be
23 filled by the retirement board. Board appointments under this
24 subsection shall be for the period ending on the December 31 next
25 following the date of the vacancy. For the officer board members
26 and employee board members, a replacement for any further portion
27 of the unexpired term shall be filled pursuant to section 45.

1 For the 2 appointed board members and the retiree board member, a
2 replacement for any further portion of the unexpired term shall
3 be filled pursuant to subsection (4).

4 (9) ~~(10)~~ The retirement board shall select from its members
5 a chairperson and a chairperson pro-tem.

6 (10) ~~(11)~~ The retirement board shall employ ~~an~~ a **chief**
7 executive ~~director~~ **officer**. The **chief** executive ~~director~~
8 **officer** shall do all of the following:

9 (a) Manage and administer the retirement system under the
10 supervision and direction of the retirement board.

11 (b) Invest the assets of the retirement system, as directed
12 by the retirement board, consistent with ~~Act No. 314 of the~~
13 ~~Public Acts of 1965, being sections 38.1132 to 38.1140i of the~~
14 ~~Michigan Compiled Laws~~ **the public employee retirement system**
15 **investment act, 1965 PA 314, MCL 38.1132 to 38.1140m**, which act
16 governs the investment of assets of public employee retirement
17 systems.

18 (c) Annually prepare and submit to the retirement board for
19 review, amendment, and adoption an itemized budget showing the
20 amount required to pay the retirement system's expenses for the
21 following fiscal year.

22 (d) Perform other duties as the retirement board, in its
23 discretion, shall delegate to the **chief** executive ~~director~~
24 **officer**.

25 Enacting section 1. Section 36a of the municipal employees
26 retirement act of 1984, 1984 PA 427, MCL 38.1536a, is repealed.