

Act No. 490
Public Acts of 2004
Approved by the Governor
December 27, 2004
Filed with the Secretary of State
December 28, 2004
EFFECTIVE DATE: December 28, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Hammerstrom

ENROLLED SENATE BILL No. 517

AN ACT to amend 1984 PA 427, entitled "An act to provide for a retirement system for municipal and judicial employees; to create a retirement board and to prescribe its powers and duties; to prescribe the powers and duties of certain other state officers and agencies; and to repeal certain acts and parts of acts," 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:

Sec. 2a. (1) "Certification date" means August 15, 1996.

(2) "Chief judge" means the chief judge of a judicial circuit court, a judicial district court, or a judicial probate court as provided in the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

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

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

(5) "Judicial district court" means a judicial district of the district court as provided in section 8101 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8101.

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

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

(2) "Municipality" means 1 or more of the following:

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

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

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

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

(e) A political subdivision located in this state and a metropolitan government borough, or other political subdivision of the province of Ontario, an agency of the United States, or a similar entity of adjacent states of the United States and the province of Ontario.

(f) A state university, community college, or junior college whose employees are not public school employees who are members under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

(g) Any municipal corporation as defined in section 1(a) of 1951 PA 35, MCL 124.1, or other governmental entity that is eligible to join the retirement system and participate in any program under this act, as determined by the retirement board.

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

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

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

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

(c) The retirement board shall appoint a chief executive officer and any other employees for which the retirement board establishes positions. The retirement board shall establish the compensation of all persons appointed by the board. On and after the certification date, a person employed by the public corporation is not an employee of this state for any purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A vacancy shall occur on the retirement board upon the occurrence of any of the following events:

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

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

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

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

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

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

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

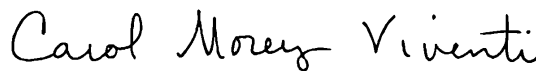
(b) Invest the assets of the retirement system, as directed by the retirement board, consistent with the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m, which act governs the investment of assets of public employee retirement systems.

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

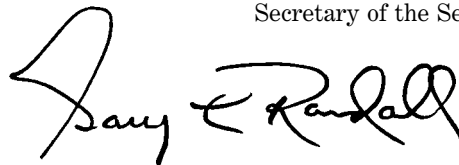
(d) Perform other duties as the retirement board, in its discretion, shall delegate to the chief executive officer.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor