

Act No. 426
Public Acts of 1996
Approved by the Governor
November 22, 1996
Filed with the Secretary of State
November 25, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Brater, Kukuk, Kaza, Brewer, Jaye, Hanley, Cherry, Scott and Vaughn

ENROLLED HOUSE BILL No. 5256

AN ACT to amend the title of Act No. 71 of the Public Acts of 1919, entitled as amended "An act to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices, and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office, and institution, and of each county office; to provide for financial reports from all such departments, institutions, and offices, and for the tabulation and publication of comparative financial statistics relating thereto; to provide for the administration of this act; to provide penalties; to provide for meeting the expense authorized by this act, and to repeal certain acts and parts of acts," as amended, being sections 21.41 to 21.53 of the Michigan Compiled Laws; and to add sections 4a, 4b, 4c, and 15.

The People of the State of Michigan enact:

Section 1. The title of Act No. 71 of the Public Acts of 1919, as amended, being sections 21.41 to 21.53 of the Michigan Compiled Laws, is amended and sections 4a, 4b, 4c, and 15 are added to read as follows:

TITLE

An act to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices, and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office, and institution, and of each county office; to provide for financial reports from all such departments, institutions, and offices, and for the tabulation and publication of comparative financial statistics relating thereto; to provide for the administration of this act; to provide for the powers and duties of the department of treasury, the auditor general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties; and to provide for meeting the expense authorized by this act.

Sec. 4a. (1) Each department, institution, or office of state government shall file with the auditor general within 60 days after the close of the state fiscal year an accurate statement showing all of the following for the fiscal year:

(a) The cost and fiscal year end market value of derivative instruments or products in the department's, institution's, or office's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(b) For each state pension system, the cost and fiscal year end market value for each item in each of the following categories of pension investments in the state pension system's investment portfolio at fiscal year end:

(i) United States government or agency obligations, itemized by type of security.

(ii) Commercial paper, itemized by issuing bank.

(iii) United States government or agency repurchase agreements, itemized by institution with type of security specified.

(iv) United States bank bankers' acceptances, itemized by issuing bank.

- (v) Mutual funds, itemized by mutual fund name.
- (vi) Common stock, itemized by issuing corporation.
- (vii) Corporate bonds, itemized by issuing corporation and type of security.
- (viii) Real estate, itemized by separately described holding.
- (ix) Mortgages, itemized by mortgagor.
- (x) Derivative instruments or products, itemized by issuer and type.
- (xi) Other pension investments not listed above in this subdivision itemized by type of investment.

(c) The total cost and fiscal year end market value for each category of investments under subdivision (b) in the state pension system's investment portfolio at fiscal year end.

(d) The total cost and fiscal year end market value for all categories of investments under subdivision (b) in the state pension system's investment portfolio at fiscal year end, on an aggregate basis.

(2) In addition to the requirements of section 4, an annual financial report for a county shall contain, for each fiscal year, all of the following:

(a) A statement indicating whether there are derivative instruments or products in the county's nonpension investment portfolio at fiscal year end.

(b) If the statement in subdivision (a) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the county's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(c) A statement indicating whether there are derivative instruments or products in the county's pension investment portfolio at fiscal year end.

(d) If the statement under subdivision (c) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the county's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(3) Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under subsection (1)(b), (c), and (d) and subsection (2)(c) and (d).

(4) This section does not authorize a department, institution, or office of state government or a county to make investments not otherwise authorized by law.

Sec. 4b. (1) If a department, institution, or office of state government fails to report nonpension investments in derivative instruments or products or pension investments as required by section 4a, the auditor general may determine that the department, institution, or office cannot report the investments without assistance, advice, or instruction from the auditor general. The auditor general shall submit a written statement of the findings and recommendations to the department, institution, or office. Within 90 days after receipt of this statement, the department, institution, or office shall retain the auditor general to report the investments or shall retain a certified public accountant to report the investments and notify the auditor general of the action. Upon failure of the department, institution, or office to respond within the 90-day period, the auditor general shall report the investments.

(2) The auditor general shall charge reasonable and necessary expenses, including per diem and travel expenses, to the department, institution, or office of state government for services performed pursuant to subsection (1) and the department, institution, or office shall pay the auditor general for these expenses. For payment of the expenses, the auditor general shall either execute a contract with the department, institution, or office for payment of the expenses or bill the department, institution, or office on a monthly basis.

(3) If a county fails to report nonpension or pension investments in derivative instruments or products as required by section 4a, the department of treasury may determine that the county cannot report the investments without assistance, advice, or instruction from the department of treasury. The department of treasury shall submit a written statement of the findings and recommendations to the county. Within 90 days after receipt of this statement, the county shall retain the department of treasury to report the investments or shall retain a certified public accountant to report the investments and notify the department of treasury of the action. Upon failure of the county to respond within the 90-day period, the department of treasury shall report the investments.

(4) The department of treasury shall charge reasonable and necessary expenses, including per diem and travel expenses, to the county for services performed pursuant to subsection (3) and the county shall pay the department of treasury for these expenses. For payment of the expenses, the department of treasury shall either execute a contract with the county for payment of the expenses or bill the county on a monthly basis.

Sec. 4c. (1) The department of treasury shall promptly file with the library of Michigan a sufficient number of copies of a schedule of derivative instruments and products described in section 4a(2)(b) or (d) and obtained under section 4a or section 4b to deposit 1 copy in the library of Michigan and 1 copy in each depository library.

(2) The library of Michigan and depository libraries shall serve as depositories for schedules of derivative instruments and products described in section 4a(2)(b) or (d) in the manner required by sections 9 and 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being sections 397.19 and 397.20 of the Michigan Compiled Laws. The library of Michigan and each depository library shall promptly make a schedule of derivative instruments and products described in section 4a(2)(b) or (d) available to the public.

(3) A county shall obtain and retain a copy of an annual financial report submitted under this act. A county or the state treasurer shall make an annual financial report prepared, owned, used, in the possession of, or retained by the county or state treasurer available for public inspection under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(4) A department, institution, or office of state government shall obtain and retain subject to sections 284 to 292 of the management and budget act, Act No. 431 of the Public Acts of 1984, being sections 18.1284 to 18.1292 of the Michigan Compiled Laws, a copy of a statement submitted under section 4a(1). A department, institution, or office of state government, including but not limited to the auditor general, shall make a statement under section 4a(1) prepared, owned, used, in the possession of, or retained by the department, institution, or office of state government available for public inspection under Act No. 442 of the Public Acts of 1976.

Sec. 15. As used in this act:

(a) "Depository library" means a depository library designated under section 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being section 397.20 of the Michigan Compiled Laws.

(b) "Derivative instrument or product" means either of the following, subject to subdivision (c):

(i) A contract or convertible security that changes in value in concert with a related or underlying security, future, or other instrument or index; or that obtains much of its value from price movements in a related or underlying security, future, or other instrument or index; or both.

(ii) A contract or security, such as an option, forward, swap, warrant, or a debt instrument with 1 or more options, forwards, swaps, or warrants embedded in it or attached to it, the value of which contract or security is determined in whole or in part by the price of 1 or more underlying instruments or markets.

(c) "Derivative instrument or product" does not mean a fund created pursuant to the surplus funds investment pool act, Act No. 367 of the Public Acts of 1982, being sections 129.111 to 129.118 of the Michigan Compiled Laws, or section 1223 of the revised school code, Act No. 451 of the Public Acts of 1976, being section 380.1223 of the Michigan Compiled Laws.

(d) "Library of Michigan" means the library of Michigan created under section 3 of Act No. 540 of the Public Acts of 1982, being section 397.13 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.