

Act No. 220
Public Acts of 1996
Approved by the Governor
May 23, 1996
Filed with the Secretary of State
May 28, 1996

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

Introduced by Reps. Rhead, Llewellyn, Hill, Hammerstrom, Brackenridge, Dalman and McNutt

ENROLLED HOUSE BILL No. 5525

AN ACT to amend sections 2a, 2b, 2c, 36, 37, 45, and 45a of Act No. 427 of the Public Acts of 1984, entitled as amended "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," section 2a as amended by Act No. 191 of the Public Acts of 1995, section 2b as amended by Act No. 63 of the Public Acts of 1992, sections 2c and 37 as amended by Act No. 51 of the Public Acts of 1989, and sections 36, 45, and 45a as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1502a, 38.1502b, 38.1502c, 38.1536, 38.1537, 38.1545, and 38.1545a of the Michigan Compiled Laws; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 2a, 2b, 2c, 36, 37, 45, and 45a of Act No. 427 of the Public Acts of 1984, section 2a as amended by Act No. 191 of the Public Acts of 1995, section 2b as amended by Act No. 63 of the Public Acts of 1992, sections 2c and 37 as amended by Act No. 51 of the Public Acts of 1989, and sections 36, 45, and 45a as amended by Act No. 500 of the Public Acts of 1988, being sections 38.1502a, 38.1502b, 38.1502c, 38.1536, 38.1537, 38.1545, and 38.1545a of the Michigan Compiled Laws, are amended to read as follows:

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

(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, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

(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, Act No. 236 of the Public Acts of 1961, being section 600.8101 of the Michigan Compiled Laws.

(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 a county, county road commission, city, village, township, or a combination of these units; a lawful public corporation or instrumentality established by 1 or more counties, cities, villages, townships, or a combination of these units; or 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, townships, or a combination of these units.

Sec. 2c. (1) "Participating court" means a judicial circuit court, a judicial district court, or a judicial probate court that has elected to be governed by the provisions of this act.

(2) "Participating municipality" means a municipality that has elected to be governed by the provisions of this act. Two or more municipalities may enter into an agreement with each other and the retirement system to participate as a combined unit.

(3) "Public corporation" means the retirement system on and after the certification date, which corporation is an instrumentality of the participating municipalities and participating courts.

(4) "Retirement board" means the retirement board provided for in section 36 to administer the retirement system.

(5) "Retirement system" or "system" means the municipal employees retirement system established by former Act No. 135 of the Public Acts of 1945 and continued and restated by this act.

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 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 preceding 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 and defined contribution programs. The retirement board may adopt the provisions of the reciprocal retirement act, Act No. 88 of the Public Acts of 1961, being sections 38.1101 to 38.1106 of the Michigan Compiled Laws, on behalf of the employees of the retirement board in the manner prescribed in Act No. 88 of the Public Acts of 1961.

(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 an executive director 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. Before the certification date, the retirement board shall offer all employees of the retirement system a position with the public corporation for a guaranteed period of at least 1 year. An employee who accepts a position with the newly formed public corporation shall become an employee of the public corporation on the certification date. 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 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, Act No. 2 of the Public Acts of 1968, being sections 141.421 to 141.440a of the Michigan Compiled Laws.

(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, each member 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, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.
- (3) Before the certification date, the provisions of the executive organization act of 1965, Act No. 380 of the Public Acts of 1965, being sections 16.101 to 16.608 of the Michigan Compiled Laws, and the management and budget act, Act No. 431 of the Public Acts of 1984, being sections 18.1101 to 18.1594 of the Michigan Compiled Laws, 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, nominated by the board and elected by the delegates to an annual meeting of the retirement system.
- (c) Three members of the retirement system who are officers of participating municipalities or of participating 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 of a participating court, who shall be designated as employee board members.
- (5) On the certification date, all officer and employee board members shall continue as board members until their term of office expires. The state treasurer shall no longer be a board member on and after the certification date. The initial terms of the 3 newly established board positions will be set by the retirement board to coincide with the terms of the existing elected board members. Following expiration of the term of office of the existing elected board members, subsections (7) through (10) shall govern.
- (6) 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.
- (7) 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. The oath of office shall be filed with the secretary of state. 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 participating 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.
- (8) 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.
- (9) 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).
- (10) The retirement board shall select from its members a chairperson and a chairperson pro-tem.
- (11) The retirement board shall employ an executive director. The executive director 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 Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws, 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 executive director.

Sec. 37. Each member or vested former member who applies for retirement shall be given a written explanation, before retirement, of the optional forms of payment provided in section 23. The explanation shall be written in simple language.

Sec. 45. (1) The retirement board shall call an annual meeting of the retirement system for the purpose of selecting members of the retirement board and the transaction of such other business as the retirement board determines. Notice of the annual meeting shall be sent to each participating municipality and participating court, by registered mail, at least 30 days before the date of the meeting. Notice of the annual meeting shall be sent to each retiree at least 30 days before the date of the meeting.

(2) The governing body of each participating municipality shall certify the names of 2 delegates to the annual meeting. One delegate shall be a member who is an officer of the participating municipality, selected by the governing body of the participating municipality. The other delegate shall be a member who is not an officer of the participating municipality, elected by the member employees of the participating municipality. The election shall be by secret ballot and shall be conducted by an officer of the participating municipality. The election shall be conducted in a manner that affords each member employee an opportunity to vote.

(3) The chief judge of each participating court shall certify the names of 2 delegates to the annual meeting. One delegate shall be a member who is an officer of the participating court, selected by the chief judge of the participating court. The other delegate shall be a member who is not an officer of the participating court, elected by the member employees of the participating court. The election shall be by secret ballot and shall be conducted by an officer of the participating court. The election shall be conducted in a manner that affords each member employee an opportunity to vote.

(4) The nomination of candidates for election to the retirement board shall be made pursuant to procedures established by the retirement board and adopted by the delegates to an annual meeting of the retirement system. A nomination for the position of officer board member shall be made by a member who is an officer of a participating municipality or of a participating court. A nomination for the position of employee board member shall be made by a member who is not an officer of a participating municipality or of a participating court.

(5) The retirement board shall hold a referendum of the assembled delegates to elect members of the retirement board. The referendum shall be conducted pursuant to procedures established by the retirement board and adopted by the delegates to an annual meeting of the retirement system. An individual elected to the retirement board shall become a member of the retirement board on the January 1 immediately following the referendum.

Sec. 45a. (1) The funding objective of the retirement system is to establish and receive contributions during each fiscal year that are sufficient to fully cover the actuarial cost of benefits likely to be paid on account of service rendered by members during the fiscal year, the normal cost requirements of the retirement system, and amortize the unfunded actuarial costs of benefits likely to be paid on account of service rendered before the fiscal year, the unfunded actuarial accrued liability of the retirement system. Distinct contribution requirements shall be established for each participating municipality and participating court.

(2) Contribution requirements shall be actuarially determined using experience assumptions and level percent of payroll actuarial cost methods adopted by the retirement board.

(3) The retirement system shall annually inform each participating municipality and participating court of its contribution obligation for the fiscal year. The contribution requirement shall be paid to the retirement system pursuant to procedures and schedules established by the retirement board. The retirement system may assess an interest charge and a penalty charge on any payment not made within 15 days after its due date.

Section 2. Sections 3, 4, 5, 6, 7, 8, 9, 10, 10a, 12, 13, 14, 15, 16, 16a, 16b, 17, 18, 19, 20, 21, 22, 23, 23a, 24, 25, 26, 27, 27a, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 41, 41a, 42, 43, 43a, 44, 44a, 45a, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, and 58 of Act No. 427 of the Public Acts of 1984, being sections 38.1503, 38.1504, 38.1505, 38.1506, 38.1507, 38.1508, 38.1509, 38.1510, 38.1510a, 38.1512, 38.1513, 38.1514, 38.1515, 38.1516, 38.1516a, 38.1516b, 38.1517, 38.1518, 38.1519, 38.1520, 38.1521, 38.1522, 38.1523, 38.1523a, 38.1524, 38.1525, 38.1526, 38.1527, 38.1527a, 38.1528, 38.1529, 38.1530, 38.1531, 38.1532, 38.1533, 38.1534, 38.1535, 38.1537, 38.1538, 38.1541, 38.1541a, 38.1542, 38.1543, 38.1543a, 38.1544, 38.1544a, 38.1545a, 38.1546, 38.1547, 38.1548, 38.1549, 38.1550, 38.1551, 38.1552, 38.1553, 38.1554, 38.1556, and 38.1558 of the Michigan Compiled Laws, are repealed.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

(a) House Bill No. 5523.

(b) House Bill No. 5524.

Section 4. (1) This amendatory act shall not take effect unless submitted to a vote of the official delegates who are certified as provided for in section 45 of the municipal employees retirement act of 1984, Act No. 427 of the Public Acts of 1984, being section 38.1545 of the Michigan Compiled Laws, and ratified by a 2/3 majority of the delegates actually voting on the question. The question of adoption of this amendatory act shall be submitted by certified mail to the delegates as certified to the most recent annual meeting of the municipal employees retirement system or, if no such delegates were certified or if previously certified delegates are no longer employed, then those delegates as certified by the participating municipality or participating court within 60 days after the enactment of this amendatory act. To be valid, each delegate's vote shall be received at the place designated by the retirement system no later than 75 days from the date of enactment of this amendatory act. The question shall be submitted in substantially the following form:

"Shall Act No. _____ of the Public Acts of 1996, entitled 'An act to amend the municipal employees retirement act of 1984', providing for the retirement system to become a public corporation be adopted?"

Yes _____

No _____".

(2) The retirement board of the municipal employees retirement system shall certify in writing the results of the voting on the question and file the certification with the secretary of state not later than the fifth business day following the tally of the votes. If a 2/3 majority of the delegates voting on the question approve the adoption of this amendatory act, the provisions of this amendatory act shall become effective on the date that is 10 calendar days after the filing of the certification with the secretary of state, which date shall be set forth in the filing and shall be known as the certification date.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.