

# HOUSE BILL No. 5690

December 10, 2009, Introduced by Rep. Dillon and referred to the Committee on Public Employee Health Care Reform.

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.

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

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

9           (a) The retirement board shall determine and establish all of  
10 the provisions of the retirement system affecting benefit

1 eligibility, benefit programs, contribution amounts, and the  
2 election of municipalities, judicial circuit courts, judicial  
3 district courts, and judicial probate courts to be governed by the  
4 provisions of the retirement system. The retirement board shall  
5 establish all retirement system provisions. As of 12:01 a.m. on the  
6 certification date, the retirement system provisions shall not  
7 differ materially from the defined benefit provisions that are in  
8 effect under this act at 11:59 p.m. on the day immediately before  
9 the certification date. This subdivision does not limit the  
10 retirement board's authority after the certification date to  
11 establish additional programs including, but not limited to,  
12 defined benefit, defined contribution, ancillary benefits, health  
13 and welfare benefits, and other postemployment benefit programs.  
14 **COVERAGE PROVIDED AND PLANS AUTHORIZED SHALL BE PROVIDED AND**  
15 **AUTHORIZED IN ACCORDANCE WITH THE MICHIGAN HEALTH BENEFITS PROGRAM**  
16 **ACT. COVERAGE PROVIDED AND PLANS AUTHORIZED IN ACCORDANCE WITH THE**  
17 **MICHIGAN HEALTH BENEFITS PROGRAM ACT SHALL BE PROVIDED AND**  
18 **AUTHORIZED SUBJECT TO SECTION 21 OF THE MICHIGAN HEALTH BENEFITS**  
19 **PROGRAM ACT.** The retirement board may adopt the provisions of the  
20 reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, on  
21 behalf of the employees of the retirement board.

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

1 subdivision includes complete control of the procurement process.

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

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

15 (e) The retirement board shall arrange for annual audits of  
16 the records and accounts of the retirement system by a certified  
17 public accountant or by a firm of certified public accountants  
18 pursuant to generally accepted auditing standards and the uniform  
19 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 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 information regarding the  
23 financial, actuarial, and other activities of the retirement system  
24 during the fiscal year. The retirement board shall furnish a copy  
25 of the annual report to the governor and a copy in print or  
26 electronic format to each house of the legislature, each  
27 participating municipality, and each participating court. The

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

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

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

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

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

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

26 (4) On and after the certification date, the retirement board  
27 consists of the following 9 members, each of whom, excepting the

1 retiree member and the retirement board appointees, shall be from a  
2 different county at the time of appointment:

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

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

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

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

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

21 (6) The regular term of office of members of the retirement  
22 board is 3 years. Each member of the retirement board shall take an  
23 oath of office before assuming the duties of the position. Members  
24 of the retirement board shall serve without compensation with  
25 respect to their duties, but shall be reimbursed by the retirement  
26 system for their actual and necessary expenses incurred in the  
27 performance of their duties. A participating municipality or court

1 employing a member of the retirement board shall treat absences  
2 from work on account of retirement board business in such a manner  
3 that the individual does not suffer loss of pay or benefits.

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

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

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

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

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

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

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

27 (a) Manage and administer the retirement system under the

1 supervision and direction of the retirement board.

2 (b) Invest the assets of the retirement system, as directed by  
3 the retirement board, consistent with the public employee  
4 retirement system investment act, 1965 PA 314, MCL 38.1132 to  
5 38.1140m, which act governs the investment of assets of public  
6 employee retirement systems.

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

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

13 Enacting section 1. This amendatory act does not take effect  
14 unless House Bill No. 5345 of the 95th Legislature is enacted into  
15 law.