

SENATE BILL No. 1240

March 23, 2010, Introduced by Senators JELINEK and SWITALSKI and referred to the Committee on Appropriations.

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

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

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

25 (c) The retirement board shall appoint a chief executive
26 officer and any other employees for which the retirement board
27 establishes positions. The retirement board shall establish the

1 compensation of all persons appointed by the board. On and after
2 the certification date, a person employed by the public corporation
3 is not an employee of this state for any purpose.

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

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

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

27 (g) The retirement board shall appoint an attorney to be the

1 legal advisor of the board and to represent the board in all
2 proceedings.

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

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

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

15 (3) Before the certification date, the provisions of the
16 executive organization act of 1965, 1965 PA 380, MCL 16.101 to
17 16.608, and the management and budget act, 1984 PA 431, MCL 18.1101
18 to 18.1594, shall govern the administrative functions of the
19 retirement system. However, any provision of law in actual conflict
20 with the provisions of the amendatory act that added this sentence
21 shall not apply.

22 (4) ~~On~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5), ON** and
23 after the certification date, the retirement board consists of the
24 following 9 members, each of whom, excepting the retiree member and
25 the retirement board appointees, shall be from a different county
26 at the time of appointment:

27 (a) Two members appointed by the retirement board who have

1 knowledge or experience in retirement systems, administration of
2 retirement systems, or investment management or advisory services.

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

5 (c) Three members of the retirement system who are officers of
6 participating municipalities or courts, who shall be designated as
7 officer board members **AS PROVIDED IN SECTION 45.**

8 (d) Three employee members of the retirement system who are
9 not officers of a participating municipality or court, who shall be
10 designated as employee board members **AS PROVIDED IN SECTION 45.**

11 (5) **WITHIN 90 DAYS OF THE DATE OF PARTICIPATION IN THE**
12 **RETIREMENT SYSTEM OF THE FIRST PARTICIPATING MUNICIPALITY HAVING A**
13 **DISTRESSED PENSION SYSTEM, AS DETERMINED UNDER THE DISTRESSED**
14 **MUNICIPAL PENSION SYSTEM ACT, WITH AN ACTUARIAL VALUE OF ASSETS**
15 **EXCEEDING \$2,000,000,000.00 AS SHOWN IN ITS MOST RECENT ANNUAL**
16 **ACTUARIAL VALUATION, THE SIZE OF THE RETIREMENT BOARD SHALL, FOR A**
17 **SINGLE NONRECURRING PERIOD OF 2 YEARS, BE INCREASED SIMULTANEOUSLY**
18 **BY 2 ADDITIONAL VOTING MEMBERS AS FOLLOWS:**

19 (A) **A TRANSITION MEMBER WHO SHALL BE THAT PARTICIPATING**
20 **MUNICIPALITY'S CHIEF EXECUTIVE OFFICER. AS A PRECONDITION TO**
21 **BECOMING A MEMBER OF THE RETIREMENT BOARD, THE CHIEF EXECUTIVE**
22 **OFFICER SHALL DESIGNATE AN ALTERNATE TRANSITION MEMBER TO ACT IN**
23 **PLACE OF THE CHIEF EXECUTIVE OFFICER AT ANY BOARD MEETING WHEN**
24 **AUTHORIZED TO DO SO IN WRITING BY THE CHIEF EXECUTIVE OFFICER. THE**
25 **ALTERNATE TRANSITION MEMBER SHALL BE AN INDIVIDUAL HAVING KNOWLEDGE**
26 **OR EXPERIENCE IN RETIREMENT SYSTEMS, ADMINISTRATION OF RETIREMENT**
27 **SYSTEMS, OR INVESTMENT MANAGEMENT OR ADVISORY SERVICES WHO HAS BEEN**

1 APPROVED BY A MAJORITY VOTE OF THE 9 REGULAR MEMBERS OF THE
2 RETIREMENT BOARD. THE DATE OF APPOINTMENT OF THE DESIGNATED
3 ALTERNATE TRANSITION MEMBER SHALL BE THE OFFICIAL DATE OF
4 MEMBERSHIP ON THE RETIREMENT BOARD FOR THE CHIEF EXECUTIVE OFFICER.

5 (B) AT THE SAME RETIREMENT BOARD MEETING WHERE THE DESIGNATED
6 ALTERNATE TRANSITION MEMBER IS APPOINTED, A SECOND TRANSITION
7 MEMBER SHALL BE APPOINTED BY THE BOARD. THE SECOND TRANSITION
8 MEMBER SHALL NOT BE AN OFFICER MEMBER OR EMPLOYEE MEMBER OF THE
9 RETIREMENT SYSTEM, AND SHALL BE AN INDIVIDUAL HAVING KNOWLEDGE OR
10 EXPERIENCE IN RETIREMENT SYSTEMS, ADMINISTRATION OF RETIREMENT
11 SYSTEMS, OR INVESTMENT MANAGEMENT OR ADVISORY SERVICES WHO HAS BEEN
12 APPROVED BY A MAJORITY VOTE OF THE 9 REGULAR MEMBERS OF THE
13 RETIREMENT BOARD. THE DATE OF APPOINTMENT OF THE SECOND TRANSITION
14 MEMBER SHALL BE THE SAME DATE OF MEMBERSHIP ON THE RETIREMENT BOARD
15 AS THAT OF THE CHIEF EXECUTIVE OFFICER AS PROVIDED IN SUBDIVISION
16 (A).

17 (C) BEGINNING ON THE SAME DATE THAT THE TRANSITION MEMBERS
18 BECOME MEMBERS OF THE RETIREMENT BOARD AND UNTIL THE EXPIRATION OF
19 2 YEARS FROM THAT DATE, THE REQUIREMENTS OF SUBSECTION (6) OF 5
20 MEMBERS FOR QUORUM AND 5 CONCURRING VOTES FOR ANY DECISION BY THE
21 RETIREMENT BOARD SHALL BE INCREASED TO BE 6 VOTES FOR QUORUM AND 6
22 CONCURRING VOTES FOR ANY DECISION, RESPECTIVELY.

23 (D) UPON THE EXPIRATION OF 2 YEARS FROM THE DATE THE
24 TRANSITION MEMBERS BECOME MEMBERS OF THE RETIREMENT BOARD, THIS
25 SUBSECTION SHALL CEASE TO APPLY AND SHALL EXPIRE, AND THE
26 TRANSITION MEMBERS SHALL CEASE TO BE MEMBERS OF THE RETIREMENT
27 BOARD OR POSSESS THE AUTHORITY VESTED IN MEMBERS OF THE RETIREMENT

1 **BOARD.**

2 (6) ~~(5)~~—The retirement board shall adopt its own rules of
3 procedure and shall keep a record of its proceedings. ~~Five~~**EXCEPT**
4 **AS OTHERWISE PROVIDED IN SUBSECTION (5),** 5 members of the
5 retirement board shall constitute a quorum at any meeting of the
6 retirement board and at least 5 concurring votes shall be necessary
7 for any decision by the retirement board. Each member of the
8 retirement board shall be entitled to 1 vote on each question
9 before the retirement board.

10 (7) ~~(6)~~—The regular term of office of members of the
11 retirement board is 3 years. Each member of the retirement board
12 shall take an oath of office before assuming the duties of the
13 position. Members of the retirement board shall serve without
14 compensation with respect to their duties, but shall be reimbursed
15 by the retirement system for their actual and necessary expenses
16 incurred in the performance of their duties. A participating
17 municipality or court employing a member of the retirement board
18 shall treat absences from work on account of retirement board
19 business in such a manner that the individual does not suffer loss
20 of pay or benefits.

21 (8) ~~(7)~~—A vacancy shall occur on the retirement board upon the
22 occurrence of any of the following events:

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

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

27 **(C) THE TRANSITION MEMBER SERVING PURSUANT TO SUBSECTION (5)**

1 IS ELECTED OR APPOINTED AS AN OFFICER BOARD MEMBER OR AN EMPLOYEE
2 BOARD MEMBER.

3 (D) ~~(e)~~—Failure to attend 3 consecutive scheduled meetings of
4 the retirement board, unless excused for cause by majority vote of
5 the board members attending the meeting.

6 (9) ~~(8)~~—A vacancy occurring on the retirement board at least
7 120 days before the expiration of a term of office shall be filled
8 by the retirement board. Board appointments under this subsection
9 shall be for the period ending on the December 31 next following
10 the date of the vacancy. For the officer board members and employee
11 board members, a replacement for any further portion of the
12 unexpired term shall be filled pursuant to section 45. For the 2
13 appointed board members and the retiree board member, a replacement
14 for any further portion of the unexpired term shall be filled
15 pursuant to subsection (4).

16 (10) ~~(9)~~—The retirement board shall select from its members a
17 chairperson and a chairperson pro-tem.

18 (11) ~~(10)~~—The retirement board shall employ a chief executive
19 officer. The chief executive officer shall do all of the following:

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

22 (b) Invest the assets of the retirement system, as directed by
23 the retirement board, consistent with the public employee
24 retirement system investment act, 1965 PA 314, MCL 38.1132 to
25 38.1140m, which act governs the investment of assets of public
26 employee retirement systems.

27 (c) Annually prepare and submit to the retirement board for

1 review, amendment, and adoption an itemized budget showing the
2 amount required to pay the retirement system's expenses for the
3 following fiscal year.

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

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No 1239

8 of the 95th Legislature is enacted into law.