

SUBSTITUTE FOR
HOUSE BILL NO. 5575

A bill to create the Michigan settlement administration authority; to provide for the operation of the authority; to create certain funds; to authorize the resolution of certain potential claims against the state; to prescribe the powers and duties of the authority and certain other state officials and state employees; and to make certain appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan settlement administration authority act".

3 Sec. 2. The legislature finds and declares the following:

4 (a) If certain requirements are fulfilled, this state shall
5 make a contribution to reduce deficiencies in pension benefits of
6 members of retirement systems, in order to avoid additional ongoing

1 and future litigation and to partially settle the city of Detroit's
2 bankruptcy case, in return for, among other things, full releases
3 from any claims against this state for alleged deficiencies in
4 pension benefits.

5 (b) Partial settlement of the city of Detroit's bankruptcy
6 case and this state's contribution in support serves important
7 public purposes and will be beneficial to the entire state due to 1
8 or more of the following:

9 (i) It will improve household income of pensioners, many of
10 whom may reside in other parts of this state, and reduce the
11 likelihood of their seeking public assistance.

12 (ii) It will facilitate prompt resolution of the city of
13 Detroit's bankruptcy case and save state taxpayers ongoing
14 litigation costs.

15 (iii) It will protect this state and its taxpayers from
16 potential claims from parties associated with the retirement
17 systems.

18 (c) Establishing the authority and execution by the authority
19 of its powers granted under this act fulfill in all respects a
20 public and governmental purpose for the benefit of the people of
21 this state.

22 Sec. 3. As used in this act:

23 (a) "Authority" means the Michigan settlement administration
24 authority created under section 4.

25 (b) "Board" means the board of directors of the authority.

26 (c) "Contribution agreement" means the contribution agreement
27 in substantially the form included with the city of Detroit's plan

1 for adjustment.

2 (d) "Countercyclical budget and economic stabilization fund"
3 means the countercyclical budget and economic stabilization fund
4 created in section 351 of the management and budget act, 1984 PA
5 431, MCL 18.1351.

6 (e) "Plan for adjustment" means the plan for the adjustment of
7 debts of the city of Detroit approved and entered by the United
8 States bankruptcy court for the eastern district of Michigan,
9 southern division, In Re City of Detroit, Michigan, case no. 13-
10 53846.

11 (f) "Retirement systems" means the police and fire retirement
12 system of the city of Detroit and the general retirement system of
13 the city of Detroit.

14 (g) "Settlement administration fund" or "fund" means the
15 settlement administration fund created in section 7.

16 (h) "State treasurer" means the state treasurer of this state
17 or his or her designee who is designated by a written instrument
18 signed by the state treasurer and maintained in a permanent file
19 and whose signature has the same force and effect as the signature
20 of the state treasurer for all purposes under this act.

21 Sec. 4. (1) The Michigan settlement administration authority
22 is created as a public body corporate and politic within the
23 department of treasury. The authority is a state institution within
24 the meaning of section 9 of article II of the state constitution of
25 1963 and an instrumentality of this state exercising public and
26 essential governmental functions. The exercise by the authority of
27 the powers conferred by this act is an essential governmental

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1 function of this state.

2 (2) For the fiscal year ending September 30, 2014, there is
3 [] appropriated \$194,800,000.00 from the
4 []
5 settlement administration fund [to be used only as provided in this act].

6 Sec. 5. The authority shall exercise its duties independently
7 of the state treasurer. Any administrative functions of the
8 authority shall be performed under the direction and supervision of
9 the state treasurer.

10 Sec. 6. (1) The authority shall exercise its duties through
11 its board of directors.

12 (2) The board shall consist of 3 members as follows:

13 (a) The state treasurer.

14 (b) The state budget director.

15 (c) One member appointed by the governor with the advice and
16 consent of the senate, who has knowledge, skill, or experience in
17 the legal field of bankruptcy.

18 (3) The state treasurer and the state budget director may
19 appoint a representative to serve in his or her absence.

20 (4) Members of the board shall serve without compensation but
21 may receive reasonable reimbursement for necessary travel and
22 expenses incurred in the discharge of their duties.

23 (5) The state treasurer shall serve as chairperson of the
24 board.

25 (6) A majority of the appointed and serving members of the
26 board shall constitute a quorum of the board for the transaction of
27 business. Actions of the board shall be approved by a majority vote

1 of the members present at a meeting.

2 (7) The members of the board and any agent of the authority
3 are subject to 1968 PA 317, MCL 15.321 to 15.330, and 1968 PA 318,
4 MCL 15.301 to 15.310.

5 (8) A member of the board or agent of the authority shall
6 discharge the duties of his or her position in a nonpartisan
7 manner, with good faith, and with that degree of diligence, care,
8 and skill that an ordinarily prudent person would exercise under
9 similar circumstances in a like position. In discharging the
10 duties, a member of the board or agent of the authority, when
11 acting in good faith, may rely upon the opinion of legal counsel or
12 other expert advice.

13 Sec. 7. (1) The settlement administration fund is created
14 within the state treasury.

15 (2) The state treasurer may receive money or other assets from
16 any source for deposit into the fund. The state treasurer shall
17 direct the investment of the fund. The state treasurer shall credit
18 to the fund interest and earnings from fund investments.

19 (3) Money in the fund at the close of the fiscal year shall
20 remain in the fund and shall not lapse to the general fund.

21 (4) The authority shall expend money from the fund only as
22 provided in this act.

23 Sec. 8. (1) The authority shall either disburse the money in
24 the fund to the retirement systems or return the money to the
25 countercyclical budget and economic stabilization fund as set forth
26 in this section.

27 (2) The authority shall cause \$194,800,000.00 to be paid to

1 the retirement systems if and only if the authority determines in
2 writing that both of the following conditions have been satisfied:

3 (a) The bankruptcy court has entered an order approving the
4 plan for adjustment.

5 (b) The terms and conditions of the contribution agreement
6 have been satisfied.

7 (3) If the authority determines in writing that at least 1 of
8 the conditions in subsection (2) has not been satisfied, then the
9 money in the fund shall be returned to the countercyclical budget
10 and economic stabilization fund.

11 (4) If the authority has failed to make a finding in writing
12 under subsection (2) or (3) by May 1, 2015, then the money in the
13 fund shall be returned to the countercyclical budget and economic
14 stabilization fund.

15 (5) The authority is dissolved on May 2, 2015.

16 Sec. 9. It is determined that the creation of the authority,
17 the appropriation made to the authority, and the carrying out of
18 the authority's authorized purposes are in all respects a public
19 and governmental purpose for the benefit of the people of this
20 state and for the improvement of their health, safety, welfare,
21 comfort, and security, and that these purposes are public purposes,
22 and that the authority will be performing an essential governmental
23 function in the exercise of the powers conferred upon it by this
24 act.

25 Sec. 10. The obligation to make this state's contribution
26 described in the contribution agreement is not a general obligation
27 or indebtedness of this state or the authority and is subject to

1 the fulfillment of the requirements of the contribution agreement,
2 the plan for adjustment, and the order of a bankruptcy court.

3 Sec. 11. This state, a state official or state-related entity,
4 as defined in the plan for adjustment, the state treasurer, the
5 authority, a board member, an agent of the authority, and any other
6 legal, financial, or other expert providing advice to the authority
7 does not have any liability for the representations, warranties,
8 covenants, determinations, agreements, or other obligations of this
9 state or the authority, or under any of the certificates, notices,
10 or agreements delivered pursuant to the contribution agreement, the
11 plan for adjustment, or the order of a bankruptcy court confirming
12 the plan for adjustment.