

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5421

A bill to amend 1999 PA 149, entitled
"Public employee health care fund investment act,"
by amending section 2 (MCL 38.1212) and by adding sections 4a and
4b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (A) "BANKRUPTCY TRUST" MEANS A TRUST CREATED BY A COURT ORDER,
3 INCLUDING A PLAN FOR ADJUSTMENT.

4 (B) "BANKRUPTCY TRUST BENEFICIARY" MEANS AN INDIVIDUAL WHO IS
5 ELIGIBLE TO RECEIVE HEALTH CARE BENEFITS UNDER A BANKRUPTCY TRUST.

6 (C) "BOARD OF TRUSTEES" OR "BOARD" MEANS THE GOVERNING BOARD
7 OF A BANKRUPTCY TRUST.

8 (D) ~~(a)~~ "Fund" means a public employee health care fund
9 created ~~pursuant to~~ UNDER this act OR A COURT ORDER, INCLUDING A

1 **PLAN FOR ADJUSTMENT**, and used for the accumulation and investment
 2 of funds for the purpose of funding health care for retired
 3 employees of the public corporation.

4 (E) ~~(b)~~ "Investment fiduciary" means a person ~~or persons~~ who
 5 ~~do~~ **DOES** any of the following:

6 (i) Exercises any discretionary authority or control in the
 7 investment of the fund's or trust's assets.

8 (ii) Renders investment advice to a fund or trust for a fee or
 9 other direct or indirect compensation.

10 (F) **"PLAN FOR ADJUSTMENT" MEANS A PLAN FOR THE ADJUSTMENT OF**
 11 **DEBTS ENTERED AND APPROVED BY A FEDERAL BANKRUPTCY COURT FOR A**
 12 **PUBLIC CORPORATION.**

13 (G) ~~(c)~~ "Public corporation" means ~~any~~ **A** county, city,
 14 village, township, authority, district, board, or commission in
 15 this state.

16 (H) ~~(d)~~ "Qualified person" means ~~a person or group of persons~~
 17 **AN INDIVIDUAL** who ~~are~~ **IS** eligible to receive health care benefits
 18 and who ~~are~~ **IS** designated as a qualified person by the public
 19 corporation.

20 (I) ~~(e)~~ "Trust" means a trust created under the authority of a
 21 state or federal law for the purpose of funding retiree health care
 22 benefits.

23 **SEC. 4A. (1) A TRUSTEE OF A BANKRUPTCY TRUST SERVES AT THE**
 24 **PLEASURE OF THE APPOINTING AUTHORITY. THE APPOINTING AUTHORITY MAY,**
 25 **AFTER PROVIDING 30 DAYS' NOTICE TO A TRUSTEE, REMOVE THE TRUSTEE**
 26 **WITHOUT CAUSE. THE APPOINTING AUTHORITY MAY IMMEDIATELY REMOVE A**
 27 **TRUSTEE FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,**

1 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

2 (2) THE BOARD OF TRUSTEES, BY A VOTE OF 2/3 OF THE VOTING
3 MEMBERS SERVING, MAY, AFTER PROVIDING 30 DAYS' NOTICE TO A TRUSTEE,
4 REQUEST THAT THE APPOINTING AUTHORITY REMOVE THE TRUSTEE IF THE
5 BOARD DETERMINES THAT ALLOWING THE TRUSTEE TO SERVE COULD CAUSE
6 LOSS OF CONFIDENCE IN THE ADMINISTRATION OF THE BANKRUPTCY TRUST
7 AND THAT REMOVING THE TRUSTEE IS IN THE BEST INTEREST OF THE
8 BANKRUPTCY TRUST BENEFICIARIES. THE BOARD, BY A MAJORITY VOTE OF
9 THE VOTING MEMBERS SERVING, MAY RECOMMEND THAT THE APPOINTING
10 AUTHORITY IMMEDIATELY REMOVE A TRUSTEE FOR INCOMPETENCE,
11 DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN
12 OFFICE, OR ANY OTHER GOOD CAUSE.

13 (3) IF THERE IS A VACANCY ON THE BOARD OF TRUSTEES, THE
14 VACANCY MUST BE FILLED IN A MANNER PROVIDED BY THE COURT OR THE
15 PLAN FOR ADJUSTMENT.

16 (4) THE BOARD OF TRUSTEES SHALL MEET AT LEAST QUARTERLY.

17 (5) THE BUSINESS THAT THE BOARD OF TRUSTEES MAY PERFORM SHALL
18 BE CONDUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE
19 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

20 (6) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
21 RETAINED BY THE BOARD OF TRUSTEES IN THE PERFORMANCE OF AN OFFICIAL
22 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
23 MCL 15.231 TO 15.246.

24 (7) THE BOARD OF TRUSTEES SHALL PREPARE AND PUBLISH ON A
25 PUBLIC WEBSITE A SUMMARY ANNUAL REPORT THAT INCLUDES THE BANKRUPTCY
26 TRUST'S ADMINISTRATIVE EXPENDITURES AND EXPENDITURES RELATED TO A
27 MEMBER OF THE BOARD ATTENDING EDUCATIONAL CONFERENCES THAT ARE PAID

1 BY THE BANKRUPTCY TRUST, IF ANY.

2 (8) AS USED IN THIS SECTION, "APPOINTING AUTHORITY" IS THE
3 AUTHORITY IDENTIFIED BY THE COURT OR THE PLAN FOR ADJUSTMENT.

4 SEC. 4B. SUBJECT TO A PLAN FOR ADJUSTMENT, IF A BANKRUPTCY
5 TRUST PROVIDES FOR THE COMPENSATION OF THE MEMBERS OF THE BOARD OF
6 TRUSTEES, A MEMBER OF THE BOARD MAY DECLINE COMPENSATION FROM THE
7 BANKRUPTCY TRUST.

8 Enacting section 1. It is the intent of the legislature that a
9 bankruptcy trust as defined in the amendatory act that added
10 section 4a to the public employee health care fund investment act,
11 1999 PA 149, MCL 38.1211 to 38.1216, must provide for the removal
12 and reappointment of members of the board of trustees, and the
13 legislature finds and declares that providing that removal and
14 appointment is necessary to the efficient operation and
15 administration of the bankruptcy trust for the benefit of
16 bankruptcy trust beneficiaries.

17 Enacting section 2. If there is a conflict between the public
18 employee health care fund investment act, 1999 PA 149, MCL 38.1211
19 to 38.1216, and a plan for adjustment as defined in the amendatory
20 act that added section 4a to the public employee health care fund
21 investment act, 1999 PA 149, MCL 38.1211 to 38.1216, the plan for
22 adjustment must control.