

HOUSE BILL No. 6085

November 30, 2016, Introduced by Reps. Somerville and Poleski and referred to the Committee on Local Government.

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, AUGUST 15, 1996,~~ the retirement
3 board shall operate within the department of management and budget.
4 ~~On and after the certification date, AFTER AUGUST 14, 1996,~~ the
5 retirement system ~~shall become~~ **IS** a public corporation and ~~shall no~~
6 ~~longer~~ **DOES NOT** operate within the executive branch of this state.

7 (2) ~~On and after the certification date, AFTER AUGUST 14,~~
8 **1996,** the retirement board has all of the following powers and
9 duties:

10 (a) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE**

1 retirement board shall determine and establish all of the
2 provisions of the retirement system affecting benefit eligibility,
3 benefit programs, contribution amounts, and the election of
4 municipalities, judicial circuit courts, judicial district courts,
5 and judicial probate courts to be governed by the provisions of the
6 retirement system. ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
7 **SUBDIVISION, THE** retirement board shall establish all retirement
8 system provisions. As of 12:01 a.m. on ~~the certification date,~~
9 **AUGUST 15, 1996,** the retirement system provisions shall ~~shall~~ **MUST** not
10 differ materially from the defined benefit provisions that are in
11 effect under this act at 11:59 p.m. ~~on the day immediately before~~
12 ~~the certification date. This~~ **AUGUST 14, 1996. EXCEPT AS OTHERWISE**
13 **PROVIDED IN THIS SUBDIVISION, THIS** subdivision does not limit the
14 retirement board's authority after ~~the certification date~~ **AUGUST**
15 **15, 1996** to establish additional programs, including, but not
16 limited to, defined benefit, defined contribution, ancillary
17 benefits, health and welfare benefits, and other postemployment
18 benefit programs. The retirement board may adopt the provisions of
19 the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106,
20 on behalf of the employees of the retirement board. **FOR A**
21 **PARTICIPATING COURT OR PARTICIPATING MUNICIPALITY THAT IS A LOCAL**
22 **UNIT OF GOVERNMENT, THE RETIREMENT BOARD'S POWERS AND DUTIES UNDER**
23 **THIS SUBDIVISION ARE SUBJECT TO THE LOCAL UNIT OF GOVERNMENT**
24 **RETIREMENT ACT. AS USED IN THIS SUBDIVISION, "LOCAL UNIT OF**
25 **GOVERNMENT" MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE LOCAL**
26 **UNIT OF GOVERNMENT RETIREMENT ACT.**

27 (b) The retirement board has the ~~full and exclusive~~ authority

1 and full responsibility to employ and pay for all professional
2 services, including, but not limited to, actuarial, investment,
3 legal, accounting, and any other services that the retirement board
4 considers necessary for the proper operation of the retirement
5 system. The power granted to the retirement board in this
6 subdivision includes complete control of the procurement process.

7 (c) The retirement board shall appoint a chief executive
8 officer and any other employees for which the retirement board
9 establishes positions. The retirement board shall establish the
10 compensation of all persons appointed by the board. ~~On and after~~
11 ~~the certification date,~~ **AFTER AUGUST 14, 1996**, a person employed by
12 the public corporation is not an employee of this state. ~~for any~~
13 ~~purpose.~~

14 (d) The retirement board shall arrange for an annual actuarial
15 valuation and report of the actuarial soundness of each
16 participating municipality and court to be prepared by an
17 independent actuary based ~~upon~~ **ON** data compiled and supplied by
18 employees of the retirement system. The retirement board shall
19 adopt actuarial tables, assumptions, and formulas after
20 consultation with the actuary.

21 (e) The retirement board shall arrange for annual audits of
22 the records and accounts of the retirement system by a certified
23 public accountant or by a firm of certified public accountants
24 ~~pursuant to~~ **UNDER** generally accepted auditing standards and the
25 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
26 141.440a.

27 (f) The retirement board shall prepare an annual report for

1 each fiscal year in compliance with generally accepted accounting
2 principles. The report ~~shall contain~~ **MUST INCLUDE** information
3 regarding the financial, actuarial, and other activities of the
4 retirement system during the fiscal year. The retirement board
5 shall furnish a copy of the annual report to the governor and a
6 copy in print or electronic format to each house of the
7 legislature, each participating municipality, and each
8 participating court. The retirement board shall make the report
9 available to all members ~~upon~~ **ON** request. The report ~~shall~~ **MUST**
10 also ~~contain~~ **INCLUDE** a review of the actuarial valuation required
11 under subdivision (d), if available.

12 (g) The retirement board shall appoint an attorney to be the
13 legal advisor of the board and to represent the board in all
14 proceedings.

15 (h) The retirement board shall appoint or employ custodians of
16 the assets of the retirement system. The custodians shall perform
17 all duties necessary and incidental to the custodial responsibility
18 and make disbursements of authorized retirement system payments
19 from the funds of the retirement system.

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

22 (j) The retirement board shall establish the time and location
23 of the meetings of the retirement board and the time and location
24 of the annual meeting of the retirement system, consistent with the
25 ~~provisions of the open meetings act, 1976 PA 267, MCL 15.261 to~~
26 15.275.

27 (3) Before ~~the certification date,~~ **AUGUST 15, 1996**, the

1 ~~provisions of the executive organization act of 1965, 1965 PA 380,~~
2 MCL 16.101 to 16.608, and the management and budget act, 1984 PA
3 431, MCL 18.1101 to 18.1594, ~~shall govern the administrative~~
4 functions of the retirement system. However, any provision of law
5 in actual conflict with ~~the provisions of the amendatory act that~~
6 ~~added this sentence shall~~ **1996 PA 220 DOES** not apply.

7 (4) ~~On and after the certification date,~~ **AFTER AUGUST 14,**
8 **1996,** the retirement board consists of the following 9 members,
9 each of whom, excepting the retiree member and the retirement board
10 appointees, ~~shall~~ **MUST** be from a different county at the time of
11 appointment:

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

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

17 (c) Three members of the retirement system who are officers of
18 participating municipalities or courts, who ~~shall~~ **MUST** be
19 designated as officer board members.

20 (d) Three employee members of the retirement system who are
21 not officers of a participating municipality or court, who ~~shall~~
22 **MUST** be designated as employee board members.

23 (5) The retirement board shall adopt its own rules of
24 procedure and shall keep a record of its proceedings. Five members
25 of the retirement board ~~shall~~ constitute a quorum at ~~any~~ **A** meeting
26 of the retirement board and at least 5 concurring votes ~~shall be~~
27 **ARE** necessary for any decision by the retirement board. Each member

1 of the retirement board ~~shall be~~ **IS** entitled to 1 vote on each
2 question before the retirement board.

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

14 (7) A vacancy ~~shall occur~~ **OCCURS** on the retirement board ~~upon~~
15 **ON** the occurrence of any of the following events:

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

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

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

23 (8) ~~A~~ **THE RETIREMENT SYSTEM BOARD SHALL FILL A** vacancy
24 occurring on the retirement board at least 120 days before the
25 expiration of a term of office. ~~shall be filled by the retirement~~
26 ~~board.~~ Board appointments under this subsection ~~shall be~~ **ARE** for
27 the period ending on the December 31 next following the date of the

1 vacancy. For the officer board members and employee board members,
2 a replacement for any further portion of the unexpired term ~~shall~~
3 **MUST** be filled ~~pursuant to~~ **UNDER** section 45. For the 2 appointed
4 board members and the retiree board member, a replacement for any
5 further portion of the unexpired term ~~shall~~ **MUST** be filled ~~pursuant~~
6 ~~to~~ **UNDER** subsection (4).

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

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

11 (a) Manage and administer the retirement system under the
12 supervision and direction of the retirement board.

13 (b) Invest the assets of the retirement system, as directed by
14 the retirement board, consistent with the public employee
15 retirement system investment act, 1965 PA 314, MCL 38.1132 to
16 ~~38.1140m, which act governs the investment of assets of public~~
17 ~~employee retirement systems.~~ **38.1141.**

18 (c) Annually prepare and submit to the retirement board for
19 review, amendment, and adoption an itemized budget showing the
20 amount required to pay the retirement system's expenses for the
21 following fiscal year.

22 (d) Perform other duties as the retirement board ~~, in its~~
23 ~~discretion, shall delegate~~ **DELEGATES** to the chief executive
24 officer.

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Bill No. ____ or House Bill No. 6074 (request no.
27 06264'16 *) of the 98th Legislature is enacted into law.