

Act No. 557
Public Acts of 2016
Approved by the Governor
January 6, 2017
Filed with the Secretary of State
January 10, 2017
EFFECTIVE DATE: January 10, 2017

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Cox, Tedder, LaVoy, Lane, McCready, Bumstead, Lauwers, Leutheuser, Singh, Chirkun, Poleski, Byrd, Cochran, Durhal, Greig, Greimel, Howell, Iden, Kosowski, Lyons, Moss, Phelps, Plawecki and Yanez

ENROLLED HOUSE BILL No. 5421

AN ACT to amend 1999 PA 149, entitled "An act to provide for the creation of public employee health care funds; to provide for the administration of the funds; to authorize the investment of the assets of the funds or trusts; and to prescribe the powers and duties of investment fiduciaries and certain public officers and employees," by amending section 2 (MCL 38.1212) and by adding sections 4a and 4b.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) "Bankruptcy trust" means a trust created by a court order, including a plan for adjustment.
- (b) "Bankruptcy trust beneficiary" means an individual who is eligible to receive health care benefits under a bankruptcy trust.
- (c) "Board of trustees" or "board" means the governing board of a bankruptcy trust.
- (d) "Fund" means a public employee health care fund created under this act or a court order, including a plan for adjustment, and used for the accumulation and investment of funds for the purpose of funding health care for retired employees of the public corporation.
- (e) "Investment fiduciary" means a person who does any of the following:
 - (i) Exercises any discretionary authority or control in the investment of the fund's or trust's assets.
 - (ii) Renders investment advice to a fund or trust for a fee or other direct or indirect compensation.
- (f) "Plan for adjustment" means a plan for the adjustment of debts entered and approved by a federal bankruptcy court for a public corporation.
- (g) "Public corporation" means a county, city, village, township, authority, district, board, or commission in this state.
- (h) "Qualified person" means an individual who is eligible to receive health care benefits and who is designated as a qualified person by the public corporation.
- (i) "Trust" means a trust created under the authority of a state or federal law for the purpose of funding retiree health care benefits.

Sec. 4a. (1) A trustee of a bankruptcy trust serves at the pleasure of the appointing authority. The appointing authority may, after providing 30 days' notice to a trustee, remove the trustee without cause. The appointing authority may immediately remove a trustee for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(2) The board of trustees, by a vote of 2/3 of the voting members serving, may, after providing 30 days' notice to a trustee, request that the appointing authority remove the trustee if the board determines that allowing the trustee to serve could cause loss of confidence in the administration of the bankruptcy trust and that removing the trustee is in the best interest of the bankruptcy trust beneficiaries. The board, by a majority vote of the voting members serving, may recommend that the appointing authority immediately remove a trustee for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(3) If there is a vacancy on the board of trustees, the vacancy must be filled in a manner provided by the court or the plan for adjustment.

(4) The board of trustees shall meet at least quarterly.

(5) The business that the board of trustees may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the board of trustees in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) The board of trustees shall prepare and publish on a public website a summary annual report that includes the bankruptcy trust's administrative expenditures and expenditures related to a member of the board attending educational conferences that are paid by the bankruptcy trust, if any.


(8) As used in this section, "appointing authority" is the authority identified by the court or the plan for adjustment.

Sec. 4b. Subject to a plan for adjustment, if a bankruptcy trust provides for the compensation of the members of the board of trustees, a member of the board may decline compensation from the bankruptcy trust.

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

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor