

Legislative Analysis



PENSION BOARD EXPENDITURE REPORTS AND REPORT RETENTION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4156 (Substitute H-7)

Sponsor: Rep. Tom McMillin

Committee: Oversight, Reform, and Ethics

Revised Second Analysis (5-23-11)

BRIEF SUMMARY: The bill would require that a pension system established by a political subdivision of the state publish its annual report, the system budget, and a listing of all expenditures on a website. The information posted, and all original records including receipts, would have to be retained for a minimum of six years.

FISCAL IMPACT: The bill could create additional administrative costs for public government pension systems by requiring them to publish detailed quarterly pension board expenditures, salary data, and pension system budget information online as well as maintaining original records and receipts for all expenditures for six years.

THE APPARENT PROBLEM:

On March 21, 2011, Governor Rick Snyder delivered a major policy address about local government reform, emphasizing best management practices that can save money and improve the delivery of services. The leader of the executive branch of the state government announced that he intended to advance a three-pronged approach to local government reform: consolidation and sharing of services; increased accountability and transparency; and the reduction of public employee compensation.

In order to achieve more accountability and heighten transparency (the second of the three goals), the Snyder administration will incentivize local government officials to set-up "dashboards" that will enable taxpayers to measure performance, an evaluation that begins by releasing simplified financial statements. Then changes in that baseline data can be reported to all taxpayers annually--customarily by publishing updated information in a local government annual report on the community's website.

Among the governor's efforts to increase transparency--that is, making government operations accessible and understandable to taxpayers--the governor has called for a law that would ban the business practices that is sometimes called "pay-to-play"--that is, prohibiting anyone who contributed to an elected official who sits on a pension board, from doing business with that board for two years. He also called for restrictions on political financing activities by financial advisers to pension boards.

Observers note that much greater transparency should be required by the law, because some pension board trustees spend hundreds of thousands of dollars in pension fund related overseas travel that some have questioned. See **Background Information**.

To make the operations of all local government pension boards more transparent, legislation has been introduced that would require each board to post its annual report, budget, and all expenditures on a website.

THE CONTENT OF THE BILL:

House Bill 4156 (H-7) would amend the Public Employee Retirement System Investment Act (MCL 38.1133) to require that a pension system established by a political subdivision of the state publish, and make available to the public on a website, its annual report, the system budget, and a listing of all expenditures.

Publication and availability of the listing of expenditures would be on a quarterly basis, except for the annual report and salary information, which could be published and made available on an annual basis.

The pension system would have to leave the information under this section posted on its website for six years from the date of publication.

The bill would require the pension system to retain the original records, including receipts, of all expenditures for a minimum of six years from the date of creation of the record.

The bill specifies that for a political subdivision that established a system through election by the voters or the governing body, as applicable, to participate in a statutorily-created retirement system, minimum compliance with this requirement would be achieved by making available to the public on a website, a link to a website that included all of the information for that system that is required under this section of the act.

Under the bill, the term "expenditures" is defined to mean all payments or disbursements of system funds made by the board of a system except for disbursements to members and retirants of the system. Expenditures include, but are not limited to, travel expenditures incurred by board trustees and paid by the system.

BACKGROUND INFORMATION:

As introduced, the bill targeted the public pension systems of the City of Detroit and stemmed in part from a series of articles published in the *Detroit Free Press* in 2009 revealing that the 21 trustees who oversee Detroit's two public pensions, their lawyers, and their staff spent \$380,000 in one year traveling to conferences--including trips to Singapore; Hong Kong; Edinburgh, Scotland; San Diego, California; San Francisco, California; Scottsdale, Arizona; San Antonio, Texas; San Juan, Puerto Rico; Miami Beach, Florida; New Orleans, Louisiana; and Dubai in the United Arab Emirates. Trustees sometimes visited the faraway cities two or three times, and the pension funds were billed hundreds of thousands of dollars to cover their expenses.

To obtain the travel documents, editors at the *Detroit Free Press* sued the pension boards, after they were told their Freedom of Information Act request for travel documents would cost \$3,500 to fulfill (\$1,750 for each of the two pension systems). In its suit, the *Free Press* said "the fees violated the law and were unconscionable. As such they constitute a constructive denial of the Detroit Free Press' FOIA requests." According to the *Detroit Free Press*, pension fund lawyers described the Free Press' case as "entirely frivolous," but agreed to turn over some records as part of the litigation. A spokesman for the pension funds reports that once the two sides worked together to appropriately narrow the request for travel documents, those records were eventually provided at a charge of \$242.

For more information about the General Retirement System of the City of Detroit--both the General Retirement System and the Police and Fire Retirement System--visit the system's website at <http://www.rscd.org>

There, annual reports through June 30, 2010 are available for review, presented by the funds' independent auditors, Plante Moran. The General Retirement System is a defined benefit and a defined contribution plan. It has 8,330 active members and 11,480 members receiving benefits. The Police and Fire System is also a defined benefit and a defined contribution plan. It has 4,045 active members, and 8,560 members receiving benefits.

ARGUMENTS:

For:

The proponents of this legislation argue that all retirees who are paid by local public pension systems, as well as all of the taxpayers who fund local government pension systems, have a right to know how their money is being spent by fund trustees. This bill would help to achieve that end, because it requires that pension system officials publish on a website, the fund's annual report, the system budget, and a listing of all expenditures. The information posted, and all original records including receipts, would have to be retained for a minimum of six years.

The bill would, then, make pension boards' expenditures publicly known, and the purposes for those expenditures easier to investigate. The added "transparency" would also enable investigative journalists and watch-dog groups to report expenditures that are out of line, detect problems before they become a crisis, hold trustees more accountable, reveal any abuse of the public trust, and help ensure ethical behavior on the part of pension funds' staff and trustees.

Against:

The opponents of this bill offer two arguments to oppose it. First, the bill is unnecessary for some pension boards. For example, a spokesperson from the Detroit pension systems argued that an earlier version of the bill (one that required "transparency" only for Detroit's two municipal pension systems) was unnecessary, because both Detroit pension funds now have a joint website that publishes, among many other things, the minutes of monthly board meetings, as well monthly expenses reports--a copy of which he shared

with the members of the Oversight, Reform, and Ethics Committee. Further, the Detroit pension fund spokesman noted that the Detroit pension boards have adopted international travel policies that are designed to ensure fund-related travel that is justified.

And second, opponents of the bill argue that the bill's reporting requirements to publicly disclose information will impose a cost on local government pension systems--an imposed cost, yet another unfunded mandate, for which the local government pension system will not be reimbursed.

POSITIONS:

The Michigan Townships Association supports the bill. (5-3-11)

The Retired Detroit Police & Fire Fighters Association supports the bill. (2-8-11)

The Michigan Association of Public Employee Retirement Systems (MAPERS) is neutral on the bill. (5-3-11)

The Municipal Employees Retirement System (MERS) is neutral on the bill. (2-8-11)

The Michigan State Employee Retirees Association supports the bill. (4-5-11)

Legislative Analyst: J. Hunault
Fiscal Analyst: Bethany Wicksall

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.