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House Bill 5570 (Substitute H-3 as passed by the House) *(enacted version)*
Sponsor: Representative Ken Yonker
House Committee: Detroit's Recovery and Michigan's Future
Senate Committee: Government Operations

Date Completed: 6-2-14

CONTENT

The bill would amend the Public Employee Retirement System Investment Act to do the following with respect to a "large sponsored system":

- **Require the system to create an investment committee.**
- **Require the committee to recommend investment decisions to the system's governing board; and require the board to approve or disapprove the recommendations within a particular time frame.**
- **Require the investment committee to select, set compensation for, and evaluate the chief financial officer of a qualified system.**
- **Prohibit the large sponsored system from paying a person's out-of-State travel expenses with funds under its control unless certain conditions were met.**
- **Require the system's summary annual report to include an out-of-State travel report.**

The bill would define "large sponsored system" as a system created and established by a city that is subject to a plan for adjustment and either the city has a population of more than 600,000, or the system has discharged at least \$1.0 billion of pension liabilities in bankruptcy, or both. (Detroit's retirement system will meet these criteria when a plan for adjustment of the city's debts has been approved by the U.S. bankruptcy court.)

(The Act codifies the investment authority of State and local public employee retirement systems, and defines and limits the amount and type of investments that may be made by those acting as an investment fiduciary (typically, the applicable retirement board) on behalf of a retirement system.)

Investment Committee

Subject to a plan for adjustment, the bill would require a large sponsored system to establish an investment committee. ("Plan for adjustment" would mean a plan for the adjustment of debts entered and approved by a Federal bankruptcy court for a city that has established a large sponsored system.)

The investment committee would have to recommend to the system's governing board investment management decisions, including at least all of the following:

- The development of investment goals and objectives, investment assumptions, and performance measurement standards consistent with the needs of the system.

- The selection, monitoring, evaluation, and removal of custodians, investment managers, or any investment service providers.
- Asset allocation.
- Performing or ordering asset liability valuation studies for the qualified system at least every two years.
- Review and approval, before final issuance of all annual audits and actuarial and financial reports before finalization.
- Interpretation of the system's governing documents, applicable laws, plans of adjustment approved by United States bankruptcy courts, and other financial determinations affecting the system's funding or benefit levels.

In addition, subject to a plan for adjustment, the committee would have to recommend all calculations, actuarial assumptions, or assessments used by an actuary, including those underlying the restoration of pension benefits, funding levels, and amortization of the restoration of pension benefits, and recommend contributions to the system in accordance with applicable law.

Also, based on annual actuarial valuation reports and any other projections or reports, as applicable, from an actuary or other professional advisor, the committee would have to recommend the determination of the extent of restoration of pension benefits in conformance with a plan for adjustment.

The bill also would require the investment committee to select, set compensation for and terms of employment of, and evaluate the qualified system's chief financial officer.

Approval or Disapproval of Recommendations

The bill would require an investment committee to submit its recommendation to the board of the large sponsored system. The board would have to approve or disapprove the recommendation within 45 days from the date of submission, or within 10 business days if the committee determined that emergency action was required. If the board did not act within the 45 days or 10 days, as applicable, the recommendation would be considered approved by the board, and the chief financial officer would have to implement it.

If the board disapproved the committee's recommendation by the applicable deadline, the decision would have to be implemented under the plan for adjustment.

Payment of Out-of-State Travel Expenses

The bill would prohibit a large sponsored system from paying the expenses of a person to travel outside of this State from funds under its control unless the travel was one or more of the following:

- Required by legal mandate or court order or for law enforcement purposes.
- Necessary to protect the health or safety of residents of, or visitors to, this State or to assist other states in similar circumstances.
- Necessary to produce budgetary savings or to increase revenue, including protecting existing Federal funds or securing additional Federal funds.
- Necessary to secure specialized training for that person that was substantially related to the performance of the duties of the position and was not available within Michigan.

Summary Annual Report; Travel Report

The Act requires an investment fiduciary to publish a summary annual report that contains specified information. This information includes the system's expenditures for professional

training and education, including travel expenditures, by or on behalf of system board members that are paid by the system.

In addition to those expenditures, the bill would require a large sponsored system's summary annual report to include a travel report listing all travel outside this State in the preceding fiscal year that was funded in whole or in part with public funds. The report would have to include the total expenses for that travel and all of the following information for each travel occurrence:

- The name of each person receiving reimbursement for out-of-State travel or whose travel costs were paid by the system and funded in whole or in part with public funds.
- The destination.
- The dates.
- A brief statement of the reason for the travel.
- An itemization of the transportation and related costs, including the amount for food, lodging, and vehicle rental, as well as the names of hotels, restaurants, vehicle rental agencies, and vehicle models.

The bill also would require the system's investment fiduciary to submit its summary annual report to the Financial Review Commission created under the Michigan Financial Review Commission Act. (House Bill 5566 would create that Act to establish a Financial Review Commission that would oversee Detroit.)

MCL 38.1132c et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on the State.

There would be slight cost increases for the investment fiduciary associated with the tracking and reporting required for travel expenses as specified under the legislation. However, there could be some pension plan savings due to the restrictions placed on out-of-State travel as outlined under the bill. There also could be some administrative costs associated with establishing an investment committee, tasked with reporting various recommendations to the governing board and performing other responsibilities. Many of the recommendations required of the investment committee likely would require resources for the committee to fulfill its tasks.

For example, the investment committee would be required to develop investment goals and objectives, investment assumptions, and performance measurement standards consistent with the needs of the large sponsored system. In order to make recommendations on these items, the investment committee likely would need to spend funds on experts in these areas, which would lead to a fiscal impact, but to an unknown extent. The cost would depend upon how much is currently spent on the operation, governance, and maintenance of the retirement system, how that level of spending compares to the requirements under this legislation, and whether the city funds all or a portion of the costs directly or out of the assets of the retirement plan. Even if the costs are funded out of the retirement plan, at some point, those withdrawals would have to be made up for by contributions from the city (or its pensioners).

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.