

**MUNICIPAL EMPLOYEES RETIREMENT ACT OF 1984 (EXCERPT)**  
**Act 427 of 1984**

**38.1536 Retirement board; creation; retirement system as public corporation; powers and duties; administrative functions; membership; rules of procedure; record of proceedings; quorum; voting; term of office; oath; expenses; absence of member from work; vacancy; chairperson and chairperson pro-tem; chief executive officer.**

Sec. 36.

(1) A retirement board is created to administer this act. Before August 15, 1996, the retirement board shall operate within the department of management and budget. After August 14, 1996, the retirement system is a public corporation and does not operate within the executive branch of this state.

(2) After August 14, 1996, subject to the protecting local government retirement and benefits act, the retirement board has all of the following powers and duties:

(a) The retirement board shall determine and establish all of the provisions of the retirement system affecting benefit eligibility, benefit programs, contribution amounts, and the election of municipalities, judicial circuit courts, judicial district courts, and judicial probate courts to be governed by the provisions of the retirement system. The retirement board shall establish all retirement system provisions. As of 12:01 a.m. on August 15, 1996, the retirement system provisions must not differ materially from the defined benefit provisions that are in effect under this act at 11:59 p.m. August 14, 1996. This subdivision does not limit the retirement board's authority after August 15, 1996 to establish additional programs, including, but not limited to, defined benefit, defined contribution, ancillary benefits, health and welfare benefits, and other postemployment benefit programs. The retirement board may adopt the provisions of the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, on behalf of the employees of the retirement board.

(b) The retirement board has the exclusive authority and full responsibility to employ and pay for all professional services, including, but not limited to, actuarial, investment, legal, accounting, and any other services that the retirement board considers necessary for the proper operation of the retirement system. The power granted to the retirement board in this subdivision includes complete control of the procurement process.

(c) The retirement board shall appoint a chief executive officer and any other employees for which the retirement board establishes positions. The retirement board shall establish the compensation of all persons appointed by the board. After August 14, 1996, a person employed by the public corporation is not an employee of this state.

(d) The retirement board shall arrange for an annual actuarial valuation and report of the actuarial soundness of each participating municipality and court to be prepared by an independent actuary based on data compiled and supplied by employees of the retirement system. The retirement board shall adopt actuarial tables, assumptions, and formulas after consultation with the actuary.

(e) The retirement board shall arrange for annual audits of the records and accounts of the retirement system by a certified public accountant or by a firm of certified public accountants under generally accepted auditing standards and the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(f) The retirement board shall prepare an annual report for each fiscal year in compliance with generally accepted accounting principles. The report must include information regarding the financial, actuarial, and other activities of the retirement system during the fiscal year. The retirement board shall furnish a copy of the annual report to the governor and a copy in print or electronic format to each house of the legislature, each participating municipality, and each participating court. The retirement board shall make the report available to all members on request. The report must also include a review of the actuarial valuation required under subdivision (d), if available.

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

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

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

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

(3) Before August 15, 1996, the executive organization act of 1965, 1965 PA 380, MCL 16.101 to 16.608, and the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, govern the administrative functions of the retirement system. However, any provision of law in actual conflict with 1996 PA 220 does not apply.

(4) After August 14, 1996, the retirement board consists of the following 9 members, each of whom, excepting the retiree member and the retirement board appointees, must be from a different county at the time of appointment:

- (a) Two members appointed by the retirement board who have knowledge or experience in retirement systems, administration of retirement systems, or investment management or advisory services.
- (b) One member who is a retiree of the system appointed by the board.
- (c) Three members of the retirement system who are officers of participating municipalities or courts, who must be designated as officer board members.
- (d) Three employee members of the retirement system who are not officers of a participating municipality or court, who must be designated as employee board members.
- (5) The retirement board shall adopt its own rules of procedure and shall keep a record of its proceedings. Five members of the retirement board constitute a quorum at a meeting of the retirement board and at least 5 concurring votes are necessary for any decision by the retirement board. Each member of the retirement board is entitled to 1 vote on each question before the retirement board.
- (6) The regular term of office of members of the retirement board is 3 years. Each member of the retirement board shall take an oath of office before assuming the duties of the position. Members of the retirement board shall serve without compensation with respect to their duties, but must be reimbursed by the retirement system for their actual and necessary expenses incurred in the performance of their duties. A participating municipality or court employing a member of the retirement board shall treat absences from work because of retirement board business in a manner that the individual does not suffer loss of pay or benefits.
- (7) A vacancy occurs on the retirement board on the occurrence of any of the following events:
  - (a) An officer board member ceases to be eligible for nomination as an officer board member.
  - (b) An employee board member ceases to be eligible for nomination as an employee board member.
  - (c) Failure to attend 3 consecutive scheduled meetings of the retirement board, unless excused for cause by majority vote of the board members attending the meeting.
- (8) The retirement system board shall fill a vacancy occurring on the retirement board at least 120 days before the expiration of a term of office. Board appointments under this subsection are for the period ending on the December 31 next following the date of the vacancy. For the officer board members and employee board members, a replacement for any further portion of the unexpired term must be filled under section 45. For the 2 appointed board members and the retiree board member, a replacement for any further portion of the unexpired term must be filled under subsection (4).
- (9) The retirement board shall select from its members a chairperson and a chairperson pro-tem.
- (10) The retirement board shall employ a chief executive officer. The chief executive officer shall do all of the following:
  - (a) Manage and administer the retirement system under the supervision and direction of the retirement board.
  - (b) Invest the assets of the retirement system, as directed by the retirement board, consistent with the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141.
  - (c) Annually prepare and submit to the retirement board for review, amendment, and adoption an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year.
  - (d) Perform other duties as the retirement board delegates to the chief executive officer.

**History:** 1984, Act 427, Imd. Eff. Jan. 2, 1985 ;-- Am. 1988, Act 500, Imd. Eff. Dec. 29, 1988 ;-- Am. 1996, Act 220, Eff. Aug. 15, 1996 ;-- Am. 2004, Act 490, Imd. Eff. Dec. 28, 2004 ;-- Am. 2017, Act 213, Imd. Eff. Dec. 20, 2017

**Compiler's Notes:** Section 4 of Act 220 of 1996, which amendatory act amended this section, provides: "Section 4. (1) This amendatory act shall not take effect unless submitted to a vote of the official delegates who are certified as provided for in section 45 of the municipal employees retirement act of 1984, Act No. 427 of the Public Acts of 1984, being section 38.1545 of the Michigan Compiled Laws, and ratified by a 2/3 majority of the delegates actually voting on the question. The question of adoption of this amendatory act shall be submitted by certified mail to the delegates as certified to the most recent annual meeting of the municipal employees retirement system or, if no such delegates were certified or if previously certified delegates are no longer employed, then those delegates as certified by the participating municipality or participating court within 60 days after the enactment of this amendatory act. To be valid, each delegate's vote shall be received at the place designated by the retirement system no later than 75 days from the date of enactment of this amendatory act. The question shall be submitted in substantially the following form: 'Shall Act No. \_\_\_\_\_ of the Public Acts of 1996, entitled 'An act to amend the municipal employees retirement act of 1984', providing for the retirement system to become a public corporation be adopted?' Yes \_\_\_\_\_ No \_\_\_\_\_". (2) The retirement board of the municipal employees retirement system shall certify in writing the results of the voting on the question and file the certification with the secretary of state not later than the fifth business day following the tally of the votes. If a 2/3 majority of the delegates voting on the question approve the adoption of this amendatory act, the provisions of this amendatory act shall become effective on the date that is 10 calendar days after the filing of the certification with the secretary of state, which date shall be set forth in the filing and shall be known as the certification date. "The official tally of the vote on the question having occurred at the Special Meeting of the Board held on August 1, 1996, resulting in a determination that more than a two-thirds majority of the delegates voting on the question approved the adoption of Act 220 of 1996, a certification of the results of the voting was filed with the Secretary of State on August 5, 1996. The certification provided that the effective date of Act 220 of 1996 shall be August 15, 1996, which date shall be officially known as the certification date."