SENATE BILL No. 1152

November 9, 2016, Introduced by Senator HANSEN and referred to the Committee on Insurance.

A bill to amend 2007 PA 106, entitled "Public employees health benefit act," by amending section 9 (MCL 124.79).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- Sec. 9. (1) In addition to other requirements as provided in
- 2 this act, a public employer pooled plan established on or after the
- 3 effective date of this act OCTOBER 1, 2007 shall do all of the
- 4 following:

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- 5 (a) Establish and maintain minimum cash reserves of not less
- 6 than 25% of the aggregate contributions in the current fiscal year
- 7 or in the case of new applicants, 25% of the aggregate
- 8 contributions projected to be collected during its first 12 months
- 9 of operation, as applicable; or not less than 35% of the claims
 - paid in the preceding fiscal year, whichever is greater. AS AN

- 1 ALTERNATIVE, A POOLED PLAN THAT HAS OPERATED FOR 5 YEARS OR MORE
- 2 MAY ELECT TO MAINTAIN MINIMUM CASH RESERVES IN AN AMOUNT EQUAL TO
- 3 2.5% OF THE IMMEDIATELY PRECEDING YEAR'S CLAIMS PLUS ITS MOST
- 4 RECENT DESIGNATED RESERVE FOR INCURRED BUT NOT REPORTED CLAIMS, AS
- 5 INDICATED IN ITS FINANCIAL STATEMENT FILED WITH THE COMMISSIONER
- 6 UNDER SUBDIVISION (B). Reserves established pursuant to this
- 7 section shall be maintained in a separate, identifiable account and
- 8 shall not be commingled with other funds of the pooled plan. The
- 9 pooled plan shall invest the required reserve in the types of
- 10 investments allowed under section 910, 912, or 914 of the insurance
- 11 code of 1956, 1956 PA 218, MCL 500.910, 500.912, and 500.914. The
- 12 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE pooled plan
- 13 may satisfy up to 100% of the reserve requirement in the first year
- 14 of operation, up to 75% of the reserve requirement in the second
- 15 year of operation, and up to 50% of the reserve requirement in the
- 16 third and subsequent years of operation, through an irrevocable and
- 17 unconditional letter of credit. A POOLED PLAN THAT ELECTS THE
- 18 ALTERNATIVE MINIMUM CASH RESERVE MAY NOT SATISFY ANY PORTION OF THE
- 19 RESERVE REQUIREMENT WITH A LETTER OF CREDIT. As used in this
- 20 subdivision, "letter of credit" means a letter of credit that meets
- 21 all of the following requirements:
- 22 (i) Is issued by a federally insured financial institution.
- (ii) Is issued upon such terms and in a form as approved by
- 24 the commissioner.
- 25 (iii) Is subject to draw by the commissioner, upon giving 5
- 26 business days' written notice to the pooled plan, or by the pooled
- 27 plan for the member's benefit if the pooled plan is unable to pay

- 1 claims as they come due.
- 2 (b) Within 90 days after the end of each fiscal year, file
- 3 with the commissioner financial statements audited by a certified
- 4 public accountant. An actuarial opinion regarding reserves for
- 5 known claims and associated expenses and incurred but not reported
- 6 claims and associated expenses, in accordance with subdivision (d),
- 7 shall be included in the audited financial statement. The opinion
- 8 shall be rendered by an actuary approved by the commissioner or who
- 9 has 5 or more years of experience in this field.
- 10 (c) Within 60 days after the end of each fiscal quarter, file
- 11 with the commissioner unaudited financial statements, affirmed by
- 12 an appropriate officer or agent of the pooled plan.
- 13 (d) Within 60 days after the end of each fiscal quarter, file
- 14 with the commissioner a report certifying that the pooled plan
- 15 maintains reserves that are sufficient to meet its contractual
- 16 obligations, and that it maintains coverage for excess loss as
- 17 required in this act.
- 18 (e) File with the commissioner a schedule of premium
- 19 contributions, rates, and renewal projections.
- 20 (f) Possess a written commitment, binder, or policy for excess
- 21 loss insurance issued by an insurer authorized to do business in
- 22 this state in an amount approved by the commissioner. The binder or
- 23 policy shall provide not less than 30 days' notice of cancellation
- 24 to the commissioner.
- 25 (g) Establish a procedure, to the satisfaction of the
- 26 commissioner, for handling claims for benefits in the event of
- 27 dissolution of the pooled plan.

- 1 (h) Provide for administration of the plan using personnel of
- 2 the pooled plan, provided that the pooled plan has within its own
- 3 organization adequate facilities and competent personnel to service
- 4 the medical benefit plan, or by awarding a competitively bid
- 5 contract, to an authorized third party administrator, an insurer, a
- 6 nonprofit health care corporation, or other entity authorized to
- 7 provide services in connection with a noninsured medical benefit
- 8 plan.
- 9 (2) If the commissioner finds that a pooled plan's reserves
- 10 are not sufficient to meet the requirements of subsection (1)(a),
- 11 the commissioner shall order the pooled plan to immediately collect
- 12 from any public employer that is or has been a member of the pooled
- 13 plan appropriately proportionate contributions sufficient to
- 14 restore reserves to the required level. The commissioner may take
- 15 such action as he or she considers necessary, including, but not
- 16 limited to, ordering the suspension or dissolution of a pooled
- 17 plan, if the pooled plan is consistently failing to maintain
- 18 reserves as required in this section, is using methods and
- 19 practices that render further transaction of business hazardous or
- 20 injurious to its members, employees, beneficiaries, or to the
- 21 public, has failed, after written request by the commissioner, to
- 22 remove or discharge an officer, director, trustee, or employee who
- 23 has been convicted of any crime involving fraud, dishonesty, or
- 24 moral turpitude, has failed or refused to furnish any report or
- 25 statement required under this act, or if the commissioner, upon
- 26 investigation, determines that it is conducting business
- 27 fraudulently or is not meeting its contractual obligations in good

- 1 faith. Any proceedings by the commissioner under this subsection
- 2 shall be ARE governed by the requirements and procedures of
- 3 sections 7074 to 7078 of the insurance code of 1956, 1956 PA 218,
- 4 MCL 500.7074 and TO 500.7078.
- 5 Enacting section 1. This amendatory act takes effect 90 days
- 6 after the date it is enacted into law.