

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:

1 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:

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
10 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.

23 (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.