



**House  
Legislative  
Analysis  
Section**

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**PUBLIC RETIREMENT SYSTEM:  
"ARRANGEMENT AND FUND"**

**House Bill 5929 as passed by the House  
Second Analysis (6-12-02)**

**Sponsor: Rep. Jerry Vander Roest  
Committee: Senior Health, Security and  
Retirement**

***THE APPARENT PROBLEM:***

The Internal Revenue Code limits the pension amount that can be paid to very highly compensated individuals. One section of the IRC restricts the amount of annual compensation that can be used to calculate a pension, and another section sets the maximum amount of pension that can be paid out of pension assets. In order for the various public pension systems to be able to pay benefits above these limits ("excess benefits") to individuals who are entitled to them (based on pension formulas), the Public Employee Retirement Benefit Protection Act allows a pension system to set up an "arrangement and fund" to pay excess benefits out of non-pension assets, a procedure that is sanctioned by the IRS. However, it has been recommended that the provision be amended to require that the board of a retirement system for a local governmental unit seek the approval of the governing body of the unit (e.g., the city council, township board, county board of commissioners) before establishing such an "arrangement and fund".

***THE CONTENT OF THE BILL:***

House Bill 5929 would amend the "arrangement and fund" provision of the Public Employee Retirement Benefit Protection Act to specify that for a retirement system established by a political subdivision of the state, other than a municipality or court that participates in the Municipal Employees Retirement System, such an arrangement would also have to be approved by the governing body of the political subdivision if one exists.

MCL 38.1686

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill has no fiscal implications. (5-2-02)

***ARGUMENTS:***

***For:***

The bill has been described as "clean-up" legislation to Public Act 100 of 2002 (House Bill 5108), which recently passed the legislature. That act contained, among many other provisions, language that allows public retirement systems to create an "arrangement and fund" to pay excess retirement benefits in cases where a highly compensated employee may be entitled to benefits above the IRS limits. The creation of an "arrangement and fund" to pay excess benefits out of non-pension assets allows a retirement system to pay benefits that have been earned under its pension formula in a manner that will not jeopardize the tax-exempt status of the system. House Bill 5929 will simply ensure that the governing body of the local government is aware of and approves such an arrangement. (A municipality or court participating in the MERS system would not be subject to this requirement, however, as MERS members have contractually turned over all fiduciary and management responsibility to MERS.)

***POSITIONS:***

The Michigan Association of Public Employee Retirement Systems (MAPERS) supports the bill. (6-12-02)

The Municipal Employees Retirement System (MERS) supports the bill. (6-12-02)

Analyst: D. Martens

■ 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.

House Bill 5929 (6-12-02)