PUBLIC EMPLOYEE HEALTH CARE FUND INVESTMENT ACT

Act 149 of 1999

AN ACT to provide for the creation of public employee health care funds; to provide for the administration of the funds; to authorize the investment of the assets of the funds or trusts; and to prescribe the powers and duties of investment fiduciaries and certain public officers and employees.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

The People of the State of Michigan enact:

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38.1211 Short title.

Sec. 1.

This act shall be known and may be cited as the "public employee health care fund investment act".

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

38.1212 Definitions.

Sec. 2.

As used in this act:

(a) "Bankruptcy trust" means a trust created by a court order, including a plan for adjustment.

(b) "Bankruptcy trust beneficiary" means an individual who is eligible to receive health care benefits under a bankruptcy trust.

(c) "Board of trustees" or "board" means the governing board of a bankruptcy trust.

(d) "Fund" means a public employee health care fund created under this act or a court order, including a plan for adjustment, and used for the accumulation and investment of funds for the purpose of funding health care for retired employees of the public corporation.

(e) "Investment fiduciary" means a person who does any of the following:

(i) Exercises any discretionary authority or control in the investment of the fund's or trust's assets.

(ii) Renders investment advice to a fund or trust for a fee or other direct or indirect compensation.

(f) "Plan for adjustment" means a plan for the adjustment of debts entered and approved by a federal bankruptcy court for a public corporation.

(g) "Public corporation" means a county, city, village, township, authority, district, board, or commission in this state.

(h) "Qualified person" means an individual who is eligible to receive health care benefits and who is designated as a qualified person by the public corporation.

(i) "Trust" means a trust created under the authority of a state or federal law for the purpose of funding retiree health care benefits.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999 ;-- Am. 2016, Act 557, Imd. Eff. Jan. 10, 2017

Compiler's Notes: Enacting section 1 of Act 557 of 2016 provides:"Enacting section 1. It is the intent of the legislature that a bankruptcy trust as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, must provide for the removal and reappointment of members of the board of trustees, and the legislature finds and declares that providing that removal and appointment is necessary to the efficient operation and administration of the bankruptcy trust for the benefit of bankruptcy trust beneficiaries."Enacting section 2 of Act 557 of 2016 provides:"Enacting section 2. If there is a conflict between the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, and a plan for adjustment as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, the plan for adjustment must control."

38.1213 Establishment of public employee health care fund; resolution.

Sec. 3.

The legislative body of a public corporation may adopt a resolution establishing a public employee health care fund for the purpose of accumulating funds to provide for the funding of health care benefits to retirants and beneficiaries of retirants of the public corporation. Money for the payment of health care benefits for retired employees of the public corporation may, at the discretion of the public corporation, be provided from this fund or any other fund or trust. The resolution shall include all of the following:

(a) The designation of a person or persons who shall act as the fund's investment fiduciary.

(b) A restriction of withdrawals from the fund solely for the payment of health care benefits on behalf of qualified persons and the payment of the expenses of administration of the fund.

(c) The designation of who is a qualified person for purposes of payment of health care benefits from the fund.

(d) A determination of whether the fund will be established on an actuarial basis.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

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38.1214 Investment fiduciary; duties.

Sec. 4.

An investment fiduciary shall invest the assets of the fund in accordance with an investment policy adopted by the governing body of a public corporation and that complies with section 13 of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133. However, the investment fiduciary shall discharge his or her duties solely in the interest of the public corporation. The public corporation may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

38.1214a Trustee of bankruptcy trust; service; removal; vacancy on board; meetings; business conducted at public meeting; publication of summary annual report on public website; "appointing authority" defined.

Sec. 4a.

(1) A trustee of a bankruptcy trust serves at the pleasure of the appointing authority. The appointing authority may, after providing 30 days' notice to a trustee, remove the trustee without cause. The appointing authority may immediately remove a trustee for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(2) The board of trustees, by a vote of 2/3 of the voting members serving, may, after providing 30 days' notice to a trustee, request that the appointing authority remove the trustee if the board determines that allowing the trustee to serve could cause loss of confidence in the administration of the bankruptcy trust and that removing the trustee is in the best interest of the bankruptcy trust beneficiaries. The board, by a majority vote of the voting members serving, may recommend that the appointing authority immediately remove a trustee for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(3) If there is a vacancy on the board of trustees, the vacancy must be filled in a manner provided by the court or the plan for adjustment.

(4) The board of trustees shall meet at least quarterly.

(5) The business that the board of trustees may perform shall be conducted at a public meeting of the board held

in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the board of trustees in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) The board of trustees shall prepare and publish on a public website a summary annual report that includes the bankruptcy trust's administrative expenditures and expenditures related to a member of the board attending educational conferences that are paid by the bankruptcy trust, if any.

(8) As used in this section, "appointing authority" is the authority identified by the court or the plan for adjustment.

History: Add. 2016, Act 557, Imd. Eff. Jan. 10, 2017

Compiler's Notes: Enacting section 1 of Act 557 of 2016 provides:"Enacting section 1. It is the intent of the legislature that a bankruptcy trust as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, must provide for the removal and reappointment of members of the board of trustees, and the legislature finds and declares that providing that removal and appointment is necessary to the efficient operation and administration of the bankruptcy trust for the benefit of bankruptcy trust beneficiaries."Enacting section 2 of Act 557 of 2016 provides:"Enacting section 2. If there is a conflict between the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, and a plan for adjustment as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, the plan for adjustment must control."

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38.1214b Compensation.

Sec. 4b.

Subject to a plan for adjustment, if a bankruptcy trust provides for the compensation of the members of the board of trustees, a member of the board may decline compensation from the bankruptcy trust.

History: Add. 2016, Act 557, Imd. Eff. Jan. 10, 2017

Compiler's Notes: Enacting section 1 of Act 557 of 2016 provides:"Enacting section 1. It is the intent of the legislature that a bankruptcy trust as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, must provide for the removal and reappointment of members of the board of trustees, and the legislature finds and declares that providing that removal and appointment is necessary to the efficient operation and administration of the bankruptcy trust for the benefit of bankruptcy trust beneficiaries."Enacting section 2 of Act 557 of 2016 provides:"Enacting section 2. If there is a conflict between the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, and a plan for adjustment as defined in the amendatory act that added section 4a to the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, the plan for adjustment must control."

38.1215 Investment of trust assets; resolution.

Sec. 5.

The legislative body of a public corporation may, by resolution, allow a trust to invest the assets of the trust in accordance with the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140. The resolution shall include the following:

(a) A statement of the authority under which the trust is established.

(b) Approval to invest the assets of the trust in accordance with the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

38.1216 Actuarial review; report.

Sec. 6.

The investment fiduciary shall have an actuarial review of the fund or trust prepared at least every 5 years with assets valued on a market related basis. The investment fiduciary shall prepare and issue a summary annual report to the legislative body of the public corporation that established the fund or trust.

History: 1999, Act 149, Imd. Eff. Nov. 1, 1999

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