MICHIGAN SETTLEMENT ADMINISTRATION AUTHORITY ACT

Act 187 of 2014

AN ACT to create the Michigan settlement administration authority; to provide for the operation of the authority; to create certain funds; to authorize the resolution of certain potential claims against the state; to prescribe the powers and duties of the authority and certain other state officials and state employees; and to make certain appropriations.

History: 2014, Act 187, Imd. Eff. June 20, 2014

The People of the State of Michigan enact:

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141.1601 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan settlement administration authority act".

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1602 Legislative findings and declarations.

Sec. 2.

The legislature finds and declares the following:

(a) If certain requirements are fulfilled, this state shall make a contribution to reduce deficiencies in pension benefits of members of retirement systems, in order to avoid additional ongoing and future litigation and to partially settle the city of Detroit's bankruptcy case, in return for, among other things, full releases from any claims against this state for alleged deficiencies in pension benefits.

(b) Partial settlement of the city of Detroit's bankruptcy case and this state's contribution in support serves important public purposes and will be beneficial to the entire state due to 1 or more of the following:

(i) It will improve household income of pensioners, many of whom may reside in other parts of this state, and reduce the likelihood of their seeking public assistance.

(ii) It will facilitate prompt resolution of the city of Detroit's bankruptcy case and save state taxpayers ongoing litigation costs.

(iii) It will protect this state and its taxpayers from potential claims from parties associated with the retirement systems.

(c) Establishing the authority and execution by the authority of its powers granted under this act fulfill in all respects a public and governmental purpose for the benefit of the people of this state.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1603 Definitions.

Sec. 3.

As used in this act:

(a) "Authority" means the Michigan settlement administration authority created under section 4.

(b) "Board" means the board of directors of the authority.

(c) "Contribution agreement" means the contribution agreement in substantially the form included with the city of Detroit's plan for adjustment.

(d) "Countercyclical budget and economic stabilization fund" means the countercyclical budget and economic stabilization fund created in section 351 of the management and budget act, 1984 PA 431, MCL 18.1351.

(e) "Plan for adjustment" means the plan for the adjustment of debts of the city of Detroit approved and entered by the United States bankruptcy court for the eastern district of Michigan, southern division, In Re City of Detroit, Michigan, case no. 13-53846.

(f) "Retirement systems" means the police and fire retirement system of the city of Detroit and the general retirement system of the city of Detroit.

(g) "Settlement administration fund" or "fund" means the settlement administration fund created in section 7.

(h) "State treasurer" means the state treasurer of this state or his or her designee who is designated by a written instrument signed by the state treasurer and maintained in a permanent file and whose signature has the same force and effect as the signature of the state treasurer for all purposes under this act.

History: 2014, Act 187, Imd. Eff. June 20, 2014

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141.1604 Michigan settlement administration authority; creation; authority as state institution; appropriation.

Sec. 4.

(1) The Michigan settlement administration authority is created as a public body corporate and politic within the department of treasury. The authority is a state institution within the meaning of section 9 of article II of the state constitution of 1963 and an instrumentality of this state exercising public and essential governmental functions. The exercise by the authority of the powers conferred by this act is an essential governmental function of this state.

(2) For the fiscal year ending September 30, 2014, there is appropriated $194,800,000.00 from the settlement administration fund to be used only as provided in this act.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1605 Authority; exercise of duties; performance of administrative functions.

Sec. 5.

The authority shall exercise its duties independently of the state treasurer. Any administrative functions of the authority shall be performed under the direction and supervision of the state treasurer.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1606 Board of directors; membership; compensation; travel and expenses; quorum; vote; members subject to MCL 15.321 to 15.330 and MCL 15.301 to 15.310; discharge of duties.

Sec. 6.

(1) The authority shall exercise its duties through its board of directors.

(2) The board shall consist of 3 members as follows:

(a) The state treasurer.

(b) The state budget director.

(c) One member appointed by the governor with the advice and consent of the senate, who has knowledge, skill, or experience in the legal field of bankruptcy.

(3) The state treasurer and the state budget director may appoint a representative to serve in his or her absence.

(4) Members of the board shall serve without compensation but may receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their duties.

(5) The state treasurer shall serve as chairperson of the board.

(6) A majority of the appointed and serving members of the board shall constitute a quorum of the board for the transaction of business. Actions of the board shall be approved by a majority vote of the members present at a meeting.

(7) The members of the board and any agent of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

(8) A member of the board or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties, a member of the board or agent of the authority, when acting in good faith, may rely upon the opinion of legal counsel or other expert advice.

History: 2014, Act 187, Imd. Eff. June 20, 2014

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141.1607 Settlement administration fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining at close of fiscal year; expenditure.

Sec. 7.

(1) The settlement administration fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The authority shall expend money from the fund only as provided in this act.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1608 Disbursement to retirement systems; conditions; return of money to countercyclical budget and economic stabilization fund; dissolution of authority.

Sec. 8.

(1) The authority shall either disburse the money in the fund to the retirement systems or return the money to the countercyclical budget and economic stabilization fund as set forth in this section.

(2) The authority shall cause $194,800,000.00 to be paid to the retirement systems if and only if the authority determines in writing that both of the following conditions have been satisfied:

(a) The bankruptcy court has entered an order approving the plan for adjustment.

(b) The terms and conditions of the contribution agreement have been satisfied.

(3) If the authority determines in writing that at least 1 of the conditions in subsection (2) has not been satisfied, then the money in the fund shall be returned to the countercyclical budget and economic stabilization fund.

(4) If the authority has failed to make a finding in writing under subsection (2) or (3) by May 1, 2015, then the money in the fund shall be returned to the countercyclical budget and economic stabilization fund.

(5) The authority is dissolved on May 2, 2015.

History: 2014, Act 187, Imd. Eff. June 20, 2014

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141.1609 Public and governmental purpose.

Sec. 9.

It is determined that the creation of the authority, the appropriation made to the authority, and the carrying out of the authority's authorized purposes are in all respects a public and governmental purpose for the benefit of the people of this state and for the improvement of their health, safety, welfare, comfort, and security, and that these purposes are public purposes, and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this act.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1610 State contribution; obligation.

Sec. 10.

The obligation to make this state's contribution described in the contribution agreement is not a general obligation or indebtedness of this state or the authority and is subject to the fulfillment of the requirements of the contribution agreement, the plan for adjustment, and the order of a bankruptcy court.

History: 2014, Act 187, Imd. Eff. June 20, 2014

141.1611 Liability.

Sec. 11.

This state, a state official or state-related entity, as defined in the plan for adjustment, the state treasurer, the authority, a board member, an agent of the authority, and any other legal, financial, or other expert providing advice to the authority does not have any liability for the representations, warranties, covenants, determinations, agreements, or other obligations of this state or the authority, or under any of the certificates, notices, or agreements delivered

pursuant to the contribution agreement, the plan for adjustment, or the order of a bankruptcy court confirming the plan for adjustment.

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