

SENATE FISCAL AGENCY MEMORANDUM

DATE: November 25, 2015
TO: Members of the Michigan Senate
FROM: Kathryn Summers, Associate Director
RE: Executive Order 2015-13

Executive Order 2015-13

On October 27, 2015, Governor Snyder issued Executive Order (E.O.) 2015-13, which would create the State of Michigan Retirement Board (the Board) within the Department of Technology, Management, and Budget (DTMB), effective January 1, 2016. The powers, duties, and functions of the State Employees' Retirement System Board and the Judges Retirement Board, as well as the responsibilities concerning retirement pensions and benefits under the Michigan Military Act, would be transferred to the State of Michigan Retirement Board and vested in a nine-member board of trustees. Article V, Section 2 of the Michigan Constitution states that the Legislature has 60 calendar days following the issuance of an Executive Order to disapprove it; the last day for the Legislature to reject E.O. 2015-13 is December 26, 2015.

Functions Transferred to the State of Michigan Retirement Board

Executive Order 2015-13 would transfer the administrative statutory powers, duties, functions, and responsibilities concerning retirement allowances, pensions, or other retirement benefits under the Michigan Military Act to the Board. In addition, the authority, powers, duties, functions, responsibilities, and rule-making authority of the State Employees' Retirement System (SERS) Board and the Judges Retirement Board (which oversees the Judges Retirement System, or JRS) would be transferred to the Board, and the SERS and Judges Retirement Boards would be abolished.

Board Members

The E.O. would vest the powers, duties, and functions of the Board in a board of nine trustees, including the following or their designees: the Attorney General; the State Treasurer; the Legislative Auditor General; the State personnel director; a member or retiree of the SERS, appointed by the Governor; a member or retiree of the JRS, appointed by the Governor; a current or former officer or enlisted person in the Michigan Military Establishment who is a member or retiree under the Military Retirement Provisions, appointed by the Governor; one retiree of the SERS, appointed by the Governor; and, one member of the general public, appointed by the Governor. Board members would serve four-year terms, except that the initial appointments would be staggered.

General rules for Board member requirements are stated in the E.O., including determination of vacancy due to lack of attendance; determination of a quorum (majority of members serving); conducting business at public meetings in accordance with the Open Meetings Act; and noticing that writings used by the Board would be subject to the Freedom of Information Act. Board members would serve without compensation, but may be reimbursed for travel expenses. The

Board would be required to act in the best interests of the active and retired members of the Retirement Systems, and act in accordance with all applicable laws, rules, and regulations, including all provisions of the Retirement Acts.

Implementation

The E.O. would require the Director of DTMB, in consultation with the State Treasurer, to provide executive direction and supervision for the implementation of all transfers of functions under the Order and make internal organizational changes as necessary. In addition, the Department of Military and Veterans Affairs would be required to provide the Board and DTMB with records, data, and other information to ensure that the Board could administer the Military Retirement Provisions in a coordinated, cost-efficient, and effective manner.

The DTMB would be allowed to establish any fund it deemed necessary for the funding and payment of benefits provided to military members under the Michigan Military Act, and would be required to determine a separate contribution rate to be contributed by the State for retirement allowances, pensions, and other retirement benefits payable to military members, beginning in fiscal year 2016-17. Also in that year, DTMB would be required to determine a separate contribution rate for health insurance coverage for eligible military members, with the unfunded actuarial accrued liability to be amortized over a period equal to or less than 40 years. Any funding currently held in a work project account for the payment of retirement allowances, pensions, or other retirement benefits provided to military members would be transferred to an appropriate pension trust account.

Prior to the military retirement system being administered by the Office of Retirement Services beginning October 1, 2012, it was funded on a pay-as-you-go basis. Now that prefunding of the plan has begun, there is a need for an Internal Revenue Service (IRS)-compliant trust, and the E.O. would allow the consolidation of the military trust into the SERS trust, which already has been filed as an IRS-compliant trust. Prefunding dollars for the pension have been set aside in a work project for the past two years, waiting for the trusts to get consolidated, and those dollars would be deposited into the appropriate pension trust under this E.O. Prefunding of health care costs will not result in any new costs because eligible military members are included in the SERS health plan, which has been prefunded since 2012.

Types of Transfers

Article V, Section 2 of the State Constitution authorizes the Governor to organize the Executive branch of government by Executive Order. Three types of reorganizations are identified in the Executive Organization Act:

Type I Transfer. Under a Type I transfer, an existing department, board, commission, or agency is transferred intact to another principal department. The entity is administered under the supervision of the new principal department; however, the prescribed statutory powers, duties, and functions are exercised by the entity as a relatively autonomous entity.

Type II Transfer. Under a Type II transfer, all of the statutory authority, powers, duties, and functions, as well as records, personnel, property, unspent balances of appropriations and other funds associated with an entity, and the entity itself, are transferred to and placed under the authority of the principal department.

Type III Transfer. A Type III transfer abolishes an existing entity. The statutory authority, powers, duties, functions, records, personnel, and funding are not abolished, but are transferred to a principal department.

Executive Order 2015-13 does not specify whether the transfers of the Boards and provisions of the Michigan Military Act are Type I, II, or III transfers, but they appear to be Type III transfers, because the existing boards would be abolished, at least for SERS and JRS. (There is no Board for the Michigan Military Act.)

Fiscal Impact

There would be some administrative savings as a result of this E.O., but the magnitude is small. The Office of Retirement Services estimates that there would be approximately \$1,500 per year in savings, related to mailing and postage, travel expenses for board members, and ORS staff time.

Summary

Executive Order 2015-13 would create the State of Michigan Retirement Board, which would consolidate the existing boards for the State Employees' Retirement System and Judges Retirement System, as well as oversee the provisions of the Michigan Military Act. In 2012, the Department of Military and Veterans Affairs informally transferred the responsibility of processing retirement provisions for eligible military members to the Office of Retirement Services, and this E.O. would make that change formal, as well as consolidate the boards of two of the State's retirement systems: SERS and JRS.

The Legislature has until December 26, 2015, to reject this Executive Order. If it is not rejected, it will be effective on January 1, 2016, as outlined in the E.O. If you have any questions on E.O. 2015-13, please do not hesitate to contact me.

/kjh

c: Ellen Jeffries, Director
Bruce Baker