

# SENATE BILL No. 43

January 18, 2017, Introduced by Senator HANSEN and referred to the Committee on Government Operations.

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~~**MUST** be maintained in a separate, identifiable  
8 account and ~~shall~~**MUST** not be commingled with other funds of the  
9 pooled plan. The pooled plan shall invest the required reserve in  
10 the types of investments allowed under section 910, 912, or 914 of  
11 the insurance code of 1956, 1956 PA 218, MCL 500.910, 500.912, and  
12 500.914. ~~The~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, THE**  
13 pooled plan may satisfy up to 100% of the reserve requirement in  
14 the first year of operation, up to 75% of the reserve requirement  
15 in the second year of operation, and up to 50% of the reserve  
16 requirement in the third and subsequent years of operation, through  
17 an irrevocable and unconditional letter of credit. **A POOLED PLAN**  
18 **THAT ELECTS THE ALTERNATIVE MINIMUM CASH RESERVE MAY NOT SATISFY**  
19 **ANY PORTION OF THE RESERVE REQUIREMENT WITH A LETTER OF CREDIT.** As  
20 used in this subdivision, "letter of credit" means a letter of  
21 credit that meets 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~~**MUST** be included in the audited financial statement. The  
8 opinion ~~shall~~**MUST** be rendered by an actuary approved by the  
9 commissioner or who has 5 or more years of experience in this  
10 field.

11 (c) Within 60 days after the end of each fiscal quarter, file  
12 with the commissioner unaudited financial statements, affirmed by  
13 an appropriate officer or agent of the pooled plan.

14 (d) Within 60 days after the end of each fiscal quarter, file  
15 with the commissioner a report certifying that the pooled plan  
16 maintains reserves that are sufficient to meet its contractual  
17 obligations, and that it maintains coverage for excess loss as  
18 required in this act.

19 (e) File with the commissioner a schedule of premium  
20 contributions, rates, and renewal projections.

21 (f) Possess a written commitment, binder, or policy for excess  
22 loss insurance issued by an insurer authorized to do business in  
23 this state in an amount approved by the commissioner. The binder or  
24 policy ~~shall~~**MUST** provide not less than 30 days' notice of  
25 cancellation to the commissioner.

26 (g) Establish a procedure, to the satisfaction of the  
27 commissioner, for handling claims for benefits in the event of

1 dissolution of the pooled plan.

2 (h) Provide for administration of the plan using personnel of  
3 the pooled plan, provided that the pooled plan has within its own  
4 organization adequate facilities and competent personnel to service  
5 the medical benefit plan, or by awarding a competitively bid  
6 contract, to an authorized third party administrator, an insurer, a  
7 nonprofit health care corporation, or other entity authorized to  
8 provide services in connection with a noninsured medical benefit  
9 plan.

10 (2) If the commissioner finds that a pooled plan's reserves  
11 are not sufficient to meet the requirements of subsection (1)(a),  
12 the commissioner shall order the pooled plan to immediately collect  
13 from any public employer that is or has been a member of the pooled  
14 plan appropriately proportionate contributions sufficient to  
15 restore reserves to the required level. The commissioner may take  
16 such action as he or she considers necessary, including, but not  
17 limited to, ordering the suspension or dissolution of a pooled  
18 plan, if the pooled plan is consistently failing to maintain  
19 reserves as required in this section; ~~is~~ using methods and  
20 practices that render further transaction of business hazardous or  
21 injurious to its members, employees, beneficiaries, or to the  
22 public; ~~has~~ failed, after written request by the commissioner, to  
23 remove or discharge an officer, director, trustee, or employee who  
24 has been convicted of any crime involving fraud, dishonesty, or  
25 moral turpitude; ~~has~~ failed or refused to furnish any report or  
26 statement required under this act; ~~or~~ if the commissioner, upon  
27 investigation, determines that it is conducting business

1 fraudulently or is not meeting its contractual obligations in good  
2 faith. Any proceedings by the commissioner under this subsection  
3 ~~shall be~~**ARE** governed by the requirements and procedures of  
4 sections 7074 to 7078 of the insurance code of 1956, 1956 PA 218,  
5 MCL 500.7074 ~~and~~**TO** 500.7078.

6 Enacting section 1. This amendatory act takes effect 90 days  
7 after the date it is enacted into law.