RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

BRIAN CALLEY
LT. GOVERNOR

EXECUTIVE ORDER
No. 2015 – 13

CREATION OF THE
STATE OF MICHIGAN RETIREMENT BOARD

STATE EMPLOYEES' RETIREMENT SYSTEM BOARD
JUDGES RETIREMENT BOARD
MILITARY RETIREMENT PROVISIONS

EXECUTIVE REORGANIZATION

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the state of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided in the Constitution; and

WHEREAS, there is a continued need to increase collaboration, optimize service delivery, and ensure efficient administration of the state of Michigan's several retirement systems, in accordance with applicable state and federal laws, rules, and regulations; and

WHEREAS, the state of Michigan intends that each of its retirement systems be administered as a qualified pension plan created in trust under section 401 of the Internal Revenue Code, 26 USC 401, that the respective trusts be exempt organizations under Section 501 of the Internal Revenue Code, 26 USC 501, and that they be administered in compliance with the provisions of Section 415 of the Internal Revenue Code, 26 USC 415, and other applicable regulations to fulfill this intent; and

WHEREAS, the State Employees' Retirement System and its board were created under the State Employees' Retirement Act, 1943 PA 240, as amended, MCL 38.1 to

38.69, and its existence and powers were continued under Sections 251 and 254 of 1965 PA 380, as amended, MCL 16.351 and 16.354, to provide a system of pension and retirement benefits for eligible state employees; and

WHEREAS, the Judges Retirement System and its board were established by the Judges Retirement Act of 1992, 1992 PA 234, as amended, MCL 38.2101 to 38.2670, to provide retirement benefits to judges, and also the Governor, Lieutenant Governor, Secretary of State, Attorney General, and Legislative Auditor General; and

WHEREAS, Chapter 7 of the Michigan Military Act, 1967 PA 150, as amended, MCL 32.801 to 32.851, along with the Military Establishment Act, 1909 PA 84, as amended, MCL 32.35 to 32.49d, provides retirement benefits to eligible military personnel; and

WHEREAS, the Department of Technology, Management, and Budget, through its Office of Retirement Services, supervises the state of Michigan's retirement systems and provides budgeting, procurement, and management functions relative to the administration of retirement allowances, pensions, and other retirement benefits payable under the State Employees' Retirement Act, 1943 PA 240, as amended, MCL 38.1 to 38.69, the Judges Retirement Act, 1992 PA 234, as amended MCL 38.2101 to 38.2670, the Michigan Military Act, 1967 PA 150, as amended, MCL 32.501 to 32.851, and the Military Establishment Act, 1909 PA 84, as amended, MCL 32.35 to 32.49d; and

WHEREAS, effective October 1, 2012, the Department of Military and Veterans Affairs transitioned all aspects of management of the Military Retirement Provisions, from initial eligibility and retirement applications to processing pension payments to each retiree and subsequent retirement beneficiaries to the Office of Retirement Services within the Department of Technology, Management, and Budget; and

WHEREAS, the functions, duties and responsibilities of the State Employees' Retirement System, the Judges Retirement System, and the Military Retirement Provisions, respectively, can be carried out more effectively by a new State of Michigan Retirement Board, under the supervision of the Department of Technology, Management, and Budget, through its Office of Retirement Services, which has the expertise to ensure that these functions are accomplished in a coordinated, cost-efficient, and effective manner in accordance with all applicable state and federal regulations;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Board" means the State of Michigan Retirement Board created in Section II of this Order.

B. "Department" means the principal department of state government created as the Department of Management and Budget by Section 121 of the Management and Budget Act, 1984 PA 431, MCL 18.1121 and renamed as the "Department of Technology, Management, and Budget" pursuant to Executive Order 2009-9, MCL 18.441.

C. "Department of Military and Veterans Affairs" means the principal department of state government created as the Department of Military Affairs by Section 125 of 1965 PA 380, MCL 16.225, and renamed the "Department of Military and Veterans Affairs" pursuant to Executive Order 1997-7, MCL 32.91.

D. "Health insurance coverage" means the hospitalization and medical insurance, dental coverage, vision coverage, and any other health care insurance provided in Section 20d of the State Employees' Retirement Act, 1943 PA 240, MCL 38.20d.

E. "Military member" means a current or former officer or enlisted person, or an adjutant general or assistant adjutant general, who is eligible to be paid a retirement allowance, pension, or other retirement benefit provided under the Michigan Military Act, 1967 PA 150, as amended, MCL 32.501 to 32.851.

F. "Military Retirement Provisions" means the retirement allowance, pension, or other retirement benefits provided under the Michigan Military Act, 1967 PA 150, as amended, MCL 32.501 to 32.851.

G. "Retirement Acts" means, collectively, the State Employees' Retirement Act, 1943 PA 240, as amended, MCL 38.1 to 38.69, the Judges Retirement Act of 1992, 1992 PA 234, as amended, MCL 38.2101 to 38.2670, and the Michigan Military Act, 1967 PA 150, as amended, MCL 32.501 to 32.851 or the Military Establishment Act, 1909 PA 84, as amended, MCL 32.35 to 32.49d, as applicable.

H. "Retirement systems" means the State Employees' Retirement System, created by Section 2 of State Employees' Retirement Act, 1943 PA 240, MCL 38.2, the Judges Retirement System, created by Section 201 of 1992 PA 234, MCL 38.2201, and the Military Retirement Provisions.

I. "Qualified pension plan" means a pension plan created in trust under Section 401 of the Internal Revenue Code, 26 USC 401.

J. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. CREATION OF THE STATE OF MICHIGAN RETIREMENT BOARD

A. The State of Michigan Retirement Board is created within the Department.

B. The Board shall exercise its powers, duties, and functions independently of the Department, in accordance with the Retirement Acts, the Public Employee Retirement System Investment Act, 1965 PA 314, as amended, MCL 38.1122 to 38.1141, and all other applicable state or federal laws, rules, and regulations. The budgeting, procurement, and related management functions of the Board shall be performed under the direction and supervision of the Department. The Board shall be assisted by personnel of the Department under the direction and supervision of the Director of the Department.

C. The powers, duties, and functions of the Board are vested in a board of trustees consisting of the following 9 members:

- The Attorney General who may designate one of his or her Assistant Attorneys General to serve as a voting member in the absence of the Attorney General.
- The State Treasurer who may designate a representative from within the Department to serve as a voting member in the absence of the State Treasurer.
- The Legislative Auditor General who may designate his or her Deputy to serve as a voting member in the absence of the Legislative Auditor General.
- The State Personnel Director who may designate an authorized representative to serve as a voting member in the absence of the State Personnel Director.
- One member or retirant of the State Employees' Retirement System, who shall be appointed by the Governor.
- One member or retirant of the Judges Retirement System, who shall be appointed by the Governor.
- One current or former officer or enlisted person in the Michigan Military Establishment who is a member or retirant under the Military Retirement Provisions, who shall be appointed by the Governor.
- One retirant member of the State Employees' Retirement System, who shall be appointed by the Governor.
- One member of the general public, who shall be appointed by the Governor.

D. The appointed members shall serve for a term of four years, except that of the members first appointed, the Governor shall appoint a state employee member for a term of one year, a member or retirant of the Judges Retirement System for a term of

two years, and the member or retirant under the Military Retirement Provisions for a term of three years.

E. Any appointed Board member who fails to attend the scheduled meetings of the Board for two consecutive meetings without valid excuse, as determined by the Board chairperson, shall be considered as having resigned from the Board and the Board shall declare his or her office vacated by way of a resolution, and shall notify the Governor of the vacancy. During their designated term of office, appointed members of the Board serve at the pleasure of the Governor and may be removed by the Governor as provided in Article V, Section 10 of the State Constitution of 1963. If for any reason a vacancy occurs in the office of an appointed Board member, the Governor shall appoint a replacement who shall serve for the remainder of the unexpired term. Board members shall serve for the duration of their appointed term and shall continue to hold office after the expiration of their term until a successor is appointed.

F. A majority of the members serving on the Board shall constitute a quorum for the transaction of business at a meeting of the Board.

G. The Board shall conduct its business at public meetings in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. However, members of the Board may attend and participate in a meeting of the commission by the use of telecommunication or other electronic equipment if their attendance and participation by the use of telecommunication or other electronic equipment is authorized by the bylaws of the Board and that meeting is otherwise conducted in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

H. A writing prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function is subject to the Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 to 15.246.

I. The members of the Board shall serve without compensation, but may receive reasonable reimbursement for all actual necessary travel and expenses incurred in the performance of their official duties.

J. The Board shall annually elect from its membership a chairperson and a vice-chairperson. A chair or vice-chairperson may be reelected to consecutive terms for those positions without limitation, subject to the expiration of their term of service on the Board. The Department, in consultation with the Board, shall designate an executive secretary, and shall also designate any actuarial, medical, clerical, technical, and administrative personnel as may be necessary for the proper operation of the Retirement Systems.

K. The Board shall act in the best interests of the active and retirant members of the Retirement Systems and shall act in accordance with all applicable laws, rules, and regulations, including all provisions of the Retirement Acts except as modified by this Order.

III. TRANSFER OF FUNCTIONS

A. The administrative statutory powers, duties, functions, and responsibilities concerning retirement allowances, pensions, or other retirement benefits under the Michigan Military Act are transferred to the Board created in Section II of this Order.

B. The authority, powers, duties, functions, responsibilities, and rule-making authority of the State Employees' Retirement System Board are transferred to the Board created in Section II of this Order. The State Employees' Retirement System Board created by Section 2 of the State Employees' Retirement Act, 1943 PA 240, MCL 38.2, is abolished.

C. The authority, powers, duties, functions, responsibilities, and rule-making authority of the Judges Retirement Board are transferred to the Board created in Section II of this Order. The Judges Retirement Board, created by Section 202 of the Judges Retirement Act of 1992, 1992 PA 234, MCL 38.2202, is abolished.

IV. IMPLEMENTATION

A. The Director of the Department, in consultation with the State Treasurer, shall provide executive direction and supervision for the implementation of all transfers of functions under this Order and shall make internal organizational changes as necessary to complete the transfers under this Order.

B. The Department of Military and Veterans Affairs shall provide the Board and the Department with the records, data, and other information as requested by the Office of Retirement Services to ensure that these functions are accomplished in a coordinated, cost-efficient and effective manner.

C. The Board shall administer the Military Retirement Provisions as part of a qualified pension plan created in trust under Section 401 of the Internal Revenue Code, 26 USC 401, in accordance with State Employees' Retirement Act and all plan documents relating to the governance of the same.

D. The Department may establish any fund it deems necessary for the funding and payment of benefits provided to military members under the Michigan Military Act, in accordance with state and federal regulations applicable to qualified governmental plans, including but not limited to the following:

1. A military accumulation fund in which may be accumulated any reserves derived from the money provided for the payment of retirement allowances, pensions, and other retirement benefits payable to military members under the Michigan Military Act and the Military Establishment Act; and

2. A military pension reserve fund from which may be paid all retirement allowances, pensions, and other retirement benefits provided to military members under the Michigan Military Act and the Military Establishment Act.

E. Beginning with the state fiscal year 2016-2017, the Department shall determine a separate contribution rate to be contributed by the state for retirement allowances, pensions, and other retirement benefits payable to military members under the Michigan Military Act and the Military Establishment Act. The amount of the unfunded accrued liability on which the separate contribution rate is determined shall be that amount which the state is legally responsible for and is to be calculated by an actuarial analysis.

F. Beginning with the state fiscal year 2016-2017, the Department shall determine a separate contribution rate for health insurance coverage for eligible military members using an individual projected benefit entry age normal cost method of valuation. The unfunded actuarial accrued liability shall be equal to the actuarial present value of benefits reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. Except as otherwise provided in the State Employees' Retirement Act, the unfunded actuarial accrued liability shall be amortized in accordance with generally accepted governmental accounting standards over a period equal to or less than 40 years, with a payment schedule determined by the Department.

G. All funding that is currently being held in a "work project" account, or any similar account, for the payment of retirement allowances, pensions, or other retirement benefits provided to military members under the Michigan Military Act, shall be transferred to an appropriate pension trust account, in accordance with applicable state and federal regulations.

H. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

V. MISCELLANEOUS

A. All rules, orders, contracts, declaratory rulings, agreements, and other actions relating to the assigned functions lawfully adopted prior to the effective date of the transfers provided herein shall continue to be effective until revised, amended, repealed, or rescinded.

B. Nothing in this Order shall be construed to diminish or impair the accrued financial benefits of a member eligible to receive a pension benefit pursuant to the Retirement Acts.

C. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion.

E. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective January 1, 2016.

Given under my hand and the Great Seal of the state of Michigan this 27th day of October, in the Year of our Lord, Two Thousand Fifteen

RICHARD D. SNYDER
GOVERNOR

SECRETARY OF STATE

FILED WITH SECRETARY OF STATE

ON 10/27/15 AT 3:40 p.m.