

**DETROIT RETIREMENT SYSTEMS SUE MICHIGAN GOVERNOR/TREASURER
OVER CONSTITUTIONALITY OF PENSION PROVISION
IN EMERGENCY FINANCIAL MANAGER ACT**

Action taken to protect long-term interests of Systems' members and retirees

DETROIT, (April 20, 2011) – On April 18, 2011, the General Retirement System of the City of Detroit and the Police and Fire Retirement System of the City of Detroit (the "Retirement Systems"), along with several individual active and retired City employees and pension participants, filed suit in the United States District Court for the Eastern District of Michigan challenging the constitutionality of Section 19(1)(m) of Public Act 4 of 2011, commonly known as the emergency financial manager legislation (the Act).

The lawsuit challenges only Section 19(1)(m) of the Act. This provision specifically affects public pension funds and purports to grant an emergency manager with the power to unilaterally modify vested and constitutionally protected pension benefits and to remove or replace the trustees of public pension funds for any reason or no reason at all.

Over 70 years ago, the citizens of the City of Detroit expressed their will and adopted amendments to the Detroit City Charter requiring that the pensions of city employees be held in trust, separate and apart from the assets of the City of Detroit, and that the funds be managed by independent boards of trustees, all of which is consistent with the Michigan Constitution and well settled law. Many other communities throughout the State of Michigan have adopted similar structures for their public pension funds.

The Retirement Systems believe that Section 19(1)(m) of the Act subverts the will of the people by impermissibly allowing an emergency financial manager (appointed for and acting on behalf of the employer-municipality) to seize control of public pension funds with little or no checks or balances on the manager's power and also threatens the qualified plan status of public pension trusts under applicable tax laws.

The stated purpose of the Act is to provide municipalities and school districts with tools to avoid or address financial crises. Although the Retirement Systems believe that this is certainly a laudable goal, particularly given that the State of Michigan has reduced or eliminated much of the funding previously promised to municipalities and school districts, Section 19(1)(m) of the Act has no rational relationship to this goal as the seizure of control of a local public pension fund or the transfer of the assets of a local public pension fund to some other pension system will have no effect on a municipality's short or long term financial health. Moreover, the Act fails to provide any meaningful or non-arbitrary thresholds or guidelines for the exercise of plenary power by an emergency manager over a public pension fund.

"A fundamental tenet of our democratic society is the system of checks and balances that allows for the constitutionality of statutes to be reviewed by the judicial branch of government," said Ron King, special counsel for the Retirement Systems. "In an effort to protect the constitutional rights of their members, the Retirement Systems have initiated this lawsuit so that the constitutionality of Section 19(1)(m) of the Act can be reviewed and determined by the courts."

###