

LOCAL UNIT OF GOVERNMENT RETIREMENT ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6074 as introduced
Sponsor: Rep. Kevin Cotter

House Bill 6075 as introduced
Sponsor: Rep. Dan Lauwers

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6076 as introduced
House Bill 6080 as introduced
House Bill 6081 as introduced
Sponsor: Rep. Earl Poleski

House Bill 6082 as introduced
House Bill 6083 as introduced
Sponsor: Rep. Al Pscholka

House Bill 6077 as introduced
House Bill 6078 as introduced
House Bill 6079 as introduced
Sponsor: Rep. Aric Nesbitt

House Bill 6084 as introduced
House Bill 6085 as introduced
House Bill 6086 as introduced
Sponsor: Rep. Pat Somerville

Committee: Local Government
Complete to 12-1-16

SUMMARY:

House Bill 6074 would create the Local Unit of Government Retirement Act, which primarily would do the following:

- Eliminate retiree health benefits for local government employees hired on or after May 1, 2017, and allow local governments to replace it with a contribution into a tax-deferred account in an amount capped at 2% of an employee's base pay.
- Subject to existing contract provisions and the funded percentage of the retirement health system, cap a local government's contribution for retiree health benefits for existing employees and retirees at 80% of the benefit cost.

House Bill 6074 is part of a package of 13 bills, also including House Bills 6075 - 6086, which mainly would make other local government retirement statutes subject to the proposed Local Government Retirement Act. House Bill 6077 would make retiree health care benefits a prohibited subject of bargaining under the Public Employment Relations Act after January 1, 2017.

The bills are summarized in more detail below.

BACKGROUND:

A 2016 report by the Michigan State University Extension Center for Local Government Finance and Policy estimated that the unfunded liabilities related to retiree health care benefits for cities, villages, townships, and counties in Michigan totaled approximately

\$10.0 billion in 2014¹. For perspective, the study reports that the annual required contributions for retiree health care (actuarially calculated amounts for annual unfunded liability payments) for cities, villages, and townships totaled \$540 million or about 12% of total revenues, while for counties they totaled \$256 million per year or about 6% of total county revenues.

Large unfunded liabilities are primarily due to local governments not prefunding retiree health benefits (setting aside funding for benefits as they are accrued) and instead waiting to pay for benefits as the annual health care costs are incurred. Even those local governments that do prefund retiree health care benefits often have substantial unfunded liabilities mainly due to the following: 1) they do not make the full annual required payments, 2) system assets do not generate the investment returns assumed, and 3) the cost of health care increases at a rate significantly higher than general inflation. The MSU study estimated that in 2014, Michigan cities, villages, and townships retiree health care actuarial accrued liabilities on average were 14% funded, and those of Michigan counties on average were 21% funded.

DETAILED SUMMARY:

House Bill 6074

House Bill 6074 would create the Local Unit of Government Retirement Act. For the purposes of the act, the bill would define local unit of government as any of the following: a village, city, township, county, county road agency, county road commission, or an authority established by law that may expend funds of the authority.

Retiree Health Benefits for NEW Employees

House Bill 6074 would eliminate retiree health benefits for local government employees hired on or after May 1, 2017, and allow local governments to replace them with a contribution into a tax-deferred account in an amount capped at 2% of an employee's base pay.

For the purposes of the act, base pay would exclude all of the following:

- Payment for overtime work.
- Payment for accrued sick leave or vacation time.
- Payment for bonuses or one-time, lump-sum payments.
- The cost of fringe benefits.
- Remuneration paid for the sole purpose of increasing an employee's final average compensation.

Retiree Health Benefits for EXISTING Employees and Retirees

The bill would cap a local government's contribution for retirement health benefits provided to employees hired before May 1, 2017 at 80% of the annual benefit cost if the retirement system's actuarial accrued liability for retiree health benefits is less than 80%

¹ "Legacy Costs Facing Michigan Municipalities"
http://msue.anr.msu.edu/uploads/resources/pdfs/GMI_044_Legacy_Costs_WP-AA.pdf

funded, as of the enacting date of this bill, or falls below 80% funded for 2 consecutive years in the future. The 80% maximum contribution is permanent regardless of any subsequent improvement in the funded percentage of the system's actuarial accrued liability. The funded percentage used in this determination would be from each retirement system's summary annual report as required under the Public Employee Retirement System Investment Act.

House Bill 6074 also would require that if a retiree and his/her dependents are eligible for Medicare, the local government contribution for retiree health care may not exceed 80% of the cost that is a supplement to reimbursements under Medicare, thus making Medicare the primary insurer.

The bill also would prohibit a local government from providing retiree health benefits to an employee if he/she is eligible for health benefits from another employer.

However, the bill would provide that if a collective bargaining agreement entered into before the enacting date of the act "clearly and expressly confers a fixed, unalterable right to a vested retirement health benefit for an unambiguous duration, this act does not impair that vested retirement health benefit for that duration."

Local Government Compliance

If a local government does not comply with the act, House Bill 6074 would allow either the attorney general or a resident of a local unit to commence a civil action to compel compliance. The bill would provide that injunctive relief must be commenced in the circuit court in which the local government is located, and that an action for mandamus must be commenced in the court of appeals.

If the court determines that a local government willfully and intentionally failed to comply or acted in bad faith, the bill would require that the court assess the local government a civil fine of between \$5,000 and \$12,500 per violation; however, the court would have to consider the budget of the local government and whether it had previously been assessed penalties in determining the amount of the fine. Civil fines collected under this act would be deposited into the State School Aid Fund.

The bill also provides that a contract or agreement entered into, modified, extended, or renewed after the enacting date of the act that is in conflict with the act is void.

House Bill 6075

The bill would require that each retirement system submit its summary annual report, as currently required under the Public Employee Retirement System Investment Act, to Treasury within 30 days of publication. Also, it would require Treasury to create, and post online, an executive summary for each submitted summary annual report including at least the system's unfunded actuarial accrued liability for retiree health and pension. Treasury would have to submit the executive summaries to the House and Senate Appropriations Committees and the House and Senate Fiscal Agencies within 30 days of posting.

The bill would also require that if a system’s actuarial accrued liability for retiree health or pension is less than 60% funded according to its most recent summary annual report, it must post on its website the steps the system is taking to increase the funding level. If a system does not have a website, the bill would require it to make the steps available to the plan participants and beneficiaries as well as the local government citizens. Finally, a system would have to submit the steps to Treasury.

House Bills 6076 - 6077

House Bill 6077 would make retiree health care benefits a prohibited subject of bargaining under the Public Employment Relations Act after January 1, 2017. House Bill 6076 would prohibit an arbitration panel from issuing an opinion or order or adopting a settlement offer term that infringes on the discretion granted to public employers regarding the following prohibited subjects of collective bargaining under the Public Employment Relations Act:

- Sec. 15(10) – the inclusion and selection of a retired member on the retirement board for fire and police.
- Sec. 15(11) – consolidation of functions or services.
- Proposed Sec. 15(14) – retiree health care benefits as proposed under House Bill 6077.

House Bills 6078 - 6086

The remaining bills in the package would amend a number of public acts related to local government retirement to make retirement benefits subject to the proposed Local Unit of Government Retirement Act proposed in House Bill 6074. The table below lists each bill and the public act it would amend.

Bill Number	Public Act Amended
6078	Revised Statutes of 1846 (RS 16 of 1848)
6079	Firemen and Police Pensions Act (PA 28 of 1966)
6080	Firefighters and Police Retirement Act (PA 345 of 1937)
6081	County Boards of Commissioners Act (PA 156 of 1851)
6082	City Library Employees’ Retirement Systems Act (PA 339 of 1927)
6083	The Home Rule City Act (PA 279 of 1909)
6084	Charter Counties Act (PA 293 of 1966)
6085	Municipal Employees Retirement Act (PA 427 of 1984)
6086	Optional Unified Form of County Government Act (PA 139 of 1973)

TIE BARS:

House Bills 6077 – 6086 are all tie-barred to House Bill 6074, and therefore will not go into effect unless House Bill 6074 is enacted. House Bill 6076 is tie-barred to House Bill 6077.

FISCAL IMPACT:

The bills could create administrative costs for the state Treasury, but could create significant long-term savings for local governments.

House Bill 6075 could create administrative costs to Treasury related to creating and making available online an executive summary for each retirement system's summary annual report.

Local governments that offer retiree health benefits could see significant, but indeterminate savings by eliminating retiree health benefits for new employees, for which long-term costs would have otherwise continued to grow.

House Bill 6074 provisions that cap a local government's contribution at 80% of the benefit cost and make a local government benefit secondary to Medicare could reduce both existing and future unfunded liabilities by shifting a share of accrued benefit costs to either the employee or Medicare, depending on the extent to which existing contracts are deemed to have provided a vested health care benefit.

However, by limiting the option for local governments that choose to offer a retiree health benefit to contributions into health savings accounts, it would increase short-term costs because it would require up-front contributions rather than paying for health care after an employee retires.

Fiscal Analyst: Bethany Wicksall

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.