

HOUSE BILL No. 6074

November 30, 2016, Introduced by Reps. Cotter, Poleski, Nesbitt and Somerville and referred to the Committee on Local Government.

A bill to prescribe the retirement benefits provided to employees of local units of government; to prescribe civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "local
2 unit of government retirement act".

3 Sec. 3. As used in this act:

4 (a) "Base pay" means the remuneration paid an employee on
5 account of the employee's services rendered to a local unit of
6 government. Base pay does not include any of the following:

7 (i) Payment for overtime services.

8 (ii) Remuneration paid in lieu of accumulated sick leave.

9 (iii) Remuneration received as a bonus.

1 (iv) Payment for accrued vacation pay.

2 (v) One-time lump-sum payments.

3 (vi) The cost of fringe benefits, including, but not limited
4 to, a medical benefit plan.

5 (vii) Remuneration paid for the sole purpose of increasing
6 final average compensation.

7 (b) "Beneficiary unit" means a past member and his or her
8 retiree health dependents.

9 (c) "Defined contribution plan" means a defined contribution
10 plan as defined in section 414(i) of the internal revenue code of
11 1986, 26 USC 414.

12 (d) "Employee" means an individual holding a position by
13 appointment or employment in a local unit of government.

14 (e) "Former qualified participant" means an individual who was
15 a qualified participant and who terminates employment on which his
16 or her participation is based for any reason.

17 (f) "Local unit of government" means any of the following:

18 (i) A village.

19 (ii) A city.

20 (iii) A township.

21 (iv) A county.

22 (v) A county road agency.

23 (vi) A county road commission.

24 (vii) An authority established by law that may expend funds of
25 the authority.

26 (g) "Medical benefit plan" means that term as defined in
27 section 2 of the publicly funded health insurance contribution act,

1 2011 PA 152, MCL 15.562.

2 (h) "Medicare" means benefits under the federal Medicare
3 program established under title XVIII of the social security act,
4 42 USC 1395 to 1395III.

5 (i) "Member" means an employee included in the membership of
6 an applicable retirement system.

7 (j) "Past member" means a former member who has retired under
8 the applicable retirement system or a former qualified participant
9 who has terminated employment from the applicable local unit of
10 government.

11 (k) "Qualified participant" means a member who is a
12 participant in a defined contribution plan under an applicable
13 retirement system.

14 (l) "Retiree health dependent" means an individual other than
15 a past member who is eligible to receive a retirement health
16 benefit under the applicable retirement system.

17 (m) "Retirement health benefit" means a payment or
18 contribution to, for, or on behalf of a past member or a retiree
19 health dependent under the applicable retirement system intended to
20 pay for expenses related to medical, dental, or vision care, or for
21 premiums for insurance covering such expenses, or for premiums for
22 life, disability, long-term care, or similar insurance.

23 (n) "Retirement system" means a retirement system that a local
24 unit of government establishes, maintains, or participates in and
25 that, by its express terms or as a result of surrounding
26 circumstances, does 1 or more of the following:

27 (i) Provides retirement income to participants.

1 (ii) Results in a deferral of income for periods extending to
2 the termination of covered employment or beyond.

3 (iii) Provides retirement health benefits to participants.

4 (o) "Retirement system" does not include a state unit as that
5 term is defined in section 2 of the public employee retirement
6 benefit protection act, 2002 PA 100, MCL 38.1682.

7 Sec. 5. (1) Subject to section 9, beginning May 1, 2017, if a
8 local unit of government offers or provides a retirement health
9 benefit, for a past member who was first employed by the local unit
10 of government before May 1, 2017, all of the following apply:

11 (a) Subject to subsection (2), the local unit of government
12 shall not pay more than 80% of the annual cost of the retirement
13 health benefit for each beneficiary unit if the state treasurer
14 determines 1 of the following applies:

15 (i) The actuarial accrued liability of the retiree health
16 system of the local unit of government is less than 80% funded,
17 according to the most recent summary annual report required under
18 section 13 of the public employee retirement system investment act,
19 1965 PA 314, MCL 38.1133, on the date this act is enacted into law.

20 (ii) The actuarial accrued liability of the retiree health
21 system of the local unit of government is not less than 80% funded,
22 according to the most recent summary annual report required under
23 section 13 of the public employee retirement system investment act,
24 1965 PA 314, MCL 38.1133, on the date this act is enacted into law,
25 but that funding level subsequently falls below 80% for 2
26 consecutive years.

27 (b) If each individual included in a beneficiary unit is

1 eligible for Medicare, the local unit of government shall not pay
2 more than 80% of the annual cost of a retirement health benefit
3 that is a supplement to reimbursements under Medicare for the
4 beneficiary unit.

5 (c) The local unit of government shall not provide a
6 retirement health benefit to a past member who is eligible to
7 participate in a medical benefit plan or retirement health benefit
8 offered or provided by an employer other than the local unit of
9 government.

10 (2) A local unit of government subject to subsection (1)(a)
11 remains subject to subsection (1)(a) regardless of any changes to
12 the actuarial accrued liability of the retiree health system of the
13 local unit of government in any subsequent summary annual report
14 required under section 13 of the public employee retirement system
15 investment act, 1965 PA 314, MCL 38.1133.

16 (3) If a collective bargaining agreement entered into before
17 the date this act is enacted into law clearly and expressly confers
18 a fixed, unalterable right to a vested retirement health benefit
19 for an unambiguous duration, this act does not impair that vested
20 retirement health benefit for that duration.

21 Sec. 7. Subject to section 9, if a local unit of government
22 offers or provides a retirement health benefit, for a member who is
23 first employed by the local unit of government after April 30,
24 2017, the local unit of government may contribute not more than 2%
25 of the member's base pay to an appropriate tax-deferred account for
26 the member as the retirement health benefit.

27 Sec. 9. (1) A contract or agreement, or provision of a

1 contract or agreement, entered into, modified, extended, or renewed
2 after the date this act is enacted into law that conflicts with the
3 requirements or restrictions of this act is void.

4 (2) Except as otherwise provided in sections 5 and 7, a local
5 unit of government shall not offer or provide any other retirement
6 health benefit to a member, past member, or retiree health
7 dependent.

8 Sec. 11. (1) If a local unit of government is not complying
9 with this act, the attorney general or a resident of the local unit
10 of government may commence a civil action to compel compliance or
11 to enjoin further noncompliance with this act.

12 (2) An action for injunctive relief under this section against
13 a local unit of government must be commenced in the circuit court
14 for the county in which the local unit of government is located.

15 (3) An action for mandamus under this section against a local
16 unit of government must be commenced in the court of appeals.

17 (4) If the court determines, in an action commenced under this
18 section, that a local unit of government willfully and
19 intentionally failed to comply with this act or otherwise acted in
20 bad faith, the court shall order the local unit of government to
21 pay a civil fine of not less than \$5,000.00 or more than \$12,500.00
22 for each violation. In determining the amount of a civil fine under
23 this subsection, the court shall consider the budget of the local
24 unit of government and whether the local unit of government has
25 been previously assessed penalties for violations of this act. A
26 civil fine under this subsection must be deposited in the state
27 school aid fund established under section 11 of article IX of the

1 state constitution of 1963.