

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 686

A bill to create the protecting local government retirement and benefits act; to provide the powers and duties of certain state and local agencies and officials; and to create a municipal stability board.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. The legislature finds and declares that this act is
4 intended to reflect the July 2017 Report of Findings and
5 Recommendations for Action of the Responsible Retirement Reform for
6 Local Government Task Force.

7 Sec. 3. As used in this act:

8 (a) "Annual report" means the most recent audited financial
9 statement reporting a local unit of government's liability for

1 retirement pension benefits and retirement health benefits as
2 determined under applicable government accounting standards of the
3 Governmental Accounting Standards Board.

4 (b) "Annual required contribution" means the sum of the normal
5 cost payment and the annual amortization payment for past service
6 costs to fund the unfunded actuarial accrued liability.

7 (c) "Corrective action plan" means a plan that details the
8 actions to be taken by a local unit of government to address and
9 resolve the underfunded status of the local unit of government.

10 (d) "Employee" means an individual holding a position by
11 election, appointment, or employment in a local unit of government.

12 (e) "Evaluation system" means the local government retirement
13 and benefits fiscal impact evaluation system created under section
14 5 to provide for the identification of, and a corrective action
15 plan to resolve, the underfunded status of a local unit of
16 government under this act.

17 (f) "Former employee" means an individual who was an employee
18 who terminated employment with the applicable local unit of
19 government.

20 (g) "General fund operating revenues" means the sum of all
21 governmental activity fund revenues of a local unit of government
22 as determined by the state treasurer based on applicable government
23 accounting standards of the Governmental Accounting Standards
24 Board. General fund operating revenues do not include any fund of
25 the local unit of government that the state treasurer determines
26 based on applicable government accounting standards of the
27 Governmental Accounting Standards Board is a proprietary,

1 fiduciary, enterprise, or other restricted fund that may not be
2 expended to provide retirement health benefits or retirement
3 pension benefits.

4 (h) "Local unit of government" means any of the following:

5 (i) A city.

6 (ii) A village.

7 (iii) A township.

8 (iv) A county.

9 (v) A county road commission.

10 (vi) An authority created under chapter VIA of the aeronautics
11 code of the state of Michigan, 1945 PA 327, MCL 259.108 to
12 259.125c.

13 (vii) A metropolitan government or authority established under
14 section 27 of article VII of the state constitution of 1963.

15 (viii) A metropolitan district created under the metropolitan
16 district act, 1929 PA 312, MCL 119.1 to 119.18.

17 (ix) An authority created under 1939 PA 147, MCL 119.51 to
18 119.62.

19 (x) A municipal electric utility system as that term is
20 defined in section 4 of the Michigan energy employment act of 1976,
21 1976 PA 448, MCL 460.804.

22 (xi) A district, authority, commission, public body, or public
23 body corporate created by 1 or more of the entities described in
24 subparagraphs (i) to (x).

25 (i) "Local unit of government" does not include this state, a
26 principal department of state government, a state institution of
27 higher education under section 4, 5, or 6 of article VIII of the

1 state constitution of 1963, a state agency, a state authority, or a
2 reporting unit under the public school employees retirement act of
3 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

4 (j) "Municipal stability board" or "board" means the municipal
5 stability board created in section 7.

6 (k) "Normal cost" means the annual service cost of retirement
7 health benefits as they are earned during active employment of
8 employees of the local unit of government in the applicable fiscal
9 year, using an individual entry-age normal and level percent of pay
10 actuarial cost method.

11 (l) "Retirant" means an individual who has retired with a
12 retirement benefit payable from a retirement system of a local unit
13 of government.

14 (m) "Retirement benefit" includes a retirement health benefit
15 or retirement pension benefit, or both.

16 (n) "Retirement health benefit" means an annuity, allowance,
17 payment, or contribution to, for, or on behalf of a former employee
18 or a dependent of a former employee to pay for any of the following
19 components:

20 (i) Expenses related to medical, drugs, dental, hearing, or
21 vision care.

22 (ii) Premiums for insurance covering medical, drugs, dental,
23 hearing, or vision care.

24 (iii) Expenses or premiums for life, disability, long-term
25 care, or similar welfare benefits for a former employee.

26 (o) "Retirement pension benefit" means an allowance, right,
27 accrued right, or other pension benefit payable under a defined

1 benefit pension plan to a participant in the plan or a beneficiary
2 of the participant.

3 (p) "Retirement system" means a retirement system, trust,
4 plan, or reserve fund that a local unit of government establishes,
5 maintains, or participates in and that, by its express terms or as
6 a result of surrounding circumstances, provides retirement pension
7 benefits or retirement health benefits, or both. Retirement system
8 does not include a state unit as that term is defined in section 2
9 of the public employee retirement benefit protection act, 2002 PA
10 100, MCL 38.1682.

11 (q) "Underfunded local unit of government" means a local unit
12 of government that is in underfunded status.

13 (r) "Underfunded status" means that the state treasurer has
14 determined that the local unit of government is underfunded under
15 the review provided in section 5 and the local unit of government
16 does not have a waiver under section 6.

17 Sec. 4. (1) Beginning July 1, 2018, if a local unit of
18 government offers or provides an employee of the local unit of
19 government, or a former employee first employed by the local unit
20 of government before the effective date of this act, with a
21 retirement health benefit, all of the following apply to the local
22 unit of government:

23 (a) The local unit of government must pay at least both of the
24 following:

25 (i) Normal costs for employees first hired after June 30,
26 2018.

27 (ii) Any retiree premiums that are due for retirants in the

1 retirement system.

2 (b) The local unit of government shall electronically submit a
3 summary retiree health care report in a form prescribed by the
4 department of treasury on an annual basis to the governing body of
5 the local unit of government and the department of treasury no
6 later than 6 months after the end of the local unit of government's
7 fiscal year. The department of treasury shall post on its website
8 an executive summary of each summary retiree health care report
9 submitted to the department of treasury under this subdivision. The
10 executive summary must include the applicable system's unfunded
11 actuarial accrued liability. The department of treasury shall
12 submit each executive summary required under this subdivision to
13 the senate and the house of representatives appropriations
14 committees and the senate and house fiscal agencies not less than
15 30 days after posting.

16 (c) At least every 5 years, the local unit of government shall
17 have an actuarial experience study conducted by the plan actuary
18 for each retirement system of the local unit of government.

19 (d) At least every 8 years, the local unit of government shall
20 do at least 1 of the following:

21 (i) Have a peer actuarial audit conducted by an actuary that
22 is not the plan actuary.

23 (ii) Replace the plan actuary.

24 (e) A local unit of government that is eligible to use a
25 specified alternative measurement method under Governmental
26 Accounting Standards Board standards is exempt from the
27 requirements under subdivisions (c) and (d).

1 (2) As used in this section, "summary retiree health care
2 report" means a report that includes all of the following for each
3 retirement system of the local unit of government that provides
4 retirement health benefits:

5 (a) The name of the retirement system.

6 (b) The names of the retirement system's investment
7 fiduciaries.

8 (c) The names of the retirement system's service providers.

9 (d) The retirement system's assets and liabilities and changes
10 in net plan assets on a plan-year basis.

11 (e) The retirement system's funded ratio based on the ratio of
12 valuation assets to actuarial accrued liabilities on a plan-year
13 basis.

14 (f) The assumed rate of return of the retirement system.

15 (g) The actual rate of return of the retirement system for the
16 previous 1-year period, the previous 5-year period, and the
17 previous 10-year period.

18 (h) The discount rate used by the retirement system.

19 (i) The retirement system's amortization method for unfunded
20 liability, indicating whether it is open or closed.

21 (j) The retirement system's amortization method, indicating
22 whether it is level percent or level dollar, and the assumed
23 payroll growth rate.

24 (k) The retirement system's remaining amortization time
25 period.

26 (l) The annual required contribution for the retirement
27 system, indicating the normal cost and the amortization payment

1 toward the unfunded actuarial accrued liability.

2 (m) The retirement system's health care inflation assumptions.

3 (n) The number of active employees and retirants in the
4 retirement system.

5 (o) The amount of premiums paid on behalf of retirants in the
6 retirement system.

7 Sec. 5. (1) For purposes of reporting under this section, the
8 state treasurer shall annually establish uniform actuarial
9 assumptions of retirement systems that include, but are not limited
10 to, investment returns, salary increase rates, mortality tables,
11 discount rates, and health care inflation.

12 (2) The state treasurer shall create an evaluation system and
13 provide for review and oversight under this act of an underfunded
14 local unit of government beginning on the effective date of the
15 determination by the state treasurer that the local unit of
16 government is in underfunded status.

17 (3) Each year beginning after December 31, 2017, the state
18 treasurer shall determine the underfunded status of each local unit
19 of government.

20 (4) The state treasurer shall determine that a local unit of
21 government is in underfunded status if any of the following apply:

22 (a) The actuarial accrued liability of a retirement health
23 system of the local unit of government is less than 40% funded,
24 according to the most recent annual report, and, if the local unit
25 of government is a city, village, township, or county, the annual
26 required contribution for all of the retirement health systems of
27 the local unit of government is greater than 12% of the local unit

1 of government's annual general fund operating revenues, based on
2 the most recent fiscal year.

3 (b) The actuarial accrued liability of a retirement pension
4 system of the local unit of government is less than 60% funded,
5 according to the most recent annual report, and, if the local unit
6 of government is a city, village, township, or county, the annual
7 required contribution for all of the retirement pension systems of
8 the local unit of government is greater than 10% of the local unit
9 of government's annual general fund operating revenues, based on
10 the most recent fiscal year.

11 (c) The local unit of government has not submitted reports as
12 required under this section.

13 (d) The local unit of government fails to make the payments as
14 described under section 4(1).

15 (5) For purposes of the report under subsection (6), a local
16 unit of government shall annually calculate the funded ratios of
17 each retirement system of the local unit of government using the
18 uniform actuarial assumptions established under subsection (1).

19 (6) A local unit of government shall electronically submit a
20 report in a form prescribed by the department of treasury on an
21 annual basis to the governing body of the local unit of government
22 and the department of treasury no later than 6 months after the end
23 of the local unit of government's fiscal year. The report under
24 this subsection must include at least all of the following:

25 (a) The funded ratios of each retirement system of the local
26 unit of government.

27 (b) Annual required contributions for each retirement system

1 of the local unit of government.

2 (c) The local unit of government's annual general fund
3 operating revenues, if any.

4 (7) The state treasurer shall post publicly on the department
5 of treasury website all of the following:

6 (a) The uniform actuarial assumptions under subsection (1).

7 (b) A summary report of the local unit of government reports
8 submitted under subsection (6).

9 (c) The underfunded status of local units of government as
10 determined under subsection (3).

11 (d) The current waiver status of local units of government
12 provided under section 6.

13 (e) Any corrective action plan approved under section 10.

14 (8) A local unit of government shall post publicly on its
15 website, or in a public place if it does not have a website, the
16 information as provided in subsection (7) that is applicable to
17 that local unit of government.

18 Sec. 6. (1) To apply for a waiver of the underfunded status
19 determination under section 5, the local unit of government's
20 administrative officer and governing body must approve a plan
21 demonstrating the underfunded status is being addressed and must
22 approve the waiver application. The state treasurer shall issue a
23 waiver of the determination of underfunded status for a local unit
24 of government if the state treasurer determines that the
25 underfunded status is adequately being addressed by the local unit
26 of government.

27 (2) For any underfunded local unit of government that is not

1 granted a waiver, the department of treasury shall do all of the
2 following:

3 (a) Undertake an individualized and comprehensive internal
4 review of the local unit of government's retirement system.

5 (b) Discuss changes or reforms that have been made with the
6 local unit of government's designated officials.

7 (c) Review actuarial projections, including trends and
8 forecasts.

9 Sec. 7. (1) The municipal stability board is created within
10 the department of treasury. Except as otherwise provided in this
11 act, the board shall exercise its powers, duties, and functions
12 independently of the state treasurer. The budgeting, procurement,
13 and related management functions of the board must be performed
14 under the direction and supervision of the state treasurer. The
15 department of treasury shall provide administrative support to the
16 board.

17 (2) Subject to subsection (3), the board consists of all of
18 the following members appointed by the governor:

19 (a) One resident of this state representing state officials.

20 (b) One resident of this state representing local officials.

21 (c) One resident of this state representing employees and
22 retirees.

23 (3) Members appointed under subsection (2) must have
24 knowledge, skill, or experience in accounting, actuarial science,
25 retirement systems, retirement health benefits, or government
26 finance.

27 (4) Of the members initially appointed by the governor under

1 subsection (2), 1 member must be appointed for an initial term of 4
2 years, 1 member must be appointed for an initial term of 3 years,
3 and 1 member must be appointed for an initial term of 2 years.
4 After the initial terms, members appointed by the governor under
5 subsection (2) must be appointed for terms of 4 years.

6 (5) A vacancy for an unexpired term must be filled in the same
7 manner as the original appointment for the remainder of the term.
8 After the expiration of a term, a member may continue to serve
9 until a successor is appointed and qualified.

10 (6) The member of the board appointed under subsection (2)(a)
11 shall serve as the chairperson of the board.

12 (7) A majority of the members of the board authorized to take
13 an action constitute a quorum of the board for the transaction of
14 business on that action. The board shall meet not less than
15 quarterly and at the times and places within this state designated
16 by the chairperson. An action of the board must be approved by a
17 majority of the members authorized to take that action.

18 (8) The board shall adopt bylaws for governance of the board,
19 which must, at a minimum, address the procedures for conducting
20 meetings, including voting procedures, and the requirements of its
21 members to attend meetings. Bylaws required by this section are not
22 subject to the administrative procedures act of 1969, 1969 PA 306,
23 MCL 24.201 to 24.328.

24 (9) The board may contract for professional services, as it
25 requires, and shall determine the qualifications for persons
26 providing those professional services it considers necessary.

27 (10) Members of the board serve without compensation but may

1 receive reimbursement for travel and expenses incurred in the
2 discharge of official duties. The members of the board and
3 contractors or agents of the board are subject to 1968 PA 317, MCL
4 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

5 (11) A member of the board, and any person the board contracts
6 with, shall discharge the duties of his or her position in a
7 nonpartisan manner, with good faith, and with that degree of
8 diligence, care, and skill that an ordinarily prudent person would
9 exercise under similar circumstances in a like position. The board
10 shall adopt an ethics policy governing the conduct of board members
11 and officers and employees of the board.

12 (12) Board members shall take and subscribe to the
13 constitutional oath of office under section 1 of article XI of the
14 state constitution of 1963. The oath must be filed with the
15 secretary of state.

16 (13) As used in this section, "professional services" means
17 services that require a high degree of intellectual skill, an
18 advanced degree, or professional licensing or certification. Those
19 providing the professional services must be distinguished based on
20 their specialized knowledge, experience, and expertise.
21 Professional services include, but are not limited to, accounting,
22 actuarial, appraisal, auditing, investment advisor, and legal
23 services.

24 Sec. 8. The board shall review and annually update a list of
25 best practices and strategies that will assist an underfunded local
26 unit of government in developing a corrective action plan.

27 Sec. 9. An underfunded local unit of government shall develop

1 and submit for approval a corrective action plan for the local unit
2 of government. The local unit of government shall determine the
3 components of the corrective action plan.

4 Sec. 10. (1) The board shall review and vote on the approval
5 of a corrective action plan submitted by a local unit of
6 government. A local unit of government that is in underfunded
7 status shall submit a corrective action plan to the board within
8 180 days after the determination of underfunded status. The board
9 may extend the 180-day deadline by up to an additional 45 days if
10 the local unit of government submits a reasonable draft of a
11 corrective action plan and requests an extension. The governing
12 body of the local unit of government shall approve the corrective
13 action plan before submission to the board. The board shall approve
14 or reject a corrective action plan within 45 days after it is
15 submitted.

16 (2) A corrective action plan may include the corrective
17 options for correcting underfunded status as set forth in
18 subsection (7) and any additional solutions to address underfunded
19 status. A local unit of government may also include in its
20 corrective action plan a review of the local unit of government's
21 budget and finances to determine any alternative methods available
22 to address its underfunded status.

23 (3) The board may review the inclusion of the corrective
24 options and additional solutions as described in subsection (7) as
25 part of its approval criteria to determine whether a corrective
26 action plan is designed to remove the local unit of government from
27 underfunded status.

1 (4) If the board votes to disapprove a corrective action plan
2 that has been submitted, the board shall within 15 days provide a
3 notification and report to the local unit of government detailing
4 the reasons for the disapproval of the corrective action plan. The
5 local unit of government has 60 days from the date of the
6 notification to address the reasons for disapproval and resubmit a
7 corrective action plan for approval.

8 (5) The local unit of government has up to 180 days after the
9 approval of a corrective action plan to begin to implement the
10 corrective action plan to address its underfunded status.

11 (6) The board shall monitor each underfunded local unit of
12 government's compliance with this act and any corrective action
13 plan. The board shall adopt a schedule, not less than every 2
14 years, to certify that the underfunded local unit of government is
15 in substantial compliance with this act. If the board determines
16 that an underfunded local unit of government is not in substantial
17 compliance under this subsection, the board shall within 15 days
18 provide notification and report to the local unit of government
19 detailing the reasons for the determination of noncompliance with
20 the corrective action plan. The local unit of government has 60
21 days from the date of the notification to address the determination
22 of noncompliance.

23 (7) A corrective action plan under this section may include
24 the development and implementation of corrective options for the
25 local unit of government to address its underfunded status. The
26 corrective options as described in this section may include, but
27 are not limited to, any of the following:

1 (a) For retirement pension benefits, any of the following:

2 (i) Closing the current defined benefit plan.

3 (ii) Implementing a multiplier limit.

4 (iii) Reducing or eliminating new accrued benefits.

5 (iv) Implementing final average compensation standards.

6 (b) For retirement health benefits, any of the following:

7 (i) Requiring cost sharing of premiums and sufficient copays.

8 (ii) Capping employer costs.

9 (8) Except as otherwise provided in this act, while any
10 corrective action plan is in effect for an underfunded local unit
11 of government, the local unit of government is not required to
12 submit any additional corrective action plan for approval.

13 Sec. 12. (1) The board is a state board and its members are
14 state officers for the purposes of section 6419 of the revised
15 judicature act of 1961, 1961 PA 236, MCL 600.6419.

16 (2) The validity of the board is conclusively presumed unless
17 questioned in an original action filed in the court of claims
18 within 60 days after the effective date of this act. The court of
19 claims has original jurisdiction to hear an action under this
20 subsection. The court shall hear the action in an expedited manner.
21 The department of treasury is a necessary party in an action under
22 this subsection.

23 (3) The court of claims has exclusive jurisdiction over any
24 action challenging the validity of this act or an action or
25 inaction under this act. The department of treasury is a necessary
26 party in an action under this subsection.