

SENATE BILL No. 686

November 30, 2017, Introduced by Senators STAMAS, SHIRKEY and MARLEAU and referred to the Committee on Michigan Competitiveness.

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

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 all of the
4 following:

5 (a) Nothing in this act or other laws of this state mandate or
6 otherwise require a local unit of government to create a retirement
7 system or to provide retirement pension benefits or retirement
8 health benefits for employees or former employees of the local unit
9 of government, or for other eligible beneficiaries.

1 (b) The provision by a local unit of government for a
2 retirement system or for retirement pension benefits or retirement
3 health benefits, or both, for employees or former employees of the
4 local unit of government, or for other eligible beneficiaries, is
5 an optional activity or service of the local unit of government and
6 not an activity or service required of a local unit of government
7 by this act or other laws of this state.

8 (c) The necessary costs of any activity or service of a local
9 unit of government relating to a retirement system of the local
10 unit of government or a retirement pension benefit or a retirement
11 health benefit for employees or former employees of the local unit
12 of government, or for other eligible beneficiaries, is an activity
13 or service of the local unit of government and not of this state.

14 (d) That unfunded obligations of a local unit of government
15 relating to retirement systems, retirement pension benefits, and
16 retirement health benefits can adversely affect the ability of
17 local units of government to provide governmental services
18 necessary for the health, safety, and welfare of residents of the
19 local unit of government.

20 (e) That significant unfunded obligations of a local unit of
21 government relating to retirement systems, retirement pension
22 benefits, and retirement health benefits can adversely affect the
23 financial solvency of the local unit of government.

24 (f) The ability of local units of government in this state to
25 manage their obligations relating to retirement systems, retirement
26 pension benefits, and retirement health benefits while also
27 providing governmental services necessary for the health, safety,

1 and welfare of their residents is vitally necessary to the
2 interests of the residents of the local units of government and of
3 this state to assure satisfaction of contractual obligations while
4 also providing essential governmental services necessary for the
5 public health, safety, and welfare.

6 (g) That it is necessary to serve the interests of this state
7 and protect the credit of its local units of government by
8 authorizing assistance to local units of government in this state
9 in managing their contractual obligations and other commitments
10 relating to retirement systems, retirement pension benefits, and
11 retirement health benefits in a financially sustainable manner.

12 (h) Consistent with these mandates, the powers, duties,
13 functions, and responsibilities provided for under this act are a
14 necessary program and serve a compelling public purpose.

15 Sec. 3. As used in this act:

16 (a) "Annual report" means the most recent audited financial
17 statement reporting a local unit of government's liability for
18 retirement pension benefits and retirement health benefits as
19 determined under applicable government accounting standards of the
20 Governmental Accounting Standards Board.

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

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

27 (d) "Employee" means an individual holding a position by

1 election, appointment, or employment in a local unit of government.

2 (e) "Evaluation system" means the local government retirement
3 and benefits fiscal impact evaluation system created under section
4 5 to provide for the identification of, and corrective action plan
5 to resolve, the underfunded status of a local unit of government
6 under this act.

7 (f) "Former employee" means an individual who was an employee
8 who terminated employment with the applicable local unit of
9 government.

10 (g) "General fund operating expenditures" means the sum of all
11 governmental activity fund revenues of a local unit of government
12 as determined by the state treasurer based on applicable government
13 accounting standards of the Governmental Accounting Standards
14 Board. General fund operating expenditures do not include any fund
15 of the local unit of government that the state treasurer determines
16 based on applicable government accounting standards of the
17 Governmental Accounting Standards Board is a proprietary,
18 fiduciary, enterprise, or other restricted fund that may not be
19 expended to provide retirement health benefits or retirement
20 pension benefits.

21 (h) "Local government retirement stability board" or "board"
22 means the local government retirement stability board created in
23 section 7.

24 (i) "Local unit of government" means any of the following:

25 (i) A city.

26 (ii) A village.

27 (iii) A township.

1 (iv) A county.

2 (v) A county road commission.

3 (vi) An authority created under chapter VIA of the aeronautics
4 code of the state of Michigan, 1945 PA 327, MCL 259.108 to
5 259.125c.

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

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

10 (ix) An authority created under 1939 PA 147, MCL 119.51 to
11 119.62.

12 (x) A municipal electric utility system as that term is
13 defined in section 4 of the Michigan energy employment act of 1976,
14 1976 PA 448, MCL 460.804.

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

18 (j) "Local unit of government" does not include this state, a
19 principal department of state government, a state institution of
20 higher education under section 4, 5, or 6 of article VIII of the
21 state constitution of 1963, a state agency, a state authority, or a
22 reporting unit under the public school employees retirement act of
23 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

24 (k) "Normal cost" means the annual service cost of retirement
25 health benefits as they are earned during active employment of
26 employees of the local unit of government in the applicable fiscal
27 year, using an individual entry-age normal and level percent of pay

1 actuarial cost method.

2 (l) "Retirant" means an individual who has retired with a
3 retirement benefit payable from a retirement system of a local unit
4 of government.

5 (m) "Retiree health dependent" means an individual, other than
6 a former employee, who is eligible to receive retirement health
7 benefits.

8 (n) "Retirement benefit" includes a retirement health benefit
9 or retirement pension benefit, or both.

10 (o) "Retirement health benefit" means an annuity, allowance,
11 payment, or contribution to, for, or on behalf of a former employee
12 or a dependent of a former employee to pay for any of the following
13 components:

14 (i) Expenses related to medical, drugs, dental, hearing, or
15 vision care.

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

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

20 (p) "Retirement pension benefit" means an allowance, right,
21 accrued right, or other pension benefit payable under a defined
22 benefit pension plan to a participant in the plan or a beneficiary
23 of the participant.

24 (q) "Retirement system" means a retirement system plan or
25 reserve fund that a local unit of government establishes,
26 maintains, or participates in and that, by its express terms or as
27 a result of surrounding circumstances, provides retirement pension

1 benefits or retirement health benefits, or both. Retirement system
2 does not include a state unit as that term is defined in section 2
3 of the public employee retirement benefit protection act, 2002 PA
4 100, MCL 38.1682.

5 (r) "Underfunded local unit of government" means a local unit
6 of government that is in underfunded status.

7 (s) "Underfunded status" means that the state treasurer has
8 determined that the local unit of government is underfunded under
9 the review provided in section 5 and the local unit of government
10 does not have a waiver under sections 6 and 8(1).

11 Sec. 4. (1) Beginning July 1, 2018, if a local unit of
12 government has opted or opts to offer or provide an employee of the
13 local unit of government, or a former employee first employed by
14 the local unit of government before the effective date of this act,
15 with a retirement health benefit, all of the following apply to the
16 local unit of government:

17 (a) The local unit of government shall not reopen a defined
18 benefit retirement system or reoffer any other defined benefit plan
19 to provide any new retirement health benefits after the effective
20 date that defined benefit retirement system or other defined
21 benefit plan has been closed to new hires.

22 (b) The local unit of government shall not provide the
23 component of retirement health benefits to a former employee and
24 his or her retiree health dependents for the period of time during
25 which the former employee is enrolled in the same component of
26 active or retiree group health or other welfare benefits offered
27 under another employer-sponsored program. The local unit of

1 government shall not provide the component of retirement health
2 benefits to a retiree health dependent for the period of time
3 during which the retiree health dependent is enrolled in the same
4 component of active or retiree group health or other welfare
5 benefits offered under another employer-sponsored program. The
6 local unit of government also shall not provide the component of
7 retirement health benefits to a former employee and his or her
8 retiree health dependents for the period of time during which the
9 former employee is eligible for, but does not elect to enroll in,
10 the same component of active or retiree group health or other
11 welfare benefits under another employer-sponsored program that is
12 at least as comparable to the component of retirement health
13 benefits available by the local unit of government. The local unit
14 of government shall not provide the component of retirement health
15 benefits to a retiree health dependent for the period of time
16 during which the retiree health dependent is eligible for, but does
17 not elect to enroll in, the same component of active or retiree
18 group health or other welfare benefits offered under another
19 employer-sponsored program that is at least as comparable to the
20 component of retirement health benefits available by the local unit
21 of government. The local unit of government shall determine, at its
22 sole discretion, if a component is comparable, including whether it
23 is offered on at least comparable terms, to the component of
24 retirement health benefits offered by the local unit of government.

25 (c) Except as otherwise provided in this section, the local
26 unit of government may change a current or future retirement health
27 benefit provided under any applicable plan. If a collective

1 bargaining agreement entered into before the effective date of this
2 act clearly and expressly confers a fixed, unalterable right to a
3 vested retirement health benefit for an unambiguous duration, as
4 determined using ordinary principles of contract law, this act does
5 not impair that vested retirement health benefit for that duration.

6 (d) For a fiscal year of the local unit of government
7 beginning after June 30, 2019 and before July 1, 2020, at least 20%
8 of the normal cost must be funded during that fiscal year. For a
9 fiscal year of the local unit of government beginning after June
10 30, 2020 and before July 1, 2021, at least 40% of the normal cost
11 must be funded during that fiscal year. For a fiscal year of the
12 local unit of government beginning after June 30, 2021 and before
13 July 1, 2022, at least 60% of the normal cost must be funded during
14 that fiscal year. For a fiscal year of the local unit of government
15 beginning after June 30, 2022 and before July 1, 2023, at least 80%
16 of the normal cost must be funded during that fiscal year. For a
17 fiscal year of the local unit of government beginning after June
18 30, 2023, at least 100% of the normal cost must be funded during
19 that fiscal year.

20 (e) If the local unit of government has a normal cost funding
21 requirement under subdivision (d) that will cause an undue hardship
22 to that local unit of government by diverting significant resources
23 away from the provision of existing essential services to residents
24 and businesses, the local unit of government may request a
25 temporary waiver in whole or in part from the requirements of
26 subdivision (d) from the local government retirement stability
27 board. The local unit of government shall submit a waiver

1 application to the state treasurer, who shall review the
2 application and provide a recommendation to the board. The board
3 shall then vote on the waiver application. The board may only grant
4 1 waiver to the local unit of government under this subdivision.
5 Any waiver granted by the board under this subdivision must specify
6 the time period, not to exceed 5 years, that the waiver is in
7 effect, based on the specific financial circumstances identified in
8 the waiver application.

9 (f) The local unit of government or retirement system that
10 provides retirement health benefits shall require its actuary to
11 follow actuarial standards of practice adopted by the Actuarial
12 Standards Board for the actuarial review and valuation of a
13 retirement system that provides retirement health benefits for the
14 local unit of government.

15 (g) The local unit of government shall provide a supplemental
16 actuarial analysis before adoption of any material proposed benefit
17 change. The supplemental actuarial analysis must be provided by the
18 retirement system's actuary and must include an analysis of the
19 long-term costs of the material proposed benefit change. The
20 supplemental actuarial analysis must be provided to the decision-
21 making body that will approve the material proposed benefit change
22 at least 7 days before the material proposed benefit change is
23 adopted. If the material proposed benefit change is adopted, the
24 local unit of government must at least pay the incremental cost
25 increase in the annual required contribution associated with the
26 approved proposed benefit change. As used in this subdivision,
27 "material proposed benefit change" means an increase in the amount

1 of current or future retirement health benefits provided to persons
2 entitled to the retirement health benefits that would cause a
3 reasonable person in the position of a member of the governing body
4 of the local unit of government to conclude that implementation of
5 the increase would materially increase an unfunded liability of the
6 local unit of government or a retirement system of the local unit
7 of government.

8 (h) The local unit of government shall submit a summary
9 retiree health care report on an annual basis to the governing body
10 of the local unit of government and the department of treasury no
11 later than 6 months after the end of the local unit of government's
12 fiscal year. The governing body of the local unit of government
13 shall take a vote acknowledging the receipt of the summary retiree
14 health care report. The department of treasury shall post on its
15 website an executive summary of each summary retiree health care
16 report submitted to the department of treasury under this
17 subdivision. The executive summary must include the applicable
18 system's unfunded actuarial accrued liability for retiree health.
19 The department of treasury shall submit each executive summary
20 required under this subdivision to the senate and the house of
21 representatives appropriations committees and the senate and house
22 fiscal agencies not less than 30 days after posting.

23 (2) An irrevocable trust is authorized and created by this act
24 for each retirement system. An irrevocable trust established under
25 this subsection must at all times be established and administered
26 in accordance with section 115 of the internal revenue code of
27 1986, 26 USC 115. The normal cost funding under subsection (1)(d)

1 and any other prefunding of retirement health benefits by a local
2 unit of government for each retirement system must be deposited
3 into the irrevocable trust. All of the following apply to an
4 irrevocable trust:

5 (a) The governing board of each retirement system is the
6 grantor and shall administer the irrevocable trust created for that
7 retirement system in order to pay retirement health benefits. The
8 members of the retirement system board, or the governing body of
9 the local unit of government if there is no retirement system
10 board, shall act as the trustees of the irrevocable trust for that
11 retirement system.

12 (b) The trustees shall adopt a written trust agreement that
13 contains all of the following provisions consistent with this act:

14 (i) Recitals describing the creation and purpose of the trust.

15 (ii) Language reflecting the requirements of this subsection.

16 (iii) Sections outlining the management and operation of the
17 trust.

18 (iv) A description of the various accounts that carry out the
19 functions of the trust.

20 (v) Provisions setting forth the powers and duties of the
21 trustees.

22 (vi) Policies and procedures for administering the irrevocable
23 trust.

24 (c) Each trust must be managed and operated separately and
25 independent of the other retirement system trusts. The trustees may
26 contract with public and private entities for the provision of
27 bookkeeping, benefit payments, and other plan functions.

1 (d) Assets contributed to the irrevocable trust are
2 irrevocable and may not be refused, refunded, or returned to the
3 employer or employee making the contribution.

4 (e) The assets of the irrevocable trust are to be used solely
5 to perform this essential function of the local unit of government.
6 The trust shall only provide retirement health benefits as provided
7 under applicable law and pay fees and expenses for the
8 administrative costs in carrying out this essential governmental
9 function.

10 (f) The assets in the irrevocable trust must be invested in
11 accord with the public employee retirement system investment act,
12 1965 PA 314, MCL 38.1132 to 38.1141.

13 (g) The assets of the irrevocable trust and the ability of a
14 retirant to receive retirement health benefits is not subject to
15 execution, garnishment, attachment, the operation of bankruptcy or
16 insolvency laws, or other process of law and is unassignable.

17 (h) The assets of the irrevocable trust must be used
18 exclusively for retirement health benefits and must not be diverted
19 for a purpose other than the payment of retirement health benefits
20 and the administrative costs of providing retirement health
21 benefits.

22 (i) The governing board of a retirement system may from time
23 to time authorize the deposit into the irrevocable trust any
24 eligible funds on deposit within its retirement system for the
25 purpose of payment of eligible retirement health benefits.
26 Distributions from the irrevocable trust may be made to satisfy the
27 requirements of the retirement system for retirement health

1 benefits provided by the retirement system.

2 (j) The trustees shall cause the annual financial statements
3 of the trust to be prepared in accordance with generally accepted
4 accounting principles and an audit to be conducted of those
5 financial statements by a qualified independent certified
6 accounting firm for each fiscal year in accordance with generally
7 accepted auditing standards.

8 (k) The irrevocable trust is not considered to be invalid
9 because of any indefiniteness or uncertainty of the persons
10 designated as beneficiaries. The irrevocable trust is not
11 considered to be invalid as violating any existing law against
12 perpetuities, against suspension of the power of alienation of
13 title to property, or against trusts for the purpose of the
14 accumulation of income, but each trust may continue for the amount
15 of time that may be necessary to accomplish the purpose for which
16 it was created.

17 (l) All assets and income of the irrevocable trust are exempt
18 from taxation by this state or any political subdivision of this
19 state. Distributions from the irrevocable trust shall not be
20 treated as taxable income to former employees or their retiree
21 health dependents by this state or any political subdivision of
22 this state.

23 (m) A trustee of the irrevocable trust is not any of the
24 following:

25 (i) Personally liable for any liability, loss, or expense
26 suffered by the trust, unless the liability, loss, or expense
27 arises out of or results from the willful misconduct or intentional

1 wrongdoing of the trustee.

2 (ii) Responsible for the adequacy of the trust to meet and
3 discharge any obligation under applicable law.

4 (iii) Required to take action to enforce the payment of any
5 contribution or appropriation to the trust.

6 (n) The trustees of the irrevocable trust may be indemnified
7 by the trust against costs, liabilities, losses, damages, and
8 expenses, including their attorney fees, as more fully provided in
9 the respective trust agreements, unless the costs, liabilities,
10 losses, damages, or expenses arise out of or result from the
11 willful misconduct or intentional wrongdoing of a trustee.

12 (o) Any assets remaining in the irrevocable trust after all
13 payments for eligible retirement health benefits have been paid and
14 all other liabilities of the trust have been satisfied must be
15 distributed to this state, the local unit of government, or other
16 employers within the applicable retirement system if the employers
17 are organizations, the income of which is excluded under section
18 115(1) of the internal revenue code of 1986, 26 USC 115.

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

23 (a) The name of the retirement system.

24 (b) The names of the retirement system's investment
25 fiduciaries.

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

27 (d) The retirement system's assets and liabilities and changes

1 in net plan assets on a plan-year basis.

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

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

6 (g) The actual rate of return of the retirement system for the
7 previous 1-year period, the previous 5-year period, and the
8 previous 10-year period.

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

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

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

15 (k) The retirement system's remaining amortization time
16 period.

17 (l) The annual required contribution for the retirement
18 system, indicating the normal cost and unfunded actuarial accrued
19 liability.

20 Sec. 4a. Beginning July 1, 2018, if a local unit of government
21 has opted or opts to offer or provide an employee of the local unit
22 of government, or a former employee first employed by the local
23 unit of government before the effective date of this act, with a
24 retirement pension benefit, all of the following apply to the local
25 unit of government:

26 (a) The local unit of government shall not provide retirement
27 pension benefits through a defined benefit retirement system or

1 other defined benefit plan to an individual first elected or
2 appointed to an elective office of the local unit of government
3 after June 30, 2018 if the individual is new to the defined benefit
4 retirement system or defined benefit plan. As used in this
5 subdivision, "elective office" does not include a county sheriff.

6 (b) If a proposed benefit change is adopted, the local unit of
7 government must pay at least the incremental cost increase in the
8 annual required contribution associated with the approved proposed
9 benefit change. As used in this subdivision, "proposed benefit
10 change" means a proposal to increase the amount of current or
11 future retirement pension benefits received by individuals entitled
12 to those benefits.

13 (c) The local unit of government shall not reopen a defined
14 benefit retirement system or reoffer any other defined benefit plan
15 to provide any new retirement pension benefits after the effective
16 date that defined benefit retirement system or other defined
17 benefit plan has been closed to new hires.

18 (d) Except as provided in this subdivision, beginning with
19 fiscal years that begin after December 31, 2020, the local unit of
20 government shall not use or apply a rolling amortization method, an
21 open amortization method, or other adjustable amortization method
22 for an unfunded actuarial accrued liability of retirement pension
23 benefits under a retirement system of the local unit of government.
24 An amortization period for an unfunded actuarial accrued liability
25 of retirement pension benefits under a retirement system of the
26 local unit of government may not be extended by the local unit of
27 government after December 31, 2020. The local unit of government

1 may request and the state treasurer may grant 1 extension of the
2 December 31, 2020 deadline under this subdivision to a new deadline
3 no later than December 31, 2025. The state treasurer may approve
4 the extension of an amortization period in effect as of the
5 effective date of this act, if, after consultation with, and
6 agreement by, the retirement system fiduciary, the local unit of
7 government requests an extension of the amortization period and the
8 state treasurer determines that the extension is in the best
9 financial interests of the local unit of government.

10 Sec. 5. (1) The state treasurer shall promulgate rules under
11 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
12 to 24.328, to establish standards for local units of government for
13 actuarial assumptions and other methods of valuation of retirement
14 systems that include, but are not limited to, standard ranges for
15 investment returns, salary increase rates, amortization of unfunded
16 liabilities, mortality updates, discount rates, and health care
17 inflation.

18 (2) The state treasurer shall create an evaluation system and
19 provide for review and oversight under this act of an underfunded
20 local unit of government beginning on the effective date of the
21 determination by the state treasurer that the local unit of
22 government is in underfunded status.

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

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

1 (a) The actuarial accrued liability of a retirement health
2 system of the local unit of government is less than adequately
3 funded, according to the most recent annual report, and, if the
4 local unit of government is a city, village, township, or county,
5 the annual required contribution for all of the retirement health
6 systems of the local unit of government is greater than 10% of the
7 local unit of government's annual general fund operating
8 expenditures, based on the most recent fiscal year. As used in this
9 subdivision, "adequately funded" means the following amounts for
10 the following fiscal years:

11 (i) For a fiscal year of the local unit of government
12 beginning after June 30, 2016 and before July 1, 2023, at least 30%
13 funded.

14 (ii) For a fiscal year of the local unit of government
15 beginning after June 30, 2023 and before July 1, 2028, at least 35%
16 funded.

17 (iii) For a fiscal year of the local unit of government
18 beginning after June 30, 2028 and before July 1, 2033, at least 40%
19 funded.

20 (iv) For a fiscal year of the local unit of government
21 beginning after June 30, 2033 and before July 1, 2038, at least 45%
22 funded.

23 (v) For a fiscal year of the local unit of government
24 beginning after June 30, 2038 and before July 1, 2048, at least 50%
25 funded.

26 (vi) For a fiscal year beginning after June 30, 2048, at least
27 80% funded.

1 (b) The actuarial accrued liability of a retirement pension
2 system of the local unit of government is less than adequately
3 funded, according to the most recent annual report, and, if the
4 local unit of government is a city, village, township, or county,
5 the annual required contribution for all of the retirement pension
6 systems of the local unit of government is greater than 10% of the
7 local unit of government's annual general fund operating
8 expenditures, based on the most recent fiscal year. As used in this
9 subdivision, "adequately funded" means the following amounts for
10 the following fiscal years:

11 (i) For a fiscal year of the local unit of government
12 beginning after June 30, 2016 and before July 1, 2023, at least 60%
13 funded.

14 (ii) For a fiscal year of the local unit of government
15 beginning after June 30, 2023 and before July 1, 2028, at least 65%
16 funded.

17 (iii) For a fiscal year of the local unit of government
18 beginning after June 30, 2028 and before July 1, 2033, at least 70%
19 funded.

20 (iv) For a fiscal year of the local unit of government
21 beginning after June 30, 2033 and before July 1, 2038, at least 75%
22 funded.

23 (v) For a fiscal year of the local unit of government
24 beginning after June 30, 2038, at least 80% funded.

25 (c) The local unit of government has not reported annual cost
26 of the liability of the retirement health system or retirement
27 pension system using data required under the rules promulgated

1 under subsection (1).

2 (d) The local unit of government demonstrates to the state
3 treasurer or local government retirement stability board and the
4 state treasurer or local government retirement stability board
5 determines that it does not have adequate financial resources to
6 make its annual required contributions for retirement pension
7 benefits or retirement health benefits, and the governing body of
8 the local unit of government requests to have underfunded status
9 for purposes of this act.

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

12 (a) The rules promulgated under subsection (1).

13 (b) The underfunded status of local units of government as
14 determined under subsection (3).

15 (c) The current waiver status of local units of government
16 provided under sections 6 and 8(1), including any report provided
17 under section 6(4).

18 (d) Any corrective action plan approved under section 10.

19 (e) All declarations of financial emergencies within local
20 units of government under section 11.

21 (6) A local unit of government shall post publicly on its
22 website, or in a public place if it does not have a website, the
23 information as provided in subsection (5) that is applicable to
24 that local unit of government.

25 Sec. 6. (1) The state treasurer shall issue a waiver of the
26 determination of underfunded status for a local unit of government
27 if the state treasurer determines that the underfunded status is

1 adequately being addressed by that local unit of government based
2 on a review of relevant factors that include all of the following:

3 (a) The degree to which the local unit of government provides
4 retirement benefits.

5 (b) The local unit of government's proximity to the funded
6 ratio and expenditure percentage as provided under the evaluation
7 system.

8 (c) The local unit of government's demonstrated ability to
9 address any underfunded status in prior fiscal years.

10 (d) The local unit of government's adherence to any prior
11 corrective action plans after a determination of underfunded
12 status.

13 (e) A review of the amount of any general fund operating
14 expenditures of the local unit of government that are dedicated to
15 the prefunding of retirement benefits.

16 (f) A review of the local unit of government's summary retiree
17 health care report prepared under section 4, including any trend
18 lines as provided in that report.

19 (2) The state treasurer shall rescind his or her waiver under
20 subsection (1) if the state treasurer determines that any of the
21 following have occurred or that there is a substantial likelihood
22 that any of the following will imminently occur:

23 (a) The underfunded local unit of government violates this act
24 or any mandatory financial controls in a manner that substantially
25 impairs that underfunded local unit of government's ability to pay
26 principal of and interest on municipal securities or other debt
27 when due and payable or its ability to adhere to a balanced budget.

1 (b) The underfunded local unit of government violates a
2 provision of a corrective action plan for the local unit of
3 government.

4 (3) If the state treasurer finds that the circumstances no
5 longer exist under which a waiver under subsection (2) was
6 rescinded, the state treasurer shall reverse the rescission as
7 provided in subsection (2) and reinstate the waiver.

8 (4) The state treasurer shall provide the local government
9 retirement stability board with a written report that sets forth
10 the reason for any waiver granted under subsection (1) or any
11 waiver reinstated under subsection (3).

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

20 (2) The board consists of all of the following members:

21 (a) One resident of this state with knowledge, skill, or
22 experience in accounting, actuarial science, retirement systems,
23 retirement health benefits, or government finance appointed by the
24 governor.

25 (b) One resident of this state with knowledge, skill, or
26 experience in accounting, actuarial science, retirement systems,
27 retirement health benefits, or government finance appointed by the

1 governor from a list of 3 or more nominees submitted by the speaker
2 of the house.

3 (c) One resident of this state with knowledge, skill, or
4 experience in accounting, actuarial science, retirement systems,
5 retirement health benefits, or government finance appointed by the
6 governor from a list of 3 or more nominees submitted by the senate
7 majority leader.

8 (3) Of the members initially appointed by the governor under
9 subsection (2)(a) to (c), 1 member must be appointed for an initial
10 term of 4 years, 1 member must be appointed for an initial term of
11 3 years, and 1 member must be appointed for an initial term of 2
12 years. After the initial terms, members appointed by the governor
13 under subsection (2)(a) to (c) must be appointed for terms of 4
14 years.

15 (4) A vacancy for an unexpired term must be filled in the same
16 manner as the original appointment for the remainder of the term.
17 After the expiration of a term, a member may continue to serve
18 until a successor is appointed and qualified.

19 (5) The member of the board appointed under subsection (2)(a)
20 shall serve as the chairperson of the board.

21 (6) A majority of the members of the board authorized to take
22 an action constitute a quorum of the board for the transaction of
23 business on that action. The board shall meet not less than
24 quarterly and at the times and places within this state designated
25 by the chairperson. An action of the board must be approved by a
26 majority of the members authorized to take that action.

27 (7) A writing prepared, owned, used, in the possession of, or

1 retained by the board in the performance of an official function is
2 exempt from disclosure by the board under section 13(1)(d) of the
3 freedom of information act, 1976 PA 442, MCL 15.243.

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

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

13 (10) Members of the board serve without compensation but may
14 receive reimbursement for travel and expenses incurred in the
15 discharge of official duties. The members of the board and
16 contractors or agents of the board are subject to 1968 PA 317, MCL
17 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

18 (11) A member of the board, and any person the board contracts
19 with, shall discharge the duties of his or her position in a
20 nonpartisan manner, with good faith, and with that degree of
21 diligence, care, and skill that an ordinarily prudent person would
22 exercise under similar circumstances in a like position. The board
23 shall adopt an ethics policy governing the conduct of board members
24 and officers and employees of the board.

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

1 secretary of state.

2 (13) As used in this section, "professional services" means
3 services that require a high degree of intellectual skill, an
4 advanced degree, or professional licensing or certification. Those
5 providing the professional services must be distinguished based on
6 their specialized knowledge, experience, and expertise.

7 Professional services include, but are not limited to, accounting,
8 actuarial, appraisal, auditing, investment advisor, and legal
9 services.

10 Sec. 8. (1) The board shall review a written report provided
11 by the state treasurer under section 6(4) and may rescind a waiver
12 granted by the state treasurer under section 6(1) or reinstated by
13 the state treasurer under section 6(3).

14 (2) The board shall monitor compliance of an underfunded local
15 unit of government with the requirements of this act and of any
16 corrective action plan for the underfunded local unit of
17 government. The board shall by October 1 of each year certify that
18 the underfunded local unit of government is in substantial
19 compliance with this act.

20 (3) The board may require an underfunded local unit of
21 government to provide verification of compliance with this section.

22 Sec. 9. The board may review and vote on the approval of
23 corrective action plans for a local unit of government that has
24 been determined to be in underfunded status based on what the board
25 determines is in the best financial interests of the local unit of
26 government.

27 Sec. 10. (1) The board shall review and vote on the approval

1 of a corrective action plan submitted by a local unit of
2 government. A local unit of government that is in underfunded
3 status shall submit a corrective action plan to the board within
4 180 days after the determination of underfunded status. The board
5 may extend the 180-day deadline by up to an additional 45 days if
6 the local unit of government submits a reasonable draft of a
7 corrective action plan and requests an extension. The corrective
8 action plan must be negotiated with active employees and retirants.
9 The governing body of the local unit of government shall approve
10 the corrective action plan before submission to the board. The
11 board shall approve or reject a corrective action plan within 45
12 days after it is submitted.

13 (2) A corrective action plan may include the corrective
14 options for correcting underfunded status as set forth in
15 subsection (8) and any additional solutions to assist with reducing
16 annual expenses or improving funding levels related to its
17 underfunded status to maintain and preserve retirement pension
18 benefits and retirement health benefits. A local unit of government
19 may also include in its corrective action plan a review of the
20 local unit of government's budget and finances to determine any
21 alternative methods available to assist in the ability to fund or
22 finance the retirement pension benefits or retirement health
23 benefits of the local unit of government.

24 (3) The board may review the inclusion of the corrective
25 options and additional solutions as described in subsection (8) as
26 part of its approval criteria to determine whether a corrective
27 action plan is designed to permanently remove the local unit of

1 government from underfunded status.

2 (4) Subject to any corrective action plan and any collective
3 bargaining agreements still in effect, the local unit of government
4 has up to 180 days after the approval of a corrective action plan
5 to implement the corrective action plan or otherwise negotiate with
6 active employees and retirants to achieve the necessary cost
7 reductions and funding improvements to permanently correct its
8 underfunded status in all future years.

9 (5) A local unit of government, if required by the board,
10 shall present written reports regarding its progress under this
11 section and shall permit the local government retirement stability
12 board to audit or inspect financial statements, actuarial reports,
13 revenue estimates, and any other documents, data, reports, or
14 findings that the board considers necessary to carry out this act.

15 (6) The board shall monitor each underfunded local unit of
16 government's compliance with this act and any corrective action
17 plan. The board shall adopt a schedule, not less than every 2
18 years, to certify that the underfunded local unit of government is
19 in substantial compliance with this act.

20 (7) Except as otherwise provided in this act, while any
21 corrective action plan is in effect for an underfunded local unit
22 of government, that local unit of government is not required to
23 submit any additional corrective action plan for approval.

24 (8) A corrective action plan of corrective options for the
25 local unit of government to address and permanently resolve its
26 underfunded status. Except as otherwise provided in this
27 subsection, this section does not mandate that the local unit of

1 government reduce retirement pension benefits or retirement health
2 benefits. The corrective options as described in this section may
3 include 1 or more of the following:

4 (a) Requiring additional employer contributions for retirement
5 pension benefits or retirement health benefits.

6 (b) Requiring additional employee contributions for any future
7 retirement pension benefits to be accrued, or for any applicable
8 retirement health benefits.

9 (c) Requiring adjustment of debt structure, altering of
10 eligibility, calculation of benefits, copays, drug prescription
11 coverage, or other modification of provisions of an applicable
12 retirement system.

13 (d) Submitting to the electors of the local unit of government
14 a ballot question authorized by the laws of this state or the
15 charter of the local unit of government addressing the underfunded
16 status of the local unit of government for decision by the electors
17 of the local unit of government, including, but not limited to, a
18 ballot question on the imposition of a new millage or increasing or
19 renewing a millage levied by the local unit of government. A ballot
20 question described in this subdivision must comply with the
21 Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. If a
22 ballot question described in this subdivision is a proposal on the
23 question of authorizing the issuance of bonds, imposing a new
24 millage, or increasing or renewing an existing millage, the ballot
25 question also must comply with the requirements of section 24f of
26 the general property tax act, 1893 PA 206, MCL 211.24f, and any new
27 or increased millage approved by the electors of the local unit of

1 government must be used only by the local unit of government for
2 purposes authorized by the electors and must not be attributed or
3 transmitted to or retained or captured by any other governmental
4 entity for any other purpose. A corrective action plan must include
5 alternative corrective options to be implemented by the local unit
6 of government if a ballot question provided for in the corrective
7 action plan is not approved by the electors of the local unit of
8 government.

9 (e) Limiting the annual amount the local unit of government
10 may pay toward the cost of providing retirement health benefits to
11 former employees and retiree health dependents. A limitation under
12 this subdivision may include 1 or more of the following:

13 (i) Implementing a maximum payment permitted for each coverage
14 category of retirement health benefits, subject to a specified
15 increase in coverage years beginning the succeeding calendar year,
16 based on the change in the medical care component of the United
17 States Consumer Price Index for the most recent 12-month period for
18 which data are available from the United States Department of
19 Labor, Bureau of Labor Statistics.

20 (ii) Requiring the local unit of government to pay no more
21 than 80% of the total annual cost for all retirement health
22 benefits it provides to its former employees and retiree health
23 dependents.

24 (iii) Implementing a cap on the total amount the local unit of
25 government may pay for the cost of providing retirement health
26 benefits.

27 (f) The levy of a property tax required to meet an

1 appropriation made by the local unit of government authorized under
2 the fire fighters and police officers retirement act, 1937 PA 345,
3 MCL 38.551 to 38.562, as permitted under that act.

4 (g) Requiring the local unit of government to require each
5 individual included in a beneficiary unit to enroll in Medicare
6 part A and part B when first eligible, or within 6 months after the
7 effective date of an applicable corrective action plan for each
8 individual included in a beneficiary unit that is past his or her
9 eligibility to enroll in Medicare part A and part B, in order to
10 qualify for retirement health benefits from a local unit of
11 government. The local unit of government shall require each
12 individual included in a beneficiary unit to provide the local unit
13 of government, in the form as the local unit of government
14 prescribes, the information as is necessary to confirm the
15 enrollment as required under this subsection. If an individual
16 included in a beneficiary unit does not enroll and submit the
17 information required, the individual is no longer eligible for any
18 retirement health benefits provided by the local unit of
19 government. If each individual included in a beneficiary unit is
20 eligible for Medicare, the local unit of government shall not pay
21 more than the total annual cost of a retirement health benefit that
22 is a supplement to reimbursements under Medicare for the
23 beneficiary unit.

24 (h) Requiring the local unit of government to not subsidize
25 retirement health insurance benefits for any employee who was first
26 employed by the local unit of government after a specified date in
27 the future.

1 (9) As used in this section:

2 (a) "Beneficiary unit" means a former employee who is entitled
3 to retirement health benefits and his or her retiree health
4 dependents.

5 (b) "Medicare" means benefits under the federal Medicare
6 program established under title XVIII of the social security act,
7 42 USC 1395 to 1395III.

8 Sec. 11. (1) If any of the following events occur, the state
9 treasurer shall declare that a financial emergency exists within
10 the local unit of government for the purposes of section 9a of the
11 local financial stability and choice act, 2012 PA 436, MCL
12 141.1549a:

13 (a) The local unit of government cannot reach agreement on the
14 formation of a proposed corrective action plan.

15 (b) The board does not approve the corrective action plan that
16 is proposed by the local unit of government.

17 (c) The board determines that the approved corrective action
18 plan is not being implemented in a manner that will accomplish its
19 objectives.

20 (2) The state treasurer shall notify the governor in writing
21 of a declaration under subsection (1).

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

25 (2) The validity of the board is conclusively presumed unless
26 questioned in an original action filed in the court of claims
27 within 60 days after the effective date of this act. The court of

1 claims has original jurisdiction to hear an action under this
2 subsection. The court shall hear the action in an expedited manner.
3 The department of treasury is a necessary party in an action under
4 this subsection.

5 (3) The validity of a corrective action plan for a local unit
6 of government under section 10 is conclusively presumed unless
7 questioned in an original action filed in the court of claims
8 within 60 days after the effective date of the corrective action
9 plan. The court of claims has original jurisdiction to hear an
10 action under this subsection. The court shall hear the action in an
11 expedited manner. The department of treasury is a necessary party
12 in an action under this subsection.

13 (4) The court of claims has exclusive jurisdiction over any
14 action challenging the validity of this act or an action or
15 inaction under this act. The department of treasury is a necessary
16 party in an action under this subsection.

17 Sec. 13. A contract or agreement, or a provision of a contract
18 or agreement, entered into, modified, extended, or renewed after
19 the effective date of this act that conflicts with the requirements
20 or restrictions of this act is void.

21 Sec. 14. The provisions of this act apply notwithstanding a
22 contrary provision of a charter, articles of incorporation, or
23 other organizational document of a local unit of government, or of
24 a contrary provision of an ordinance or resolution of a local unit
25 of government.

26 Sec. 15. For the fiscal year ending September 30, 2018,
27 \$1,500,000.00 is appropriated from the general fund to the

1 department of treasury for purposes of implementing this act.

2 Sec. 16. An obligation of a local unit of government that
3 relates to retirement pension benefits or retirement health
4 benefits is not an obligation of this state. This act does not
5 authorize the lending of the credit of this state. This act does
6 not authorize the diminishment or impairment of a contractual
7 obligation under section 24 of article IX of the state constitution
8 of 1963.