

## PROTECTING LOCAL GOVERNMENT RETIREMENT AND BENEFITS ACT AND COMPANION BILLS

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Senate Bills 686 (S-4), 690 (S-2), 694, 696, &  
698 as passed by the Senate  
Sponsor: Sen. Jim Stamas

Senate Bill 691 as passed  
Sponsor: Sen. Dave Hildenbrand

Senate Bills 688 (S-1), 689, 695 (S-3), 697, &  
699 (S-1) as passed  
Sponsor: Sen. Mike Shirkey

Senate Bill 692 as passed  
Sponsor: Sen. Phillip Pavlov

Senate Bill 693 as passed  
Sponsor: Sen. David Robertson

Committee: Michigan Competitiveness  
Complete to 12-8-17

### ***BRIEF SUMMARY:***

Senate Bill 686 would create the Protecting Local Government Retirement and Benefits Act (the proposed Act) in Michigan law. The bill states that it is intended to reflect the findings and recommendations of the governor's Responsible Retirement Reform for Local Government Task Force, which met from February to May of 2017.

Approximately one-third of the 1,856 general purpose governments in Michigan provide employees with post-retirement benefits—whether in the form of pension benefits or other post-employment benefits (OPEB), which principally include health care benefits, or both. According to the task force's July 2017 report, the total unfunded pension liability for local units in Michigan is estimated at \$7.5 billion, and the total unfunded liability for retiree health care at \$10.1 billion.<sup>1</sup>

Senate Bill 686 would do all of the following:

- Require local units to pay the normal costs (prefund rather than pay-as-you-go) for employees first hired after June 30, 2018, as well as retiree premiums that are due for retirees in the retirement system.
- Require the state treasurer to determine the underfunded status of each local unit's retirement health system and retirement pension system, based on its funded ratio and the annual cost of making required payments as a percentage of local revenues.
- Allow local units to apply for and receive a waiver of underfunded status if the state treasurer finds that the underfunded status is being addressed adequately.

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<sup>1</sup> The report can be found at [http://www.michigan.gov/documents/snyder/R3\\_Task\\_Force\\_Report\\_579101\\_7.pdf](http://www.michigan.gov/documents/snyder/R3_Task_Force_Report_579101_7.pdf), and is discussed in greater detail in the *Background* of this summary. According to the report, these numbers do not account for the city of Detroit. The city had estimates ranging from \$5.7 billion to \$6.4 billion in unfunded OPEB liabilities with no prefunding at the time of its municipal bankruptcy; these were largely eliminated in the bankruptcy.

to the House and Senate Appropriations committees and House and Senate Fiscal Agencies at least 30 days after posting.

The report must contain all of the following for each retirement system that provides retirement health benefits:

- Name of the system and its fiduciaries and service providers.
- Assets and liabilities and changes in net plan assets on a plan-year basis.
- Funded ratio based on the ratio of valuation assets to actuarial accrued liabilities on a plan-year basis.
- Assumed rate of return and actual rate of return for the previous 1-, 5-, and 10-year periods.
- Discount rate used by the system.
- Amortization method for unfunded liability, indicating whether it is open or closed.
- Amortization method, indicating whether it is level percent or level dollar, and the assumed payroll growth rate.
- Remaining amortization time period.
- Annual required contribution for the retirement system, indicating the normal cost and the amortization payment toward the unfunded actuarial accrued liability.
- The retirement system's health care inflation assumption.
- Number of active employees and retirees in the retirement system.
- Amount of premiums paid on behalf of retirees in the retirement system.

#### Actuarial assessments

Under the bill, at least every 5 years each plan's actuary must conduct an *actuarial experience study* for each of that local unit's retirement systems. Additionally, at least every 8 years, the local unit must either have a peer actuarial audit conducted by an outside auditor, or replace the plan actuary, or both. These provisions would not apply to local units that are eligible to use a specified alternative measurement method under Governmental Accounting Standards Board standards.

#### Responsibilities of the state treasurer

The bill would require that the state treasurer annually establish *uniform actuarial assumptions* of retirement systems, including standard ranges for investment returns, salary increase rates, mortality tables, discount rates, and health care inflation.

The state treasurer must create an evaluation system and provide for review and oversight of an underfunded local unit beginning on the date the state treasurer determines that the local unit is underfunded. The state treasurer must determine whether local units are underfunded beginning December 31, 2017 and annually thereafter.

The state treasurer would determine that a local unit is underfunded if any of the following apply:

- The actuarial accrued liability of a local unit's retirement health system is less than 40% funded, according to the most recent annual report and, if the local unit is a city, village, township, or county, the annual required contribution for all of the local unit's retirement health systems is greater than 12% of the local unit's annual general fund operating revenues, based on the most recent fiscal year.

benefits, or government finance. One would serve an initial term of 4 years, one of 3 years, and one of 2 years. Thereafter, terms would be 4 years.

The Board must meet at least quarterly. The Board could contract for professional services, including, but not limited to, accounting, actuarial, appraisal, auditing, investment advisor, and legal services. Members of the Board would serve without compensation but may receive reimbursement for travel and expenses incurred in the discharge of official duties. Members and agents or contractors would be subject to the Contracts of Public Servants with Public Entities Act and the Conflict of Interest Act.

The bill would require the Board to review and annually update a list of best practices and strategies to assist an underfunded local unit in developing a corrective action plan.

#### Corrective action plan

Under the bill, an underfunded local unit would develop and submit a corrective action plan for approval by the Board, after the plan is approved by its own governing body.

The Board would then review and vote on the corrective action plan. The plan must be submitted within 180 days after determination of underfunded status, but the Board may extend the deadline by an additional 45 days if the local unit submits a reasonable draft of the plan and requests an extension. Then, the Board must approve or reject the plan within 45 days after submission.

If the Board rejects a plan, it must notify the local unit within 15 days and detail the reasons for rejection. Each fiscal year, the local unit would have 60 days from the notification to address the reasons for rejection and resubmit the plan for approval.

If the Board approves the plan, the local unit has 180 days after approval to begin to implement the plan or otherwise negotiate with employees and retirees to achieve the necessary cost reductions and funding improvements to permanently correct its underfunded status in all future years.

The Board would monitor compliance with the Act and any corrective action plan, and adopt a schedule to recertify plans at least every 2 years. If the Board determines that a local unit is not in substantial compliance with the corrective action plan requirements, the Board must notify the local unit within 15 days and detail the reasons for the finding of noncompliance. The local unit would then have 60 days from notification to address the determination.

A corrective action plan would present options by which the local unit would address and permanently resolve its underfunded status. The options may include any of the following:

- For retirement systems, any of the following:
  - Closing the current defined benefit plan.
  - Implementing a pension calculation multiplier limit.
  - Reducing or eliminating new accrued benefits.
  - Implementing final average compensation standards.
- For retirement health benefits, any of the following:
  - Requiring cost sharing of premiums and sufficient copays.
  - Capping employer costs.

*and Police Officers Retirement Act* must comply with any applicable requirements under the proposed Act. (MCL 38.552a)

**Senate Bill 696** would amend the *Revised Statutes of 1846* to make the provision of retirement benefits by a township under the statute subject to the proposed Act. (MCL 41.110b)

**Senate Bill 697** would stipulate that the provision of retirement benefits as part of a system of compensation by a city under the *Home Rule City Act* would be subject to the proposed Act. (MCL 117.4i and 117.4p, proposed MCL 117.4u)

**Senate Bill 698** would amend the *Reciprocal Retirement Act* to provide that a reciprocal unit and a reciprocal retirement system must comply with any applicable requirements of the proposed Act. (proposed MCL 38.1102a)

**Senate Bill 699** would amend the *Incompatible Public Offices Act* to state that the prohibition on public officers or employees holding two or more incompatible offices at the same time would not apply to members of the Municipal Stability Board. (MCL 15.183)

**Tie-bars**

Senate Bills 688 to 699 are tie-barred to SB 686, meaning that they could not take effect unless SB 686 were also enacted.

***BACKGROUND INFORMATION:***

This bill package is understood to be based on recommendations from the Responsible Retirement Reform for Local Government Task Force, initiated by Governor Snyder and made up of 20 municipal, business, and union leaders from around the state. In July of 2017, the task force released its report, based around the following four main recommendations:

- Greater reporting and transparency must be required of all local units to ensure a full understanding of the size and scope of the problem, and where the biggest challenges exist. This includes reporting using uniform assumptions to allow for better comparisons.
- A pension and OPEB fiscal stress test system for local governments should be created to alert and assist local units in crafting solutions to best position them to continue to serve their residents, while funding their obligations and protecting benefits for employees and retirees. This system should identify and focus action on the local units experiencing the greatest fiscal stress.
- This system, along with the creation of a new Municipal Stability Board (MSB), should assist in the review of a local unit's finances and the development of a corrective action plan. The MSB should also provide research, training, and technical assistance.
- In addition to meeting existing constitutional and statutory requirements to pay pension costs, going forward all local governments should meet a minimum requirement to pay OPEB normal costs for new hires (i.e., to prefund new active employee's current year obligation), if offered.

***ARGUMENTS:***

***For:***

Proponents of the bill package include organizations that represent more than 30,000 police and firefighters across the state of Michigan. Those professions are inherently dangerous, with health risks following retirees beyond their working years. They argue that, in many cases, police and firefighters made concessions during their working years based on the assurance that their pension and health benefits were guaranteed after retirement. While they sought to ensure that local units were meeting certain benchmarks for funding plans, they rejected what they called draconian measures in the bill package as introduced. Instead, they argue, the bills as passed provide oversight, but allow local units the flexibility to fund plans as appropriate for that community.

Those who opposed the bill package as introduced repeatedly stated that the Responsible Retirement Reform for Local Government Task Force's recommendations were issued unanimously, and that they would support a plan based on those recommendations. They feel that the bills, as amended and passed by the Senate, would codify those recommendations into statute.

***Against:***

As introduced, the bills included the possibility of a financial management team and an emergency manager. Proponents of that plan argued that those possibilities were only available as a last resort, and were necessary in order to give the plan the "teeth" it needed to ensure compliance. Without phase 5's possibility of a financial management team (and, if determined necessary by the team, an emergency manager), local units might continue as they have—increasingly falling further behind in funding their pension and OPEB obligations. Critics of the bills as passed ask: wouldn't a financial team, however unwelcome, be preferable to allowing a bankruptcy judge to cut benefits unilaterally?

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■ 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.