



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 686 through 671 (as introduced 11-30-17)
Sponsor: Senator Jim Stamas (S.B. 686, 687, 690, 694, 696, & 698)
Senator Mike Shirkey (S.B. 688, 689, 695, 697, & 699)
Senator Dave Hildenbrand (S.B. 691)
Senator Phil Pavlov (S.B. 692)
Senator Dave Robertson (S.B. 693)
Senator Arlan Meekhof (S.B. 700 & 701)
Committee: Michigan Competitiveness

Date Completed: 12-4-17

CONTENT

Senate Bill 686 would enact the "Protecting Local Government Retirement and Benefits Act" to do the following:

- **Prohibit a local unit of government that offered retirement health benefits, beginning July 1, 2018, from reopening a defined benefit (DB) retirement system or reoffering any other DB plan to provide any new retirement health benefits after the DB retirement system or other plan had been closed.**
- **Require the normal cost of retirement health benefits to be funded in a percentage increasing from 20% to 100% between fiscal years beginning after June 30, 2019, and fiscal years beginning after June 30, 2023.**
- **Allow a local unit to seek a temporary waiver of the normal cost requirement if it would impose undue hardship.**
- **Require a local unit to submit a summary retiree health care report annually to its governing body and the Department of Treasury.**
- **Create an irrevocable trust for each retirement system, and require the normal cost funding and other prefunding of retirement health benefits to be deposited into the trust.**
- **Prohibit a local unit that offered a retirement pension benefit under a defined benefit plan, beginning July 1, 2018, from reopening a DB plan or reoffering any other DB plan to provide new pension benefits after the system or plan had been closed to new hires.**
- **Prohibit a local unit from providing pension benefits through a DB system or other DB plan to an individual elected or appointed to office after June 30, 2018, if he or she were new to the system or plan.**
- **Require a local unit to pay at least the incremental cost increase in the annual required contribution if it adopted a benefit change to increase current or future pension benefits.**
- **Prohibit a local unit, for fiscal years beginning after 2020, from using a rolling amortization method or an open amortization method for an unfunded actuarial accrued liability of pension benefits.**
- **Require the State Treasurer to promulgate rules establishing standards for local units for actuarial assumptions and other methods of valuation of retirement systems.**

- Require the State Treasurer each year to determine the underfunded status of each local unit of government, based on whether the actuarial accrued liability of a retirement health system or retirement pension system was less than adequately funded, or other factors.
- Allow the State Treasurer to waive a determination of underfunded status under certain circumstances.
- Create the Local Government Retirement Stability Board in the Department of Treasury, and require a local unit in underfunded status to submit a corrective action plan to the Board for its approval.
- Require the Board to monitor each underfunded local unit's compliance with the proposed Act and its corrective action plan.
- List corrective options that a corrective action plan could include, such as requiring additional employer contributions for future pension or health benefits; altering eligibility and benefit calculation provisions of a retirement system; submitting to the local electors a ballot question to impose or increase millage; and not subsidizing retirement health insurance benefits for future employees.
- Require the State Treasurer to declare that a financial emergency existed within a local unit if it could not agree on a corrective action plan, the Board disapproved its proposed plan, or the Board determined that the local unit's plan was not being implemented in a manner that would accomplish its objectives.
- Appropriate \$1.5 million for fiscal year 2017-18 from the General Fund to the Department of Treasury for purposes of implementing the Act.

Senate Bill 687 would add Sections 9a and 9b to the Local Financial Stability and Choice Act to:

- Require a financial management team to be created as the emergency manager for a municipal government, if the State Treasurer declared that a financial emergency existed within the municipal government under the Protecting Local Government Retirement and Benefits Act.
- Authorize the financial management team to take various actions to rectify the municipal government's underfunded status.
- Allow the financial management team to enter into a consent agreement with the municipal government.
- Require the Governor to appoint an emergency manager under the Local Financial Stability and Choice Act, and dissolve the financial management team, if a municipal government failed to comply with proposed mandates or requirements.
- Require the Department of Treasury to create a website allowing residents of the municipal government to submit input.
- Appropriate \$250,000 for fiscal year 2017-18 from the General Fund to the Department of Treasury for purposes of implementing Sections 9a and 9b.

Senate Bill 688 would amend the Public Employee Retirement System Investment Act to delete provisions requiring a system to post an informational report outlining the steps it may be taking to decrease its unfunded actuarial accrued liability, if the system's actuarial accrued liability for retiree health or pension is not at least 60% funded.

Senate Bill 689 would amend Public Act 293 of 1966, which governs charter counties, to:

- Specify that if a county provided a system of retirement for its officers and employees under the Act, the system would be subject to the proposed Protecting Local Government Retirement and Benefits Act.
- Delete a provision under which the county board of commissioners, in a county with a population of 600,000 or more, may have up to 27, rather than 21, members.

Senate Bill 690 would amend the Municipal Employees Retirement Act to:

- Make the powers and duties of the Municipal Employees Retirement System (MERS) retirement board subject to the proposed Act.
- Allow a municipality to revoke its election to participate in MERS.
- Require a municipality revoking its participation to select an actuary to analyze the municipality's contribution requirements associated with a revocation.
- Provide that the municipality would be responsible for funding those contribution requirements.

Senate Bill 691 would amend Public Act 156 of 1851, which governs county boards of commissioners and allows counties to create pension plans for their employees, to specify that a pension or retirement benefit under the Act would be subject to the proposed Protecting Local Government Retirement and Benefits Act.

Senate Bill 692 would amend Public Act 139 of 1973, which provides for an optional unified form of county government, to specify that, for a county that had adopted such a form of government and provided for a retirement system for the county's employees, the retirement system would be subject to the proposed Act.

Senate Bill 693 would amend Public Act 339 of 1927, which provides for a retirement system for public library employees, to specify that a retirement system established under the Act would be subject to the proposed Act.

Senate Bill 694 would amend Public Act 28 of 1966, which allows the board of trustees of various local retirement systems to increase benefits, to make a provision of the Act subject to the Protecting Local Government Retirement and Benefits Act. That provision allows a retirement system board of trustees, with approval of the local unit's governing body, to use up to half of the interest earned by any reserve fund in the system to contract for medical, hospital, or nursing care for any person receiving benefits from the system.

Senate Bill 695 would amend the Fire Fighters and Police Officers Retirement Act to:

- Provide that a retirement board, retirement system, and city, village, or municipality that was the custodian of a retirement system's funds under the Act would be subject to the Protecting Local Government Retirement and Benefits Act.
- Require appropriations made by a municipality under the Retirement Act to be sufficient to pay the normal costs of any retirement health benefits provided by a retirement system in the amount required by the proposed Act.
- Provide that a tax levied by a municipality under the Retirement Act could not be transmitted to or captured or retained by any other governmental entity.

Senate Bill 696 would amend Chapter 16 of the Revised Statutes of 1846, which provides for the powers and duties of townships, to make various powers of a

township, including the authority to establish an employee retirement system, subject to the Protecting Local Government Retirement and Benefits Act. Senate Bill 697 would amend the Home Rule City Act to specify that, if a city provided retirement benefits as part of a system of compensation, those benefits would be subject to the Protecting Local Government Retirement and Benefits Act.

Senate Bill 698 would amend the Reciprocal Retirement Act to require a reciprocal unit and a reciprocal retirement system to comply with applicable requirements of the Protecting Local Government Retirement and Benefits Act.

Senate Bill 699 would amend Public Act 566 of 1978, which prohibits a public officer from holding incompatible offices, to specify that the prohibition would not apply to a member of a financial management team or a member of the Local Government Retirement Stability Board created under the proposed Act.

Senate Bill 700 would amend the Revised Municipal Finance Act to establish a sunset of December 31, 2017, rather than December 31, 2018, on provisions that allow counties, cities, villages, and townships to issue municipal securities to pay the costs of the unfunded pension liability for a retirement program or the costs of the unfunded accrued health care liability.

Senate Bill 701 would amend the Open Meetings Act to provide that the Act would not apply to a financial management team or the Local Government Retirement Stability Board created under the Protecting Local Government Retirement and Benefits Act.

Senate Bills 689 through 698 are tie-barred to Senate Bill 686. Senate Bill 699 is tie-barred the Senate Bill 687.

Senate Bills 686, 687, 688, 690, and 695 are described in more detail below.

Senate Bill 686

Definitions

The Protecting Local Government Retirement and Benefits Act would define "local unit of government" as any of the following:

- A city.
- A village.
- A township.
- A county.
- A county road commission.
- A public airport authority created under the Aeronautics Code
- A metropolitan government or authority established by the Legislature under the State Constitution.
- A metropolitan district created under the Metropolitan District Act (which allows two or more cities, townships, and/or villages to create metropolitan districts for various purposes).
- An authority created under Public Act 147 of 1939 (which established the Huron-Clinton Metropolitan Authority).
- A municipal electric utility system as defined in the Michigan Energy Employment Act.
- A district, authority, commission, public body, or public body corporate created by one or more of the entities listed above.

"Retirement health benefit" would mean an annuity, allowance, payment, or contribution to, for, or on behalf of a former employee or a dependent of a former employee to pay for any of the following components:

- Expenses related to medical, drugs, dental, hearing, or vision care.
- Premiums for insurance covering medical, drugs, dental, hearing, or vision care.
- Expenses or premiums for life, disability, long-term care, or similar welfare benefits for a former employee.

"Retirement pension benefit" would mean an allowance, right, accrued right, or other pension benefit payable under a defined benefit pension plan to a participant in the plan or a beneficiary of the participant.

Retiree Health Benefits

Beginning July 1, 2018, if a local unit of government opted or previously had opted to offer or provide a retirement health benefit to an employee of the local unit, or to a former employee first employed by the local unit before the effective date of the proposed Act, the local unit would be subject to all of the provisions described below.

The local unit would be prohibited from reopening a defined benefit retirement system or reoffering any other defined benefit plan to provide any new retirement health benefits after the date that DB retirement system or other DB plan had been closed to new hires.

The local unit would be prohibited from providing the component of retirement health benefits to a former employee and his or her retiree health dependents for a period of time during which the former employee was enrolled in the same component of active or retiree group health or other welfare benefits offered under another employer-sponsored program. The same limitation would apply to a retiree health dependent while he or she was enrolled in such a program. The local unit also could not provide the component of retirement health benefits to a former employee and his or her retiree health dependents while the former employee was eligible for, but did not elect to enroll in, the same component of active or retiree group health or other welfare benefits under another employer-sponsored program that was at least as comparable to the component available by the local unit. The same limit would apply to a retiree health dependent while he or she was eligible for, but did not enroll in, a comparable component of another program.

The local unit of government could change a current or future retirement health benefit provided under any applicable plan. If a collective bargaining agreement entered into before the Act's effective date expressly conferred a fixed, unalterable right to a vested retirement health benefit for an unambiguous duration, the Act would not impair that vested benefit for that duration.

The normal cost would have to be funded in a percentage increasing from 20% to 100%, as shown in Table 1, for local units' fiscal years beginning after June 30, 2019.

Table 1
Normal Cost Funding Requirement

Date when Fiscal Year Began	Percentage of Normal Cost to be Funded
July 1, 2019 - June 30, 2020	20%
July 1, 2020 - June 30, 2021	40%
July 1, 2021 - June 30, 2022	60%
July 1, 2022 - June 30, 2023	80%
After June 30, 2023	100%

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

If a local unit's normal cost funding requirement would cause an undue hardship to that local unit by diverting significant resources away from the provision of existing essential services to residents and businesses, the local unit could request a temporary waiver in whole or in part from the Local Government Retirement Stability Board. The local unit would have to submit a waiver application to the State Treasurer, who would have to review it and provide a recommendation to the Board. The Board then would have to vote on the application. The Board could grant only one waiver to a local unit and would have to specify the time period it would be in effect, which could not exceed five years.

The local unit or the retirement system providing retirement health benefits would have to require its actuary to follow actuarial standards of practice adopted by the Actuarial Standards Board.

The local unit also would have to provide a supplemental actuarial analysis before adopting any material proposed benefit change. If the change were adopted, the local unit would have to pay at least the incremental cost increase in the annual required contribution associated with the change.

The local unit would have to submit a summary retiree health care report on an annual basis to its governing body and the Department of Treasury within six months after the local unit's fiscal year ended. The Department would have to post on its website an executive summary of each such report submitted to the Department, and include in the executive summary the applicable system's unfunded actuarial accrued liability (UAAL) for retiree health. The Department also would have to submit each executive summary to the Senate and House of Representatives Appropriations Committees and Fiscal Agencies within 30 days after the posting.

"Summary retiree health care report" would mean a report that includes all of the following for each retirement system of the local unit that provides retirement health benefits:

- The name of the system and the names of its investment system and service providers.
- The system's assets and liabilities and changes in net plan assets on a plan-year basis.
- The system's funded ratio based on the ratio of valuation assets to actuarial accrued liabilities on a plan-year basis.
- The assumed rate of return of the system.
- The actual rate of return of the system for the previous one-year, five-year, and 10-year periods.
- The discount rate used by the system.
- The system's amortization method for unfunded liability, indicating whether it is open or closed.
- The system's amortization method, indicating whether it is level percent or level dollar, and the assumed payroll growth rate.
- The system's remaining amortization time period.
- The annual required contribution for the system, indicating the normal cost and the UAAL.

Irrevocable Trust

The proposed Act would authorize and create an irrevocable trust for each retirement system. The trust would have to be established and administered in accordance with Section 115 of

the Internal Revenue Code. (That section excludes from "gross income" income derived from any public utility or the exercise of any essential governmental function and accruing to a state or any political subdivision of a state.)

The normal cost funding described above and any other prefunding of retirement health benefits by a local unit of government for each retirement system would have to be deposited into the trust.

The governing board of each retirement system would be the grantor and would have to administer the trust created for that system in order to pay retirement health benefits. The members of the retirement system board, or the governing body of the local unit if there were no board, would have to act as the trustees.

The trust could provide retirement health benefits only as provided under applicable law. The assets in the trust would have to be invested according to the Public Employee Retirement System Investment Act.

The assets would have to be used exclusively for retirement health benefits and could not be diverted for a purpose other than payment of those benefits and the administrative costs of providing them.

From time to time, the governing board of a retirement system could authorize the deposit into the trust of any eligible funds on deposit with its retirement system for the purpose of paying retirement health benefits. Distributions from the trust could be made to satisfy the requirements of the retirement system for retirement health benefits provided by the system.

All assets and income of the trust would be exempt from State or local taxation. Distributions could not be treated as taxable income to former employees or their retiree health dependents by the State or any political subdivision.

Any assets remaining in the trust after all eligible retirement health benefits had been paid and all other liabilities of the trust had been satisfied would have to be distributed to the State, the local unit, or other employers within the retirement system if the employers were organizations whose income was excluded under Section 115 of the Internal Revenue Code.

Retirement Pension Benefit

Beginning July 1, 2018, if a local unit of government opted or previously opted to offer or provide a retirement pension benefit to an employee of the local unit, or to a former employee first employed by the local unit before the effective date of the proposed Act, all of the following provisions would apply.

The local unit would be prohibited from reopening a defined benefit retirement system or reoffering any other DB plan to provide any new retirement pension benefits after the effective date that DB system or other DB plan had been closed to new hires.

The local unit would be prohibited from providing retirement pension benefits through a defined benefit retirement system or other DB plan to an individual first elected or appointed to an elective office of the local unit after June 30, 2018, if the individual were new to the DB retirement system or plan. ("Elective office" would not include a county sheriff.)

If a proposed benefit change were adopted, the local unit would have to pay at least the incremental cost increase in the annual required contribution associated with the change. ("Proposed benefit change" would mean a proposal to increase the amount of current or future retirement pension benefits received by individuals entitled to them.)

For fiscal years beginning after December 31, 2020, the local unit would be prohibited from using or applying a rolling amortization method, an open amortization method, or other adjustable amortization method for a UAAL of retirement pension benefits under a retirement system of the local unit. A local unit could not extend an amortization period for a UAAL after December 31, 2020. The local unit could request and the State Treasurer could grant one extension of that deadline to a new deadline not later than December 31, 2025. The Treasurer could approve the extension of an amortization period in effect as of the Act's effective date if he or she determined that the extension was in the best financial interests of the local unit.

Underfunded Status Determination

The State Treasurer would have to create an evaluation system and provide for review and oversight of an underfunded local unit of government beginning on the effective date of the Treasurer's determination that the local unit was in underfunded status.

Each year beginning after December 31, 2017, the State Treasurer would have to determine the underfunded status of each local unit of government.

The State Treasurer would have to determine that a local unit was in underfunded status if the actuarial accrued liability of a retirement health system or a retirement pension system of the local unit were less than adequately funded, according to the most recent annual report, and, if the local unit were a city, village, township, or county, the annual required contribution for all of the retirement health systems or all of the retirement pension systems of the local unit were greater than 10% of its annual general fund operating expenditures, based on the most recent fiscal year.

With respect to a retirement health system, "adequately funded" would mean the amount shown in Table 2.

Table 2
Adequate Funding of Retirement Health System

Date when Fiscal Year Began	Minimum Amount Funded
July 1, 2016 - June 30, 2023	30%
July 1, 2024 - June 30, 2028	35%
July 1, 2028 - June 30, 2033	40%
July 1, 2033 - June 30, 2038	45%
July 1, 2038 - June 30, 2048	50%
After June 30, 2048	80%

With respect to a retirement pension system, "adequately funded" would mean the amount shown in Table 3.

Table 3
Adequate Funding of Retirement Pension System

Date when Fiscal Year Began	Minimum Amount Funded
July 1, 2016 - June 30, 2023	60%
July 1, 2024 - June 30, 2028	65%
July 1, 2028 - June 30, 2033	70%
July 1, 2033 - June 30, 2038	75%
After June 30, 2038	80%

In addition, the Treasurer would have to determine that a local unit was in underfunded status if the local unit demonstrated to the Treasurer or Local Government Retirement Stability Board

and the Treasurer or the Board determined that the local unit did not have adequate financial resources to make its annual required contributions for retirement pension benefits or retirement health benefits, and the local unit's governing body requested to have underfunded status for purposes of the Act.

The State Treasurer also would have to determine that a local unit was in underfunded status if the local unit had not reported annual cost of the liability of the retirement health system or retirement pension system using data required under the rules promulgated by the Treasurer.

The State Treasurer would be required to promulgate rules to establish standards for local units of government for actuarial assumptions and other methods of valuation of retirement systems, which would have to include standard ranges for investment returns, salary increase rates, amortization of unfunded liabilities, mortality updates, discount rates, and health care inflation.

Waiver of Underfunded Status Determination

The State Treasurer would have to issue a waiver of the determination of underfunded status for a local unit if he or she determined that the local unit was adequately addressing the underfunded status, based on a review of relevant factors, including those listed in the Act.

The State Treasurer would have to rescind the waiver if he or she determined that either of the following had occurred or that there was a substantial likelihood that either would imminently occur:

- The underfunded local unit violated the Act or any mandatory financial controls in a manner that substantially impaired its ability to pay principal of and interest on municipal securities or other debt when due and payable or its ability to adhere to a balanced budget.
- The underfunded local unit violated a provision of a corrective action plan.

Local Government Retirement Stability Board

The Board would be created within the Department of Treasury and, except as otherwise provided in the Act, would have to exercise its powers, duties, and functions independently of the State Treasurer. The Board would consist of three members appointed by the Governor. A member would have to be a resident of the State with knowledge, skill, or experience in accounting, actuarial science, retirement systems, retirement health benefits, or government finance. One member would have to be appointed from a list of three or more nominees submitted by the Speaker of the House, and one from a list of three or more nominees submitted by the Senate Majority Leader.

The Board would have to meet at least quarterly. Board members would have to serve without compensation but could receive reimbursement for travel and expenses incurred in the discharge of official duties. The Board could contract for professional services.

A writing prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function would be exempt from disclosure under the Freedom of Information Act.

The Board would be required to review a written report provided by the State Treasurer regarding the granting of a waiver of underfunded status determination, and could rescind a waiver granted or reinstated by the Treasurer.

The Board would have to monitor compliance of an underfunded local unit with the Act and any corrective action plan for the local unit. By October 1 of each year, the Board would have to certify that the local unit was in substantial compliance with the Act.

Corrective Action Plan

The Board would be required to review and vote on the approval of a corrective action plan submitted by a local unit. A local unit that was in underfunded status would have to submit a corrective action plan to the Board within 180 days after the determination of that status. The Board could extend that deadline by up to 45 days if the local unit submitted a reasonable draft of a corrective action plan and requested an extension.

The corrective action plan would have to be negotiated with active employees and retirants. The governing body of the local unit would have to approve the plan before submitting it to the Board. The Board would have to review or reject the plan within 45 days after it was submitted.

A corrective action plan could include the corrective options for correcting underfunded status (as set forth below) and any additional solutions to assist with reducing annual expenses or improving funding levels related to underfunded status to maintain and preserve retirement pension benefits and retirement health benefits. A local unit also could include in its plan a review of the local unit's budget and finances.

The Board could review the inclusion of the corrective options and additional solutions as part of its approval criteria to determine whether a corrective action plan was designed to permanently remove the local unit from underfunded status.

Subject to any corrective action plan and any collective bargaining agreements still in effect, the local unit would have up to 180 days after approval of a corrective action plan to implement the plan or otherwise negotiate with active employees and retirants to achieve the necessary cost reductions and funding improvements to permanently correct its underfunded status.

If required by the Board, a local unit would have to present written reports regarding its progress and permit the Board to audit or inspect financial statements, actuarial reports, revenue estimates, and any other documents, data, reports, or findings that the Board considered necessary.

The Board would have to monitor each underfunded local unit's compliance with the Act and any corrective action plan. The Board would have to adopt a schedule, not less than every two years, to certify that the local unit was in substantial compliance with the Act.

The validity of a corrective action plan for a local unit would be conclusively presumed unless questioned in an original action filed in the Court of Claims within 60 days after the effective date of the plan. The Court would have to hear the action in an expedited manner.

Corrective Options

Corrective options could include one or more of the following:

- Requiring additional employer contributions for retirement pension benefits or retirement health benefits.
- Requiring additional employee contributions for any future retirement pension benefits to be accrued, or for any applicable retirement health benefits.

- Requiring adjustment of debt structure, altering of eligibility, calculation of benefits, copays, drug prescription coverage, or other modification of provisions of an applicable retirement system.

Corrective options also could include submitting to the electors of the local unit a ballot question authorized by State law or local charter addressing the underfunded status, including a ballot question on the imposition of a new millage or increasing or renewing a millage levied by the local unit. A corrective action plan would have to include alternative corrective options to be implemented by the local unit if a ballot question were not approved.

In addition, corrective options could include the following:

- Limiting the annual amount the local unit was permitted to pay toward the cost of providing retirement health benefits to former employees and retiree health dependents.
- Levying a property tax required to meet an appropriation made by the local unit authorized under the Fire Fighters and Police Officers Retirement Act.
- Requiring each individual included in a beneficiary unit to enroll in Medicare Part A and Part B when first eligible, or within six months after the effective date of a corrective action plan for each individual included in a beneficiary unit who was past his or her eligibility to enroll in Parts A and B, in order to qualify for retirement health benefits from the local unit.
- Not subsidizing retirement health insurance benefits for any employee who was first employed by the local unit after a specified date in the future.

Except as otherwise provided above, the Act states that Section 10 (which governs corrective action plans and corrective options) would not mandate that the local unit reduce retirement pension benefits or retirement health benefits.

Financial Emergency

The State Treasurer would be required to declare that a financial emergency existed within a local unit of government for the purposes of Section 9a of the Local Financial Stability and Choice Act (which Senate Bill 687 would add), if any of the following occurred:

- The local unit could not reach agreement on the formation of a proposed corrective action plan.
- The Board did not approve the corrective action plan that the local unit proposed.
- The Board determined that an approved plan was not being implemented in a manner that would accomplish its objectives.

The Board would have to notify the Governor of a declaration under these provisions.

Other Provisions

A contract or agreement, or a provision of a contract or agreement, entered into, modified, extended, or renewed after the effective date of the proposed Act would be void if it conflicted with the requirements or restrictions of the Act.

The provisions of the Act would apply notwithstanding a contrary provision of a charter, articles of incorporation, or other organizational document of a local unit of government, or of a contrary provision of an ordinance or resolution of a local unit.

An obligation of a local unit that related to retirement pension benefits or retirement health benefits would not be an obligation of the State. The Act would not authorize the lending of the credit of the State.

The Act states that it would not authorize the diminishment or impairment of a contractual obligation under Article 9, Section 24 of the State Constitution. (That section states, "The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.")

Senate Bill 687

Creation of Financial Management Team

The bill would add Section 9a to the Local Financial Stability and Choice Act to require the creation of a financial management team in the Department of Treasury if the State Treasurer declared under the Protecting Local Government Retirement and Benefits Act that a financial emergency existed within a municipal government. The team would have to be created as the emergency manager for that municipal government to address its underfunded status.

(For purposes of Section 9a, the bill would amend the definition of "municipal government" in the Local Financial Stability and Choice Act to include an underfunded local unit of government.)

The financial management team would have only the powers provided under Section 9a, notwithstanding any other provision of the Local Financial Stability and Choice Act.

Within 45 days after the State Treasurer declared that a financial emergency existed, as provided above, the Governor would have to appoint three members for the team. The members would have to include the following:

- An individual with at least five years' experience and demonstrable expertise in financial matters.
- An individual with at least five years' experience working in local units of government.
- An individual who had been a resident of the municipal government for at least five years and was not an employee or an elected or appointed official of the municipal government.

For the third member, the governing body of the municipal government could submit a list of at least three residents as a recommendation for the appointment.

The State Treasurer would have to call the initial meeting of the team at least 30 days after the members were appointed. The team then would have to meet at least quarterly.

A writing prepared, owned, used, in the possession of, or retained by a financial management team would not be subject to the Freedom of Information Act.

Powers of Financial Management Team

A financial management team would be granted broad powers to rectify the underfunded status of a municipal government while preserving its fiscal stability and capacity to provide or cause to be provided necessary governmental services essential to the public health, safety, and welfare. Notwithstanding any charter provision or ordinance to the contrary, a team could take one or more of the following actions with respect to the municipal government:

- Analyze factors and circumstances contributing to the underfunded status and require the municipal government to take measures to correct that status, including corrective options described in the Protecting Local Government Retirement and Benefits Act.

- Require the municipal government to amend, revise, approve, or disapprove its proposed budget or general appropriations act.
- Require the municipal government to employ or contract for, at its expense, auditors, actuaries, and other technical personnel necessary to address the underfunded status.
- Require the municipal government to sell, lease, assign, or otherwise use or transfer its assets or liabilities.
- Require the municipal government to take any other action relating to its operation, employment of personnel, of expenditure of money necessary to address the underfunded status.

A financial management team could not require a municipal government to act or refrain from an act described above if the team determined that doing so would directly endanger the healthy, safety, or welfare of the residents of the municipal government or unconstitutionally impair a bond, note, security, or uncontested legal obligation of the municipal government.

A financial management team could issue to the appropriate elected or appointed officers, and employees, agents, and contractors of the municipal government the orders the team considered necessary to accomplish the purposes of Section 9a. An order would be binding on the officers, employees, agents, and contractors to whom it was issued.

Consent Agreement

A financial management team could enter into a consent agreement with the municipal government. The consent agreement could provide for remedial measures considered necessary to address the underfunded status, and would have to provide for periodic reports to the State Treasurer. In order to go into effect, the consent agreement would have to be approved by the governing body of the municipal government, by resolution, and by the financial management team, and would have to be approved and executed by the State Treasurer. The consent agreement could include a grant to an officer of the municipal government of one or more of the powers vested in the financial management team (listed above). The consent agreement would have to provide for the release of the municipal government from the agreement and its termination.

Appointment of Emergency Manager

If a financial management team determined both of the following, the team would have to declare that a financial emergency existed within the municipal government and the Governor would have to appoint an emergency manager to address the financial emergency:

- The municipal government had failed to comply with the mandates or requirements under Section 9a.
- The municipal government had failed to rectify its noncompliance with the mandates or requirements within 30 days after receiving notification of its noncompliance from the team.

If an emergency manager were appointed, the financial management team would be dissolved and Section 9a would not apply to the municipal government.

Duration of Financial Management Team

A financial management team would continue until all of the following occurred:

- The team determined that the municipal government was no longer in underfunded status in a sustainable fashion based on standards detailed in the proposed Act.
- The team notified the State Treasurer of that determination.

- The State Treasurer concurred in the determination.
- The State Treasurer notified the team and the governing body of the municipal government of his or her concurrence.

Department of Treasury Website

The bill would add 9b to the Local Financial Stability and Choice Act to require the Department of Treasury, within 30 days after the bill's effective date, to create and maintain a website that allowed any resident of a municipal government for which a financial management team was in place to submit input concerning that municipal government.

Senate Bill 688

The Public Employee Retirement System Investment Act codifies the investment authority of State and local public employee retirement systems, and defines and limits the amount and type of investments that may be made by those acting as an investment fiduciary (typically, the applicable retirement board) on behalf of a retirement system.

For a system other than a State unit, if the system's actuarial accrued liability for retiree health care or pension is not at least 60% funded according to the most recent summary annual report, the system must post an informational report on its website outlining the steps, in any, the system may be taking to decrease its unfunded actuarial accrued liability. If a system did not have a website, the political subdivision sponsoring the system would have to make these steps available to plan participants and beneficiaries, as well as the residents of the political subdivision. The system also must submit to the Department the steps the system may be taking to decrease its UAAL.

The bill would delete those requirements.

The Act requires an investment fiduciary to publish a summary annual report and lists the information that the report must contain. For a system other than a State unit, the investment fiduciary must submit the summary annual report to the Department of Treasury not less than 30 days after publication.

The Department must post on its website an executive summary of each summary annual report submitted to it. The executive summary must include the applicable system's unfunded actuarial accrued liability for retiree health care and pension. The bill would delete the reference to health care.

(A State unit is a system established under the State Employees' Retirement Act, the Public School Employees Retirement Act, the Judges Retirement Act, and the State Police Retirement Act.)

Senate Bill 690

The Municipal Employees Retirement Act lists the powers and duties of the board of the Municipal Employees Retirement System. Under the bill, these powers and duties would apply except as provided below, and would be subject to the proposed Protecting Local Government Retirement and Benefits Act.

The bill would allow a municipality participating in MERS, by a majority vote of its governing body, to revoke its election to be governed by MERS. A participating municipality could revoke its election for all members in a plan, or for any division, subset, or collective bargaining unit of the municipality.

If a participating municipality voted to revoke its election, it would have to select an actuary to prepare an actuarial analysis using actuarial standards of practice adopted by the Actuarial Standards Board. The actuarial analysis would have to include an analysis of the participating municipality's contribution requirements associated with a revocation of participation. Subject to Section 20m of the Public Employee Retirement System Investment Act (which governs employer contributions), the actuary could use one or more actuarial methods or alternative amortization periods, or both, that were consistent with the Board's standards. The participating municipality would have to select and approve a methodology or amortization period, or both, to be used to determine its contribution requirement. The actuary could not change other assumptions without the approval of MERS. The System would have to pay the cost of actuarial analysis from plan assets.

The participating municipality would be responsible for funding its contribution requirements as determined under the above provisions and Article 9, Section 24 of the State Constitution.

The Retirement System could not require the participating municipality to participate in another retirement plan administered by MERS as a condition for the municipality to revoke its election to participate.

Senate Bill 695

The bill provides that a retirement board under the Fire Fighters and Police Officers Retirement Act, a retirement system under the Act, and a city, village, or municipality that was the custodian of funds of a retirement system under the Act, would have to comply with any applicable requirements under the Protecting Local Government Retirement and Benefits Act.

Under the Fire Fighters and Police Officers Retirement Act, for the purpose of creating and maintaining a fund for the payment of pension and other benefits payable as provided in the Act, a municipality must appropriate an amount sufficient to maintain actuarially determined reserves covering pensions that are payable or that might be payable because of service performed and to be performed, and pensions being paid to retired members and beneficiaries. The appropriations to be made in any fiscal year must be sufficient to pay all pensions due and payable in that fiscal year to all retired members and beneficiaries.

The bill also would require the appropriations to be sufficient to pay the normal cost of any retirement health benefits provided by the retirement system to its members, retired members, and beneficiaries in the amount required under the proposed Act or to make other payments required for the retirement system in a corrective action plan under that Act. ("Normal cost" and "retirement health benefit" would mean those terms as defined in the proposed Act.)

The Fire Fighters and Police Officers Retirement Act includes provisions related to the imposition of a tax to meet the required appropriations. The bill specifies that a tax could be used only by the municipality levying it for purposes authorized under these provisions and could not be attributed or transmitted to or retained by or captured by any other governmental entity for any other purpose.

MCL 141.1542 (S.B. 687)
MCL 38.1133 & 38.1140h (S.B. 688)
MCL 45.514 et al. (S.B. 689)
MCL 38.1536 et al. (S.B. 690)
MCL 46.12a et al. (S.B. 691)
MCL 45.554a et al. (S.B. 692)
MCL 38.702 (S.B. 693)
MCL 38.571 (S.B. 694)

Legislative Analyst: Suzanne Lowe

MCL 38.559 et al. (S.B. 695)
MCL 41.110b (S.B. 696)
MCL 117.4i et al. (S.B. 697)
Proposed MCL 38.1102a (S.B. 698)
MCL 15.183 (S.B. 699)
MCL 141.2518 (S.B. 700)
MCL 15.263 (S.B. 701)

FISCAL IMPACT

Senate Bills 686 and 687

State

The bills would increase costs to the State by at least \$1.75 million for fiscal year (FY) 2017-18. Senate Bill 686 would appropriate \$1.5 million General Fund/General Purpose (GF/GP) revenue to the Department of Treasury to implement the requirements of the Protecting Local Government Retirement and Benefits Act, and Senate Bill 687 would appropriate \$250,000 GF/GP to the Department for the purpose of implementing Sections 9a and 9b of the Local Financial Stability and Choice Act.

It is likely that at least some of this \$1.75 million would be necessary on an annual basis to fund the ongoing requirements of the Department of Treasury (e.g., reviewing and overseeing funded status, reporting to the Legislature, providing administrative support, and establishing a financial management team and associated staff for local units for which a financial emergency was declared) and the Local Government Retirement Stability Board (e.g., review, oversight, travel, and contracting with professional services to assist local units of government).

Overview of Funding Pensions and Retiree Health Care

Under the State Constitution (Article IX, Section 24), pension plans are required to be prefunded, and the annual prefunding payment for a pension is called the normal cost. The normal cost represents the amount of money necessary to be contributed in a given year to pay for that year's benefits that are earned. If that money is invested, and all of the actuarial assumptions are met, that year's worth of normal cost contributions will grow over time with investment earnings and then pay for that year's worth of pension payments in the future.

However, if actual experience differs from the assumptions in a negative manner (e.g., the stock market does not earn the assumed rate of return, or benefits are paid for a longer period of time due to people living longer than assumed), a shortfall can occur in the assets funding the plan. That shortfall is called the unfunded actuarial accrued liability (UAAL). The UAAL represents the shortfall in assets necessary to pay for benefits earned in the past. Another way to think of the UAAL is like a home mortgage; however, the mortgage is not necessarily a fixed amount and can change based on actual experience in a given year compared to assumptions. For systems with funding shortfalls, an annual UAAL payment is made, along with the normal cost payment.

Prefunding is not currently required for retiree health care plans. Local units offering retiree health care may choose to prefund (which means putting money aside now so that it can generate investment earnings to help defray retiree costs in the future), or may choose to pay the costs as they arise (e.g., pay-as-you-go). The latter costs more on a long-term basis due to the foregoing of investment earnings.

The bills propose to establish funding requirements for retiree health care, and to manage existing requirements for pension funding.

Local - Retiree Health Care

The bills would have an indeterminate fiscal impact on local units of government. Senate Bill 686 would not allow local units of government to reopen a closed defined benefit health plan; the fiscal impact of this would be determined by a cost comparison of the closed plan versus what would be offered in its place. The bill would include mandatory minimum normal cost contributions for retiree health plans, and a requirement to pay at least the incremental cost increase in the annual required contribution for any material benefit change adopted.

For local units of government not already following at least the prescribed contribution levels, there would be an increase in costs in the short run, with likely reductions in costs in the long run. Contributions made today are assumed to grow over time as those contributions are invested and earn a rate of return. The more dollars invested today, the more time those dollars have to grow and be used to pay the cost of benefits down the line.

Local - Pension

Senate Bill 686 would eliminate a defined benefit plan for individuals first elected or appointed to an office of a local unit of government after June 30, 2018 (for individuals who would be new to the defined benefit retirement system or defined benefit plan). The fiscal impact of this would be determined by a cost comparison of the existing defined benefit plan to whatever would be offered in its place.

The bill also would require the local unit to pay at least the incremental cost increase in the annual required contribution for any material benefit change adopted. Similar to retiree health care described above, any increase in dollars contributed to a retirement plan today should result in lower costs in the future due to the capture of (presumed) investment earnings.

The bill also would prohibit local units of government from using a rolling amortization period to finance the unfunded actuarial accrued liability.

For local units of government that either were using a rolling amortization period or planning to use one, the prohibition would require the UAAL to instead be financed over a fixed period of time (like a mortgage), with an end date instead of open-ended. The fiscal impact would be indeterminate; however, if the UAAL grew over the amortization period, and the end date were fixed under the bill, additional contributions likely would be necessary to "pay the mortgage off" in the prescribed time, compared to a rolling amortization period where a final payoff would not be required, and payments could be stretched out indefinitely.

Under a system in which rolling amortization periods were eliminated, once the UAAL "mortgage" was paid off, the only contributions required of the local unit of government would be any applicable normal costs. Therefore, after the amortization period ended and the UAAL was paid off, the local unit would experience lower costs compared to a local unit that used a rolling amortization period and had to continue to make annual UAAL payments.

Local - Corrective Action Plans

The fiscal impact for local units of government required to submit and comply with corrective action plans (i.e., those determined to be in underfunded status and not granted a waiver) is indeterminate. Corrective action plans could require any of the following (with the fiscal impact noted parenthetically):

- Additional employer contributions (increased short-term cost, likely long-term reduction in costs due to capture of likely investment earnings).
- Additional employee contributions (stable or reduced costs for employers).
- Adjustment of debt structure, altering of eligibility, calculation of benefits, copays, drug prescription coverage, or other provision modifications (indeterminate).
- Submitting a ballot question to impose a new millage or increase an existing millage (increased revenue to the local unit, if passed).
- Limiting the amount the local unit may pay toward the cost of providing retiree health benefits (stable or lower costs for local units).
- Levying a property tax to meet an appropriation made under the Fire Fighters and Police Officers Retirement Act (increased revenue for the local unit to meet a mandated cost).
- Requiring each individual to enroll in Medicare Parts A and B when eligible (likely reduction in costs to local unit if not already requiring this enrollment).
- Requiring the local unit not to subsidize retiree health insurance benefits for any employee first employed after a specified date in the future (indeterminate, depending on whether some form of compensation was provided to the employee in lieu of the retiree health benefits and to what extent).

Local - Financial Emergency

Senate Bill 686 would allow the State Treasurer to declare that a financial emergency exists within a local unit of government under three situations: the local unit could not reach agreement on the formation of a corrective action plan; the Local Government Retirement Stability Board did not approve the corrective action plan; or, the Board determined that the approved corrective action plan was not being implemented in a manner that would accomplish its objectives.

Under any one of these scenarios, the State Treasurer would have to notify the Governor of the declaration of a financial emergency for the purposes of Section 9a of the Local Financial Stability and Choice Act. Senate Bill 687 would establish Section 9a, which would require that a financial management team be created in the Department of Treasury as the emergency manager for a local unit of government to address the underfunded status.

The financial management team would be granted "broad powers" to address the underfunded status of a local unit while preserving the local unit's fiscal stability and capacity to provide essential services. The following are the actions that the team would be allowed to take under the bill (with the fiscal impact noted parenthetically):

- Require the local unit to take corrective options described above under corrective action plans (varying fiscal impact on option(s) chosen).
- Require the local unit to amend, revise, approve, or disapprove its proposed budget to address required payments for retiree health and pension benefits (indeterminate).
- Require the local unit to employ or contract auditors, actuaries, and other technical personnel necessary to address the underfunded status (a cost increase to the local unit to the extent applicable personnel were employed).
- Require the local unit to sell, lease, assign, or otherwise use or transfer the assets or liabilities of the municipal government (indeterminate).
- Require any other action to address the underfunded status (indeterminate).
- Enter into a consent agreement with the local unit, which could grant to an officer of the local government one or more powers vested in the financial management team (indeterminate).

If a financial management team determined that a local unit failed to comply with the mandates or requirements of Section 9a, and if the local unit failed to rectify its noncompliance within 30 days, then the team would be required to declare that a financial emergency existed

and the Governor would be required to appoint an emergency manager. Under the Local Financial Stability and Choice Act, an emergency manager is required to act for and in the place and stead of the governing body, and is given broad powers to rectify a financial emergency (MCL 141.1549).

Senate Bills 688, 689, and 691-698

These bills would amend various acts to require compliance with the requirements of Senate Bill 686, and as such would not have independent fiscal impacts.

Senate Bill 690

The bill would allow a local unit to revoke its participation in the Municipal Employees Retirement System (MERS). There are at least two potential fiscal impacts related to this bill. If local units were allowed to revoke participation, MERS would have to liquidate assets in the portfolio in order to have cash on hand to return to a local unit that revoked its participation. Liquidating assets into cash would in all likelihood mean a lower rate of return on that cash compared to what the assets could have earned as nonliquid assets. The lower rate of return on cash would affect all municipalities, even if none left MERS, by leaving less funds in the portfolio, which would mean a higher contribution into the system to pay benefits.

Also, MERS pools the retirement contributions of participating municipalities and invests those contributions to maximize investment opportunities. If a large number of municipalities chose to revoke participation (or a small number of municipalities with large contributions left MERS), this could adversely affect the ability of MERS to invest using economies of scale, which would reduce purchasing power and could lead to lower investment earnings for those municipalities that remained in MERS. Again, lower investment earnings would mean a higher contribution from local units remaining in MERS to make up for those lower earnings and to pay for benefits.

Senate Bill 699

The bill would amend Public Act 566 of 1978 to bring it into compliance with the requirements of Senate Bills 686 and 687, and as such would not have an independent fiscal impact.

Senate Bill 700

The bill would remove an option that currently exists for municipalities, in certain situations, to issue securities to finance their retirement obligations. This option is available until December 31, 2018; the bill would change that date to December 31, 2017. Eliminating this option could affect those local units that may have sought to issue securities, but the extent of that impact is unknown, and the number of local units seeking this option between December 31, 2017, and December 31, 2018, likely would be small.

Senate Bill 701

The bill would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.