

**SUBSTITUTE FOR
HOUSE BILL NO. 5298**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

7 Sec. 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

5 (i) A city.

6 (ii) A village.

7 (iii) A township.

8 (iv) A county.

9 (v) A county road commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 retirement system.

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

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

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

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

23 (ii) Replace the plan actuary.

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

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

5 (a) The name of the retirement system.

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

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

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

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

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

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

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

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

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

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

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

1 toward the unfunded actuarial accrued liability.

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

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

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

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

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

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

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

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

1 the most recent fiscal year.

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

10 (c) The local unit of government has not reported the annual
11 cost of the liability of the retirement health system or retirement
12 pension system using the uniform actuarial assumptions under
13 subsection (1).

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

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

20 (6) A local unit of government shall electronically submit a
21 report in a form prescribed by the department of treasury on an
22 annual basis to the governing body of the local unit of government
23 and the department of treasury no later than 6 months after the end
24 of the local unit of government's fiscal year.

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

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

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

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

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

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

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

12 Sec. 6. (1) To qualify for a waiver of the underfunded status
13 determination under section 5, the local unit of government's
14 administrative officer and governing body must approve a plan
15 demonstrating the underfunded status is being addressed and must
16 approve the waiver application. The state treasurer shall issue a
17 waiver of the determination of underfunded status for a local unit
18 of government if the state treasurer determines that the
19 underfunded status is adequately being addressed by that local unit
20 of government.

21 (2) For any underfunded local unit of government that is not
22 granted a waiver, the department of treasury shall do all of the
23 following:

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

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

1 (c) Review actuarial projections, including trends and
2 projections.

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

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

12 (a) One resident of this state representing state officials
13 with knowledge, skill, or experience in accounting, actuarial
14 science, retirement systems, retirement health benefits, or
15 government finance appointed by the governor.

16 (b) One resident of this state representing local officials
17 with knowledge, skill, or experience in accounting, actuarial
18 science, retirement systems, retirement health benefits, or
19 government finance appointed by the governor.

20 (c) One resident of this state representing employees and
21 retirees with knowledge, skill, or experience in accounting,
22 actuarial science, retirement systems, retirement health benefits,
23 or government finance appointed by the governor.

24 (3) Of the members initially appointed by the governor under
25 subsection (2), 1 member must be appointed for an initial term of 4
26 years, 1 member must be appointed for an initial term of 3 years,
27 and 1 member must be appointed for an initial term of 2 years.

1 After the initial terms, members appointed by the governor under
2 subsection (2) must be appointed for terms of 4 years.

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

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

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

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

21 (8) The board may contract for professional services, as it
22 requires, and shall determine the qualifications for persons
23 providing those professional services it considers necessary.

24 (9) Members of the board serve without compensation but may
25 receive reimbursement for travel and expenses incurred in the
26 discharge of official duties. The members of the board and
27 contractors or agents of the board are subject to 1968 PA 317, MCL

1 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

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

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

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

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

24 Sec. 9. An underfunded local unit of government shall develop
25 and submit for approval a corrective action plan based on what the
26 local unit of government determines as the best components of a
27 corrective action plan for that local unit of government.

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

13 (2) A corrective action plan may include the corrective
14 options for correcting underfunded status as set forth in
15 subsection (7) 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) If the board votes to disapprove a corrective action plan
3 that has been submitted, the board shall within 15 days provide a
4 notification and report to the local unit of government detailing
5 the reasons for the disapproval of the corrective action plan. Each
6 fiscal year, the local unit of government has 60 days from the date
7 of the first notification to address the reasons for disapproval
8 and resubmit a corrective action plan for approval.

9 (5) The local unit of government has up to 180 days after the
10 approval of a corrective action plan to begin to implement the
11 corrective action plan to achieve the necessary cost reductions and
12 funding improvements to permanently correct its underfunded status
13 in all future years.

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

26 (7) A corrective action plan under this section may include
27 the development and implementation of corrective options for the

1 local unit of government to address and permanently resolve its
2 underfunded status. The corrective options as described in this
3 section may include any of the following:

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

5 (i) Closing the current defined benefit plan.

6 (ii) Implementing a multiplier limit.

7 (iii) Reducing or eliminating new accrued benefits.

8 (iv) Implementing final average compensation standards.

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

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

11 (ii) Capping employer costs.

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

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

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

26 (3) The court of claims has exclusive jurisdiction over any
27 action challenging the validity of this act or an action or

1 inaction under this act. The department of treasury is a necessary
2 party in an action under this subsection.