

# SENATE BILL No. 686

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

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3           Sec. 2. The legislature finds and declares all of the  
4 following:

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

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

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

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

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

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

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

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

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

15 Sec. 3. As used in this act:

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

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

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

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

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

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

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

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

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

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

25 (i) A city.

26 (ii) A village.

27 (iii) A township.

1 (iv) A county.

2 (v) A county road commission.

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

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

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

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

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

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

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

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

1 actuarial cost method.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 benefits provided by the retirement system.

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

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

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

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

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

1 wrongdoing of the trustee.

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

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

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

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

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

23 (a) The name of the retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 under subsection (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 secretary of state.

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

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

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

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

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

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

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

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

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

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

1 government from underfunded status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (9) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 department of treasury for purposes of implementing this act.

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