

MUNICIPAL RETIREMENT REFORM PACKAGE AS ADOPTED BY THE LEGISLATURE

Analysis¹

Summary

The Legislature completed work on and sent to the Governor a Municipal Retirement Reform package² on Tuesday December 12, 2017. The Governor is expected to sign the package.

The Legislature, by large margins, rejected the draconian attacks on current and future retirees as originally introduced and instead, implemented the consensus reforms unanimously recommended by the Governor's Task Force on Responsible Retirement Reform. The Task Force recommended a more reasoned, collaborative approach which:

- Recognized that there are many different types of retirement plans in place in Michigan's Municipal government and that they are funded at varying degrees, accordingly concluding that "one size does not fit all" and requiring that as a first step the State needed to collect individual data from each municipality and collaboratively address any problems identified;
- That it was necessary to meet both the current needs of provision of essential public services while honoring commitments made to those who have provided them in the past;
- That collaboration with stakeholders – including labor – was essential and that collective bargaining needed to be recognized and honored;
- That the most serious retirement funding problems should be addressed first and that funding problems that have built up over decades would take time to repair.

To a great extent, the real story of this package of bills is more about what it does not include rather than the actual content of the bills. The Legislature:

- Rejected calls to allow local units of government to modify or eliminate retiree health care benefits at will in most cases;
- Rejected a proposal to allow a state appointed board to impose changes without local concurrence and outside of the collective bargaining process;
- Rejected proposals to allow the State Treasurer to unilaterally impose uniform retirement assumptions on all municipalities except for reporting purposes;
- Rejected proposals to require the elimination of all health care benefits for former employees who take a new job that offers health care coverage regardless of the cost to the retiree;
- Rejected a proposal to prohibits local units of government from considering reopening closed pension plans.
- Removed provisions in the package exempting the Municipal Stability Board from FOIA and the open meetings act
- Removed an immediate ban on bonding for unfunded actuarially accrued liabilities.

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² Senate Bills 686, 688, 691, 692, 694, 696, 699 and House Bills 5301, 5304, 5306, 5308, 5310, and 5313. For actual bills as concurred in go to <http://www.legislature.mi.gov>

SB 686 (main bill)

- "The legislature finds and declares that this act is intended to reflect the July 2017 Report of Findings and Recommendations for Action of the Responsible Retirement Reform for Local Government Task Force."
- Specifies that Act applies to "local units of government" defined as cities, townships, villages, counties, road commissions, the Huron-Clinton Metropolitan Authority, authorities created by public bodies, public airports, public electric utilities and entities created by one or more of the above.
- Beginning July 1, 2018, requires local units to pay at least the cost of pension systems incurred in any given year discounted to account for anticipated from investments (normal costs - this provision is also required by the Constitution) and at a minimum the premium for any retiree health care.
- Requires local units of government to report to the Department of Treasury the financial condition of their retirement programs and post the information on their web sites.
- Requires an actuarial study of retirement systems at least once every 5 years
- Requires a peer review study or appointment of a new actuary at least once every 8 years
- The State Treasurer shall establish uniform standards for reporting purposes only.
- The State Treasurer shall determine that a local unit's retirement system is underfunded if pension plan is funded at less than 60% and all of its pension plans cumulatively consume, for cities, villages, townships and counties more than 10% of its general fund or if a retiree health care system is funded at less than 40% and, for cities, villages, townships and counties all of its health care plans consume more than 12% of their general fund
- A unit of government that fails to meet the above standards may apply to the State Treasurer for a waiver from the status of "unfunded". The State Treasurer shall grant a waiver he or she determines that the underfunded status is being "adequately addressed" at the local level
- If the Treasurer does not grant a waiver, the Treasurer shall review the local unit's circumstances and assumptions and work with the local unit to try to find a way to improve the situation

- The Act then provides for the creation of a Municipal Stability Board made up of 3 state residents knowledgeable in municipal retirement systems. The Governor shall appoint one member to represent state officials, one to represent local officials and one to represent employees and retirees.
- The Board shall annually review and offer a list of "best practices" designed to assist local units of governments in adopting "corrective action plans" should they continue to be underfunded.
- Corrective action plans shall be submitted to the Municipal Stability Board for approval.
- Corrective action plans may include but are not limited to:
 - For pension plans
 - Closing the current defined benefit plan.
 - Implementing a multiplier limit.
 - Reducing or eliminating new accrued benefits.
 - Implementing final average compensation standards.

NOTE: Neither PERA nor Act 312 were amended in this package and as retirement benefits are a mandatory subject of collective bargaining³, collective bargaining agreements and arbitration awards supersede corrective action plans

- For Retiree Health Plans may include but are not limited to:
 - Requiring cost sharing of premiums and sufficient copays.
 - Capping employer costs.

NOTE: "Vested" retiree health benefits cannot be altered. However, federal and state court decisions have differed on how to determine what constitutes "vested". The legislation as introduced would have codified the most anti-worker decisions and even gone beyond those. The final version is silent on the issue.

SB 688

- Amends the statutory requirement for an actuarial study from whenever there is a "change" in the amount of a pension plan to whenever there is an "increase.:"
- Makes other technical changes to bring the Public employee retirement system investment act to comply with SB 686

SB 691

³ see Detroit Police Officers Association v City of Detroit, 391 Mich 44 and Macomb County v AFSCME COUNCIL 25 Local 411 and 893, 293 Mich App 149 and

- Requires general law counties to comply with SB 686

SB 692

- Require optional unified counties (Oakland and Bay) to comply with SB 686

SB 694

- Amends 1966 PA 28 to comply with SB 686

SB 696

- Amends to General Township Act to comply with SB 686

SB 699

- Exempts members of the Municipal Stability Board from the prohibition against holding incompatible offices.

HB 5301

- Requires reciprocal retirement provisions to comply with SB 686

HB 5304

- Requires charter counties (Macomb and Wayne) to comply with SB 686

HB 5306

- Amends the Fire Fighters and Police Officers Retirement Act to comply with SB 686

HB 5308

- Requires public libraries that establish retirement systems to comply with SB 686

HB 5310

- Amends the Municipal Employees Retirement Act to conform with SB 686

HB 5313

- Amends the Home Rule Cities Act to comply with SB 686