

HOUSE BILL No. 5253

January 27, 2016, Introduced by Reps. Gay-Dagnogo, Banks, Robinson, Pagan, Garrett, Byrd, Hovey-Wright, Love, Zemke, Singh, Dianda, Darany, Lane, Chirkun, Yanez, Derek Miller, Sarah Roberts, Driskell, Irwin, Wittenberg, Brinks, Hoadley, Smiley, Brunner, Greimel, Rutledge, Talabi, Guerra, Moss, Schor, Greig, Faris, Plawecki, Kivela, Townsend, Clemente, Durhal, Santana, LaVoy, Kosowski, Chang and Cochran and referred to the Committee on Local Government.

A bill to amend 2012 PA 436, entitled
"Local financial stability and choice act,"
by amending sections 7 and 9 (MCL 141.1547 and 141.1549).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Notwithstanding section 6(3), upon the
2 confirmation of a finding of a financial emergency under section 6,
3 the governing body of the local government shall, by resolution
4 within 7 days after the confirmation of a finding of a financial
5 emergency, select 1 of the following local government options to
6 address the financial emergency:

- 7 (a) The consent agreement option pursuant to section 8.
8 (b) The emergency manager option pursuant to section 9.
9 (c) The neutral evaluation process option pursuant to section
10 25.
11 (d) The chapter 9 bankruptcy option pursuant to section 26.

1 (2) Subject to subsection (3), if the local government has a
2 strong mayor, the resolution under subsection (1) requires strong
3 mayor approval. If the local government is a school district, the
4 resolution shall be approved by the school board. The resolution
5 shall be filed with the state treasurer, with a copy to the
6 superintendent of public instruction if the local government is a
7 school district.

8 (3) If the governing body of the local government does not
9 pass a resolution as required under subsection (1), the local
10 government shall proceed under the neutral evaluation process
11 pursuant to section 25.

12 (4) Subject to section 9(6)(c), (7), and (11), unless
13 authorized by the governor, a local government shall not utilize 1
14 of the local options listed in subsection (1)(a) to (d) more than 1
15 time.

16 Sec. 9. (1) The governor may appoint an emergency manager to
17 address a financial emergency within that local government as
18 provided for in this act.

19 (2) Upon appointment, an emergency manager shall act for and
20 in the place and stead of the governing body and the office of
21 chief administrative officer of the local government. The emergency
22 manager shall have broad powers in receivership to rectify the
23 financial emergency and to assure the fiscal accountability of the
24 local government and the local government's capacity to provide or
25 cause to be provided necessary governmental services essential to
26 the public health, safety, and welfare. Following appointment of an
27 emergency manager and during the pendency of receivership, the

1 governing body and the chief administrative officer of the local
2 government shall not exercise any of the powers of those offices
3 except as may be specifically authorized in writing by the
4 emergency manager or as otherwise provided by this act and are
5 subject to any conditions required by the emergency manager.

6 (3) All of the following apply to an emergency manager:

7 (a) The emergency manager shall have a minimum of 5 years'
8 experience and demonstrable expertise in business, financial, or
9 local or state budgetary matters.

10 (b) The emergency manager may, but need not, be a resident of
11 the local government.

12 (c) The emergency manager shall be an individual.

13 (d) Except as otherwise provided in this subdivision, the
14 emergency manager shall serve at the pleasure of the governor. An
15 emergency manager is subject to impeachment and conviction by the
16 legislature as if he or she were a civil officer under section 7 of
17 article XI of the state constitution of 1963. A vacancy in the
18 office of emergency manager shall be filled in the same manner as
19 the original appointment.

20 (e) The emergency manager's compensation shall be paid by this
21 state and shall be set forth in a contract approved by the state
22 treasurer. The contract shall be posted on the department of
23 treasury's website within 7 days after the contract is approved by
24 the state treasurer.

25 (f) In addition to the salary provided to an emergency manager
26 in a contract approved by the state treasurer under subdivision
27 (e), this state may receive and distribute private funds to an

1 emergency manager. As used in this subdivision, "private funds"
2 means any money the state receives for the purpose of allocating
3 additional salary to an emergency manager. Private funds
4 distributed under this subdivision are subject to section 1 of 1901
5 PA 145, MCL 21.161, and section 17 of article IX of the state
6 constitution of 1963.

7 (4) In addition to staff otherwise authorized by law, an
8 emergency manager shall appoint additional staff and secure
9 professional assistance as the emergency manager considers
10 necessary to fulfill his or her appointment.

11 (5) The emergency manager shall submit quarterly reports to
12 the state treasurer with respect to the financial condition of the
13 local government in receivership, with a copy to the superintendent
14 of public instruction if the local government is a school district
15 and a copy to each state senator and state representative who
16 represents that local government. In addition, each quarterly
17 report shall be posted on the local government's website within 7
18 days after the report is submitted to the state treasurer.

19 (6) The emergency manager shall continue in the capacity of an
20 emergency manager as follows:

21 (a) ~~Until~~ **SUBJECT TO SUBDIVISION (C), UNTIL** removed by the
22 governor or the legislature as provided in subsection (3)(d). If an
23 emergency manager is removed, the governor shall within 30 days of
24 the removal appoint a new emergency manager.

25 (b) ~~Until~~ **SUBJECT TO SUBDIVISION (C), UNTIL** the financial
26 emergency is rectified.

27 (c) If the ~~emergency manager has served~~ **LOCAL GOVERNMENT HAS**

1 OPERATED UNDER EMERGENCY MANAGEMENT UNDER THIS ACT for at least 18
2 months, ~~after his or her appointment under this act,~~ the CURRENT
3 emergency manager FOR THAT LOCAL GOVERNMENT may, by resolution, be
4 removed by a 2/3 vote of the governing body of the local
5 government. If the local government has a strong mayor, the
6 resolution requires strong mayor approval before the emergency
7 manager may be removed. Notwithstanding section 7(4), if the
8 emergency manager is removed under this subsection, ~~and the local~~
9 ~~government has not previously breached a consent agreement under~~
10 ~~this act,~~ the local government may within 10 days negotiate a
11 consent agreement with the state treasurer. If a consent agreement
12 is not agreed upon within 10 days, the local government shall
13 proceed with the neutral evaluation process pursuant to section 25.

14 (7) A local government shall be removed from receivership when
15 the financial conditions are corrected in a sustainable fashion as
16 provided in this act. In addition, the local government may be
17 removed from receivership if an emergency manager is removed under
18 subsection (6)(c) and the governing body of the local government by
19 2/3 vote approves a resolution for the local government to be
20 removed from receivership. If the local government has a strong
21 mayor, the resolution requires strong mayor approval before the
22 local government is removed from receivership. **A-NOTWITHSTANDING**
23 **SECTION 7(4), IF A** local government ~~that~~ is removed from
24 receivership while a financial emergency continues to exist as
25 determined by the governor, **THE LOCAL GOVERNMENT MAY WITHIN 10 DAYS**
26 **AFTER BEING REMOVED FROM RECEIVERSHIP NEGOTIATE A CONSENT AGREEMENT**
27 **WITH THE STATE TREASURER. IF A CONSENT AGREEMENT IS NOT AGREED UPON**

1 **WITHIN 10 DAYS, THE LOCAL GOVERNMENT** shall proceed under the
2 neutral evaluation process pursuant to section 25.

3 (8) The governor may delegate his or her duties under this
4 section to the state treasurer.

5 (9) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323,
6 an emergency manager is subject to all of the following:

7 (a) 1968 PA 317, MCL 15.321 to 15.330, as a public servant.

8 (b) 1973 PA 196, MCL 15.341 to 15.348, as a public officer.

9 (c) 1968 PA 318, MCL 15.301 to 15.310, as if he or she were a
10 state officer.

11 (10) An emergency financial manager appointed under former
12 1988 PA 101 or former 1990 PA 72, and serving immediately ~~prior to~~
13 ~~the effective date of this act, shall be~~ **BEFORE MARCH 28, 2013, IS**
14 considered an emergency manager under this act and shall continue
15 under this act to fulfill his or her powers and duties.

16 Notwithstanding any other provision of this act, the governor may
17 appoint a person who was appointed as an emergency manager under
18 former 2011 PA 4 or an emergency financial manager under former
19 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager
20 under this act.

21 (11) Notwithstanding section 7(4) and subject to the
22 requirements of this section, if an emergency manager has served
23 for less than 18 months after his or her appointment under this
24 act, the governing body of the local government may pass a
25 resolution petitioning the governor to remove the emergency manager
26 as provided in this section and allow the local government to
27 proceed under the neutral evaluation process as provided in section

1 25. If the local government has a strong mayor, the resolution
2 requires strong mayor approval. If the governor accepts the
3 resolution, notwithstanding section 7(4), the local government
4 shall proceed under the neutral evaluation process as provided in
5 section 25.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.