

SENATE BILL No. 1064

February 5, 2002, Introduced by Senator SANBORN and referred to the Committee on Finance.

A bill to amend 1990 PA 72, entitled
"Local government fiscal responsibility act,"
by amending sections 12, 21, and 33 (MCL 141.1212, 141.1221, and
141.1233), section 33 as amended by 1992 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) The state treasurer shall conduct a prelimi-
2 nary review to determine the existence of a local government
3 financial problem if 1 or more of the following occur:

4 (a) The governing body or the chief administrative officer
5 of a local government requests a preliminary review under this
6 article. The request shall be in writing and shall identify the
7 existing financial conditions that make the request necessary.

8 (b) The state treasurer receives a written request from a
9 creditor with an undisputed claim that remains unpaid 6 months
10 after its due date against the local government that exceeds the

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1 greater of \$10,000.00 or 1% of the annual general fund budget of
2 the local government, provided that the creditor notifies the
3 local government in writing at least 30 days before his or her
4 request to the state treasurer of his or her intention to invoke
5 this provision.

6 (c) The state treasurer receives a petition containing spe-
7 cific allegations of local government financial distress signed
8 by a number of registered electors residing within the jurisdic-
9 tion of the local government equal to not less than 10% of the
10 total vote cast for all candidates for governor within the juris-
11 diction of the local government at the last preceding election at
12 which a governor was elected. Petitions shall not be filed under
13 this subdivision within 60 days before any election of the local
14 government.

15 (d) The state treasurer receives written notification from
16 the trustee, actuary, or at least 10% of the beneficiaries of a
17 local government pension fund alleging that a local government
18 has not timely deposited its minimum obligation payment to the
19 local government pension fund as required by law.

20 (e) The state treasurer receives written notification that
21 employees of the local government have not been paid and it has
22 been at least 7 days after the scheduled date of payment.

23 (f) The state treasurer receives written notification from a
24 trustee, paying agent, or bondholder of a default in a bond pay-
25 ment or a violation of 1 or more bond covenants.

1 (g) The state treasurer receives a resolution from either
2 the senate or the house of representatives requesting a
3 preliminary review under this section.

4 (h) The local government has violated the ~~conditions of an~~
5 ~~order issued pursuant to, or of a requirement of, the municipal~~
6 ~~finance act, Act No. 202 of the Public Acts of 1943, being sec-~~
7 ~~tions 131.1 to 139.3 of the Michigan Compiled Laws~~ REVENUE BOND
8 ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140, THE REVISED
9 MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, or
10 any other law governing the issuance of bonds or notes.

11 (i) The local government has violated the conditions of an
12 order issued in the effectuation of the purposes of the emergency
13 municipal loan act, ~~Act No. 243 of the Public Acts of 1980,~~
14 ~~being sections 141.931 to 141.942 of the Michigan Compiled Laws,~~
15 1980 PA 243, MCL 141.931 TO 141.942, by the local emergency
16 financial assistance loan board created by ~~Act No. 243 of the~~
17 ~~Public Acts of 1980~~ THE EMERGENCY MUNICIPAL LOAN ACT, 1980
18 PA 243, MCL 141.931 TO 141.942.

19 (j) The local government has violated the requirements of
20 sections 17 to 20 of the uniform budgeting and accounting act,
21 ~~Act No. 2 of the Public Acts of 1968, being sections 141.437 to~~
22 ~~141.440 of the Michigan Compiled Laws~~ 1968 PA 2, MCL 141.437 TO
23 141.440, and the state treasurer has forwarded a report of this
24 violation to the attorney general.

25 (k) The local government has failed to comply with the
26 requirements of section 21 of the ~~state revenue sharing act of~~
27 ~~1971, Act No. 140 of the Public Acts of 1971, being section~~

1 ~~141.921 of the Michigan Compiled Laws~~ GLENN STEIL STATE REVENUE
2 SHARING ACT OF 1971, 1971 PA 140, MCL 141.921, for filing or
3 instituting a deficit recovery plan.

4 (l) The local government fails to provide an annual finan-
5 cial report or audit that conforms with the minimum procedures
6 and standards of the state treasurer and is required under the
7 uniform budgeting and accounting act, ~~Act No. 2 of the Public~~
8 ~~Acts of 1968, being sections 141.421 to 141.440a of the Michigan~~
9 ~~Compiled Laws~~ 1968 PA 2, MCL 141.421 TO 141.440A, or ~~Act No. 71~~
10 ~~of the Public Acts of 1919, being sections 21.41 to 21.53 of the~~
11 ~~Michigan Compiled Laws~~ 1919 PA 71, MCL 21.41 TO 21.55.

12 (m) The local government is delinquent in the distribution
13 of tax revenues, as required by law, that it has collected for
14 another taxing jurisdiction, and that taxing jurisdiction
15 requests a preliminary review.

16 (n) A court has ordered an additional tax levy without the
17 prior approval of the governing body of the local government.

18 (2) In conducting a preliminary review under this section,
19 the state treasurer shall give the local government specific
20 written notification of the review, and the state treasurer shall
21 meet with the local government. At this meeting, the state trea-
22 surer shall receive, discuss, and consider information provided
23 by the local government concerning the existence of and serious-
24 ness of financial conditions within the local government.

25 (3) When the state treasurer conducts a preliminary review
26 under this section, he or she shall inform the governor within 30
27 days after beginning the preliminary review whether or not his or

1 her investigation has determined that a serious financial problem
2 may exist because 1 or more conditions indicative of a serious
3 financial problem exist within the local government.

4 Sec. 21. An emergency financial manager may take 1 or more
5 of the following additional actions with respect to the local
6 government in which a financial emergency has been determined to
7 exist:

8 (a) Analyze factors and circumstances contributing to the
9 financial condition of the local government and recommend steps
10 to be taken to correct the condition.

11 (b) Amend, revise, approve, or disapprove the budget of the
12 local government, and limit the total amount appropriated or
13 expended during the balance of the financial emergency.

14 (c) Require and approve or disapprove, or amend or revise a
15 plan for liquidating all outstanding debt of the local
16 government.

17 (d) Require and prescribe the form of special reports to be
18 made by the finance officer of the local government to its gov-
19 erning body, the creditors of the local government, the emergency
20 financial manager, or the public.

21 (e) Examine all records and books of account, and require
22 under the procedures of the uniform budgeting and accounting act,
23 ~~Act No. 2 of the Public Acts of 1968, being sections 141.421 to~~
24 ~~141.440a of the Michigan Compiled Laws~~ 1968 PA 2, MCL 141.421 TO
25 141.440A, or ~~Act No. 71 of the Public Acts of 1919, being sec=~~
26 ~~tions 21.41 to 21.53 of the Michigan Compiled Laws~~ 1919 PA 71,
27 MCL 21.41 TO 21.55, or both, the attendance of witnesses and the

1 production of books, papers, contracts, and other documents
2 relevant to an analysis of the financial condition of the local
3 government.

4 (f) Make, approve, or disapprove any appropriation, con-
5 tract, expenditure, or loan, the creation of any new position, or
6 the filling of any vacancy in a permanent position by any
7 appointing authority.

8 (g) Review payrolls or other claims against the local gov-
9 ernment before payment.

10 (h) Exercise all of the authority of the local government to
11 renegotiate existing labor contracts and act as an agent of the
12 unit in collective bargaining with employees or representatives
13 and approve any contract or agreement.

14 (i) Unless prohibited by law or charter, to consolidate
15 departments or transfer functions from 1 department to another
16 and to appoint, supervise, and, at his or her discretion, remove
17 heads of departments other than elected officials.

18 (j) Employ or contract for, at the expense of the local gov-
19 ernment and with the approval of the local emergency financial
20 assistance loan board, auditors and other technical personnel
21 considered necessary to implement this article.

22 (k) Require compliance with the orders of the emergency
23 financial manager by court action if necessary.

24 (l) Except as restricted by charter or otherwise, sell or
25 otherwise use the assets of the local government to meet past or
26 current obligations, provided the use of assets for this purpose
27 does not endanger public health, safety, or welfare.

1 (m) Apply for a loan from the state on behalf of the local
2 government, subject to the conditions of the emergency municipal
3 loan act, ~~Act No. 243 of the Public Acts of 1980, being sections~~
4 ~~141.931 to 141.942 of the Michigan Compiled Laws~~ 1980 PA 243,
5 MCL 141.931 TO 141.942, in a sufficient amount to pay the
6 expenses of the emergency financial manager and for other lawful
7 purposes.

8 (n) Approve or disapprove of the issuance of obligations of
9 the local government on behalf of the municipality, subject to
10 the conditions of the ~~municipal finance act, Act No. 202 of the~~
11 ~~Public Acts of 1943, being sections 131.1 to 139.3 of the~~
12 ~~Michigan Compiled Laws~~ REVISED MUNICIPAL FINANCE ACT, 2001
13 PA 34, MCL 141.2101 TO 141.2821.

14 (o) Enter into agreements with other local governments for
15 the provision of services.

16 (p) Exercise the authority and responsibilities affecting
17 the financial condition of the local government as provided in
18 the following acts:

19 (i) ~~Act No. 279 of the Public Acts of 1909, being sections~~
20 ~~117.1 to 117.38 of the Michigan Compiled Laws~~ THE HOME RULE CITY
21 ACT, 1909 PA 279, MCL 117.1 TO 117.38.

22 (ii) ~~Act No. 215 of the Public Acts of 1895, being sections~~
23 ~~81.1 to 113.20 of the Michigan Compiled Laws~~ THE FOURTH CLASS
24 CITY ACT, 1895 PA 215, MCL 81.1 TO 113.20.

25 ~~(iii) Chapter 16 of the Revised Statutes of 1846, being~~
26 ~~sections 41.1 to 41.102 of the Michigan Compiled Laws.~~

1 ~~(iii) (iv) Act No. 359 of the Public Acts of 1947, being~~
 2 ~~sections 42.1 to 42.34 of the Michigan Compiled Laws~~ THE CHARTER
 3 TOWNSHIP ACT, 1947 PA 359, MCL 42.1 TO 42.34.

4 ~~(iv) (v) Act No. 156 of the Public Acts of 1851, being sec-~~
 5 ~~tions 46.1 to 46.32 of the Michigan Compiled Laws~~ 1851 PA 156,
 6 MCL 46.1 TO 46.32.

7 ~~(v) (vi) Act No. 293 of the Public Acts of 1966, being sec-~~
 8 ~~tions 45.501 to 45.521 of the Michigan Compiled Laws~~ 1966
 9 PA 293, MCL 45.501 TO 45.521.

10 ~~(vi) (vii) Act No. 3 of the Public Acts of 1895, being sec-~~
 11 ~~tions 61.1 to 74.22 of the Michigan Compiled Laws~~ THE GENERAL
 12 LAW VILLAGE ACT, 1895 PA 3, MCL 61.1 TO 74.25.

13 ~~(vii) (viii) Act No. 278 of the Public Acts of 1909, being~~
 14 ~~sections 78.1 to 78.28 of the Michigan Compiled Laws~~ THE HOME
 15 RULE VILLAGE ACT, 1909 PA 278, MCL 78.1 TO 78.28.

16 Sec. 33. (1) The superintendent of public instruction may
 17 determine that a school district has a serious financial problem
 18 if he or she finds that 1 or more of the following conditions
 19 exist:

20 (a) The school district ended the most recently completed
 21 school fiscal year with a deficit in 1 or more of its funds and
 22 the superintendent of public instruction has not approved a defi-
 23 cit elimination plan within 3 months after the district's dead-
 24 line for submission of its annual financial statement.

25 (b) The school board of the school district adopts a resolu-
 26 tion declaring that the school district is in a financial
 27 emergency.

1 (c) The superintendent of public instruction receives a
2 petition containing specific allegations of school district
3 financial distress signed by a number of registered electors
4 residing within the school district equal to not less than 10% of
5 the total vote cast for all candidates for governor within the
6 school district at the last preceding election at which a gover-
7 nor was elected. Petitions shall not be filed under this subdi-
8 vision within 60 days before any election of the school
9 district.

10 (d) The superintendent of public instruction receives a
11 written request, from a creditor of the school district with an
12 undisputed claim against the school district, to find the school
13 district has a serious financial problem. The superintendent of
14 public instruction may honor this request only if the claim
15 remains unpaid 6 months after its due date, the claim exceeds the
16 greater of \$10,000.00 or 1% of the annual general fund budget of
17 the school district, and the creditor notifies the school dis-
18 trict in writing at least 30 days before he or she requests the
19 superintendent of public instruction to find that the school dis-
20 trict has a serious financial problem.

21 (e) The superintendent of public instruction receives writ-
22 ten notification from a trustee, paying agent, note or bondhold-
23 er, or the state treasurer of a violation of 1 or more of the
24 school district's bond or note covenants.

25 (f) The superintendent of public instruction receives a res-
26 olution from either the senate or the house of representatives

1 requesting a review under this section of the financial condition
2 of the school district.

3 (g) The school district is in violation of the ~~conditions~~
4 ~~of an order issued pursuant to, or as a requirement of, the~~
5 ~~municipal finance act, Act No. 202 of the Public Acts of 1943,~~
6 ~~being sections 131.1 to 139.3 of the Michigan Compiled Laws~~
7 REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140, THE
8 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
9 141.2821, or any other law governing the issuance of bonds or
10 notes.

11 (h) The school district is in violation of the requirements
12 of sections 17 to 20 of the uniform budgeting and accounting act,
13 ~~Act No. 2 of the Public Acts of 1968, being sections 141.437 to~~
14 ~~141.440 of the Michigan Compiled Laws~~ 1968 PA 2, MCL 141.437 TO
15 141.440.

16 (i) The school district fails to provide an annual financial
17 report or audit that conforms with the minimum procedures and
18 standards of the state board and is required under the ~~school~~
19 ~~code of 1976 and the state school aid act of 1979, Act No. 94 of~~
20 ~~the Public Acts of 1979, being sections 388.1601 to 388.1772 of~~
21 ~~the Michigan Compiled Laws~~ REVISED SCHOOL CODE, 1976 PA 451,
22 MCL 380.1 TO 380.1852, AND THE STATE SCHOOL AID ACT OF 1979, 1979
23 PA 94, MCL 388.1601 TO 388.1772.

24 (j) A court has ordered an additional tax levy without the
25 prior approval of the school board of the school district.

26 (2) Upon determining that a school district has a serious
27 financial problem, the superintendent of public instruction shall

1 notify the governor and the state board of that determination and
2 of the basis for and findings supporting the determination.