

HOUSE BILL No. 6253

June 9, 2010, Introduced by Reps. Melton, Johnson and Womack and referred to the Committee on Government Operations.

A bill to amend 1990 PA 72, entitled "Local government fiscal responsibility act," by amending section 21 (MCL 141.1221), as amended by 2003 PA 282.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) ~~An~~ **BEGINNING ON THE EFFECTIVE DATE OF THE**
2 **AMENDATORY ACT THAT ADDED SUBSECTIONS (4) AND (5), SUBJECT TO**
3 **SUBSECTIONS (4) AND (5), AN** emergency financial manager may take 1
4 or more of the following additional actions with respect to a unit
5 of local government in which a financial emergency has been
6 determined to exist:

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

1 (b) Amend, revise, approve, or disapprove the budget of the
2 unit of local government, and limit the total amount appropriated
3 or expended during the balance of the financial emergency.

4 (c) Require and approve or disapprove, or amend or revise a
5 plan for paying all outstanding obligations of the unit of local
6 government.

7 (d) Require and prescribe the form of special reports to be
8 made by the finance officer of the unit of local government to its
9 governing body, the creditors of the unit of local government, the
10 emergency financial manager, or the public.

11 (e) Examine all records and books of account, and require
12 under the procedures of the uniform budgeting and accounting act,
13 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
14 21.55, or both, the attendance of witnesses and the production of
15 books, papers, contracts, and other documents relevant to an
16 analysis of the financial condition of the unit of local
17 government.

18 (f) Make, approve, or disapprove any appropriation, contract,
19 expenditure, or loan. ~~—~~**IN ADDITION, SUBJECT TO THE APPROVAL OF THE**
20 **CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL GOVERNMENT,** the creation
21 of any new position ~~—~~or the filling of any vacancy in a permanent
22 position by any appointing authority.

23 (g) Review payrolls or other claims against the unit of local
24 government before payment.

25 (h) Exercise all of the authority of the unit of local
26 government to renegotiate existing labor contracts and act as an
27 agent of the unit of local government in collective bargaining with

1 employees or representatives and approve any contract or agreement.

2 (i) Notwithstanding the provisions of any charter to the
3 contrary, consolidate departments of the unit of local government
4 or transfer functions from 1 department to another and to appoint,
5 supervise, and, ~~at his or her discretion,~~ **SUBJECT TO THE APPROVAL**
6 **OF THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL GOVERNMENT,** remove
7 heads of departments other than elected officials, the clerk of the
8 unit of local government, and any ombudsman position in the unit of
9 local government.

10 (j) Employ or contract for, at the expense of the unit of
11 local government and with the approval of the local emergency
12 financial assistance loan board, auditors and other technical
13 personnel considered necessary to implement this article.

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

16 (l) Except as restricted by charter or otherwise, sell or
17 otherwise use the assets of the unit of local government to meet
18 past or current obligations, provided the use of assets for this
19 purpose does not endanger the public health, safety, or welfare of
20 residents of the unit of local government.

21 (m) Apply for a loan from the state on behalf of the unit of
22 local government, subject to the conditions of the emergency
23 municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, in a
24 sufficient amount to pay the expenses of the emergency financial
25 manager and for other lawful purposes.

26 (n) Approve or disapprove of the issuance of obligations of
27 the unit of local government on behalf of the municipality, subject

1 to the conditions of the revised municipal finance act, 2001 PA 34,
2 MCL 141.2101 to 141.2821, and the revenue bond act of 1933, 1933 PA
3 94, MCL 141.101 to 141.140.

4 (o) Enter into agreements with other units of local government
5 for the provision of services.

6 (p) Exercise the authority and responsibilities of the chief
7 administrative officer and governing body concerning the adoption,
8 amendment, and enforcement of ordinances or resolutions affecting
9 the financial condition of the unit of local government as provided
10 in the following acts:

11 (i) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

12 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
13 113.20.

14 (iii) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

15 (iv) 1851 PA 156, MCL 46.1 to 46.32.

16 (v) 1966 PA 293, MCL 45.501 to 45.521.

17 (vi) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

18 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
19 78.28.

20 (q) Reduce, suspend, or eliminate the salary, or other
21 compensation of the chief administrative officer and members of the
22 governing body of the unit of local government during the financial
23 emergency. This subdivision does not authorize an emergency
24 financial manager to impair vested retirement benefits. If an
25 emergency financial manager has reduced, suspended, or eliminated
26 the salary or other compensation of the chief administrative
27 officer and members of the governing body of a unit of local

1 government before ~~the effective date of the amendatory act that~~
 2 ~~added this subdivision, JANUARY 8, 2004,~~ the reduction, suspension,
 3 or elimination is valid to the same extent had it occurred after
 4 ~~the effective date of the amendatory act that added this~~
 5 ~~subdivision. JANUARY 8, 2004.~~

6 (2) If a financial emergency exists under ~~the local government~~
 7 ~~fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291,~~
 8 **THIS ACT,** the emergency financial manager shall make a
 9 determination as to whether possible criminal conduct contributed
 10 to the financial emergency. If the manager determines that there is
 11 reason to believe that criminal conduct has occurred, the manager
 12 shall refer the matter to the attorney general and the local
 13 prosecuting attorney for investigation. The determination required
 14 under this subsection shall be made ~~by 1 of the following dates,~~
 15 ~~whichever is later:~~

16 ~~—— (a) Within 90 days after the effective date of the amendatory~~
 17 ~~act that added this subsection.~~

18 ~~—— (b) Within **WITHIN** 180 days after the date the emergency~~
 19 ~~financial manager is appointed.~~

20 (3) Not later than 90 days after the completion of the
 21 emergency financial manager's term, the governing body of the unit
 22 of local government shall review any ordinance implemented by the
 23 emergency financial manager during his or her term, except any
 24 ordinance enacted to assure the payment of principal and interest
 25 on bonds.

26 (4) **NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE**
 27 **CONTRARY, THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL GOVERNMENT**

1 RETAINS THE AUTHORITY TO HIRE NECESSARY EMPLOYEES INCLUDING, BUT
2 NOT LIMITED TO, HEADS OF DEPARTMENTS IF THE ANNUAL GENERAL FUND
3 BUDGET OF THE LOCAL GOVERNMENT PROVIDES FUNDS FOR THOSE EMPLOYEES
4 OR DEPARTMENT HEADS. IN ADDITION, THE CHIEF ADMINISTRATIVE OFFICER
5 OF THE LOCAL GOVERNMENT RETAINS THE AUTHORITY TO REMOVE EMPLOYEES
6 INCLUDING, BUT NOT LIMITED TO, HEADS OF DEPARTMENTS.

7 (5) AN EMERGENCY FINANCIAL MANAGER SHALL OBTAIN THE APPROVAL
8 OF THE LOCAL EMERGENCY FINANCIAL ASSISTANCE LOAN BOARD BEFORE DOING
9 ANY OF THE FOLLOWING:

10 (A) SELLING ANY ASSET OF THE LOCAL GOVERNMENT THAT HAS A
11 CUMULATIVE VALUE OF \$5,000.00 OR MORE.

12 (B) ENTERING INTO ANY CONTRACT OR AGREEMENT ON BEHALF OF THE
13 LOCAL GOVERNMENT THAT HAS A DURATION OF 1 YEAR OR MORE.