

HOUSE BILL No. 4704

May 7, 2013, Introduced by Reps. Pettalia, Schmidt, Foster and Bumstead and referred to the Committee on Judiciary.

A bill to amend 1968 PA 2, entitled
"Uniform budgeting and accounting act,"
by amending sections 16 and 18 (MCL 141.436 and 141.438), as
amended by 2000 PA 493.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) Unless another method for adopting a budget is
2 provided by a charter provision in effect on April 1, 1980, the
3 legislative body of each local unit shall pass a general
4 appropriations act for all funds except trust or agency, internal
5 service, enterprise, debt service or capital project funds for
6 which the legislative body may pass a special appropriation act.

7 (2) The general appropriations act shall set forth the total
8 number of mills of ad valorem property taxes to be levied and the
9 purposes for which that millage is to be levied. The amendatory act

1 that added this subsection shall be known and may be cited as "the
2 truth in budgeting act".

3 (3) The general appropriations act shall set forth the amounts
4 appropriated by the legislative body to defray the expenditures and
5 meet the liabilities of the local unit for the ensuing fiscal year,
6 and shall set forth a statement of estimated revenues, by source,
7 in each fund for the ensuing fiscal year.

8 (4) The general appropriations act shall be consistent with
9 uniform charts of accounts prescribed by the state treasurer or,
10 for local school districts and intermediate school districts, by
11 the state board of education.

12 (5) This act shall not be interpreted to mandate the
13 development or adoption by a local unit of a line-item budget or
14 line-item general appropriations act.

15 (6) The legislative body shall determine the amount of money
16 to be raised by taxation necessary to defray the expenditures and
17 meet the liabilities of the local unit for the ensuing fiscal year,
18 shall order that money to be raised by taxation, within statutory
19 and charter limitations, and shall cause the money raised by
20 taxation to be paid into the funds of the local unit.

21 (7) Except as otherwise permitted by section 102 of the state
22 school aid act of 1979, 1979 PA 94, MCL 388.1702, or by other law,
23 the legislative body shall not adopt a general appropriations act
24 or an amendment to that act which causes estimated total
25 expenditures, including an accrued deficit, to exceed total
26 estimated revenues, including an available surplus and the proceeds
27 from bonds or other obligations issued under the fiscal

1 stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011, or the
2 balance of the principal of these bonds or other obligations.

3 (8) A GENERAL APPROPRIATIONS ACT, INCLUDING ANY AMENDMENT TO
4 THAT GENERAL APPROPRIATIONS ACT, IS PRESUMED TO FUND THOSE
5 ACTIVITIES OF A COUNTY MANDATED BY LAW AT A SERVICEABLE LEVEL.

6 (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE CHIEF
7 ADMINISTRATIVE OFFICER OF A COUNTY HAS EXCLUSIVE STANDING TO BRING
8 SUIT AGAINST THE LEGISLATIVE BODY OF THAT COUNTY CONCERNING A
9 GENERAL APPROPRIATIONS ACT, INCLUDING ANY CHALLENGE AS TO
10 SERVICEABLE LEVELS OF FUNDING FOR ANY DEPARTMENT OR BRANCH OF THAT
11 COUNTY, INCLUDING A DEPARTMENT OR BRANCH HEADED BY ANOTHER ELECTED
12 OR APPOINTED OFFICIAL. THE CHIEF JUDGE OF A COURT FUNDED BY A
13 COUNTY HAS STANDING TO BRING A SUIT ON THE COURT'S OWN BEHALF
14 AGAINST THE LEGISLATIVE BODY OF THAT COUNTY CONCERNING A GENERAL
15 APPROPRIATIONS ACT, INCLUDING ANY CHALLENGE AS TO SERVICEABLE
16 LEVELS OF FUNDING FOR THAT COURT. IF A COURT AND THE LEGISLATIVE
17 BODY OF A COUNTY ARE INVOLVED IN MEDIATION, BEFORE THE CHIEF JUDGE
18 OF THAT COURT BRINGS A SUIT ON THE COURT'S OWN BEHALF AGAINST THE
19 LEGISLATIVE BODY OF THE COUNTY UNDER THIS SUBSECTION, A MEDIATOR
20 SHALL CERTIFY IN WRITING THAT THE PARTIES ARE UNABLE TO RESOLVE THE
21 ISSUES BY MEDIATION. THE COURT HEARING A SUIT SHALL CONSIDER THE
22 FINANCIAL ABILITY OF THE COUNTY TO PAY WHEN CONSIDERING ANY
23 CHALLENGE AS TO SERVICEABLE LEVELS OF FUNDING.

24 (10) IF ANY PORTION OF THIS SECTION OR THE APPLICATION OF THIS
25 SECTION TO ANY CIRCUMSTANCE IS FOUND TO BE INVALID BY A COURT, THE
26 INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS OR APPLICATION
27 OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID

1 **PORTION OR APPLICATION. THE PROVISIONS OF THIS SECTION ARE**
2 **SEVERABLE.**

3 Sec. 18. (1) A member of the legislative body, chief
4 administrative officer, administrative officer, or employee of the
5 local unit shall not create a debt or incur a financial obligation
6 on behalf of the local unit unless the debt or obligation is
7 permitted by law.

8 (2) The chief administrative officer may cause the
9 appropriations made by the legislative body for the local unit and
10 its budgetary centers to be divided into allotments if the
11 allotments are based upon the periodic requirements of the local
12 unit and its budgetary centers.

13 (3) Except as otherwise provided in section 19, an
14 administrative officer of the local unit shall not incur
15 expenditures against an appropriation account in excess of the
16 amount appropriated by the legislative body. The chief
17 administrative officer, an administrative officer, or an employee
18 of the local unit shall not apply or divert money of the local unit
19 for purposes inconsistent with those specified in the
20 appropriations of the legislative body.

21 (4) No duties shall be delegated to the chief administrative
22 officer that diminish any charter or statutory responsibilities of
23 an elected or appointed official.

24 (5) **THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF A**
25 **GENERAL APPROPRIATIONS ACT APPROVED BY THE LEGISLATIVE BODY OF A**
26 **COUNTY ARE POWERS EXCLUSIVELY VESTED IN THE CHIEF ADMINISTRATIVE**
27 **OFFICER OF THAT COUNTY.**

1 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
2 LEGISLATIVE BODY OF A COUNTY HAS EXCLUSIVE STANDING TO BRING SUIT
3 AGAINST THE CHIEF ADMINISTRATIVE OFFICER OF THAT COUNTY CONCERNING
4 AN ACTION RELATING TO THE ADMINISTRATION, EXECUTION, AND
5 ENFORCEMENT OF A GENERAL APPROPRIATIONS ACT FOR ANY DEPARTMENT OR
6 BRANCH OF THAT COUNTY, INCLUDING A DEPARTMENT OR BRANCH HEADED BY
7 ANOTHER ELECTED OR APPOINTED OFFICIAL. THE CHIEF JUDGE OF A COURT
8 FUNDED BY A COUNTY HAS STANDING TO BRING SUIT ON THE COURT'S OWN
9 BEHALF AGAINST THE CHIEF ADMINISTRATIVE OFFICER OF THAT COUNTY
10 CONCERNING AN ACTION RELATING TO THE ADMINISTRATION, EXECUTION, AND
11 ENFORCEMENT OF A GENERAL APPROPRIATIONS ACT FOR THAT COURT. IF A
12 COURT AND THE CHIEF ADMINISTRATIVE OFFICER OF A COUNTY ARE INVOLVED
13 IN MEDIATION, BEFORE THE CHIEF JUDGE OF THAT COURT BRINGS A SUIT ON
14 THE COURT'S OWN BEHALF AGAINST THE CHIEF ADMINISTRATIVE OFFICER OF
15 THE COUNTY UNDER THIS SUBSECTION, A MEDIATOR SHALL CERTIFY IN
16 WRITING THAT THE PARTIES ARE UNABLE TO RESOLVE THE ISSUES BY
17 MEDIATION.

18 (7) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8) AND
19 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY SUIT
20 BROUGHT UNDER SUBSECTION (6) OR SECTION 16(9) SHALL ONLY BE BROUGHT
21 IN THE MICHIGAN COURT OF APPEALS WITHIN 60 DAYS AFTER 1 OF THE
22 FOLLOWING:

23 (A) THE ADOPTION OF A GENERAL APPROPRIATIONS ACT.

24 (B) AN AMENDMENT TO A GENERAL APPROPRIATIONS ACT OR AN ACTION
25 RELATING TO THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THAT
26 GENERAL APPROPRIATIONS ACT, IF THE AMENDMENT OR ACTION CONSTITUTES
27 A BASIS FOR THE SUIT.

1 (8) IF A COURT IS INVOLVED IN MEDIATION UNDER SUBSECTION (6)
2 OR SECTION 16(9) DURING THE 60-DAY PERIOD TO BRING A SUIT IN THE
3 MICHIGAN COURT OF APPEALS PROVIDED FOR IN SUBSECTION (7), ANY SUIT
4 BROUGHT ON THE COURT'S BEHALF UNDER SUBSECTION (6) OR SECTION 16(9)
5 SHALL ONLY BE BROUGHT IN THE MICHIGAN COURT OF APPEALS WITHIN 90
6 DAYS AFTER 1 OF THE FOLLOWING:

7 (A) THE ADOPTION OF A GENERAL APPROPRIATIONS ACT.

8 (B) AN AMENDMENT TO A GENERAL APPROPRIATIONS ACT OR AN ACTION
9 RELATING TO THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THAT
10 GENERAL APPROPRIATIONS ACT, IF THE AMENDMENT OR ACTION CONSTITUTES
11 A BASIS FOR THE SUIT.

12 (9) THE COURT'S JURISDICTION OVER AND REVIEW OF THE ISSUES
13 RAISED IN A SUIT BROUGHT UNDER SUBSECTION (7)(B) OR (8)(B) IS
14 LIMITED TO THAT PORTION OF THE GENERAL APPROPRIATIONS ACT THAT IS
15 DIRECTLY AFFECTED BY THE AMENDMENT OR ACTION.

16 (10) THE JURISDICTION OF THE COURT OF APPEALS OVER A SUIT
17 BROUGHT UNDER SUBSECTION (6) OR SECTION 16(9) IS EXCLUSIVE AND THAT
18 JURISDICTION OR ANY JUDICIAL DUTIES INHERENT IN THAT JURISDICTION
19 SHALL NOT BE TRANSFERRED TO ANY OTHER COURT. HOWEVER, THE COURT OF
20 APPEALS MAY REQUEST THE SUPREME COURT TO ASSIGN A RETIRED JUDGE
21 UNDER SECTION 226 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA
22 236, MCL 600.226, TO ASSIST THE COURT OF APPEALS BY RESOLVING
23 DISCOVERY ISSUES, REVIEWING THE EVIDENCE, MAKING PROPOSED FINDINGS
24 OF FACT AND CONCLUSIONS OF LAW, AND PERFORMING ANY OTHER NECESSARY
25 RELATED JUDICIAL DUTIES.

26 (11) UNLESS AN ACTION BROUGHT UNDER SUBSECTION (7) OR (8) IS
27 TIMELY PRESERVED FOR REVIEW BY THE MICHIGAN COURT OF APPEALS,

1 LITIGATION OF ANY ISSUE AS TO A GENERAL APPROPRIATIONS ACT OR ANY
2 AMENDMENT TO THAT GENERAL APPROPRIATIONS ACT, OR AN ACTION RELATING
3 TO THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THAT GENERAL
4 APPROPRIATIONS ACT, IS BARRED.

5 (12) THE PENDENCY OF A CLAIM IN A SUIT UNDER THIS SECTION
6 SHALL NOT CONSTITUTE A BASIS FOR EXPENDITURE OF FUNDS BY ANY
7 DEPARTMENT OR BRANCH OF, OR COURT FUNDED BY, THE COUNTY IN EXCESS
8 OF THAT AUTHORIZED BY A GENERAL APPROPRIATIONS ACT, INCLUDING AN
9 AMENDMENT TO THAT GENERAL APPROPRIATIONS ACT.

10 (13) IF ANY PORTION OF THIS SECTION OR THE APPLICATION OF THIS
11 SECTION TO ANY CIRCUMSTANCE IS FOUND TO BE INVALID BY A COURT, THE
12 INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS OR APPLICATION
13 OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID
14 PORTION OR APPLICATION. THE PROVISIONS OF THIS SECTION ARE
15 SEVERABLE.