

SENATE BILL No. 1057

September 7, 2016, Introduced by Senators ANANICH, HERTEL and BIEDA and referred to the Committee on Government Operations.

A bill to amend 2012 PA 436, entitled
"Local financial stability and choice act,"
by amending section 20 (MCL 141.1560).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20. (1) An emergency manager is ~~immune from liability as~~
2 ~~provided in section 7(5) of 1964 PA 170, MCL 691.1407.~~ **NOT PROTECTED**
3 **BY THE IMMUNITY CONFERRED BY 1964 PA 170, MCL 691.1401 TO 691.1419.**

4 (2) A person employed by an emergency manager is immune from
5 liability as provided in section 7(2) of 1964 PA 170, MCL 691.1407.

6 (3) ~~(2)~~ The attorney general shall defend any civil claim,
7 demand, or lawsuit ~~which~~ **THAT** challenges any of the following:

8 (a) The validity of this act.

9 (b) The authority of a state official or officer acting under

1 this act.

2 (c) The authority of an emergency manager if the emergency
3 manager is or was acting within the scope of authority for an
4 emergency manager under this act.

5 (4) ~~(3)~~ With respect to any aspect of a receivership under
6 this act, the costs incurred by the attorney general in carrying
7 out the responsibilities of subsection ~~(2)~~ (3) for attorneys,
8 experts, court filing fees, and other reasonable and necessary
9 expenses shall be at the expense of the local government that is
10 subject to that receivership and shall be reimbursed to the
11 attorney general by the local government. The failure of a
12 municipal government that is or was in receivership to remit to the
13 attorney general the costs incurred by the attorney general within
14 30 days after written notice to the municipal government from the
15 attorney general of the costs is a debt owed to this state and
16 shall be recovered by the state treasurer as provided in section
17 17a(5) of the Glenn Steil state revenue sharing act of 1971, 1971
18 PA 140, MCL 141.917a. The failure of a school district that is or
19 was in receivership to remit to the attorney general the costs
20 incurred by the attorney general within 30 days after written
21 notice to the school district from the attorney general of the
22 costs is a debt owed to this state and shall be recovered by the
23 state treasurer as provided in the state school aid act of 1979,
24 1979 PA 94, MCL 388.1601 to 388.1896. **BORNE BY THIS STATE AND SHALL
25 BE PAID FROM THE GENERAL FUND OF THIS STATE.**

26 (5) ~~(4)~~ An emergency manager may procure and maintain, at the
27 expense of the local government for which the emergency manager is

1 appointed, worker's compensation, general liability, professional
2 liability, and motor vehicle insurance for the emergency manager
3 and any employee, agent, appointee, or contractor of the emergency
4 manager as may be provided to elected officials, appointed
5 officials, or employees of the local government. The insurance
6 procured and maintained by an emergency manager may extend to any
7 claim, demand, or lawsuit asserted or costs recovered against the
8 emergency manager and any employee, agent, appointee, or contractor
9 of the emergency manager from the date of appointment of the
10 emergency manager to the expiration of the applicable statute of
11 limitation if the claim, demand, or lawsuit asserted or costs
12 recovered against the emergency manager or any employee, agent,
13 appointee, or contractor of the emergency manager resulted from
14 conduct of the emergency manager or any employee, agent, appointee,
15 or contractor of the emergency manager taken in accordance with
16 this act during the emergency manager's term of service.

17 (6) ~~(5)~~—If, after the date that the service of an emergency
18 manager is concluded, the emergency manager or any employee, agent,
19 appointee, or contractor of the emergency manager is subject to a
20 claim, demand, or lawsuit arising from an action taken during the
21 service of that emergency manager, and not covered by a procured
22 worker's compensation, general liability, professional liability,
23 or motor vehicle insurance, litigation expenses of the emergency
24 manager or any employee, agent, appointee, or contractor of the
25 emergency manager, including attorney fees for civil and criminal
26 proceedings and preparation for reasonably anticipated proceedings,
27 and payments made in settlement of civil proceedings both filed and

1 anticipated, shall be paid out of the funds of the local government
2 that is or was subject to the receivership administered by that
3 emergency manager, provided that the litigation expenses are
4 approved by the state treasurer and that the state treasurer
5 determines that the conduct resulting in actual or threatened legal
6 proceedings that is the basis for the payment is based upon both of
7 the following: BORNE BY THIS STATE AND SHALL BE PAID FROM THE

8 GENERAL FUND OF THIS STATE. THIS SUBSECTION IS RETROACTIVE AND
9 TAKES EFFECT JANUARY 1, 2012.

10 ~~—— (a) The scope of authority of the person or entity seeking the~~
11 ~~payment.~~

12 ~~—— (b) The conduct occurred on behalf of a local government while~~
13 ~~it was in receivership under this act.~~

14 ~~—— (c) The failure of a municipal government to honor and remit~~
15 ~~the legal expenses of a former emergency manager or any employee,~~
16 ~~agent, appointee, or contractor of the emergency manager as~~
17 ~~required by this section is a debt owed to this state and shall be~~
18 ~~recovered by the state treasurer as provided in section 17a(5) of~~
19 ~~the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL~~
20 ~~141.917a. The failure of a school district to honor and remit the~~
21 ~~legal expenses of a former emergency manager or any employee,~~
22 ~~agent, appointee, or contractor of the emergency manager as~~
23 ~~required by this section is a debt owed to this state and shall be~~
24 ~~recovered by the state treasurer as provided in the state school~~
25 ~~aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.~~

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

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No.____ or House Bill No.____ (request no.
3 05818'16 a) of the 98th Legislature is enacted into law.