

HOUSE BILL No. 6511

November 27, 2018, Introduced by Reps. Howrylak, Robinson 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 section 9 (MCL 141.1549).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) Upon appointment, an emergency manager ~~shall act~~ **ACTS** for
5 and in the place and stead of the governing body and the office of
6 chief administrative officer of the local government. The emergency
7 manager ~~shall have~~ **HAS** broad powers in receivership to rectify the
8 financial emergency and to assure the fiscal accountability of the
9 local government and the local government's capacity to provide or
10 cause to be provided necessary governmental services essential to
11 the public health, safety, and welfare. Following appointment of an

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

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

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

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

13 (c) The emergency manager ~~shall~~**MUST** be an individual.

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

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

26 (f) In addition to the salary provided to an emergency manager
27 in a contract approved by the state treasurer under subdivision

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

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

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

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

22 (a) Until removed by the governor or the legislature as
23 provided in subsection (3)(d). If an emergency manager is removed,
24 the governor shall within 30 days of the removal appoint a new
25 emergency manager.

26 (b) Until the financial emergency is rectified.

27 (c) If the emergency manager has served for at least 18 months

1 after his or her appointment under this act, the emergency manager
2 may, by resolution, be removed by a 2/3 vote of the governing body
3 of the local government. If the local government has a strong
4 mayor, the resolution requires strong mayor approval before the
5 emergency manager may be removed. Notwithstanding section 7(4), if
6 the emergency manager is removed under this ~~subsection~~**SUBDIVISION**
7 and the local government has not previously breached a consent
8 agreement under this act, the local government may within 10 days
9 negotiate a consent agreement with the state treasurer. If a
10 consent agreement is not agreed upon within 10 days, the local
11 government shall proceed with the neutral evaluation process
12 pursuant to section 25.

13 **(D) UNTIL REMOVED BY THE REGISTERED AND QUALIFIED ELECTORS OF**
14 **THE LOCAL GOVERNMENT AS PROVIDED IN SUBSECTION (12).**

15 (7) A local government shall be removed from receivership when
16 the financial conditions are corrected in a sustainable fashion as
17 provided in this act. In addition, the local government may be
18 removed from receivership if an emergency manager is removed under
19 subsection (6)(c) and the governing body of the local government by
20 2/3 vote approves a resolution for the local government to be
21 removed from receivership. If the local government has a strong
22 mayor, the resolution requires strong mayor approval before the
23 local government is removed from receivership. A local government
24 that is removed from receivership while a financial emergency
25 continues to exist as determined by the governor shall proceed
26 under the neutral evaluation process pursuant to section 25.

27 (8) The governor may delegate his or her duties under this

1 section to the state treasurer.

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

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

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

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

8 (10) An emergency financial manager appointed under former
9 1988 PA 101 or former 1990 PA 72, and serving immediately ~~prior to~~
10 ~~the effective date of this act,~~ **BEFORE MARCH 28, 2013**, shall be
11 considered an emergency manager under this act and shall continue
12 under this act to fulfill his or her powers and duties.

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

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

1 shall proceed under the neutral evaluation process as provided in
2 section 25.

3 (12) UPON THE FILING OF A PETITION TO REMOVE AN EMERGENCY
4 MANAGER FROM A LOCAL GOVERNMENT SIGNED BY THE REGISTERED AND
5 QUALIFIED ELECTORS EQUAL TO NOT LESS THAN 25% OF THE NUMBER OF
6 VOTES CAST FOR CANDIDATES FOR THE OFFICE OF GOVERNOR AT THE LAST
7 PRECEDING GENERAL ELECTION IN THE LOCAL GOVERNMENT IN WHICH THE
8 EMERGENCY MANAGER HAS BEEN APPOINTED, THE CLERK OF THE LOCAL
9 GOVERNMENT, OR THE SCHOOL DISTRICT ELECTION COORDINATOR OF THE
10 SCHOOL DISTRICT IF THE LOCAL GOVERNMENT IS A SCHOOL DISTRICT,
11 SHALL, UPON VERIFYING THE REQUIRED NUMBER OF SIGNATURES ON THE
12 PETITION, SUBMIT THE QUESTION OF WHETHER TO REMOVE THE EMERGENCY
13 MANAGER FROM THE LOCAL GOVERNMENT TO A VOTE OF THE ELECTORS OF THE
14 LOCAL GOVERNMENT AT THE NEXT GENERAL ELECTION OR SPECIAL ELECTION
15 CALLED FOR THAT PURPOSE AND CONDUCTED IN ACCORDANCE WITH THE
16 MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992. IF THE
17 QUESTION TO REMOVE THE EMERGENCY MANAGER FROM THE LOCAL GOVERNMENT
18 IS APPROVED BY A MAJORITY OF THE ELECTORS IN THE LOCAL GOVERNMENT
19 VOTING ON THE QUESTION, THE GOVERNOR SHALL IMMEDIATELY REMOVE THE
20 EMERGENCY MANAGER. IF AN EMERGENCY MANAGER IS REMOVED UNDER THIS
21 SUBSECTION, THE LOCAL GOVERNMENT SHALL PROCEED WITH THE NEUTRAL
22 EVALUATION PROCESS PURSUANT TO SECTION 25.