Legislative Analysis

FINANCIAL MANAGEMENT TEAMS

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House Bill 5141 as introduced
Sponsor: Rep. Jeff Yaroch

House Bills 5142, 5143, 5144, and 5145 as introduced
Sponsor: Rep. Tim Sneller

House Bills 5146, 5147, 5148, and 5149 as introduced
Sponsor: Rep. Sue Allor

House Bills 5150, 5151, and 5152 as introduced
Sponsor: Rep. Tyrone Carter

House Bills 5153, 5154, and 5155 as introduced
Sponsor: Rep. Brad Paquette

House Bill 5156, 5157, and 5158 as introduced
Sponsor: Rep. Abdullah Hammoud

Committee: Government Operations
Complete to 1-25-22

SUMMARY:

House Bill 5141 would amend the Local Financial Stability and Choice Act to allow the governor to address a financial emergency within a local government by appointing a financial management team for that local government, instead of appointing an emergency manager as the act currently provides. The transition from the emergency manager option to the financial management team option would take effect 90 days after enactment of the bill. HBs 5142 to 5158 would amend several different acts to revise references to "emergency managers" to include "financial management teams."

House Bill 5141 would add section 9a to the Local Financial Stability and Choice Act, to provide for financial management teams, and amend several sections of the act to facilitate the proposed transition from the emergency manager option to the financial management team option. Beginning the effective date of the bill (90 days after its enactment), the governor could appoint a financial management team to address a financial emergency in a ***local government***.

> ***Local government*** means a city, village, township, charter township, or county; a department of county government if the county has an elected county executive under 1966 PA 293; an authority established by law; a public utility owned by a city, village, township, or county; or a school district.

Appointment and powers

The financial management team would be appointed by the governor with the advice and consent of the Senate and would consist of the following three members:

- An individual with at least five years' experience and demonstrable expertise in financial matters.
- An individual with at least three years' experience working in local government.

- An individual who is a resident of the local government and who is appointed from a list of at least three names recommended by the local government's governing body to act as local ombudsman.

Upon appointment, the financial management team would act for and in the place of the governing body and chief administrative officer of the local government. The team would have broad powers in receivership to rectify the financial emergency, to assure the local government's fiscal accountability, and to assure the local government's ability to provide for necessary governmental services essential to the health, safety, and welfare of the public.

After appointment of a team and during the receivership, the local government's governing body and chief administrative officer would be subject to the conditions required by the financial management team and could not exercise any powers of those offices except as specifically authorized in writing by the financial management team or as otherwise provided by the act.

Meetings

By 14 days after appointment of the last member of a financial management team, the governor would have to call the team's first meeting, at which the team members would elect a chairperson from among themselves. The team would thereafter meet quarterly, although it could meet more frequently at the call of the chair or if requested by two of its members.

The team would have to conduct its business at a public meeting held in compliance with the Open Meetings Act, and documents prepared, owned, used, or possessed by the team in performing an official function would be subject to the Freedom of Information Act.

Decisions of a financial management team for the local government would have to be made by a majority of its members.

Compensation and staff

Each member of a team would have to be paid by the state; the compensation would be set forth in a contract approved by the state treasurer and posted on the Department of Treasury website within seven days after that approval.

The financial management team would have to appoint staff as it considered necessary to fulfill its appointment, in addition to staff otherwise authorized by law.

Standards of conduct, removing a member, vacancies

Each member of a team would be subject to 1968 PA 318 (concerning conflicts of interest of state officers), 1973 PA 196 (concerning standards of conduct for public officers), and 1968 PA 317 (concerning the conduct of public servants with respect to governmental decisions and contracts with public entities).

Each member of a team would be subject to impeachment (by the House of Representatives) and conviction (by the Senate) as if he or she were a civil officer under section 7 of Article XI of the state constitution.

The governor could remove a member of a team for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause, and would have to appoint a new member to the team within 14 days after the removal in the same manner as the original appointment.

If a vacancy occurred on a financial management team (except due to a removal by the governor as described above), the governor would have to make an appointment in the same manner as the original appointment within 14 days.

Reports

A financial management team would have to submit quarterly reports to the state treasurer regarding the financial condition of the local government in receivership, with a copy to each legislator representing the local government and, for a school district, to the superintendent of public instruction. Each quarterly report would also have to be posted on the local government's website within seven days after its submission to the state treasurer.

Duration of team

A financial management team would continue in that capacity as follows:

- Until the financial emergency was rectified.
- Until the team was removed by the governor. The governor would have 30 days to appoint a new financial management team following such a removal.
- Until the team, *having served for at least 18 months*, was removed by a 2/3 vote of the governing body of the local government and, if applicable, approval by the local government's strong mayor. Within 10 days after the removal, the local government could negotiate a consent agreement with the state treasurer as long as it had not previously breached a consent agreement under the act. The local government would have to proceed with the neutral evaluation process under the act if no consent agreement were agreed to within that 10-day period.

In cases where the financial management team has served for less than 18 months, the governing body of a local government could pass a resolution (with approval, if applicable, by the strong mayor) petitioning the governor to remove the team and allow the local government to proceed under the neutral evaluation process under the act. If the governor accepted the resolution, the local government would proceed under that process.

Removal from receivership

A local government would have to be removed from receivership when the financial conditions were corrected in sustainable fashion as provided in the act. A local government could be removed from receivership if, having removed the financial management team as described above, the governing body by a 2/3 vote (and strong mayor, if applicable) approved a resolution for the local government to be removed from receivership. A local government removed from receivership while a financial emergency continued to exist, as determined by the governor, would proceed under the neutral evaluation process under the act.

State treasurer

The governor could delegate his or her duties under the bill to the state treasurer.

Amendments to existing sections of law

The bill also would amend several sections of the act to provide for the transition from the emergency manager option to the financial management team option. Provisions that currently apply to emergency managers (for example, those concerning actions that may be taken with respect to a local government that is in receivership, or those concerning information about the emergency manager that must be made available online) would be revised to include financial management teams or, where appropriate, the individual members of those teams.

Finally, the bill would also add two new provisions, under which:

- An emergency manager or financial management team appointed for a local government could not change the public water supply providing drinking water to that local government unless approved by a majority of the local government's voters.
- An emergency manager or financial management team could not use cost as the primary factor for an action or decision with a direct impact on the public health, safety, or welfare of the residents of the local government where the manager or team was appointed.

The bill would take effect 90 days after being enacted.

MCL 141.1542 et seq. and proposed MCL 141.1549a

House Bills 5142 through 5158 would amend several different acts that contain references to emergency managers under the Local Financial Stability and Choice Act to include references to financial management teams where appropriate. Each bill would take effect 90 days after being enacted, and each is tie-barred to HB 5141, which means that it could not take effect unless HB 5141 were also enacted. The bills would amend the following acts:

HB 5142:	Metropolitan Transportation Authorities Act of 1967 (MCL 124.426)
HB 5143:	1855 PA 105, concerning surplus funds (MCL 21.141)
HB 5144:	1947 PA 336, concerning public employees (MCL 423.215)
HB 5145:	Michigan Financial Review Commission Act (MCL 141.1636 and 141.1642)
HB 5146:	1966 PA 293, concerning charter counties (MCL 45.501a)
HB 5147:	1851 PA 156, concerning county boards of commissioners (MCL 46.1a)
HB 5148:	Charter Township Act (MCL 42.1a)
HB 5149:	1846 RS 16, concerning townships (MCL 41.1a)
HB 5150:	State School Aid Act of 1979 (MCL 388.1617a)
HB 5151:	Revised School Code (MCL 380.1225)
HB 5152:	1978 PA 566, concerning incompatible public offices (MCL 15.183)
HB 5153:	Natural Resources and Environmental Protection Act (MCL 324.5204e)
HB 5154:	Emergency Municipal Loan Act (MCL 141.933 and 141.937)
HB 5155:	Home Rule City Act (MCL 117.1b)
HB 5156:	General Law Village Act (MCL 61.1c)
HB 5157:	Home Rule Village Act (MCL 78.1b)
HB 5158:	Fourth Class City Act (MCL 81.1d)

FISCAL IMPACT:

The net fiscal impact of replacing emergency managers with financial management teams primarily would be dependent on the administrative cost differential between the two systems, mainly in the areas of compensation and operational costs. The duties, powers, and responsibilities of the financial management team would be substantially similar to the current emergency manager, so it is unlikely that the fiscal impact would be significant. Each local government and school district financial emergency presents a unique set of circumstances. Therefore, estimating fiscal outcome comparisons between the financial management teams proposed under the bills and the current emergency manager system is not possible.

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