



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4214 (Substitute S-4 as reported by the Committee of the Whole)
House Bills 4216, 4217, and 4218 (as reported without amendment)
Sponsor: Representative Al Pscholka
House Committee: Local, Intergovernmental, and Regional Affairs
Senate Committee: Education

CONTENT

House Bill 4214 (S-4) would repeal the Local Government Fiscal Responsibility Act, and create the "Local Government and School District Fiscal Accountability Act", which similarly would provide for the review, management, and control of the financial and other operations of a local government (a municipal government or a school district). In particular, the bill would do the following:

- Allow the State financial authority (the State Treasurer or, in the case of a school district, the Superintendent of Public Instruction) to conduct a preliminary review to determine the existence of a local government financial problem if certain events occurred.
- Require the Governor to appoint a review team if a finding of probable financial stress were made.
- Authorize the review team to sign a consent agreement with the local government's chief administrative officer, and provide that a consent agreement could include a continuing operations plan or a recovery plan.
- Require the review team to report that the local government was not in financial stress, was in mild financial stress, or was in severe financial stress (and a consent agreement had or had not been adopted); or that a financial emergency existed.
- Require the Governor to make a similar determination after receiving the review team's report and, following the opportunity for a hearing, confirm or revoke a determination that a financial emergency existed.
- Require the Governor to declare the local government in receivership and appoint an emergency manager, upon confirmation of a financial emergency.
- Require the emergency manager to develop a financial and operating plan for the local government.
- Require the plan to provide for, among other things, the modification, termination, or renegotiation of contracts, and, for school districts, an academic or educational plan.
- Authorize the emergency manager to reject, modify, or terminate the terms of an existing contract or a collective bargaining agreement (CBA).
- Authorize the emergency manager to order millage elections.
- Authorize the emergency manager for a municipal government to disincorporate or dissolve the municipal government with the approval of the Governor; or recommend consolidation with another municipal government.
- Authorize the emergency manager for a school district to recommend to the Governor that the district be reorganized.
- Authorize a school district's emergency manager to close schools and buildings.
- Provide that any contract involving a cumulative value of \$50,000 or more would be subject to competitive bidding by the emergency manager, except as otherwise authorized by the State Treasurer.

- Provide that the emergency manager for a city or village could not sell or transfer a public utility furnishing light, heat, or power without voter approval, and could not use the separate assets of such a utility to satisfy the city's or village's general obligations.
- Eliminate the salary and benefits of the chief administrative officer and governing body members during a receivership, except as restored by the emergency manager.
- Provide that the local governing body and chief administrative officer could not exercise any of the powers of those offices during the receivership.
- Allow the emergency manager to recommend to the Governor and the State Treasurer that a local government be allowed to proceed under Federal bankruptcy law.
- Exempt a local government in receivership from collective bargaining requirements for five years or until the receivership was terminated, whichever occurred first.
- Require an emergency manager to adopt a two-year budget for the local government, and ensure that all applicable CBAs, if any, were in place before the receivership terminated.
- Allow the State Treasurer, in a consent agreement, to grant to local officials the powers prescribed for an emergency manager except the power to reject, modify, or terminate collective bargaining agreements.
- Provide that, beginning 30 days after a local government entered into a consent agreement, it would not be subject to collective bargaining requirements during the remaining term of the agreement, unless the State Treasurer determined otherwise.
- Provide that an emergency manager would serve at the pleasure of the Governor but would be subject to impeachment and conviction by the Legislature and removal from office by the Governor as provided in the State Constitution.

In addition, if a municipal government's pension fund were not actuarially funded at a level of 80% or more, the emergency manager could remove trustees of the local pension board or, if the State Treasurer appointed the emergency manager as sole trustee of the board, replace all serving trustees. If the emergency manager served as sole trustee, he or she would assume the authority and fiduciary responsibilities of the board, but could not make changes to a local pension fund without the State Treasurer's approval.

An emergency financial manager who was appointed and serving on the bill's effective date would have to continue to fulfill his or her powers and duties, and would be subject to the bill's provisions.

The bill would define "municipal government" as a city, village, township, charter township, or county, an authority established by law, or a public utility owned by a city, village, township, or county. "School district" would mean a school district or an intermediate school district.

House Bills 4216, 4217, and 4218 would amend the Revised Municipal Finance Act, the Michigan Election Law, and the Home Rule City Act, respectively, to replace references to the Local Government Fiscal Responsibility Act with references to the proposed Act. Those bills are tie-barred to House Bill 4214.

House Bill 4214 (S-4) is tie-barred to Senate Bill 158 (which would amend the public employment relations Act to require a new collective bargaining agreement between a public employer and public employees to include a provision allowing an emergency manager to reject, modify, or terminate the agreement; state that this provision would be a prohibited subject of bargaining; and specify that CBAs could be rejected, modified, or terminated pursuant to the Local Government and School District Fiscal Accountability Act).

MCL 141.2303 (H.B. 4216)
 168.971 (H.B. 4217)
 117.36a (H.B. 4218)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 4214 (S-4) would add more circumstances under which the State could undertake a preliminary review of a local government's finances. As a result, it is likely that more preliminary reviews would be required and pursued, thereby adding State costs to the Department of Treasury and/or the Department of Education. However, the extent of the additional cost is unknown, and would depend upon the additional reviews of finances that occurred due to the legislation. If the additional reviews resulted in determinations of financial distress that required additional State action, higher State costs in monitoring any corrective plans would result.

Several local fiscal impacts could occur due to this legislation. They are discussed below, but not necessarily in order of magnitude.

First, the bill would suspend the authority of a chief administrative officer or governing body to exercise power on behalf of the local government, during the pendency of a receivership, unless otherwise specified in a consent agreement. This means that the emergency manager would have significant control over all aspects of governing a unit in receivership (not just financial), and could result in local financial impacts, positive or negative.

Second, the financial and operating plan could include a modification or renegotiation of contracts, the timely deposit of required payments to the pension fund, an academic plan, or other necessary actions. A change by the emergency manager in any of these items likely would have fiscal impacts on the affected government unit.

Third, the requirement to collectively bargain would not be in effect for a local government entering into a consent agreement, for the duration of the agreement. Also, for a local government in receivership, an emergency manager could reject, modify, or terminate one or more terms and conditions of an existing collective bargaining agreement. This could be done after meeting and conferring with the appropriate bargaining representative and deciding that a prompt and satisfactory resolution would not likely be obtained.

Fourth, under certain conditions, the manager could elect to remove one or more trustees of the local pension board and assume authority of the board, enter into agreement with other governments for consolidation of services, recommend consolidation, or dissolve the municipal government. Again, these actions would have fiscal impacts on the unit of government(s) affected.

Fifth, salaries of the chief administrative officer and governing body members of a local government in receivership would be eliminated; however, they could be restored by the emergency manager if found consistent with the financial and operating plan. An emergency manager could employ or contract for other school administrators necessary to implement this Act.

Finally, costs to a local government from being represented by the Attorney General would have to be paid out of the local government's operating budget. If payments were not made, revenue sharing or School Aid payments could be withheld.

House Bills 4216, 4217, and 4218 would have no fiscal impact on State or local government.

Date Completed: 3-8-11

Fiscal Analyst: Kathryn Summers

FloorHb4214

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.