

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 771

A bill to amend 1990 PA 72, entitled
"Local government fiscal responsibility act,"
by amending section 21 (MCL 141.1221), as amended by 2002 PA
408.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) An emergency financial manager may take 1 or
2 more of the following additional actions with respect to ~~the a~~
3 **unit of** local government in which a financial emergency has been
4 determined to exist:

5 (a) Analyze factors and circumstances contributing to the
6 financial condition of the **unit of** local government and recommend
7 steps to be taken to correct the condition.

8 (b) Amend, revise, approve, or disapprove the budget of the
9 **unit of** local government, and limit the total amount appropriated
10 or expended during the balance of the financial emergency.

1 (c) Require and approve or disapprove, or amend or revise a
2 plan for ~~liquidating~~ **paying** all outstanding ~~debt~~ **obligations**
3 of the **unit of** local government.

4 (d) Require and prescribe the form of special reports to be
5 made by the finance officer of the **unit of** local government to
6 its governing body, the creditors of the **unit of** local
7 government, the emergency financial manager, or the public.

8 (e) Examine all records and books of account, and require
9 under the procedures of the uniform budgeting and accounting act,
10 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
11 21.55, or both, the attendance of witnesses and the production of
12 books, papers, contracts, and other documents relevant to an
13 analysis of the financial condition of the **unit of** local
14 government.

15 (f) Make, approve, or disapprove any appropriation, contract,
16 expenditure, or loan, the creation of any new position, or the
17 filling of any vacancy in a permanent position by any appointing
18 authority.

19 (g) Review payrolls or other claims against the **unit of** local
20 government before payment.

21 (h) Exercise all of the authority of the **unit of** local
22 government to renegotiate existing labor contracts and act as an
23 agent of the **unit of local government** in collective bargaining
24 with employees or representatives and approve any contract or
25 agreement.

26 (i) ~~Unless prohibited by law or charter, to~~ **Notwithstanding**
27 **the provisions of any charter to the contrary,** consolidate

1 departments **of the unit of local government** or transfer functions
2 from 1 department to another and to appoint, supervise, and, at
3 his or her discretion, remove heads of departments other than
4 elected officials, **the clerk of the unit of local government, and**
5 **any ombudsman position in the unit of local government.**

6 (j) Employ or contract for, at the expense of the **unit of**
7 local government and with the approval of the local emergency
8 financial assistance loan board, auditors and other technical
9 personnel considered necessary to implement this article.

10 (k) Require compliance with the orders of the emergency
11 financial manager by court action if necessary.

12 (l) Except as restricted by charter or otherwise, sell or
13 otherwise use the assets of the **unit of** local government to meet
14 past or current obligations, provided the use of assets for this
15 purpose does not endanger **the** public health, safety, or welfare
16 **of residents of the unit of local government.**

17 (m) Apply for a loan from the state on behalf of the **unit of**
18 local government, subject to the conditions of the emergency
19 municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, in a
20 sufficient amount to pay the expenses of the emergency financial
21 manager and for other lawful purposes.

22 (n) Approve or disapprove of the issuance of obligations of
23 the **unit of** local government on behalf of the municipality,
24 subject to the conditions of the revised municipal finance act,
25 2001 PA 34, MCL 141.2101 to 141.2821, and the revenue bond act of
26 1933, 1933 PA 94, MCL 141.101 to 141.140.

27 (o) Enter into agreements with other **units of** local

Senate Bill No. 771 (H-1) as amended December 10, 2003

1 ~~governments~~ **government** for the provision of services.

2 (p) Exercise the authority and responsibilities **of the chief**
3 **administrative officer and governing body concerning the**
4 **adoption, amendment, and enforcement of ordinances or resolutions**
5 affecting the financial condition of the **unit of** local government
6 as provided in the following acts:

7 (i) The home rule city act, 1909 PA 279, MCL 117.1 to
8 117.38.

9 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
10 113.20.

11 (iii) The charter township act, 1947 PA 359, MCL 42.1 to
12 42.34.

13 (iv) 1851 PA 156, MCL 46.1 to 46.32.

14 (v) 1966 PA 293, MCL 45.501 to 45.521.

15 (vi) The general law village act, 1895 PA 3, MCL 61.1 to
16 74.25.

17 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
18 78.28.

19 (q) Reduce, suspend, or eliminate the salary, or other
20 compensation of **[the chief administrative officer and]** members of the
governing body of the unit of

21 local government during the financial emergency. This

22 subdivision does not authorize an emergency financial manager to

23 impair vested retirement benefits. If an emergency financial

24 manager has reduced, suspended, or eliminated the salary or other

25 compensation of **[the chief administrative officer and]** members of the
governing body of a unit of local

26 government before the effective date of the amendatory act that

27 added this subdivision, the reduction, suspension, or elimination

1 is valid to the same extent had it occurred after the effective
2 date of the amendatory act that added this subdivision.

3 (2) If a financial emergency exists under the local
4 government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to
5 141.1291, the emergency financial manager shall make a
6 determination as to whether possible criminal conduct contributed
7 to the financial emergency. If the manager determines that there
8 is reason to believe that criminal conduct has occurred, the
9 manager shall refer the matter to the attorney general and the
10 local prosecuting attorney for investigation. The determination
11 required under this subsection shall be made by 1 of the
12 following dates, whichever is later:

13 (a) Within 90 days after the effective date of the amendatory
14 act that added this subsection.

15 (b) Within 180 days after the date the emergency financial
16 manager is appointed.

17 (3) Not later than 90 days after the completion of the
18 emergency financial manager's term, the governing body of the
19 unit of local government shall review any ordinance implemented
20 by the emergency financial manager during his or her term, except
21 any ordinance enacted to assure the payment of principal and
22 interest on bonds.