

# HOUSE BILL No. 5076

October 13, 2011, Introduced by Reps. Pettalia, Bumstead and Wayne Schmidt and referred to the Committee on Judiciary.

A bill to amend 1968 PA 2, entitled "Uniform budgeting and accounting act," by amending sections 16 and 18 (MCL 141.436 and 141.438), as amended by 2000 PA 493.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 16. (1) Unless another method for adopting a budget is  
2 provided by a charter provision in effect on April 1, 1980, the  
3 legislative body of each local unit shall pass a general  
4 appropriations act for all funds except trust or agency, internal  
5 service, enterprise, debt service or capital project funds for  
6 which the legislative body may pass a special appropriation act.

7           (2) The general appropriations act shall set forth the total  
8 number of mills of ad valorem property taxes to be levied and the  
9 purposes for which that millage is to be levied. The amendatory act  
10 that added this subsection shall be known and may be cited as "the

1 truth in budgeting act".

2 (3) The general appropriations act shall set forth the amounts  
3 appropriated by the legislative body to defray the expenditures and  
4 meet the liabilities of the local unit for the ensuing fiscal year,  
5 and shall set forth a statement of estimated revenues, by source,  
6 in each fund for the ensuing fiscal year.

7 (4) The general appropriations act shall be consistent with  
8 uniform charts of accounts prescribed by the state treasurer or,  
9 for local school districts and intermediate school districts, by  
10 the state board of education.

11 (5) This act shall not be interpreted to mandate the  
12 development or adoption by a local unit of a line-item budget or  
13 line-item general appropriations act.

14 (6) The legislative body shall determine the amount of money  
15 to be raised by taxation necessary to defray the expenditures and  
16 meet the liabilities of the local unit for the ensuing fiscal year,  
17 shall order that money to be raised by taxation, within statutory  
18 and charter limitations, and shall cause the money raised by  
19 taxation to be paid into the funds of the local unit.

20 (7) Except as otherwise permitted by section 102 of the state  
21 school aid act of 1979, 1979 PA 94, MCL 388.1702, or by other law,  
22 the legislative body shall not adopt a general appropriations act  
23 or an amendment to that act which causes estimated total  
24 expenditures, including an accrued deficit, to exceed total  
25 estimated revenues, including an available surplus and the proceeds  
26 from bonds or other obligations issued under the fiscal  
27 stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011, or the

1 balance of the principal of these bonds or other obligations.

2 (8) A GENERAL APPROPRIATIONS ACT, INCLUDING ANY AMENDMENT TO  
3 THAT GENERAL APPROPRIATIONS ACT, IS PRESUMED TO FUND THOSE  
4 ACTIVITIES OF A LOCAL UNIT MANDATED BY LAW AT A SERVICEABLE LEVEL.

5 (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE CHIEF  
6 ADMINISTRATIVE OFFICER OF A LOCAL UNIT HAS EXCLUSIVE STANDING TO  
7 BRING SUIT AGAINST THE LEGISLATIVE BODY OF THAT LOCAL UNIT  
8 CONCERNING A GENERAL APPROPRIATIONS ACT, INCLUDING ANY CHALLENGE AS  
9 TO SERVICEABLE LEVELS OF FUNDING FOR ANY DEPARTMENT OR BRANCH OF  
10 THAT LOCAL UNIT, INCLUDING A DEPARTMENT OR BRANCH HEADED BY ANOTHER  
11 ELECTED OR APPOINTED OFFICIAL. A COURT FUNDED BY A LOCAL UNIT HAS  
12 STANDING TO BRING A SUIT ON ITS OWN BEHALF AGAINST THE LEGISLATIVE  
13 BODY OF THAT LOCAL UNIT CONCERNING A GENERAL APPROPRIATIONS ACT,  
14 INCLUDING ANY CHALLENGE AS TO SERVICEABLE LEVELS OF FUNDING FOR  
15 THAT COURT. THE COURT HEARING A SUIT SHALL CONSIDER THE FINANCIAL  
16 ABILITY OF THE LOCAL UNIT TO PAY WHEN CONSIDERING ANY CHALLENGE AS  
17 TO SERVICEABLE LEVELS OF FUNDING.

18 (10) IF ANY PORTION OF THIS SECTION OR THE APPLICATION OF THIS  
19 SECTION TO ANY CIRCUMSTANCE IS FOUND TO BE INVALID BY A COURT, THE  
20 INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS OR APPLICATION  
21 OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID  
22 PORTION OR APPLICATION. THE PROVISIONS OF THIS SECTION ARE  
23 SEVERABLE.

24 Sec. 18. (1) A member of the legislative body, chief  
25 administrative officer, administrative officer, or employee of the  
26 local unit shall not create a debt or incur a financial obligation  
27 on behalf of the local unit unless the debt or obligation is

1 permitted by law.

2 (2) The chief administrative officer may cause the  
3 appropriations made by the legislative body for the local unit and  
4 its budgetary centers to be divided into allotments if the  
5 allotments are based upon the periodic requirements of the local  
6 unit and its budgetary centers.

7 (3) Except as otherwise provided in section 19, an  
8 administrative officer of the local unit shall not incur  
9 expenditures against an appropriation account in excess of the  
10 amount appropriated by the legislative body. The chief  
11 administrative officer, an administrative officer, or an employee  
12 of the local unit shall not apply or divert money of the local unit  
13 for purposes inconsistent with those specified in the  
14 appropriations of the legislative body.

15 (4) No duties shall be delegated to the chief administrative  
16 officer that diminish any charter or statutory responsibilities of  
17 an elected or appointed official.

18 (5) **THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF A  
19 GENERAL APPROPRIATIONS ACT APPROVED BY THE LEGISLATIVE BODY OF A  
20 LOCAL UNIT ARE POWERS EXCLUSIVELY VESTED IN THE CHIEF  
21 ADMINISTRATIVE OFFICER OF THAT LOCAL UNIT.**

22 (6) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE  
23 LEGISLATIVE BODY OF A LOCAL UNIT HAS EXCLUSIVE STANDING TO BRING  
24 SUIT AGAINST THE CHIEF ADMINISTRATIVE OFFICER OF THAT LOCAL UNIT  
25 CONCERNING AN ACTION RELATING TO THE ADMINISTRATION, EXECUTION, AND  
26 ENFORCEMENT OF A GENERAL APPROPRIATIONS ACT FOR ANY DEPARTMENT OR  
27 BRANCH OF THAT LOCAL UNIT, INCLUDING A DEPARTMENT OR BRANCH HEADED**

1 BY ANOTHER ELECTED OR APPOINTED OFFICIAL. A COURT FUNDED BY A LOCAL  
2 UNIT HAS STANDING TO BRING SUIT ON ITS OWN BEHALF AGAINST THE CHIEF  
3 ADMINISTRATIVE OFFICER OF THAT LOCAL UNIT CONCERNING AN ACTION  
4 RELATING TO THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF A  
5 GENERAL APPROPRIATIONS ACT FOR THAT COURT.

6 (7) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY  
7 SUIT BROUGHT UNDER SUBSECTION (6) OR SECTION 16(9) SHALL ONLY BE  
8 BROUGHT IN THE MICHIGAN COURT OF APPEALS WITHIN 30 DAYS AFTER 1 OF  
9 THE FOLLOWING:

10 (A) THE ADOPTION OF A GENERAL APPROPRIATIONS ACT.

11 (B) AN AMENDMENT TO A GENERAL APPROPRIATIONS ACT OR AN ACTION  
12 RELATING TO THE ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THAT  
13 GENERAL APPROPRIATIONS ACT, IF THE AMENDMENT OR ACTION CONSTITUTES  
14 A BASIS FOR THE SUIT.

15 (8) THE COURT'S JURISDICTION OVER AND REVIEW OF THE ISSUES  
16 RAISED IN A SUIT BROUGHT UNDER SUBSECTION (7) (B) IS LIMITED TO THAT  
17 PORTION OF THE GENERAL APPROPRIATIONS ACT THAT IS DIRECTLY AFFECTED  
18 BY THE AMENDMENT OR ACTION.

19 (9) UNLESS AN ACTION BROUGHT UNDER SUBSECTION (7) IS TIMELY  
20 PRESERVED FOR REVIEW BY THE MICHIGAN COURT OF APPEALS, LITIGATION  
21 OF ANY ISSUE AS TO A GENERAL APPROPRIATIONS ACT OR ANY AMENDMENT TO  
22 THAT GENERAL APPROPRIATIONS ACT, OR AN ACTION RELATING TO THE  
23 ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THAT GENERAL  
24 APPROPRIATIONS ACT, IS BARRED.

25 (10) THE PENDENCY OF A CLAIM IN A SUIT UNDER THIS SECTION  
26 SHALL NOT CONSTITUTE A BASIS FOR EXPENDITURE OF FUNDS BY ANY  
27 DEPARTMENT OR BRANCH OF, OR COURT FUNDED BY, THE LOCAL UNIT IN

1 EXCESS OF THAT AUTHORIZED BY A GENERAL APPROPRIATIONS ACT,  
2 INCLUDING AN AMENDMENT TO THAT GENERAL APPROPRIATIONS ACT.

3 (11) IF ANY PORTION OF THIS SECTION OR THE APPLICATION OF THIS  
4 SECTION TO ANY CIRCUMSTANCE IS FOUND TO BE INVALID BY A COURT, THE  
5 INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS OR APPLICATION  
6 OF THIS SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID  
7 PORTION OR APPLICATION. THE PROVISIONS OF THIS SECTION ARE  
8 SEVERABLE.