

HOUSE BILL No. 4177

February 1, 2011, Introduced by Rep. Nathan and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1990 PA 72, entitled "Local government fiscal responsibility act," by amending section 38 (MCL 141.1238).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38. (1) If the superintendent of public instruction
2 determines under section 35 or 36 that a school district has a
3 financial emergency, the superintendent of public instruction,
4 within 30 days after that determination, shall submit to the state
5 board the names of nominees who shall be considered for appointment
6 to serve as an emergency financial manager for the school district.
7 From the list of nominees submitted to the state board, the state
8 board shall submit to the governor the names of not more than 3
9 nominees who shall be considered for appointment to serve as an
10 emergency financial manager for the school district. From the list
11 of nominees submitted to the governor, the governor shall appoint,

1 with the advice and consent of the senate, an emergency financial
2 manager for the school district who shall hold office for a term
3 fixed by the ~~governor~~ **EDUCATION FINANCIAL EMERGENCY RESOLUTION**
4 **BOARD CREATED UNDER SUBSECTION (4)**, but not to exceed 1 year. The
5 appointment shall be by written contract and may be renewed on an
6 annual basis for not more than 1 year. **THE WRITTEN CONTRACT BETWEEN**
7 **THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD AND THE**
8 **EMERGENCY FINANCIAL MANAGER SHALL CONTAIN SPECIFIC CONTRACTUAL**
9 **REMEDIES FOR FAILURE OF THE EMERGENCY FINANCIAL MANAGER TO COMPLY**
10 **WITH THE REQUIREMENTS OF THIS ARTICLE.**

11 (2) An emergency financial manager appointed under this
12 article shall be chosen solely on the basis of his or her
13 competence in **PUBLIC SECTOR** fiscal matters and shall not have been
14 either an elected or appointed official or employee of the school
15 district for which he or she is appointed for not less than 5 years
16 before the appointment. The emergency financial manager shall not
17 be the superintendent of public instruction. The emergency
18 financial manager need not be a resident of the school district for
19 which he or she is appointed. **FOR THE PURPOSES OF THIS SECTION, AN**
20 **INDIVIDUAL SHALL NOT BE CONSIDERED TO BE COMPETENT IN PUBLIC SECTOR**
21 **FISCAL MATTERS UNLESS THE EDUCATION FINANCIAL EMERGENCY RESOLUTION**
22 **BOARD FINDS THAT HE OR SHE HAS DEMONSTRATED PREVIOUS PUBLIC SECTOR**
23 **EXPERIENCE, WHICH DOES NOT HAVE TO BE WITH A SCHOOL DISTRICT,**
24 **SHOWING THAT HE OR SHE IS QUALIFIED TO DO AT LEAST ALL OF THE**
25 **FOLLOWING:**

26 (A) **PREPARE AND ANALYZE A BUDGET OF A SIZE APPROPRIATE FOR A**
27 **SCHOOL DISTRICT THE SIZE OF THE AFFECTED SCHOOL DISTRICT.**

1 (B) REVIEW AND CREATE BOOKKEEPING AND ACCOUNTING SYSTEMS OF A
2 TYPE APPROPRIATE FOR A SCHOOL DISTRICT THE SIZE OF THE AFFECTED
3 SCHOOL DISTRICT.

4 (C) CREATE A DEFICIT REDUCTION PLAN APPROPRIATE FOR A SCHOOL
5 DISTRICT THE SIZE OF THE AFFECTED SCHOOL DISTRICT.

6 (D) TAKE ACTIONS IN ACCORDANCE WITH THE UNIFORM BUDGETING AND
7 ACCOUNTING ACT, 1968 PA 2, MCL 141.421 TO 141.440A, AND IN
8 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

9 (E) REVIEW AND CREATE PROFIT AND PROFIT-LOSS STATEMENTS,
10 BALANCE SHEET STATEMENTS, CASH FLOW ANALYSES, CASH RECEIPTS
11 JOURNALS, ACCOUNTS PAYABLE, GENERAL LEDGERS, AND OTHER SIMILAR
12 FINANCIAL DOCUMENTS.

13 (3) Unless the legislature provides special funding, an
14 emergency financial manager shall receive compensation and
15 reimbursement for actual and necessary expenses from the school
16 district as approved by the ~~superintendent of public instruction~~
17 EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD CREATED UNDER
18 SUBSECTION (4). In addition to staff otherwise authorized by law,
19 with the approval of the ~~superintendent of public instruction,~~
20 EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD CREATED UNDER
21 SUBSECTION (4), the emergency financial manager may appoint
22 additional staff and secure professional assistance considered
23 necessary to implement this article.

24 (4) THERE IS CREATED AN EDUCATION FINANCIAL EMERGENCY
25 RESOLUTION BOARD WITHIN THE DEPARTMENT OF EDUCATION. ALL OF THE
26 FOLLOWING APPLY TO THIS BOARD:

27 (A) THIS BOARD SHALL CONSIST OF THE SUPERINTENDENT OF PUBLIC

1 INSTRUCTION OR HIS OR HER DESIGNEE, THE STATE TREASURER OR HIS OR
2 HER DESIGNEE, AND THE DIRECTOR OF THE DEPARTMENT OF TECHNOLOGY,
3 MANAGEMENT, AND BUDGET OR HIS OR HER DESIGNEE.

4 (B) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE, SHALL SERVE
5 AS A NONVOTING MEMBER OF THE EDUCATION FINANCIAL EMERGENCY
6 RESOLUTION BOARD FOR THE SOLE PURPOSE OF PROVIDING LEGAL COUNSEL TO
7 THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD.

8 (C) FOR THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD'S
9 FUNCTIONS RELATED TO A PARTICULAR SCHOOL DISTRICT, THE PRESIDENT OF
10 THE SCHOOL BOARD OF THAT SCHOOL DISTRICT SHALL SERVE AS A NONVOTING
11 MEMBER OF THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD.

12 (D) THE SUPERINTENDENT OF PUBLIC INSTRUCTION, OR HIS OR HER
13 DESIGNEE, SHALL SERVE AS CHAIRPERSON OF THE EDUCATION FINANCIAL
14 EMERGENCY RESOLUTION BOARD.

15 (E) EXCEPT FOR BUDGETING, PROCUREMENT, AND RELATED FUNCTIONS
16 OF THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD THAT SHALL BE
17 PERFORMED UNDER THE DIRECTION AND SUPERVISION OF THE SUPERINTENDENT
18 OF PUBLIC INSTRUCTION, THE EDUCATION FINANCIAL EMERGENCY RESOLUTION
19 BOARD SHALL EXERCISE ITS PRESCRIBED STATUTORY POWERS, DUTIES, AND
20 FUNCTIONS INDEPENDENTLY OF THE DEPARTMENT OF EDUCATION.

21 (5) THE EDUCATION FINANCIAL EMERGENCY RESOLUTION BOARD SHALL
22 DO ALL OF THE FOLLOWING WITH RESPECT TO EACH SCHOOL DISTRICT THAT
23 HAS AN EMERGENCY FINANCIAL MANAGER APPOINTED UNDER THIS ARTICLE:

24 (A) DIRECTLY SUPERVISE THE EMERGENCY FINANCIAL MANAGER AND
25 OVERSEE ALL DAY-TO-DAY OPERATIONS OF THE EMERGENCY FINANCIAL
26 MANAGER.

27 (B) REVIEW AND APPROVE ALL COMPENSATION AND REIMBURSEMENTS

1 MADE TO THE EMERGENCY FINANCIAL MANAGER AND ALL APPOINTMENTS MADE
2 BY THE EMERGENCY FINANCIAL MANAGER.

3 (C) REVIEW ALL CONTRACTS ENTERED INTO BY THE EMERGENCY
4 FINANCIAL MANAGER, THE CONTRACTING PRACTICES OF THE EMERGENCY
5 FINANCIAL MANAGER, AND ALL OTHER DECISIONS OF AND ACTIONS TAKEN BY
6 THE EMERGENCY FINANCIAL MANAGER OR HIS OR HER STAFF.

7 (D) REVIEW ALL WRITTEN PLANS AND REPORTS DEVELOPED BY THE
8 EMERGENCY FINANCIAL MANAGER.

9 (6) THE EMERGENCY FINANCIAL MANAGER'S POWERS AND DUTIES UNDER
10 SECTIONS 39 TO 41A ARE SUBJECT TO OVERSIGHT BY THE EDUCATION
11 FINANCIAL EMERGENCY RESOLUTION BOARD UNDER THIS SECTION.