UNIFORM BUDGETING AND ACCOUNTING ACT

Act 2 of 1968

AN ACT to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1996, Act 401, Eff. Dec. 18, 1996

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The People of the State of Michigan enact:

141.421 Uniform charts of accounts for local units; design; conformity to uniform standards; maintenance of local unit accounts; publication of standard operating procedures and forms; assistance, advice, or instruction; inadequacy of local unit; report; services of certified public accountant or state treasurer; expenses; payment; contract; monthly billings.

Sec. 1.

(1) The state treasurer shall prescribe uniform charts of accounts for all local units of similar size, function, or service designed to fulfill the requirements of good accounting practices relating to general government. Such chart of accounts shall conform as nearly as practicable to the uniform standards as set forth by the governmental accounting standards board or by a successor organization that establishes national generally accepted accounting standards and is determined acceptable to the state treasurer. The official who by law or charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts. The state treasurer may also publish standard operating procedures and forms for the guidance of local units in establishing and maintaining uniform accounting.

(2) A local unit may request the state treasurer to provide assistance, advice, or instruction in establishing or maintaining the uniform chart of accounts required by subsection (1).

(3) The state treasurer may provide assistance, advice, or instruction to a local unit to establish or maintain the uniform chart of accounts required by subsection (1) based on information from 1 or more of the following sources:

(a) Disclosure by the certified public accountant or the department of treasury in an audit report required by section 5 or 6 that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(b) Disclosure by the department of treasury in a special examination report that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(c) Disclosure in an audit report issued under section 5 or 6 that the records of the local unit are not auditable because the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(d) Disclosure from another state agency.

(e) Department of treasury records indicate that the audit required under section 5 has not been performed or filed and is delinquent, and that the local unit is subject to the provisions of section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(4) The state treasurer, in performing the services under subsection (2) or (3), may make a determination that the local unit cannot adequately establish or maintain the uniform chart of accounts without additional assistance, advice, or instruction from the state treasurer. The state treasurer shall submit a written report of the findings and recommendations to the governing body of the local unit. The local unit shall retain, within 90 days after receipt of this report, the services of a certified public accountant or the state treasurer to perform the needed additional services and shall notify, by resolution of the governing body, the state treasurer of such action. Upon failure of the local unit to respond within the 90-day period, the state treasurer shall perform the necessary services to adequately establish or maintain the uniform chart of accounts.

(5) The state treasurer shall charge reasonable and necessary expenses, including per diem and travel expenses, to the local unit for services performed pursuant to subsections (2), (3), and (4), and the local unit shall make

payment to the state treasurer for these expenses. The state treasurer shall execute a contract with the local unit or provide monthly billings if a contract is not executed.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.421a Short title.

Sec. 1a.

This act shall be known and may be cited as the "uniform budgeting and accounting act".

History: Add. 1978, Act 621, Eff. Apr. 1, 1980

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141.422 Meanings of words and phrases.

Sec. 2.

For the purposes of this act, the words and phrases defined in sections 2a to 2d have the meanings ascribed to them in those sections.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1978, Act 621, Eff. Apr. 1, 1980

141.422a Definitions; A, B.

Sec. 2a.

(1) "Administrative officer" means an individual employed or otherwise engaged by a local unit to supervise a budgetary center.
(2) "Allotment" means a portion of an appropriation which may be expended or encumbered during a certain period of time.
(3) "Appropriation" means an authorization granted by a legislative body to incur obligations and to expend public funds for a stated purpose.
(4) "Budget" means a plan of financial operation for a given period of time, including an estimate of all proposed expenditures from the funds of a local unit and the proposed means of financing the expenditures. Budget does not include any of the following:
(a) A fund for which the local unit acts as a trustee or agent.
(b) An internal service fund.
(c) An enterprise fund.
(d) A capital project fund.
(e) A debt service fund.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.422b Definitions; B to D.

Sec. 2b.

(1) "Budgetary center" means a general operating department of a local unit or any other department, institution, court, board, commission, agency, office, program, activity, or function to which money is appropriated by the local unit.

(2) "Capital outlay" means a disbursement of money which results in the acquisition of, or addition to, fixed assets.

(3) "Chief administrative officer" means any of the following:

(a) The manager of a village or, if a village does not employ a manager, the president of the village.

(b) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.

(c) The superintendent of a local school district or, if the school district does not have a superintendent, the person having general administrative control of the school district.

(d) The superintendent of an intermediate school district or, if the school district does not have a superintendent, the person having general administrative control of the school district.

(e) The manager of a township or, if the township does not employ a manager, the supervisor of the township.

(f) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the controller of the county appointed pursuant to section 13b of 1851 PA 156, MCL 46.13b; or if the county has not appointed a controller, an individual designated by the county board of commissioners of the county.

(g) The official granted general administrative control of an authority or organization of government established by law that may expend funds of the authority or organization.

(h) A person granted general administrative control of the public school academy by the board of directors of a public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507, or other person designated by the board of directors of the public school academy.

(4) "Deficit" means an excess of liabilities and reserves of a fund over its assets.

(5) "Derivative instrument or product" means either of the following:

(a) A contract or convertible security that changes in value in concert with a related or underlying security, future, or other instrument or index; or that obtains much of its value from price movements in a related or underlying security, future, or other instrument or index; or both.

(b) A contract or security, such as an option, forward, swap, warrant, or a debt instrument with 1 or more options, forwards, swaps, or warrants embedded in it or attached to it, the value of which contract or security is determined in whole or in part by the price of 1 or more underlying instruments or markets.

(6) "Derivative instrument or product" does not mean a fund created pursuant to the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, or section 1223 of the revised school code, 1976 PA 451, MCL 380.1223.

(7) "Disbursement" means a payment in cash.

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History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1996, Act 402, Imd. Eff. Oct. 21, 1996 ;-- Am. 1996, Act 439, Imd. Eff. Dec. 18, 1996 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.422c Definitions; E to G.

Sec. 2c.

(1) "Expenditure" means the cost of goods delivered or services rendered, whether paid or unpaid, including expenses, debt retirement not reported as a liability of the fund from which retired, or capital outlay.

(2) "General appropriations act" means the budget as adopted by the legislative body or as otherwise given legal effect pursuant to a charter provision in effect on the effective date of this section.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.422d Definitions; D to S.

Sec. 2d.

(1) "Depository library" means a depository library designated under section 10 of the library of Michigan act,

1982 PA 540, MCL 397.20.

(2) "Legislative body" means any of the following:

(a) The council, commission, or other entity vested with the legislative power of a village.

(b) The council or other entity vested with the legislative power of a city.

(c) The board of education of a local school district.

(d) The board of education of an intermediate school district.

(e) The township board of a township.

(f) The county board of commissioners of a county.

(g) The board of county road commissioners of a county.

(h) The board of directors of a public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507.

(i) The official body to which is granted general governing powers over an authority or organization of government established by law that may expend funds of the authority or organization. As used in this act, legislative body does not include an intermunicipality committee established under 1957 PA 200, MCL 123.631 to 123.637.

(3) "Library of Michigan" means the library of Michigan created under section 3 of the library of Michigan act, 1982 PA 540, MCL 397.13.

(4) "Local unit" does not include an intermunicipality committee established under 1957 PA 200, MCL 123.631 to 123.637. Except as used in sections 14 to 20a, local unit means a village, city, or township or an authority or commission established by a county, village, city, or township resolution, motion, ordinance, or charter. As used in sections 14 to 20a, local unit means any of the following:

(a) A village.

(b) A city.

(c) A school district.

(d) An intermediate school district.

(e) A public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507.

(f) A township.

(g) A county.

(h) A county road commission.

(i) An authority or organization of government established by law that may expend funds of the authority or organization.

(5) "Revenue" means an addition to the assets of a fund that does not increase a liability, does not represent the recovery of an expenditure, does not represent the cancellation of a liability without a corresponding increase in any other liability or a decrease in assets, and does not represent a contribution of fund capital in enterprise or in internal service funds.

(6) "Surplus" means an excess of the assets of a fund over its liabilities and reserves.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1981, Act 78, Imd. Eff. June 30, 1981 ;-- Am. 1996, Act 401, Eff. Dec. 18, 1996 ;-- Am. 1999, Act 142, Imd. Eff. Oct. 22, 1999 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

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141.423 Publication; hearings.

Sec. 3.

The state treasurer, before the adoption of a uniform chart of accounts, shall provide for advance publication and for hearings thereon with an advisory committee selected by the state treasurer from the local units and from other interested or concerned groups. The uniform chart of accounts, when finally adopted, shall be published and made readily available to all interested persons.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

141.424 Annual financial report; contents; filing; extension; unauthorized investments prohibited; "pension" defined.

Sec. 4.

(1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The state treasurer may require that an annual financial report by the pension system for any defined benefit plan of the local unit be submitted in electronic format after timely notice by the state treasurer. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department's internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, "pension" includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

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History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982 ;-- Am. 1983, Act 36, Imd. Eff. May 10, 1983 ;-- Am. 1996, Act 439, Imd. Eff. Dec. 18, 1996 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001 ;-- Am. 2002, Act 250, Imd. Eff. May 1, 2002 ;-- Am. 2002, Act 729, Imd. Eff. Dec. 30, 2002

141.424a Failure of local unit to report investments in derivative instruments or products.

Sec. 4a.

(1) If a local unit fails to report investments in derivative instruments or products as required by section 4, the state treasurer may determine that the local unit cannot report the investments without assistance, advice, or instruction from the state treasurer. The state treasurer shall submit a written statement of the findings and recommendations to the legislative body of the local unit. Within 90 days after receipt of this statement, the local unit shall retain a certified public accountant or the state treasurer to report the investments in the manner required in section 4 and shall notify, by resolution of the legislative body, the state treasurer of the action. Upon failure of the local unit to respond within the 90-day period, the state treasurer shall report the investments.

(2) The state treasurer shall charge reasonable and necessary expenses, including per diem and travel expenses, to the local unit for services performed pursuant to subsection (1) and the local unit shall pay the state treasurer for these expenses. For payment of the expenses, the state treasurer shall either execute a contract with the local unit or bill the local unit on a monthly basis.

History: Add. 1996, Act 400, Eff. Dec. 18, 1996

141.424b Schedule of derivative instruments and products; filing copies; Library of Michigan and depository libraries as depositories; retention of annual report by local unit.

Sec. 4b.

(1) The state treasurer shall promptly file with the library of Michigan copies of a schedule of derivative instruments and products described in section 4(2)(c) or (e) and obtained under section 4 or section 4a. The treasurer shall file a sufficient number of copies to deposit 1 copy in the library of Michigan and 1 copy in each depository library.

(2) The library of Michigan and depository libraries shall serve as depositories for schedules of derivative instruments and products described in section 4(2)(c) or (e) in the manner required by sections 9 and 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being sections 397.19 and 397.20 of the Michigan Compiled Laws. The library of Michigan and each depository library shall promptly make a schedule of derivative instruments and products described in section 4(2)(c) or (e) available to the public.

(3) A local unit shall obtain and retain a copy of an annual financial report submitted under this act. A local unit or the state treasurer shall make an annual financial report prepared, owned, used, in the possession of, or retained by the local unit or state treasurer available for public inspection under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1996, Act 401, Eff. Dec. 18, 1996
Compiler's Notes: For transfer of powers and duties of library of Michigan and state librarian, except pertaining to services for blind and physically handicapped and those related to census data functions, to department of education, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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141.425 Local units; audits.

Sec. 5.

(1) A local unit having a population of less than 4,000 shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially. However, if any audit under this subsection discloses a material deviation by the local unit from generally accepted accounting practices or from applicable rules and regulations of a state department or agency or discloses any fiscal irregularity, defalcation, misfeasance, nonfeasance, or malfeasance, the department of treasury may require an audit to be conducted in the next year.

(2) A local unit having a population of 4,000 or more shall obtain an annual audit of its financial records, accounts, and procedures.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1996, Act 146, Imd. Eff. Mar. 25, 1996

141.426 Certified public accountants; cost.

Sec. 6.

Local units may retain certified public accountants to perform such audits. If any unit fails to provide for an audit, the state treasurer shall either conduct the audit or appoint a certified public accountant to perform it. The entire cost of any such audits will be borne by the local unit.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

141.427 Minimum auditing procedures and standards; form for report of auditing procedures; filing audit report and report of auditing procedures; time for filing; extension.

Sec. 7.

(1) The state treasurer shall prescribe minimum auditing procedures and standards and these shall conform as nearly as practicable to generally accepted auditing standards established by the American institute of certified public accountants.

(2) A report of the auditing procedures applied in each audit shall be prepared on a form provided for this purpose by the state treasurer. The state treasurer may require that the audit report, or the report of auditing procedures, or both, that are required by this subsection to be filed with the state treasurer be filed in an electronic format prescribed by the state treasurer.

(3) One copy of every audit report and 1 copy of the report of auditing procedures applied shall be filed with the state treasurer.

(4) The copy of the audit report and the copy of the report of auditing procedures applied required by subsection (3) shall be filed with the state treasurer within 6 months after the end of the fiscal year of a local unit for which an audit has been performed pursuant to section 5. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. A chief administrative officer who requests an extension under this subsection shall, within 10 days of making the request, inform the governing body in writing of the requested extension.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

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141.428 Contents of audit report.

Sec. 8.

Every audit report shall do all of the following:

(a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer.

(b) State that financial statements in such reports have been prepared in accordance with generally accepted accounting principles and with applicable rules and regulations of any state department or agency. Any deviations from such principles, rules, or regulations shall be described.

(c) Disclose any material deviations by the local unit from generally accepted accounting practices or from applicable rules and regulations of any state department or agency.

(d) Disclose any fiscal irregularities, including but not limited to any deviations from the requirements of section 4; defalcations; misfeasance; nonfeasance; or malfeasance that came to the auditor's attention.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1996, Act 400, Eff. Dec. 18, 1996 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.429 Public inspection of audit reports.

Sec. 9.

All audit reports submitted under this act shall be made available for public inspection.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

141.430 Orders and subpoenas.

Sec. 10.

In connection with any audit and examination conducted under the provisions of this act, the state treasurer, or a deputy state treasurer, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer or by a deputy state treasurer, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

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141.431 Violations of act.

Sec. 11.

If any audit or investigation conducted under this act discloses statutory violations on the part of any officer, employee or board of any local unit, a copy of such report shall be filed with the attorney general who shall review the report and cause to be instituted such proceeding against such officer, employee or board as he deems necessary. The attorney general, within 60 days after receipt of the report, may institute criminal proceedings as he deems necessary against such officer or employee, or direct that the criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general or the prosecuting attorney shall institute civil action in any court of competent jurisdiction for the recovery of any public moneys, disclosed by any examination to have been illegally expended or collected and not accounted for; also for the recovery of any public property disclosed to have been converted and misappropriated.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

141.432 Verification of transactions.

Sec. 12.

(1) For purposes of verifying any transactions disclosed by an audit or investigation, any person or firm authorized to conduct an audit under this act may ascertain the deposits, payments, withdrawals and balances on deposit in any bank account or with any contractor or with any other person having dealings with the local unit.

(2) A bank, contractor or person shall not be held liable for making available any of the information required under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968

141.433 Scope of examiner's authority; production of records; divulging confidential information.

Sec. 13.

(1) Notwithstanding the confidentiality provisions of any tax laws, any authorized employee of the state treasurer, certified public accountant or firm of certified public accountants conducting an audit under this act shall have access to and authority to examine all books, accounts, reports, vouchers, correspondence files and other

records, bank accounts and moneys or other property of any local unit excepting any records which were obtained from the United States internal revenue service under the federal state cooperative exchange agreement.

(2) An officer of a local unit upon demand of persons authorized under this act, shall produce all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of the local unit under audit or investigation and shall truthfully answer all questions related thereto.

(3) The liabilities and penalties provided by all specific confidentiality statutes for divulging confidential information shall be applicable to all persons authorized to make an audit under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968 ;-- Am. 1971, Act 91, Eff. Mar. 30, 1972

141.433a Energy conservation improvements.

Sec. 13a.

(1) Except as otherwise provided by law, the legislative body of a local unit may provide by resolution for the acquisition or financing of energy conservation improvements to be made to facilities or infrastructure owned or operated by the local unit and may pay for the improvements or the financing or refunding of the improvements from the general fund of the local unit or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating, ventilating, or air-conditioning system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating, ventilating, or air-conditioning controls, entrance or exit way closures, information technology improvements associated with an energy conservation improvement, and municipal utility improvements associated with an energy conservation improvement.

(2) The legislative body of a local unit may acquire, finance, or refund 1 or more of the energy conservation improvements described in subsection (1) by installment contract, which may include a lease-purchase agreement described in subsection (5), or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract, a lease-purchase agreement described in subsection (5), or notes issued pursuant to this subsection shall extend for a period of time not to exceed 20 years from the date of the final completion of the energy conservation improvements or the useful life of the aggregate energy conservation improvements, whichever is less. Notes issued pursuant to this subsection shall be limited full faith and credit, tax limited obligations of the local unit, payable from tax levies and the general fund as pledged by the legislative body of the local unit. The notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. A lease-purchase agreement issued pursuant to this subsection shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall not be a municipal security or a debt as those terms are defined in that act. This subsection does not limit in any manner the borrowing or bonding authority of a local unit as provided by law.

(3) Prior to entering into a contract for energy conservation improvements under this section, the legislative body of a local unit shall determine the following information and, within 60 days of the completion of the improvements, shall report the following information to the Michigan public service commission:

(a) Name of each facility to which an improvement is made and a description of the energy conservation improvement.

(b) Actual energy consumption during the 12-month period before commencement of the improvement.

(c) Project costs and expenditures, including the total of all lease payments over the duration of the lease-purchase agreement.

(d) Estimated annual energy savings, including projected savings over the duration of the installment contract.

(4) If energy conservation improvements are made as provided in this section, the legislative body of a local unit shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

(5) An installment contract described in this section may include a lease-purchase agreement, which may be a multiyear contractual obligation that provides for automatic renewal unless positive action is taken by the legislative body to terminate that contract. Payments under a lease-purchase agreement shall be a current operating expense subject to annual appropriations of funds by the legislative body and shall obligate the legislative body only for those sums payable during the fiscal year of contract execution or any renewal year thereafter. The legislative body

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may make payments under a lease-purchase agreement from any legally available funds or from a combination of energy or operational savings, capital contributions, future replacement costs avoided, or billable revenue enhancements that result from energy conservation improvements, provided that the legislative body has determined that those funds are sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the energy conservation improvements. The lease-purchase agreement will terminate immediately and absolutely and without further obligation on the part of the legislative body at the close of the fiscal year in which it was executed or renewed or at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the legislative body under the lease-purchase agreement. During the term of the lease-purchase agreement, the legislative body shall be the vested owner of the energy conservation improvements and may grant a security interest in the energy conservation improvements to the provider of the lease-purchase agreement. Upon the termination of the lease-purchase agreement and the satisfaction of the obligations of the legislative body, the provider of the lease-purchase agreement shall release its security interest in the energy conservation improvements.

History: Add. 2016, Act 529, Eff. Apr. 9, 2017

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141.434 Budget; preparation, presentation, and control of expenditures; information; transmitting recommended budget to legislative body; suggested general appropriations act; consideration of recommended budget; furnishing information to legislative body; public hearing.

Sec. 14.

(1) Unless otherwise provided by law, charter, resolution, or ordinance, the chief administrative officer shall have final responsibility for budget preparation, presentation of the budget to the legislative body, and the control of expenditures under the budget and the general appropriations act.

(2) Unless another person is designated by charter, the chief administrative officer in each local unit shall prepare the recommended annual budget for the ensuing fiscal year in the manner provided in sections 15 to 20a. The budgetary centers of the local unit shall provide to the chief administrative officer information which the chief administrative officer considers necessary and essential to the preparation of a budget for the ensuing fiscal period for presentation to the local unit's legislative body. Each administrative officer or employee of a budgetary center shall comply promptly with a request for information which the chief administrative officer makes.

(3) The chief administrative officer shall transmit the recommended budget to the legislative body according to an appropriate time schedule developed by the local unit. The schedule shall allow adequate time for review and adoption by the legislative body before commencement of the budget year. The recommended budget, when transmitted by the chief administrative officer, shall be accompanied by a suggested general appropriations act to implement the budget. The suggested general appropriations act shall fulfill the requirements of section 16.

(4) The recommended budget transmitted by the chief administrative officer shall be considered by the legislative body.

(5) The chief administrative officer shall furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget. Before final passage of a general appropriations act by the legislative body, a public hearing shall be held as required by 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.435 Recommended budget; contents; limitation on total estimated expenditures.

Sec. 15.

(1) The recommended budget shall include at least the following:

(a) Expenditure data for the most recently completed fiscal year and estimated expenditures for the current fiscal year.

(b) An estimate of the expenditure amounts required to conduct, in the ensuing fiscal year, the government of the local unit, including its budgetary centers.

(c) Revenue data for the most recently completed fiscal year and estimated revenues for the current fiscal year.

(d) An estimate of the revenues, by source of revenue, to be raised or received by the local unit in the ensuing fiscal year.

(e) The amount of surplus or deficit that has accumulated from prior fiscal years, together with an estimate of the amount of surplus or deficit expected in the current fiscal year. The inclusion of the amount of an authorized debt obligation to fund a deficit shall be sufficient to satisfy the requirement of funding the amount of a deficit estimated under this subdivision.

(f) An estimate of the amounts needed for deficiency, contingent, or emergency purposes.

(g) Other data relating to fiscal conditions that the chief administrative officer considers to be useful in considering the financial needs of the local unit.

(2) The total estimated expenditures, including an accrued deficit, in the budget shall not exceed the total estimated revenues, including an available unappropriated surplus and the proceeds from bonds or other obligations issued under the fiscal stabilization act or the balance of the principal of these bonds or other obligations.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1981, Act 77, Imd. Eff. June 30, 1981 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

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141.436 General appropriations act; requirements; line items not mandated; taxation; limitation on estimated total expenditure; presumption; suit against county legislative body; standing; mediation; severability.

Sec. 16.

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

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

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

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

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

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

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

(8) A general appropriations act, including any amendment to that general appropriations act, is presumed to fund those activities of a county mandated by law at a serviceable level.

(9) An elected official who heads a branch of county government or the chief judge of a court funded by a county has standing to bring a suit against the legislative body of that county concerning a general appropriations act, including any challenge as to serviceable levels of funding for that branch of county government or that court. If a court and the legislative body of a county are involved in mediation, before the chief judge of that court brings a suit on the court's own behalf against the legislative body of the county under this subsection, a mediator shall certify in writing that the parties are unable to resolve the issues by mediation. The court hearing a suit shall consider the financial ability of the county to pay when considering any challenge as to serviceable levels of funding.

(10) If any portion of this section or the application of this section to any circumstance is found to be invalid by a court, the invalidity shall not affect the remaining portions or application of this section that can be given effect without the invalid portion or application. The provisions of this section are severable.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1981, Act 77, Imd. Eff. June 30, 1981 ;-- Am. 1981, Act 78, Imd. Eff. June 30, 1981 ;-- Am. 1995, Act 41, Imd. Eff. May 22, 1995 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001 ;-- Am. 2013, Act 172, Imd. Eff. Nov. 18, 2013

141.437 General appropriations act; amendment; reports; recommendations.

Sec. 17.

(1) Except as otherwise provided in section 19, a deviation from the original general appropriations act shall not be made without amending the general appropriations act. Subject to section 16(2), the legislative body of the local unit shall amend the general appropriations act as soon as it becomes apparent that a deviation from the original general appropriations act is necessary and the amount of the deviation can be determined. An amendment shall indicate each intended alteration in the purpose of each appropriation item affected by the amendment. The legislative body may require that the chief administrative officer or fiscal officer provide it with periodic reports on the financial condition of the local unit.

(2) If, during a fiscal year, it appears to the chief administrative officer or to the legislative body that the actual and probable revenues from taxes and other sources in a fund are less than the estimated revenues, including an available surplus upon which appropriations from the fund were based and the proceeds from bonds or other obligations issued under the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011, or the balance of the principal of these bonds or other obligations, the chief administrative officer or fiscal officer shall present to the legislative body recommendations which, if adopted, would prevent expenditures from exceeding available revenues for that current fiscal year. The recommendations shall include proposals for reducing appropriations from the fund for budgetary centers in a manner that would cause the total of appropriations to not be greater than the total of revised estimated revenues of the fund, or proposals for measures necessary to provide revenues sufficient to meet expenditures of the fund, or both. The recommendations shall recognize the requirements of state law and the provisions of collective bargaining agreements.

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History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 1981, Act 77, Imd. Eff. June 30, 1981 ;-- Am. 1995, Act 41, Imd. Eff. May 22, 1995 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.438 Incurring debts or obligations; dividing appropriations into allotments; expenditures; application or diversion of money; restrictions on delegation of duties; enforcement power; suit against chief administrative officer of county; standing; mediation; 60-day period to bring suit in Michigan court of appeals; court jurisdiction; limitation; certain actions barred; expenditure of funds; severability.

Sec. 18.

(1) A member of the legislative body, chief administrative officer, administrative officer, or employee of the local unit shall not create a debt or incur a financial obligation on behalf of the local unit unless the debt or obligation is permitted by law.

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

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

(4) No duties shall be delegated to the chief administrative officer that diminish any charter or statutory responsibilities of an elected or appointed official, including, but not limited to, the charter responsibility of a legislative body to approve the making of contracts by the local unit.

(5) The enforcement of a general appropriations act approved by the legislative body of a county is a power vested in the chief administrative officer of that county.

(6) An elected official who heads a branch of county government or the chief judge of a court funded by a county has standing to bring suit against the chief administrative officer of that county concerning an action relating to the enforcement of a general appropriations act for that branch of county government or that court. If a court

and the chief administrative officer of a county are involved in mediation, before the chief judge of that court brings a suit on the court's own behalf against the chief administrative officer of the county under this subsection, a mediator shall certify in writing that the parties are unable to resolve the issues by mediation.

(7) Except as otherwise provided in subsection (8) and notwithstanding any provision of law to the contrary, any suit brought under subsection (6) or section 16(9) shall only be brought in the Michigan court of appeals within 60 days after 1 of the following:

(a) The adoption of a general appropriations act.

(b) An amendment to a general appropriations act or an action relating to the enforcement of that general appropriations act, if the amendment or action constitutes a basis for the suit.

(8) If a court is involved in mediation under subsection (6) or section 16(9) during the 60-day period to bring a suit in the Michigan court of appeals provided for in subsection (7), any suit brought on the court's behalf under subsection (6) or section 16(9) shall only be brought in the Michigan court of appeals within 90 days after 1 of the following:

(a) The adoption of a general appropriations act.

(b) An amendment to a general appropriations act or an action relating to the enforcement of that general appropriations act, if the amendment or action constitutes a basis for the suit.

(9) The court's jurisdiction over and review of the issues raised in a suit brought under subsection (7)(b) or (8)(b) is limited to that portion of the general appropriations act that is directly affected by the amendment or action.

(10) The jurisdiction of the court of appeals over a suit brought under subsection (6) or section 16(9) is exclusive and that jurisdiction or any judicial duties inherent in that jurisdiction shall not be transferred to any other court. However, the court of appeals may request the supreme court to assign a retired judge under section 226 of the revised judicature act of 1961, 1961 PA 236, MCL 600.226, to assist the court of appeals by resolving discovery issues, reviewing the evidence, making proposed findings of fact and conclusions of law, and performing any other necessary related judicial duties.

(11) Unless an action brought under subsection (7) or (8) is timely preserved for review by the Michigan court of appeals, litigation of any issue as to a general appropriations act or any amendment to that general appropriations act, or an action relating to the enforcement of that general appropriations act, is barred.

(12) The pendency of a claim in a suit under this section shall not constitute a basis for expenditure of funds by any department or branch of, or court funded by, the county in excess of that authorized by a general appropriations act, including an amendment to that general appropriations act.

(13) If any portion of this section or the application of this section to any circumstance is found to be invalid by a court, the invalidity shall not affect the remaining portions or application of this section that can be given effect without the invalid portion or application. The provisions of this section are severable.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001 ;-- Am. 2013, Act 172, Imd. Eff. Nov. 18, 2013

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141.439 Expenditure of funds; transfers within appropriations.

Sec. 19.

(1) A member of the legislative body, the chief administrative officer, an administrative officer, or an employee of a local unit shall not authorize or participate in the expenditure of funds except as authorized by a general appropriations act. An expenditure shall not be incurred except in pursuance of the authority and appropriations of the legislative body of the local unit.

(2) The legislative body in a general appropriations act may permit the chief administrative officer to execute transfers within limits stated in the act between appropriations without the prior approval of the legislative body.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.440 Violation; filing; report; review and action by attorney general; civil action for recovery of funds and public property.

Sec. 20.

A violation of sections 17 to 19 by the chief administrative officer, an administrative officer, employee, or member of the legislative body of the local unit disclosed in an audit of the financial records and accounts of the local unit in the absence of reasonable procedures in use by the local unit to detect such violations shall be filed with the state treasurer and reported by the state treasurer to the attorney general. For local and intermediate school districts, the report of a violation shall be filed with the state superintendent of public instruction instead of the state treasurer. The attorney general shall review the report and initiate appropriate action against the chief administrative officer, fiscal officer, administrative officer, employee, or member of the legislative body. For the use and benefit of the local unit, the attorney general or prosecuting attorney may institute a civil action in a court of competent jurisdiction for the recovery of funds of a local unit, disclosed by an examination to have been illegally expended or collected as a result of malfeasance and not accounted for as provided in sections 17 to 19, and for the recovery of public property disclosed to have been converted or misappropriated.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001

141.440a Manuals, forms, and operating procedures; training and educational programs.

Sec. 20a.

(1) The department of treasury shall publish suggested manuals, forms, and operating procedures which may be used by local units in complying with this act. These manuals, forms, and procedures shall be designed to account for the various kinds and sizes of local units, except that the suggested manuals, forms, and operating procedures which may be used by intermediate school districts and local school districts shall be developed by the superintendent of public instruction and shall be promulgated by the superintendent of public instruction pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The suggested manuals, forms, and operating procedures described in subsection (1) shall be developed by an advisory committee selected by the department of treasury composed of persons from the department of education, other interested state agencies, local units, associations of local units, and other interested or concerned groups.

(3) The department of treasury shall provide or cooperate in the provision of training and educational programs to assist local units to comply with this act.

History: Add. 1978, Act 621, Eff. Apr. 1, 1979

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