

Introduction

Governor Snyder has signed into law a package of bills to address the operations of local governments and school districts in Michigan experiencing financial stress. The main bill, the Local Government and School District Fiscal Accountability Act, replaces PA 72 of 1990, under which emergency financial managers have been appointed to oversee the financial operations of distressed municipalities and school districts. The act retains many of the provisions of PA 72, while introducing significant new provisions aimed at assuring the financial and operational viability of municipalities and school districts across the state. As part of these changes, emergency financial managers are renamed "emergency managers" to reflect the broad oversight provided for local operations in addition to purely financial matters.

What is the purpose of the Act?

Under the new law, the state may review a local government's finances, and if signs of severe fiscal stress are found, the local unit may negotiate a consent agreement with the state to develop a plan for resolving the stress. The consent agreement can include a continuing operations agreement developed and implemented by the local unit, or a recovery plan developed and imposed by the state for implementation by the local unit. The consent agreement may also include a grant by the state to an officer or the governing body of the local unit of one or more powers provided to emergency managers, but may not include the power available to emergency managers to modify, terminate, or renegotiate existing collective bargaining agreements. Unless the state determines otherwise, the local government operating under a consent agreement is exempt from collective bargaining requirements for the term of the consent agreement. By entering into and complying with the terms of a consent agreement, a local unit experiencing severe financial stress can avoid the appointment of an emergency manager.

Content of new Act

A local unit in such deep financial distress that it rises to the level of a financial emergency, or for which a consent agreement cannot be reached or is breached, may be placed into receivership, and an emergency manager is appointed with broad powers to operate and restructure all aspects of the local unit. The following new provisions apply to a local unit in receivership:

- The powers of the chief administrative officer and governing body of the local unit are suspended.
- The emergency manager may modify, terminate, or renegotiate contracts, including collective bargaining agreements.
- The local unit is exempt from collective bargaining requirements for the earlier of five years or the end of the receivership.
- The emergency manager may enter into agreements to consolidate services with other local governments.
- If no reasonable alternative exists, with state approval, the emergency manager may proceed under federal bankruptcy laws.

Before receivership may terminate, the emergency manager must adopt and implement a two-year budget, including all contractual and employment agreements for the local unit.

This publication was written by the law firm of Miller Canfield.