

HOUSE BILL No. 4303

February 23, 1989, Introduced by Reps. O'Neill, Keith, Gilmer and Trim and referred to the Committee on Education.

A bill to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of a local government; to permit the governor to declare the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state boards and officials, and officials and employees of units of local government; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency financial manager; to require the development of financial plans to regulate expenditures and investments by a local government in a state of financial emergency; to set forth the conditions for termination of a local government financial emergency; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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ARTICLE 1

2

GENERAL PROVISIONS

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Sec. 1. This act shall be known and may be cited as the

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"local government fiscal responsibility act".

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Sec. 2. The legislature hereby determines that the public

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health and welfare of the citizens of this state would be

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adversely affected by the insolvency of units of local govern-

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ment, including certain school districts, and that the survival

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of units of local government is vitally necessary to the inter-

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ests of the people of this state to provide necessary governmen-

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tal services. The legislature further determines that it is

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vitally necessary to protect the credit of the state and its

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political subdivisions and that it is a valid public purpose for

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the state to take action and to assist a unit of local government

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in a fiscal emergency situation to remedy this emergency situa-

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tion by requiring prudent fiscal management. The legislature,

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therefore, determines that the authority and powers conferred by

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this act constitute a necessary program and serve a valid public

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purpose.

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ARTICLE 2

21

GOVERNMENTAL PROVISIONS

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Sec. 11. As used in this article:

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(a) "Chief administrative officer" means any of the

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following:

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(i) The manager of a village or, if a village does not

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employ a manager, the president of the village.

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

3 (iii) The manager of a township, the superintendent of a
4 charter township, or if the township does not employ a manager or
5 superintendent, the supervisor of the township.

6 (iv) The elected county executive or appointed county man-
7 ager of a county; or if the county has not adopted the provisions
8 of either Act No. 139 of the Public Acts of 1973, being sections
9 45.551 to 45.573 of the Michigan Compiled Laws, or Act No. 293 of
10 the Public Acts of 1966, being sections 45.501 to 45.521 of the
11 Michigan Compiled Laws, the chairperson of the county board of
12 commissioners of the county.

13 (v) The chief operating officer of an authority or a public
14 utility owned by a city, village, township, or county.

15 (b) "Emergency financial manager" means the emergency finan-
16 cial manager appointed under section 18.

17 (c) "Local government" means a city, a village, a township,
18 a county, an authority established by law, or a public utility
19 owned by a city, village, township, or county.

20 (d) "Review team" means the review team designated under
21 section 13.

22 Sec. 12. (1) The state treasurer shall conduct a prelimi-
23 nary review to determine the existence of a local government
24 financial problem if 1 or more of the following occur:

25 (a) The governing body or the chief administrative officer
26 of a local government requests a preliminary review under this

1 article. The request shall be in writing and shall identify the
2 existing financial conditions that make the request necessary.

3 (b) The state treasurer receives a written request from a
4 creditor with an undisputed claim that remains unpaid 6 months
5 after its due date against the local government that exceeds the
6 greater of \$10,000.00 or 1% of the annual general fund budget of
7 the local government, provided that the creditor notifies the
8 local government in writing at least 30 days before his or her
9 request to the state treasurer of his or her intention to invoke
10 this provision.

11 (c) The state treasurer receives a petition containing spe-
12 cific allegations of local government financial distress signed
13 by a number of registered electors residing within the jurisdic-
14 tion of the local government equal to not less than 10% of the
15 total vote cast for all candidates for governor within the juris-
16 diction of the local government at the last preceding election at
17 which a governor was elected. Petitions shall not be filed under
18 this subdivision within 60 days before any election in the local
19 government.

20 (d) The state treasurer receives written notification from
21 the trustee, actuary, or at least 10% of the beneficiaries of a
22 local government pension fund alleging that a local government
23 has not timely deposited its minimum obligation payment to the
24 local government pension fund as required by law.

25 (e) The state treasurer receives written notification that
26 employees of the local government have not been paid and it has
27 been at least 7 days after the scheduled date of payment.

1 (f) The state treasurer receives written notification from a
2 trustee, paying agent, or bondholder of a default in a bond pay-
3 ment or a violation of 1 or more bond covenants.

4 (g) The state treasurer receives a resolution from either
5 the senate or the house of representatives requesting a prelimi-
6 nary review under this section.

7 (h) The local government has violated the conditions of an
8 order issued pursuant to, or of a requirement of, the municipal
9 finance act, Act No. 202 of the Public Acts of 1943, being sec-
10 tions 131.1 to 139.3 of the Michigan Compiled Laws, or any other
11 law governing the issuance of bonds or notes.

12 (i) The local government has violated the conditions of an
13 order issued in the effectuation of the purposes of the emergency
14 municipal loan act, Act No. 243 of the Public Acts of 1980, being
15 sections 141.931 to 141.942 of the Michigan Compiled Laws, by the
16 local emergency financial assistance loan board created by Act
17 No. 243 of the Public Acts of 1980.

18 (j) The local government has violated the requirements of
19 sections 17 to 20 of the uniform budgeting and accounting act,
20 Act No. 2 of the Public Acts of 1968, being sections 141.437 to
21 141.440 of the Michigan Compiled Laws, and the state treasurer
22 has forwarded a report of this violation to the attorney
23 general.

24 (k) The local government has failed to comply with the
25 requirements of section 21 of the state revenue sharing act of
26 1971, Act No. 140 of the Public Acts of 1971, being section

1 141.921 of the Michigan Compiled Laws, for filing or instituting
2 a deficit recovery plan.

3 (l) The local government fails to provide an annual finan-
4 cial report or audit that conforms with the minimum procedures
5 and standards of the state treasurer and is required under the
6 uniform budgeting and accounting act, Act No. 2 of the Public
7 Acts of 1968, being sections 141.421 to 141.440a of the Michigan
8 Compiled Laws, or Act No. 71 of the Public Acts of 1919, being
9 sections 21.41 to 21.53 of the Michigan Compiled Laws.

10 (m) The local government is delinquent in the distribution
11 of tax revenues, as required by law, that it has collected for
12 another taxing jurisdiction, and that taxing jurisdiction
13 requests a preliminary review.

14 (n) A court has ordered an additional tax levy without the
15 prior approval of the governing body of the local government.

16 (2) In conducting a preliminary review under this section,
17 the state treasurer shall give the local government specific
18 written notification of the review, and the state treasurer shall
19 meet with the local government. At this meeting, the state trea-
20 surer shall receive, discuss, and consider information provided
21 by the local government concerning the existence of and serious-
22 ness of financial conditions within the local government.

23 (3) When the state treasurer conducts a preliminary review
24 under this section, he or she shall inform the governor within 30
25 days after beginning the preliminary review whether or not his or
26 her investigation has determined that a serious financial problem

1 may exist because 1 or more conditions indicative of a serious
2 financial problem exist within the local government.

3 Sec. 13. (1) The governor shall appoint a review team of
4 the state treasurer, the auditor general, a nominee of the senate
5 majority leader, a nominee of the speaker of the house of repre-
6 sentatives, and other state officials or other persons with rele-
7 vant professional experience to serve as a review team to under-
8 take a local financial management review if 1 or more of the fol-
9 lowing occur:

10 (a) The governing body of a local government, by resolution,
11 requests assistance under this article in meeting the ordinary
12 needs of government. The resolution shall identify the existing
13 financial conditions that make the request for assistance
14 necessary. The resolution under this subsection shall be subject
15 to the legislative vote requirement and the executive approval
16 requirement applicable to enactment of an ordinance by the local
17 government.

18 (b) The governor has been informed by the state treasurer
19 pursuant to section 12 that he or she has conducted a preliminary
20 review of a local government financial situation and has deter-
21 mined that 1 or more conditions indicative of a serious financial
22 problem may exist within the local government.

23 (2) A review team appointed under the local government
24 fiscal responsibility act, former Act No. 101 of the Public Acts
25 of 1988, and serving on the effective date of this act shall con-
26 tinue under this act to fulfill their powers and duties.

1 Sec. 14. (1) The review team appointed by the governor
2 shall have full power in its review to perform all of the
3 following functions:

4 (a) Examine the books and records of the local government.

5 (b) Utilize the services of other state agencies and
6 employees.

7 (c) Sign a consent agreement with the chief administrative
8 officer of the local government. The agreement may provide for
9 remedial measures considered necessary including a long-range
10 financial recovery plan requiring specific local actions. The
11 agreement may utilize state financial management and technical
12 assistance as necessary in order to alleviate the local financial
13 problem. The agreement may also provide for periodic fiscal
14 status reports to the state treasurer. In order for the consent
15 agreement to go into effect, it shall be approved, by resolution,
16 by the governing body of the local government.

17 (2) In the report to the governor under subsection (3) on
18 the financial conditions of the local government, the review team
19 shall inform the governor if 1 or more of the following condi-
20 tions indicative of a serious financial problem exist, or have
21 occurred, or are likely to exist or occur, if remedial action is
22 not taken:

23 (a) A default in the payment of principal or interest upon
24 bonded obligations or notes for which no funds or insufficient
25 funds are on hand and segregated in a special trust fund.

1 (b) Failure for a period of 30 days or more beyond the due
2 date to transfer 1 or more of the following to the appropriate
3 agency:

4 (i) Taxes withheld on the income of employees.

5 (ii) Taxes collected by the government as agent for another
6 governmental unit, school district, or other entity or taxing
7 authority.

8 (iii) Any contribution required by a pension, retirement, or
9 benefit plan.

10 (c) Failure for a period of 30 days or more to pay wages and
11 salaries or other compensation owed to employees or retirees.

12 (d) The total amount of accounts payable for the current
13 fiscal year, as determined by the state treasurer's uniform chart
14 of accounts, is in excess of 10% of the total expenditures of the
15 local government in that fiscal year.

16 (e) Failure to eliminate an existing deficit in any fund of
17 the local government within the 2-year period preceding the end
18 of the local government's fiscal year during which the review
19 team report is received.

20 (f) Projection of a deficit in the general fund of the local
21 government for the current fiscal year in excess of 10% of the
22 budgeted revenues for the general fund.

23 (3) The review team shall report its findings to the gover-
24 nor within 60 days after their appointment, or earlier if
25 required by the governor. Upon request, the governor may grant 1
26 30-day extension of this time limit. A copy of the report to the
27 governor shall be sent to the chief administrative officer and

1 the governing body of the local government, the speaker of the
2 house of representatives, and the senate majority leader. The
3 review team shall include 1 of the following conclusions in its
4 report:

5 (a) A serious financial problem does not exist in the local
6 government.

7 (b) A serious financial problem exists in the local govern-
8 ment, but a consent agreement containing a plan to resolve the
9 problem has been adopted pursuant to section 14(1)(c).

10 (c) A local government financial emergency exists because no
11 satisfactory plan exists to resolve a serious financial problem.

12 Sec. 15. (1) Within 30 days after receipt of the report
13 provided for in section 14, the governor shall make 1 of the fol-
14 lowing determinations:

15 (a) A serious financial problem does not exist in the local
16 government.

17 (b) A serious financial problem exists in the local govern-
18 ment, but a consent agreement containing a plan to resolve the
19 problem has been adopted pursuant to section 14(1)(c).

20 (c) A local government financial emergency exists because no
21 satisfactory plan to resolve a serious financial problem exists.

22 (2) If the governor determines pursuant to subsection (1)
23 that a financial emergency exists, the governor shall provide the
24 governing body and chief administrative officer of the local unit
25 with a written notification of the determination, findings of
26 fact utilized as the basis upon which this determination was
27 made, a concise and explicit statement of the underlying facts

1 supporting the factual findings, and notice that the chief
2 administrative officer or the governing body of the local govern-
3 ment has 10 days after the date of this notification to request a
4 hearing conducted by the governor or the governor's designate.
5 Following the hearing, or if no hearing is requested following
6 the expiration of the deadline by which a hearing may be
7 requested, the governor shall either confirm or revoke, in writ-
8 ing, the determination of the existence of a local financial
9 emergency. If confirmed, the governor shall provide a written
10 report of the findings of fact of the continuing or newly devel-
11 oped conditions or events providing a basis for the confirmation
12 of a local financial emergency, and a concise and explicit state-
13 ment of the underlying facts supporting these factual findings.

14 Sec. 16. If, at any time following determination by the
15 governor that a serious financial problem exists under section
16 15(1)(b), the state treasurer or the review team informs the gov-
17 ernor that the local government is not abiding by the provisions
18 of a consent agreement, the governor shall determine that a
19 financial emergency exists in the local government, and section
20 15(2) and section 18 shall then apply to that local government.

21 Sec. 17. A local government for which a financial emergency
22 determination pursuant to section 15 or 16 has been confirmed to
23 exist by the governor may appeal this determination to the cir-
24 cuit court for the county in which the local government is
25 located or to the circuit court for the county of Ingham. The
26 court shall not set aside a determination of the governor unless
27 it finds that the determination is either of the following:

1 (a) Not supported by competent, material, and substantial
2 evidence on the whole record.

3 (b) Arbitrary, capricious, or clearly an abuse or unwar-
4 ranted exercise of discretion.

5 Sec. 18. (1) If the governor determines that a financial
6 emergency exists under section 15, the governor shall assign the
7 responsibility for managing the local government financial emer-
8 gency to the local emergency financial assistance loan board cre-
9 ated under the emergency municipal loan act, Act No. 243 of the
10 Public Acts of 1980, being sections 141.931 to 141.942 of the
11 Michigan Compiled Laws. The local emergency financial assistance
12 loan board shall appoint an emergency financial manager. The
13 emergency financial manager shall be chosen solely on the basis
14 of his or her competence and shall not have been either an
15 elected or appointed official or employee of the local government
16 for which appointed for not less than 5 years before the
17 appointment. The emergency financial manager need not be a resi-
18 dent of the local government for which he or she is appointed.
19 The emergency financial manager shall serve at the pleasure of
20 the local emergency financial assistance loan board. The emer-
21 gency financial manager shall be entitled to compensation and
22 reimbursement for actual and necessary expenses from the local
23 government as approved by the local emergency financial assist-
24 ance loan board. In addition to staff otherwise authorized by
25 law, with the approval of the local emergency financial assist-
26 ance loan board, the emergency financial manager may appoint

1 additional staff and secure professional assistance considered
2 necessary to implement this article.

3 (2) An emergency financial manager appointed under the local
4 government fiscal responsibility act, former Act No. 101 of the
5 Public Acts of 1988, and serving on the effective date of this
6 act, except as provided in subsection (1), shall continue under
7 this act to fulfill his or her powers and duties.

8 Sec. 19. The emergency financial manager shall issue to the
9 appropriate officials or employees of the local government the
10 orders the manager considers necessary to accomplish the purposes
11 of this act, including, but not limited to, orders for the timely
12 and satisfactory implementation of a financial plan developed
13 pursuant to section 20. An order issued under this section is
14 binding on the local officials or employees to whom it is
15 issued.

16 Sec. 20. (1) In consultation with the local government, the
17 emergency financial manager shall develop, and may from time to
18 time amend, a written financial plan for the local government.
19 The financial plan shall provide for both of the following:

20 (a) Conducting the operations of the local government within
21 the resources available according to the emergency financial
22 manager's revenue estimate.

23 (b) The payment in full of the scheduled debt service
24 requirements on all bonds and notes of the local government and
25 all other uncontested legal obligations.

26 (2) After the initial development of a financial plan, the
27 plan shall be regularly reexamined by the emergency financial

1 manager in consultation with the local government, and if the
2 emergency financial manager reduces his or her revenue estimates,
3 the emergency financial manager shall modify the financial plan
4 to conform to revised revenue estimates.

5 (3) The financial plan shall be in a form and shall contain
6 that information for each year during which year the financial
7 plan is in effect that the local emergency financial manager
8 specifies.

9 Sec. 21. An emergency financial manager may take 1 or more
10 of the following additional actions with respect to the local
11 government in which a financial emergency has been determined to
12 exist:

13 (a) Analyze of factors and circumstances contributing to the
14 financial condition of the local government and recommend steps
15 to be taken to correct the condition.

16 (b) Amend, revise, approve, or disapprove the budget of the
17 local government, and limit the total amount appropriated or
18 expended during the balance of the financial emergency.

19 (c) Require and approve or disapprove, or amend or revise a
20 plan for liquidating all outstanding debt of the local
21 government.

22 (d) Require and prescribe the form of special reports to be
23 made by the finance officer of the local government to its gov-
24 erning body, the creditors of the local government, the emergency
25 financial manager, or the public.

26 (e) Examine all records and books of account, and require
27 under the procedures of the uniform budgeting and accounting act,

1 Act No. 2 of the Public Acts of 1968, being sections 141.421 to
2 141.440a of the Michigan Compiled Laws, or Act No. 71 of the
3 Public Acts of 1919, being sections 21.41 to 21.53 of the
4 Michigan Compiled Laws, or both, the attendance of witnesses and
5 the production of books, papers, contracts, and other documents
6 relevant to an analysis of the financial condition of the local
7 government.

8 (f) Make, approve, or disapprove any appropriation, con-
9 tract, expenditure, or loan, the creation of any new position, or
10 the filling of any vacancy in a permanent position by any
11 appointing authority.

12 (g) Review payrolls or other claims against the local gov-
13 ernment before payment.

14 (h) Exercise all of the authority of the local government to
15 renegotiate existing labor contracts and act as an agent of the
16 unit in collective bargaining with employees or representatives
17 and approve any contract or agreement.

18 (i) Unless prohibited by law or charter, to consolidate
19 departments or transfer functions from 1 department to another
20 and to appoint, supervise, and, at his or her discretion, remove
21 heads of departments other than elected officials.

22 (j) Employ or contract for, at the expense of the local gov-
23 ernment and with the approval of the local emergency financial
24 assistance loan board, auditors and other technical personnel
25 considered necessary to implement this article.

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

1 (l) Except as restricted by charter or otherwise, sell or
2 otherwise use the assets of the local government to meet past or
3 current obligations, provided the use of assets for this purpose
4 does not endanger public health, safety, or welfare.

5 (m) Apply for a loan from the state on behalf of the local
6 government, subject to the conditions of the emergency municipal
7 loan act, Act No. 243 of the Public Acts of 1980, being sections
8 141.931 to 141.942 of the Michigan Compiled Laws, in a sufficient
9 amount to pay the expenses of the emergency financial manager and
10 for other lawful purposes.

11 (n) Approve or disapprove of the issuance of obligations of
12 the local government on behalf of the municipality, subject to
13 the conditions of the municipal finance act, Act No. 202 of the
14 Public Acts of 1943, being sections 131.1 to 139.3 of the
15 Michigan Compiled Laws.

16 (o) Enter into agreements with other local governments for
17 the provision of services.

18 (p) Exercise the authority and responsibilities affecting
19 the financial condition of the local government as provided in
20 the following acts:

21 (i) Act No. 279 of the Public Acts of 1909, being sections
22 117.1 to 117.38 of the Michigan Compiled Laws.

23 (ii) Act No. 215 of the Public Acts of 1895, being sections
24 81.1 to 113.20 of the Michigan Compiled Laws.

25 (iii) Chapter 16 of the Revised Statutes of 1846, being sec-
26 tions 41.1 to 41.102 of the Michigan Compiled Laws.

1 (iv) Act No. 359 of the Public Acts of 1947, being sections
2 42.1 to 42.34 of the Michigan Compiled Laws.

3 (v) Act No. 156 of the Public Acts of 1851, being sections
4 46.1 to 46.32 of the Michigan Compiled Laws.

5 (vi) Act No. 293 of the Public Acts of 1966, being sections
6 45.501 to 45.521 of the Michigan Compiled Laws.

7 (vii) Act No. 3 of the Public Acts of 1895, being sections
8 61.1 to 74.22 of the Michigan Compiled Laws.

9 (viii) Act No. 278 of the Public Acts of 1909, being sec-
10 tions 78.1 to 78.28 of the Michigan Compiled Laws.

11 Sec. 22. (1) After giving written notice to the local emer-
12 gency financial assistance loan board, the emergency financial
13 manager may authorize the local government to proceed under title
14 11 of the United States Code, 11 U.S.C. 101 to 1330, unless this
15 authorization is disapproved by the local emergency financial
16 assistance loan board within 60 days after the notice has been
17 received by the board. This section empowers the local govern-
18 ment for which an emergency financial manager has been appointed
19 to become a debtor under title 11 of the United States Code as
20 required by section 109 of title 11 of the United States Code, 11
21 U.S.C. 109.

22 (2) The notice to the local emergency financial assistance
23 loan board under subsection (1) shall include a determination by
24 the emergency financial manager that no feasible financial plan
25 can be adopted that can satisfactorily resolve the financial
26 emergency in a timely manner, or a determination by the emergency
27 financial manager that an adopted financial plan, in effect for

1 at least 180 days, cannot be implemented, as written or as it
2 might be amended, in a manner that can satisfactorily resolve the
3 financial emergency in a timely manner.

4 Sec. 23. The state, the members of the local emergency
5 financial assistance loan board, and the emergency financial man-
6 ager are not liable for any obligation of or claim against a
7 local government resulting from actions taken in accordance with
8 the terms of this article.

9 Sec. 24. Elected officials of a local government shall pro-
10 vide the assistance and information necessary and properly
11 requested by a review team, the local emergency financial assist-
12 ance loan board, or the emergency financial manager in the effec-
13 tuation of their duties and powers and of the purposes of this
14 article. Failure of an elected official of a local government to
15 abide by this article shall be considered gross neglect of duty,
16 which the emergency financial manager shall report to the local
17 emergency financial assistance loan board. Following review and
18 a hearing with the local government elected official, the local
19 emergency financial assistance loan board may recommend to the
20 governor that the governor remove the elected official from
21 office. If the governor removes the elected official from
22 office, the resulting vacancy in office shall be filled as pre-
23 scribed by law.

24 Sec. 25. The governor may determine that the conditions for
25 revoking the declaration of a financial emergency have been met
26 after receiving a recommendation from the local emergency
27 financial assistance loan board.

1 Sec. 26. This act shall not be construed to give the
2 emergency financial manager or the local financial assistance
3 loan board the power to impose taxes, over and above those
4 already authorized, without the approval at an election of a
5 majority of the qualified electors voting on the question.

6 ARTICLE 3

7 SCHOOL DISTRICT PROVISIONS

8 Sec. 31. As used in this article:

9 (a) "Emergency financial manager" means the emergency finan-
10 cial manager appointed under section 34.

11 (b) "School district" or "district" means a local school
12 district established under part 2, 3, 4, 5, or 6 of the school
13 code of 1976, Act No. 451 of the Public Acts of 1976, being sec-
14 tions 380.71 to 380.485 of the Michigan Compiled Laws, or a local
15 act school district.

16 (c) "School fiscal year" means a fiscal year that commences
17 July 1 and continues through June 30.

18 (d) "State board" means the state board of education.

19 Sec. 32. (1) The position of emergency financial manager is
20 created for the purpose of managing a financial emergency that
21 may exist within a school district. Except as provided in this
22 article, the manager shall exercise his or her powers and duties
23 independently of the state board and the superintendent of public
24 instruction. However, the budgeting, procurement, and related
25 functions of the emergency financial manager shall be performed
26 under the direction and supervision of the state board.

1 (2) An emergency financial manager appointed under this
2 article shall be chosen solely on the basis of his or her
3 competence in fiscal matters and shall not have held either an
4 elected or appointed position in or have been an employee of the
5 school district for which he or she was appointed for not less
6 than 5 years before the appointment. The emergency financial
7 manager shall not be the superintendent of public instruction.
8 The emergency financial manager need not be a resident of the
9 school district for which he or she is appointed.

10 (3) An emergency financial manager appointed under this
11 article shall receive compensation and reimbursement for actual
12 and necessary expenses from the school district as approved by
13 the superintendent of public instruction.

14 Sec. 33. The superintendent of public instruction shall
15 inform the governor that a financial emergency may exist in a
16 school district if 1 or more of the following conditions indica-
17 tive of a financial emergency exist:

18 (a) A school district ended the most recently completed
19 school fiscal year with an accumulated deficit in excess of 5% of
20 its approved budget.

21 (b) A school district's expenditures exceeded the district's
22 revenue for 3 consecutive school fiscal years.

23 (c) A school district fails to pay its employees within 5
24 days of any regularly scheduled payday.

25 (d) A school district is notified that the district is in
26 default on the interest payment or principal payment, or both, on
27 any public financial instrument.

1 (e) The superintendent of public instruction receives a
2 petition containing specific allegations of school district
3 financial distress signed by a number of registered electors
4 residing within the school district equal to not less than 10% of
5 the total vote cast for all candidates for governor within the
6 school district at the last preceding election at which a gover-
7 nor was elected. Petitions shall not be filed under this subdi-
8 vision within 60 days before any election in the school
9 district.

10 (f) The school board of a school district, by a majority
11 vote of the total number of members authorized by law to serve on
12 the board, adopts a resolution declaring that the school district
13 is in a financial emergency.

14 (g) A revised budget of a school district is not in
15 balance.

16 Sec. 34. Within 30 days after receipt of notification that
17 a financial emergency exists in a school district, the governor
18 may declare a financial emergency in the school district and
19 appoint by and with the advice and consent of the senate an emer-
20 gency financial manager who meets the requirements of section
21 32(2). Unless the declaration of a financial emergency is set
22 aside pursuant to section 35, the emergency financial manager
23 shall serve until the governor certifies that a financial emer-
24 gency no longer exists because the school district adopted a bal-
25 anced budget, including the elimination of an accumulated defi-
26 cit, that is approved by the emergency financial manager and the
27 superintendent of public instruction.

1 Sec. 35. A school district for which a financial emergency
2 has been declared to exist by the governor may appeal this deter-
3 mination to the circuit court for the county in which the school
4 district is located or to the circuit court for the county of
5 Ingham. The court shall not set aside a determination of the
6 governor unless it finds that the determination is either of the
7 following:

8 (a) Not supported by competent, material, and substantial
9 evidence on the whole record.

10 (b) Arbitrary, capricious, or clearly an abuse or unwar-
11 ranted exercise of discretion.

12 Sec. 36. (1) Upon appointment under section 34, an emer-
13 gency financial manager shall immediately assume control over all
14 fiscal matters of, and make all fiscal decisions for, the school
15 district for which he or she was appointed.

16 (2) In implementing this article, an emergency financial
17 manager shall do all of the following:

18 (a) Examine the books and records of the school district.

19 (b) Review payrolls or other claims against the school dis-
20 trict before payment.

21 (c) Enter into contracts on behalf of the school district.

22 (d) Receive and disburse on behalf of the school district
23 all federal, state, and local funds earmarked for the school
24 district. These funds may include, but are not limited to, funds
25 for specific programs and the retirement of debts.

1 (e) Adopt a final budget for the next school fiscal year and
2 a 3-year financial plan for the school district aimed at
3 liquidating all outstanding debt of the district.

4 (f) Act as an agent of the school district in collective
5 bargaining and, to the extent possible under federal and state
6 labor law, renegotiate existing and negotiate new labor
7 agreements.

8 (g) Analyze factors contributing to the financial condition
9 of the school district and recommend to the legislature steps
10 that need to be taken to improve the district's financial
11 condition.

12 (h) Require compliance with his or her orders, by court
13 action if necessary.

14 (i) Take any other action that he or she considers necessary
15 or proper to implement this article and eliminate the financial
16 emergency in the school district.

17 (3) An emergency financial manager may do 1 or more of the
18 following:

19 (a) Require the attendance of witnesses and the production
20 of books, papers, contracts, and other documents relevant to an
21 analysis of the financial condition of the school district.

22 (b) Recommend to the governor, the legislature, and the
23 state board that the school district be reorganized with 1 or
24 more contiguous school districts.

25 (c) Consolidate divisions or transfer functions from 1 divi-
26 sion to another division within the school district and appoint,

1 supervise, and, at his or her discretion, remove heads of
2 divisions of the school district.

3 (d) Create a new position or approve or disapprove the cre-
4 ation of any new position or the filling of any vacancy in a per-
5 manent position by any appointing authority.

6 (e) Seek approval from the state board for a reduced class
7 schedule in accordance with administrative rules governing the
8 distribution of state school aid.

9 (f) Employ or contract for, at the expense of the school
10 district and with the approval of the superintendent of public
11 instruction, auditors and other technical personnel considered
12 necessary to implement this article.

13 (g) Reduce expenditures in the budget of the school
14 district.

15 (h) Borrow money on behalf of the school district.

16 (i) Approve or disapprove of the issuance of obligations of
17 the school district.

18 (j) Order a school millage election for the school district
19 consistent with the Michigan election law, Act No. 116 of the
20 Public Acts of 1954, being sections 168.1 to 168.992 of the
21 Michigan Compiled Laws, and sections 6 and 25 through 34 of arti-
22 cle IX of the state constitution of 1963.

23 (k) Except as restricted by charter or otherwise, sell or
24 otherwise use the assets of the school district to meet past or
25 current obligations, provided the use of assets for this purpose
26 does not impair education of the pupils of the district.

1 (l) File for bankruptcy under chapter 9 of title 11 of the
2 United States Code, 11 U.S.C. 901 to 904, 921 to 930, and 941 to
3 946.

4 Sec. 37. The governor shall determine and certify that the
5 conditions for revoking the declaration of a financial emergency
6 have been met after receiving pursuant to section 34 a notice
7 from the emergency financial manager and the superintendent of
8 public instruction that the school district has adopted a bal-
9 anced budget, including the elimination of any accumulated
10 deficit.

11 Sec. 38. The superintendent of public instruction, the
12 department of education, and the school board, the employees, and
13 administrators of a school district that is in a financial emer-
14 gency shall provide the assistance and information considered
15 necessary and properly requested by the emergency financial man-
16 ager in the effectuation of his or her powers and duties under
17 this article.

18 Sec. 39. The state and an emergency financial manager are
19 not liable for any obligation of or claim against a school dis-
20 trict resulting from actions taken in accordance with this
21 article. This section does not apply to any contract entered
22 into pursuant to section 36.

23 Sec. 40. Act No. 101 of the Public Acts of 1988, being sec-
24 tions 141.1101 to 141.1118 of the Michigan Compiled Laws, is
25 repealed.