

HOUSE BILL No. 6199

May 20, 2010, Introduced by Reps. Jackson and Smith and referred to the Committee on Education.

A bill to amend 1990 PA 72, entitled "Local government fiscal responsibility act," by amending sections 40 and 41 (MCL 141.1240 and 141.1241) and by adding section 41b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40. (1) In consultation with the school board, the
2 emergency financial manager shall develop, and may from time to
3 time amend, a written financial plan for the school district. **A**
4 **FINANCIAL PLAN OR AMENDED FINANCIAL PLAN MUST BE APPROVED BY THE**
5 **SUPERINTENDENT OF PUBLIC INSTRUCTION BEFORE IT IS IMPLEMENTED BY**
6 **THE EMERGENCY FINANCIAL MANAGER. THE EMERGENCY FINANCIAL MANAGER**
7 **SHALL SUBMIT THE FINANCIAL PLAN OR AMENDED FINANCIAL PLAN TO THE**
8 **SUPERINTENDENT OF PUBLIC INSTRUCTION FOR APPROVAL. WITHIN 30 DAYS**
9 **AFTER SUBMISSION, THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL**

1 APPROVE OR REJECT THE FINANCIAL PLAN OR AMENDED FINANCIAL PLAN. THE
2 SUPERINTENDENT OF PUBLIC INSTRUCTION ALSO MAY REVISE COMPONENTS OR
3 ELEMENTS OF THE FINANCIAL PLAN OR AMENDED FINANCIAL PLAN. REVISIONS
4 BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION BECOME PART OF THE
5 FINANCIAL PLAN OR AMENDED FINANCIAL PLAN. The financial plan SHALL
6 SERVE AS THE OFFICIAL OPERATIONAL DOCUMENT FOR THE SCHOOL DISTRICT
7 AND shall provide for ~~both~~ ALL of the following:

8 (A) METHODOLOGY FOR STABILIZATION OR REVERSAL OF DECLINING
9 REVENUE ASSOCIATED WITH DECLINING ENROLLMENT, ACADEMIC ACHIEVEMENT,
10 SCHOOL INFRASTRUCTURE, AND OTHER APPLICABLE FACTORS.

11 (B) ~~(a)~~—Conducting the operations of the school district
12 within the resources available according to the emergency financial
13 manager's revenue estimate.

14 (C) ~~(b)~~—The payment in full of the scheduled debt service
15 requirements on all bonds and notes of the school district and all
16 other uncontested legal obligations.

17 (2) After the initial development of the financial plan
18 required by subsection (1), the emergency financial manager in
19 consultation with the school board shall regularly reexamine the
20 plan, **MONTHLY PROGRESS, AND PRIORITIES**, and if the emergency
21 financial manager reduces his or her revenue estimates, he or she
22 shall modify the financial plan to conform to revised revenue
23 estimates **OR STRATEGIES FOR REVERSAL OF DECLINING REVENUES**.

24 (3) The financial plan shall be in a form, and shall contain
25 that information for each year the plan is in effect, that the
26 school district's emergency financial manager specifies.

27 (4) The emergency financial manager shall make public the plan

1 or modified plan. THE SCHOOL BOARD MAY REQUEST REVISIONS TO THE
2 PLAN. IF 1 OR MORE OF THE REVISIONS REQUESTED BY THE SCHOOL BOARD
3 ARE NOT ADOPTED BY THE EMERGENCY FINANCIAL MANAGER, THE SCHOOL
4 BOARD MAY APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO
5 REQUEST THE REVISIONS. THE SUPERINTENDENT OF PUBLIC INSTRUCTION, IN
6 HIS OR HER SOLE DISCRETION, MAY ORDER THE EMERGENCY FINANCIAL
7 MANAGER TO ADOPT 1 OR MORE REVISIONS REQUESTED BY THE SCHOOL BOARD
8 IF HE OR SHE DETERMINES THAT THE REVISION IS CONSISTENT WITH SCHOOL
9 DISTRICT STABILIZATION AND TREND REVERSAL OBJECTIVES. IF THE
10 SUPERINTENDENT OF PUBLIC INSTRUCTION DOES NOT ORDER A REVISION
11 REQUESTED BY THE SCHOOL BOARD, THE SUPERINTENDENT OF PUBLIC
12 INSTRUCTION SHALL NOTIFY THE SCHOOL BOARD AND SHALL PROVIDE A
13 WRITTEN EXPLANATION TO THE SCHOOL BOARD OF HIS OR HER REASONS FOR
14 NOT ORDERING THE REVISION. This subsection shall not be construed
15 to mean that the emergency financial manager must receive public
16 approval before he or she implements the financial plan or any
17 modification to the plan.

18 Sec. 41. (1) Upon appointment under section 38, an emergency
19 financial manager shall immediately assume control over all fiscal
20 matters of, and make all fiscal decisions for, the school district
21 for which he or she is appointed.

22 (2) In implementing this article and performing his or her
23 functions under this article, an emergency financial manager may
24 take 1 or more of the following actions:

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

26 (b) Review payrolls or other claims against the school
27 district before payment.

1 (c) Negotiate, renegotiate, approve, and enter into contracts
2 on behalf of the school district.

3 (d) Receive and disburse on behalf of the school district all
4 federal, state, and local funds earmarked for the school district.
5 These funds may include, but are not limited to, funds for specific
6 programs and the retirement of debt.

7 (e) Adopt a final budget for the next school fiscal year and
8 amend any adopted budget of the school district.

9 (f) Act as an agent of the school district in collective
10 bargaining and, to the extent possible under state labor law,
11 renegotiate existing and negotiate new labor agreements.

12 (g) Analyze factors contributing to the financial condition of
13 the school district and recommend to the legislature steps that
14 need to be taken to improve the district's financial condition.

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

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

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

23 (k) Consolidate divisions or transfer functions from 1
24 division to another division within the school district and
25 appoint, supervise, and, at his or her discretion, remove, within
26 legal limitations, heads of divisions of the school district.

27 (l) Create a new position or approve or disapprove the creation

1 of any new position or the filling of a vacancy in a permanent
2 position by an appointing authority.

3 (m) Seek approval from the state board for a reduced class
4 schedule in accordance with administrative rules governing the
5 distribution of state school aid.

6 (n) Employ or contract for, at the expense of the school
7 district and with the approval of the superintendent of public
8 instruction, auditors and other technical personnel considered
9 necessary to implement this article.

10 (o) Reduce expenditures in the budget of the school district.

11 (p) Borrow money on behalf of the school district.

12 (q) Approve or disapprove of the issuance of obligations of
13 the school district.

14 (r) Order, as necessary, 1 or more school millage elections
15 for the school district consistent with the **REVISED** school code, ~~ef~~
16 ~~1976, 1976 PA 451, MCL 380.1 TO 380.1852~~, the Michigan election
17 law, ~~Act No. 116 of the Public Acts of 1954, being sections 168.1~~
18 ~~to 168.992 of the Michigan Compiled Laws, 1954 PA 116, MCL 168.1 TO~~
19 **168.992**, and sections 6 and 25 through 34 of article IX of the
20 state constitution of 1963.

21 (s) Sell or otherwise use the assets of the school district to
22 meet past or current obligations, provided the use of assets for
23 this purpose does not impair the education of the pupils of the
24 district.

25 **(T) EXAMINE THE CAUSES OF DECLINING REVENUE AND STRUCTURAL AND**
26 **NONSTRUCTURAL DEFICITS.**

27 **(U) ASSESS CORRELATION OF ACADEMIC DELIVERY WITH HIGHER**

1 EDUCATION ADMISSION STANDARDS, MARKET EMPLOYMENT STANDARDS, AND
2 EMPLOYER CAPACITY NEEDS.

3 (V) IMPLEMENT BUDGET STABILIZATION, STUDENT ATTRACTION, AND
4 ACADEMIC DELIVERY STRATEGIES.

5 (W) ~~(t)~~—Exercise the authority and responsibilities affecting
6 the financial condition of the school district that are prescribed
7 by law to the school board and superintendent of the school
8 district.

9 (3) IN IMPLEMENTING THIS ARTICLE AND PERFORMING HIS OR HER
10 FUNCTIONS UNDER THIS ARTICLE, AN EMERGENCY FINANCIAL MANAGER SHALL
11 DO ALL OF THE FOLLOWING:

12 (A) IMPLEMENT PROMPT PAYMENT PRACTICES TO PROVIDE INCENTIVES
13 FOR VENDOR PARTICIPATION AND COMPETITIVE VENDOR PRICING.

14 (B) IMPLEMENT REQUEST FOR PROPOSAL SCHEDULES THAT PROVIDE
15 REASONABLE TIME FOR VENDOR INSPECTION AND MAXIMIZATION
16 OF LOCAL PARTICIPATION.

17 (C) IMPLEMENT PROCEDURES FOR CONTRACTS AND COLLECTIVE
18 BARGAINING AGREEMENTS THAT EMPHASIZE LOCAL PARTICIPATION AND
19 ENHANCE THE SCHOOL DISTRICT'S TAX BASE AS PART OF A STRATEGY FOR
20 REVERSAL OF DECLINING REVENUES.

21 (D) REQUIRE ANY LABOR AGREEMENTS ASSOCIATED WITH PROJECTS
22 FUNDED BY SCHOOL BONDS TO ENHANCE LOCAL EMPLOYMENT THROUGH THE
23 PROVISION OF HIRING PREFERENCES FOR QUALIFIED UNEMPLOYED SKILLED
24 WORKERS WITH VERIFIABLE RESIDENCY IN THE SCHOOL DISTRICT OF 6
25 MONTHS OR MORE.

26 (E) REQUIRE ANY REQUEST FOR DESIGN AND BUILD PROPOSALS FOR
27 PROJECTS FUNDED BY SCHOOL BONDS TO PROVIDE INCENTIVES FOR RESPONSES

1 THAT CONTAIN A LOCAL LEAD CONTRACTOR, LOCAL JOINT VENTURE LEAD, OR
2 A CONTRACTOR PARTICIPATION PLAN THAT AFFORDS NOT LESS THAN 51%
3 PARTICIPATION TO LOCALLY HEADQUARTERED CONTRACTORS AND SEEKS TO
4 ACHIEVE NOT LESS THAN 70% CONTRACT LABOR PARTICIPATION BY LOCAL
5 RESIDENTS OF THE SCHOOL DISTRICT.

6 (4) THE LEGISLATURE SHALL APPROPRIATE UP TO \$100,000.00 FOR AN
7 EMERGENCY FINANCIAL MANAGER APPOINTED UNDER THIS ARTICLE FOR DATA
8 COLLECTION ACTIVITIES ASSOCIATED WITH TAKING ACTION UNDER
9 SUBSECTION (2).

10 (5) ~~(3)~~ After giving written notice to the superintendent of
11 public instruction, the emergency financial manager may authorize
12 the school district to proceed under chapter 9 of ~~title 11 of the~~
13 ~~United States Code, 11 U.S.C. 901 to 904, 921 to 932, and 941 to~~
14 ~~946.~~ **THE FEDERAL BANKRUPTCY CODE, 11 USC 901 TO 946.** This section
15 empowers the school district for which an emergency financial
16 manager has been appointed to become a debtor under chapter 9 of
17 ~~title 11 of the United States Code.~~ **THE FEDERAL BANKRUPTCY CODE, 11**
18 **USC 901 TO 946.**

19 **SEC. 41B. AN EMERGENCY FINANCIAL MANAGER APPOINTED UNDER THIS**
20 **ARTICLE SHALL DO ALL OF THE FOLLOWING:**

21 (A) BEGINNING 4 MONTHS AFTER HE OR SHE IS APPOINTED, AT LEAST
22 EVERY 4 MONTHS SHALL FILE WITH THE GOVERNOR, THE SENATE MAJORITY
23 LEADER, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
24 SUPERINTENDENT OF PUBLIC INSTRUCTION, THE SCHOOL BOARD OF THE
25 SCHOOL DISTRICT, AND THE LEGISLATIVE BODY OF THE MUNICIPALITY IN
26 WHICH A MAJORITY OF THE TERRITORY OF THE SCHOOL DISTRICT IS
27 LOCATED, AND SHALL POST ON THE INTERNET ON THE WEBSITE OF THE

1 SCHOOL DISTRICT, A REPORT CONCERNING HIS OR HER PROGRESS.

2 (B) IN ADDITION TO THE REPORTS REQUIRED UNDER SUBDIVISION (A),
3 SHALL BE AVAILABLE TO TESTIFY BEFORE THE COMMITTEES OF THE
4 LEGISLATURE HAVING JURISDICTION OVER EDUCATION AND BEFORE THE
5 LEGISLATIVE BODY OF THE MUNICIPALITY IN WHICH A MAJORITY OF THE
6 TERRITORY OF THE SCHOOL DISTRICT IS LOCATED NOT FEWER THAN 3 TIMES
7 EACH YEAR.

8 (C) BEGINNING 4 MONTHS AFTER THE DATE HE OR SHE IS APPOINTED,
9 AT LEAST EVERY 4 MONTHS SHALL CONDUCT PUBLIC FORUMS WITHIN THE
10 SCHOOL DISTRICT TO RECEIVE INPUT FROM THE COMMUNITY AND INFORM THE
11 COMMUNITY OF HIS OR HER ACTIVITIES AND PROGRESS. AT THESE FORUMS,
12 THE EMERGENCY FINANCIAL MANAGER SHALL HEAR TESTIMONY FROM THE
13 PUBLIC.