

Act No. 195
Public Acts of 2016
Approved by the Governor
June 21, 2016
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June 21, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senators Hansen and Meekhof

ENROLLED SENATE BILL No. 711

AN ACT to amend 2014 PA 181, entitled “An act to create the Michigan financial review commission act; to provide for the operation of certain commissions; to create funds and accounts; to prescribe the powers and duties of certain commissions, the state treasurer, certain other state officials and state employees, and certain local officials; to provide for the dissolution of certain commissions; and to make certain appropriations,” by amending sections 3, 5, and 7 (MCL 141.1633, 141.1635, and 141.1637), as amended by 2016 PA 53.

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) “Applicable contract” means a contract for goods or services proposed or entered into by a qualified city or school district that either exceeds \$750,000.00, or a higher amount as determined by the commission, or is for a term exceeding 2 years. Applicable contract also includes multiple contracts for less than \$750,000.00, or the higher amount determined by the commission, with 1 entity that, in the aggregate, exceed \$750,000.00, or a higher amount as determined by the commission, within a 12-month period.

(b) “Federal bankruptcy code” means the federal bankruptcy code, 11 USC 101 to 1532.

(c) “Financial review commission” or “commission” means a financial review commission created in section 4.

(d) “Operating expenses” means the reasonable operating expenses of the commission, including without limitation the cost of preparing accounting and other reports, costs of commission meetings or other required activities of the commission, counsel fees, including fees of the attorney general, and fees and expenses incurred for consultants and fiduciaries required to carry out the purposes of this act.

(e) “Person” means an individual, corporation, limited or general partnership, association, joint venture, limited liability company, a governmental entity, including this state.

(f) “Plan for adjustment” means the plan for the adjustment of debts of a qualified city approved and entered by a United States bankruptcy court under chapter 9 of title 11 of the United States Code, 11 USC 901 to 946.

(g) “Professional services” means services that require a high degree of intellectual skill, an advanced degree, or professional licensing or certification. Those providing the professional services are distinguished based on their specialized knowledge, experience, and expertise. Professional services include, but are not limited to, accounting, actuarial, appraisal, auditing, investment advisor, and legal services.

(h) “Qualified city” means a city with a population of more than 600,000 that is subject to a plan for adjustment.

(i) “Qualified school district” means a school district with the same boundaries as a city with a population of 600,000 or more.

(j) "State treasurer" means the treasurer of this state or his or her designee who shall be designated by a written instrument signed by the state treasurer and maintained in a permanent file and whose signature shall have the same force and effect as the signature of the state treasurer for all purposes under this act.

Sec. 5. (1) Except as otherwise provided in subsection (2), each commission shall consist of the following 9 members:

(a) The state treasurer, who shall serve for the duration of his or her term of office.

(b) The director of the department of technology, management, and budget or successor agency, or his or her designee, who shall serve for the duration of his or her term of office.

(c) Three members appointed by the governor who have knowledge, skill, or experience in the field of business or finance and who shall possess knowledge, training, skill, or experience in budgeting, revenue forecasting, debt management or borrowing, actuarial science, law, or business operations, at least 1 of whom is a resident of that qualified city or qualified school district, and at least 1 of whom is a resident of this state who is not a resident of a qualified city or qualified school district.

(d) The mayor or chief executive officer of that qualified city or qualified school district other than a qualified school district described in section 4(2), or his or her designee, who shall serve for the duration of the mayor's or chief executive officer's term of office.

(e) One member appointed by the governor from a list of 3 or more individuals nominated by the senate majority leader who have knowledge, skill, or experience in the field of business or finance, and who shall possess knowledge, training, skill, or experience in budgeting, revenue forecasting, debt management or borrowing, actuarial science, law, or business operations, and 1 of whom is a resident of that qualified city or qualified school district.

(f) One member appointed by the governor from a list of 3 or more individuals nominated by the speaker of the house of representatives who have knowledge, skill, or experience in the field of business or finance, and who shall possess knowledge, training, skill, or experience in budgeting, revenue forecasting, debt management or borrowing, actuarial science, law, or business operations, and 1 of whom is a resident of that qualified city or qualified school district.

(g) The president or chairperson of the qualified city's governing body or qualified school district's school board other than a qualified school district described in section 4(2), or his or her designee, who shall serve for the duration of the president's or chairperson's term of office.

(2) If a financial review commission is the financial review commission for both a qualified city and a qualified school district under section 4(2), in addition to the mayor or chief executive officer of the qualified city or his or her designee under subsection (1)(d) and the president or chairperson of the qualified city's governing body or his or her designee under subsection (1)(g), the financial review commission also shall include as members the superintendent of the qualified school district and the chairperson of the school board of the qualified school district. The superintendent of the qualified school district and the chairperson of the school board of the qualified school district shall not have a vote on matters relating to the qualified city. The mayor or chief executive officer of the qualified city, or his or her designee under subsection (1)(d) and the president or chairperson of the qualified city's governing body or his or her designee under subsection (1)(g), shall not have a vote on matters relating to the qualified school district. This subsection does not apply to a qualified school district whose functions and responsibilities have been transferred to another school district under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(3) The appointed members shall serve for a term of 4 years, except that of the 5 members first appointed, the appointees of the governor shall serve a term of 1, 2, and 4 years respectively, the appointee of the governor who was nominated by the speaker of the house of representatives shall serve a term of 2 years, and the appointee of the governor who was nominated by the senate majority leader shall serve a term of 3 years. Appointed members serve at the pleasure of, and may be removed by, their respective appointing official.

(4) Members of a commission shall serve without compensation but may receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their official duties.

(5) The state treasurer or his or her designee shall serve as chairperson of a commission.

(6) A majority of the eligible voting members of the commission shall constitute a quorum of the commission for the transaction of business. The commission shall meet no less than monthly and at times and places designated by the chairperson. Actions of the commission shall be approved by a majority of the members.

(7) The commission shall conduct its business at public meetings in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. However, members of the commission may attend and participate in a meeting of the commission by the use of telecommunication or other electronic equipment if their attendance and participation by the use of telecommunication or other electronic equipment is authorized by the bylaws of the commission and that meeting is otherwise conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The commission shall adopt bylaws for governance of the commission, which shall, at a minimum, address the procedures for conducting meetings, including voting procedures, and the requirements of its members to attend meetings. Procedural rules required by this section are not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) The commission may contract for professional services, as it requires, and shall determine the qualifications it considers necessary.

(11) The members of the commission and contractors or agents of the commission are subject to 1968 PA 317, MCL 15.321 to 15.330, and 1968 PA 318, MCL 15.301 to 15.310.

(12) A member of the commission, and any person the commission contracts with, shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. The commission shall adopt an ethics policy governing the conduct of commission members and officers and employees of the commission.

(13) Commission members shall take and subscribe to the constitutional oath of office under section 1 of article XI of the state constitution of 1963. The oath shall be filed with the secretary of state.

Sec. 7. A commission may do 1 or more of the following for its qualified city or qualified school district:

(a) For a qualified city, review and approve that qualified city's consensus revenue estimate under section 4t of the home rule city act, 1909 PA 279, MCL 117.4t. The commission may also, after consultation with the qualified city or qualified school district, revise a revenue estimate prepared in connection with a budget, budget modification, financial plan, or financial plan modification, if the commission determines that the revenue estimate was not based on assumptions and methods of estimation reasonable and appropriate under the circumstances and in view of the objectives and purposes of this act. After consultation with the qualified city or qualified school district, the commission may determine the estimated revenues for the qualified city or qualified school district, but any revenue estimate adopted by the commission shall be based on the same requirements as the qualified city's or qualified school district's initial revenue estimate.

(b) For a qualified city, require the qualified city to submit the 4-year financial plan required in section 4t of the home rule city act, 1909 PA 279, MCL 117.4t, in a form and manner the commission considers appropriate. The requirement to submit a 4-year financial plan is not subject to waiver under section 8.

(c) Review, modify, and approve proposed and amended operational budgets of a qualified city or qualified school district. A proposed budget or budget amendment does not take effect unless approved by the commission.

(d) Require the chief financial officer of the qualified city or qualified school district to provide the commission with information it requests related to the qualified city's or qualified school district's finances. The commission may also require the chief financial officer to attend commission meetings. If the chief financial officer fails to comply with the provisions of this subdivision, the commission may require the qualified city, or qualified school district to remove the chief financial officer and appoint a successor.

(e) Review and approve requests by a qualified city or qualified school district to issue debt under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes. The commission may develop rules for the issuance of debt, including limitations that are greater than those provided in sections 401 to 405 of the revised municipal finance act, 2001 PA 34, MCL 141.2401 to 141.2405. The debt described in this subdivision may not be issued unless and until approved by the commission and the commission's approval shall be in addition to any approval of the department of treasury as required by law.

(f) Review compliance by a qualified city with a deficit elimination plan submitted under section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or by a qualified school district with a deficit elimination plan submitted under article I of the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(g) Approve the appointment of a qualified city's chief financial officer. If that appointment is not approved by the commission within 45 days of written submission of the appointment by the qualified city, the appointment is denied. The commission may require that any effort to terminate the chief financial officer be subject to commission review and approval.

(h) Approve the appointment of the qualified school district's chief financial officer. If that appointment is not approved by the commission within 45 days of written submission by the qualified school district, the appointment is denied. A qualified school district may not terminate its chief financial officer without the approval of the commission. The superintendent and the chairperson of the school board of the qualified school district shall not have a vote on an approval under this subdivision.

(i) For a qualified school district, provide that a qualified school district may not alter the terms and conditions of an employment contract with or the benefits of its superintendent or terminate its superintendent without the approval of the commission. The superintendent and the chairperson of the school board of the qualified school district shall not have a vote on an approval under this subdivision.

(j) Require the development and implementation of financial best practices for a qualified city or qualified school district.

(k) Recommend the adoption or amendment of certain charter provisions, bylaws, ordinances, policies, or operating procedures for the qualified city or qualified school district, as applicable.

(l) Require the pursuit of financial or managerial training to ensure the proper discharge of duties for the qualified city or qualified school district.

(m) Make and execute contracts necessary to carry out the purposes of this act.

(n) Sue or be sued. The commission may retain legal counsel to enforce any provisions of this act.

(o) Require the qualified city or qualified school district and the employees or agents of the qualified city or qualified school district to timely produce and share all information and documents, and provide access to all information on assets, services, records, and any other materials or documents the commission determines are necessary to carry out its responsibilities under this act. The commission may require the officers or employees of the qualified city or qualified school district to attend commission meetings for any purpose necessary to carry out its responsibilities under this act.

(p) Perform any duty provided by law that a receivership transition advisory board as described in section 23 of the local financial stability and choice act, 2012 PA 436, MCL 141.1563, may perform.

(q) For a qualified school district, approve all reimbursement to school board members, officials, and employees for travel outside this state.

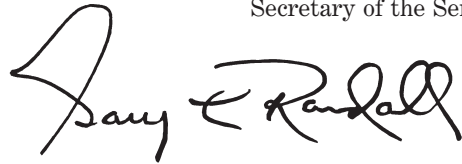
(r) Perform any other duties assigned by the governor that are not inconsistent with the purposes of this act.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5384 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor