

EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

RICK SNYDER  
GOVERNOR

ANDY DILLON  
STATE TREASURER

## CONTRACT FOR EMERGENCY MANAGER SERVICES

Rick Snyder, Governor (Governor) of the State of Michigan retains and appoints Michael K. Brown as the Emergency Manager (Emergency Manager) for the City of Flint (City) under Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act, MCL 141.1501 *et seq.*, (the Act). The services the Emergency Manager will provide to the City will be pursuant to the terms and conditions set forth in this Contract and the Act.

The Emergency Manager's role is to remedy the financial distress of the City by requiring prudent fiscal management and efficient provision of services. The Emergency Manager will exercise the necessary authority conferred by the State to take appropriate action on behalf of the City and its residents.

### 1. PARTIES, PURPOSE, DUTIES, AND REPORTS

1.1 Parties. The parties to this Contract are the State of Michigan by the Governor and Michael K. Brown, Emergency Manager.

1.2 Purpose. The parties to this Contract agree that Michael K. Brown will act as the Emergency Manager for the City. The Emergency Manager's duties and responsibilities are delineated in the Act and include conducting all aspects of the operations of the City and establishing and implementing a financial and operating plan pursuant to Section 18 of the Act.

1.3 Duties. The Emergency Manager shall possess all the powers and duties authorized under the Act, including those specifically related to municipal governments. In addition, the Emergency Manager shall work cooperatively with the Governor and the Treasurer (State Treasurer) of the State of Michigan. The Emergency Manager agrees to keep these officials informed of major initiatives to be undertaken in furtherance of this Contract before the public announcement of any such initiative. The Emergency Manager shall seek the approval of the Treasurer before entering into a new collective bargaining agreement, or before proposing publicly a change to the City's charter.

1.4 Reports. The Emergency Manager shall file the quarterly reports required by Section 15(7) and Section 22 of the Act beginning on June 1, 2012.

1.5 Advisory Committee. The Emergency Manager shall, within thirty (30) days of assuming the responsibilities of Emergency Manager, recommend to the State Treasurer the appointment of an advisory committee consisting of three to five members. The membership shall be one representative of the City's elected officials, one representative of the Flint business community, one citizen of Flint and up to two more persons with interest in and knowledge of

the Flint community and relevant professional skills to assist the Emergency Manager. The purpose of the committee will be to provide advice and counsel to the Emergency Manager regarding the Manager's decisions and actions to resolve the City's distress. The Emergency Manager shall meet with the advisory committee regularly, but no less frequently than monthly.

1.6 Communications. The Emergency Manager shall establish appropriate protocol for ongoing communications with the City's elected officials, the community of Flint and the media. The communication protocol should include a variety of means, including personal interactions.

## **2. TERM OF CONTRACT, EFFECTIVE DATE, AND OATH OF OFFICE**

2.1 Term of Contract. The Emergency Manager shall serve at the pleasure of the Governor as provided in Section 15 of the Act.

2.2 Effective Date. This contract is effective as of December 1, 2011.

2.3 Oath of Office. The Emergency Manager shall take and subscribe an oath of office administered by an official authorized to administer oaths under the laws of Michigan and file such oath with the Office of the Great Seal.

## **3. COMPENSATION FOR SERVICES PROVIDED**

3.1 Source of Payment. The City is required to pay the compensation of the Emergency Manager for all services rendered and for all expenses incurred under this Contract.

3.2 Salary. The Emergency Manager's annual salary for services rendered under this Contract shall be \$170,000 per year. If this Contract is terminated after the Emergency Manager has provided services for a portion of the month, the Emergency Manager shall be entitled, for that portion of that month, to one twelfth of the Emergency Manager's annual salary, multiplied by the proportion that the number of days of the month for which services were provided bears to the number of days of the whole month.

3.3 Payment for Services. The Emergency Manager shall be paid in equal bi-weekly installments consistent with the established written policies and procedures of the City. The compensation paid is subject to concessions and furloughs similar to those imposed on non-union executive staff of the City during the term of this Contract. If requested by the State, the Emergency Manager shall provide additional information for services performed pursuant to this Contract.

3.4 Reimbursement for Actual and Necessary Expenses. The actual and necessary expenses of the Emergency Manager will be reimbursed, including customary expenses related to travel, meals, and lodging, incurred and connected to services for the City. The Emergency Manager shall provide original copies of all receipts for meals, lodging, and travel reimbursement with his billings.

#### **4. ADDITIONAL STAFF AND CONSULTANT FEES**

4.1 Staff. The Emergency Manager may, as provided in the Act, appoint additional staff as necessary to fulfill the obligations of his appointment and duties under this Contract. Payment of compensation for additional staff will be the obligation of the City. While authority to hire additional staff rests with the Emergency Manager, the Emergency Manager agrees to consult with the State Treasurer, or the designee of the State Treasurer, at least 24 hours before extending offers of employment for positions paying \$50,000.00 or more annually.

4.2 Professional Assistance. The Emergency Manager may, as provided in the Act, secure professional assistance as necessary to fulfill the obligations of his appointment and duties under this Contract. Payment of compensation for additional professional assistance will be the obligation of the City. The Emergency Manager agrees to seek approval by the State Treasurer, or the designee of the State Treasurer, at least 24 hours before authorizing professional services contracts of \$50,000.00 or more per engagement or project.

4.3 Security. The Emergency Manager will be entitled to receive security protection in connection with his duties under this Contract. Security personnel will be retained only upon the approval of the State Treasurer, or the designee of the State Treasurer, and only after consultation with the Director of the Michigan Department of State Police, or her designee. Payment of compensation for security personnel will be the obligation of the City.

#### **5. REPRESENTATIONS**

5.1 Qualifications. The Emergency Manager, by signing this Contract, represents that he meets the minimum qualifications for appointment set forth in the Act.

5.2 Conflict of Interest. The Emergency Manager represents and warrants that, to his knowledge, he has no personal or financial interest, and will not acquire any such interest, that would conflict in any manner or degree with the performance of this Contract.

5.3 Non-competition. The Emergency Manager represents and warrants that he is not subject to any non-disclosure, non-competition, or similar clause with current or prior clients or employers that will interfere with the performance of this Contract. The State will not be subject to any liability for any such claim.

5.4 Facilities and Personnel. The City will provide the Emergency Manager with proper facilities and personnel to perform the services and work required to be performed pursuant to this Contract.

5.5 Records. The Emergency Manager shall maintain complete records in accordance with generally accepted accounting practices and sound business practices. This requirement applies to all information maintained or stored in the computer system of the Emergency Manager or computer system of the City. The State and its designees shall have the right to inspect all records related to this Contract.



## 5.6 Non-Discrimination.

a) The Emergency Manager must comply with Public Act 220 of 1976, the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.*, and all applicable federal, State and local fair employment practices and equal opportunity laws. The Emergency Manager covenants that he will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Emergency Manager must impose this covenant upon every subcontractor that enters into an agreement for the performance of any obligation imposed by this Contract. A breach of this covenant is a material breach of this Contract.

b) The Emergency Manager must comply with Public Act 453 of 1976, the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*, and all applicable federal, State and local fair employment practices and equal opportunity laws. The Emergency Manager covenants that he will not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. The Emergency Manager must impose this covenant upon every subcontractor that enters into an agreement for the performance of any obligation imposed by this Contract. A breach of this covenant may be considered a material breach of this Contract.

5.7 Unfair Labor Practices. The Emergency Manager shall not enter into a contract for the performance of any obligation imposed by this Contract with a subcontractor, manufacturer, or supplier whose name appears in the register prepared pursuant to Public Act 278 of 1980, MCL 423.322, of employers found in contempt of court for failure to correct unfair labor practices. The State may void this Contract if the Emergency Manager, or any subcontractor, manufacturer, or supplier of the Emergency Manager that is a party to a contract for the performance of any obligation imposed by this Contract appears in the above mentioned register.

5.8 Independent Contractor. The relationship of the Emergency Manager to the State and to the City under this Contract is that of an independent contractor. Except as specifically provided in the Act, no liability, benefits, workers compensation rights or liabilities, insurance rights or liabilities, or any other rights or liabilities arising out of, or related to, a contract for hire, nor employer-employee relationship, shall arise, accrue, or be implied to either party under this Contract or to an agent, subcontractor, or employee of either party under this Contract, as a result of the performance of this Contract.

## 6. NOTICES

6.1 The State Treasurer is the designee of the State for this Contract unless notice of another designation is provided by the Governor. All notices, correspondence, requests, inquiries, billing statements, and other documents mentioned in this Contract shall be directed to the attention of the State Treasurer, Andy Dillon, and to the following:

For the State:

Roger Fraser  
Deputy State Treasurer for Local Government Services  
Richard H. Austin Building, 430 West Allegan Street  
Lansing, Michigan 48922  
Phone: (517) 373-3223

Frederick Headen  
Director, Bureau of Local Government Services  
Richard H. Austin Building, 430 West Allegan Street  
Lansing, Michigan 48922  
Phone: (517) 373-3305

For the Emergency Manager:

Michael K. Brown  
City of Flint  
1101 South Saginaw Street, Flint, Michigan 48502

## **7. LIMITATION UPON LIABILITY**

7.1 The State. The State, the Governor, the Treasurer, and all other State officials are not liable for any obligation of or claim against the City resulting from actions taken in accordance with the Act or this Contract. The State, the Governor, the Treasurer, and all other State officials are not liable for any obligation of or claim against the City or the Emergency Manager resulting from actions of the Emergency Manager that are outside the scope of his authority granted by the Act or by this Contract or that are deemed to be gross negligence.

7.2 The Emergency Manager. Pursuant to Section 25 of the Act, the Emergency Manager is engaging in a governmental function and is immune from liability for any action taken which he reasonably believes to be within the scope of his authority granted by the Act or by this Contract. The Attorney General shall defend any claim, demand, or lawsuit brought against the Emergency Manager as provided for under the Act.

## **8. INSURANCE**

8.1 General. The Emergency Manager may procure and maintain, at the expense of the City, health insurance, life insurance, worker's compensation, general liability, professional liability, and motor vehicle insurance for himself and any employee, agent, appointee, or contractor of the Emergency Manager as may be provided to elected officials, appointed officials, or employees of the City. The insurance procured and maintained by the Emergency Manager may extend to any claim, demand, or lawsuit asserted or costs recovered against the Emergency Manager and any employee, agent, appointee, or contractor of the Emergency Manager as provided in the Act.

8.2 Post-Contract. If, after the date that the service of the Emergency Manager is con-

cluded, the Emergency Manager or any employee, agent, appointee, or contractor of the Emergency Manager is subject to a claim, demand, or lawsuit arising from an action taken during the service of the Emergency Manager, and not covered by a procured insurance policy, litigation expenses, including but not limited to attorney fees, payments in satisfaction of judgments, and payments made in settlement as approved by the State Treasurer pursuant to Section 25(5) of the Act, shall be paid by the City. If such expenses are not paid by the City they shall be treated as a debt owed to the State pursuant to the Act.

8.3 Additional Insurance. If the City has purchased, or otherwise obtained, an errors and omissions policy, then, as provided in the Act, the Emergency Manager may choose to be covered under such policy at the expense of the City.

8.4 Payment by City. All insurance required under this Contract shall be acquired at the expense of the City under valid and enforceable policies, issued by insurers of recognized responsibility. The State reserves the right to reject as unacceptable any insurer.

## **9. TERMINATION OF CONTRACT AND APPOINTMENT**

### **9.1 Termination by the State.**

a) GOVERNOR. The Emergency Manager serves at the pleasure of the Governor, who has the power to rescind the appointment and terminate this Contract at any time, and without cause, by issuing a Notice of Termination to the Emergency Manager.

b) LEGISLATURE. The Emergency Manager may be removed by impeachment and conviction by the Legislature pursuant to the Act.

9.2 Termination Process. Upon receipt of a Notice of Termination, and except as otherwise directed by the Governor, or his designee, the Emergency Manager shall:

a) Cease work under this Contract upon the date and to the extent specified in the Notice of Termination.

b) Incur no costs beyond the date specified by the Notice of Termination;

c) Submit to the State on the date the termination is effective all records, reports and documents as this State shall specify and carry out such directives as the State may issue concerning the safeguarding and disposition of files and property; and

d) Submit within 30 calendar days a closing memorandum and final billing, which shall be paid within 30 days.

9.3 Termination by Emergency Manager. The Emergency Manager may terminate this Contract at any time, with or without cause, with 30 days written notice to the State Treasurer. Within 30 days of his final day of service, the Emergency Manager shall submit a closing memorandum and final billing, which shall be paid within 30 calendar days.

**10. GENERAL PROVISIONS**

10.1 Governing Law and Jurisdiction. This Contract shall be subject to and construed according to the laws of the State of Michigan, and no action shall be commenced against this State, its agents, or employees for any matter whatsoever arising out of this Contract, in any court other than a Michigan State court.

10.2 No Waiver. A party's failure to insist on the strict performance of this Contract shall not constitute waiver of any breach of the Contract.

10.3 Other Debts. The Emergency Manager represents and warrants that he is not, and will not become, in arrears on any contract, debt, or other obligation to the State of Michigan, including taxes.

10.4 Invalidity. If any provision of this Contract or its application to any persons or circumstances shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

10.5 Headings. Contract section headings are for convenience only and shall not be used to interpret the scope or intent of this Contract.

10.6 Entire Agreement. This Contract represents the entire and exclusive agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.

10.7 Amendment. No Contract amendment will be effective and binding upon the parties to this Contract unless it expressly makes reference to this Contract, is in writing, and is signed by duly authorized representatives of all parties and all the requisite State approvals are obtained.

10.8 Order of Priority. This Contract and the Act shall be read to be consistent one with the other. However, if a conflict is deemed to exist between the terms of this Contract and the Act, the Act shall supersede the terms of this Contract.

STATE OF MICHIGAN

Dated: \_\_\_\_\_

11/28/2011



By: Rick Snyder, Governor

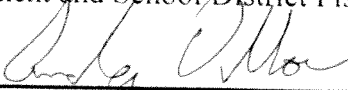
Dated: \_\_\_\_\_

11/28/2011



Michael K. Brown

Approved as to form and content pursuant to Section 15(5)(e) of Public Act 4 of 2011, the Local Government and School District Fiscal Accountability Act, MCL 141.1501 *et seq.*



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Andy Dillon  
State Treasurer  
State of Michigan

Dated: 11/29/11

EXHIBIT 6

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT  
INGHAM COUNTY

ELIZABETH BROWN, TAMEKA  
RAMSEY, EMMA KINNARD, HON.  
JUANITA HENRY, BARBARA FORD,  
EDITH LEE-PAYNE, EVELYN  
FOREMAN, JACQUELINE STEINGOLD,  
LESLIE LITTLE, MICHELLE  
MARTINEZ, SUZANNE SATTLER IHM,  
BARBARA DAVENPORT, IRENE  
WRIGHT, PATRICK O'CONNOR, PAUL  
JORDAN, MICHAEL MERRIWEATHER,  
MARCIA SIKORA, AHMINA MAXEY,  
MARYION LEE, LISA OLIVER-KING,  
KIMBERLY SPRING, BRENDA  
REEBER, GEORGE REEBER, DAVID  
FREDERICK, JOHN DAVID IVERS,  
LORI CHRISTENSON, BETSY COFFIA  
and JAMES CLANCEY,

Plaintiffs,

v

RICHARD D. SNYDER, as Governor of  
the STATE OF MICHIGAN, and  
ANDREW DILLON, as Treasurer of the  
STATE OF MICHIGAN,

Defendants.

Case No. 11-685-CZ

Hon. Rosemarie E. Aquilina

**DEFENDANT GOVERNOR'S  
RESPONSE TO FIRST REQUEST  
FOR ADMISSIONS**

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Anthony D. Paris (P71525)  
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The Sanders Law Firm PC  
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(313) 962-0099/Fax: (313) 962-0044

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Keith D. Flynn (P74192)  
Robert D. Fetter (P68816)  
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Michael F. Murphy (P29213)  
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(517) 373-1162/Fax: (517) 373-2060

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Defendant Governor files this Response to Plaintiffs' First Requests for Admission.

Defendant objects to the admissions as over broad and vague. They seek evidence irrelevant to any claim made in Plaintiffs' suit. Defendant Governor does not waive any right to object to all admissions sought to be entered at the time of trial. Defendant Governor further states that he and/or his office are not the proper party to seek responses to these requests. The responses to these requests to admit are properly sought from the State Treasurer or his Department. In an attempt to respond, the following answers are those of the Department of Treasury and are obtained from its files and records, and to the best knowledge, information and belief of the person answering, these responses are true.



1. Benton Harbor Emergency Manager Joseph Harris is an official of the government of the State of Michigan.

**RESPONSE:** This can be neither admitted nor denied as posed because it seeks a legal conclusion. Under Section 15(5)(d) of PA 4 of 2011, some of the attributes of a state official are part of an “Emergency Manager” by definition. Section 15(a) of the Act states for purposes of Public Act 318 of 1968, “Emergency Managers” are to be treated as if a state officer. Section 25(2) of the Act requires defense of the Act, the authority of State officers or officials or the authority of emergency managers, thus separating each.

It is denied though under law that emergency managers are State “officers” as that term is defined by the Constitution and law.

2. Benton Harbor Emergency Manager Joseph Harris is an agent of the government of the State of Michigan.

**RESPONSE:** Admitted.

3. Benton Harbor Emergency Manager Joseph Harris is a contractor of the government of the State of Michigan.

**RESPONSE:** Admitted.

4. Ecorse Emergency Manager Joyce Parker is an official of the government of the State of Michigan.

**RESPONSE:** See Response # 1.

5. Ecorse Emergency Manager Joyce Parker is an agent of the government of the State of Michigan.

**RESPONSE:** Admitted.

6. Ecorse Emergency Manager Joyce Parker is a contractor of the government of the State of Michigan.

**RESPONSE:** Admitted.

7. Pontiac Emergency Manager Michael Stampfler is an official of the government of the State of Michigan.

**RESPONSE:** See Response #1.

8. Pontiac Emergency Manager Michael Stampfler is an agent of the government of the State of Michigan.

**RESPONSE:** Admitted that he was an agent of the State of Michigan from July 1, 2010 through September 9, 2011.

9. Pontiac Emergency Manager Michael Stampfler is a contractor of the government of the State of Michigan.

**RESPONSE:** Admitted that he was a contractor of the State of Michigan from July 1, 2010 through September 9, 2011.

10. Benton Harbor Emergency Manager Joseph Harris has enacted one or more ordinances of the City of Benton Harbor.

**RESPONSE:** Admitted.

11. Benton Harbor Emergency Manager Joseph Harris has repealed one or more ordinances of the City of Benton Harbor.

**RESPONSE:** Denied.

12. Benton Harbor Emergency Manager Joseph Harris has taken actions that would violate one or more ordinances of the City of Benton Harbor, had he not been appointed Emergency Manager.

**RESPONSE:** We can neither admit nor deny #12 for we have no knowledge to respond to this.

13. Benton Harbor Emergency Manager Joseph Harris has passed one or more resolutions of the City of Benton Harbor.

**RESPONSE:** Admitted.

14. Benton Harbor Emergency Manager Joseph Harris has enacted one or more provisions of the charter of the City of Benton Harbor.

**RESPONSE:** Denied.

15. Benton Harbor Emergency Manager Joseph Harris has repealed one or more provisions of the charter of the City of Benton Harbor.

**RESPONSE:** Denied.

16. Benton Harbor Emergency Manager Joseph Harris has taken actions that, had he not been appointed Emergency Manager, would violate one or more provisions of the charter of the City of Benton Harbor.

**RESPONSE:** We can neither admit nor deny #16 for we have no knowledge to respond to this.

17. Ecorse Emergency Manager Joyce Parker has enacted one or more ordinances of the City of Ecorse.

**RESPONSE:** Admitted.

18. Ecorse Emergency Manager Joyce Parker has repealed one or more ordinances of the City of Ecorse.

**RESPONSE:** Admitted.

19. Ecorse Emergency Manager Joyce Parker has taken actions that, had she not been appointed Emergency Manger, would violate one or more ordinances of the City of Ecorse.

**RESPONSE:** We can neither admit nor deny #19 for we have no knowledge to respond to this.

20. Ecorse Emergency Manager Joyce Parker has passed one or more resolutions of the City of Ecorse.

**RESPONSE:** Admitted.

21. Emergency Manager Joyce Parker has enacted one or more provisions of the charter of the City of Ecorse.

**RESPONSE:** Denied.

22. Ecorse Emergency Manager Joyce Parker has repealed one or more provisions of the charter of the City of Ecorse.

**RESPONSE:** Denied.

23. Ecorse Emergency Manager Joyce Parker has taken actions that, had she not been appointed Ecorse Emergency Manager, would violate one or more provisions of the charter of the City of Ecorse.

**RESPONSE:** We can neither admit nor deny #23 for we have no knowledge to respond to this.

24. Pontiac Emergency Manager Michael Stampfler has enacted one or more ordinances of the City of Pontiac.

**RESPONSE:** Admitted.

25. Pontiac Emergency Manager Michael Stampfler has repealed one or more ordinances of the City of Pontiac.

**RESPONSE:** Admitted.

26. Pontiac Emergency Manager Michael Stampfler has taken actions that, had he not been appointed Pontiac Emergency Manager, would violate one or more ordinances of the City of Pontiac.

**RESPONSE:** We can neither admit nor deny #26 for we have no knowledge to respond to this.

27. Pontiac Emergency Manager Michael Stampfler has passed one or more resolutions of the City of Pontiac.

**RESPONSE:** Admitted.

28. Pontiac Emergency Manager Michael Stampfler has enacted one or more provisions of the charter of the City of Pontiac.

**RESPONSE:** Denied.

29. Pontiac Emergency Manager Michael Stampfler has repealed one or more provisions of the charter of the City of Pontiac.

**RESPONSE:** Denied.

30. Pontiac Emergency Manager Michael Stampfler has taken actions that, had he not been appointed Pontiac Emergency Manager, would violate one or more provisions of the charter of the City of Pontiac.

**RESPONSE:** We can neither admit nor deny #30 for we have no knowledge to respond to this.

31. Public Act 4 of 2011 requires an increase in the activity of or service provided by local governments where an Emergency Manager has been appointed.

**RESPONSE:** Denied. PA 4 by its very nature requires a local unit of government to adopt a financial plan to balance its budget and live within its means. It is to assure that necessary services are supplied to the public welfare and assure fiscal accountability of the local unit. The matters that an Emergency Manager must address are activities, services, and fiscal accountability which are already required of local government units. There is nothing required in addition to what is already required of local units by law.

32. Public Act 4 of 2011 imposes new costs on local governments where an Emergency Manager has been appointed.

**RESPONSE:** Denied.

33. Public Act 4 of 2011 provides for no appropriation and disbursement from the state to local governments where an Emergency Manager has been appointed.

**RESPONSE:** Admitted.

34. No appropriation and disbursement has been made by the State of Michigan to the City of Benton Harbor to pay the compensation, reimbursements, expenses and costs imposed by Sections 15(5)(e), 15(6), 19(o), 19(p), 25(3), 25(4), and 25(5) of Public Act 4 of 2011.

**RESPONSE:** Admitted.

35. No appropriation and disbursement has been made by the State of Michigan to the City of Ecorse to pay the compensation, reimbursements, expenses and costs imposed by Sections 15(5)(e), 15(6), 19(o), 19(p), 25(3), 25(4), and 25(5) of Public Act 4 of 2011.

**RESPONSE:** Admitted.

36. No appropriation and disbursement has been made by the State of Michigan to the City of Pontiac to pay the compensation, reimbursements, expenses and costs imposed by Sections 15(5)(e), 15(6), 19(o), 19(p), 25(3), 25(4), and 25(5) of Public Act 4 of 2011.

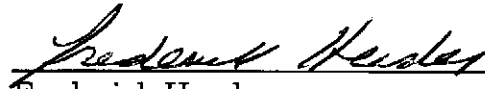
**RESPONSE:** Admitted.

37. No appropriation and disbursement has been made by the State of Michigan to the Detroit Public Schools to pay the compensation, reimbursements, expenses and costs imposed by Sections 15(5)(e), 15(6), 19(o), 19(p), 25(3), 25(4), and 25(5) of Public Act 4 of 2011.

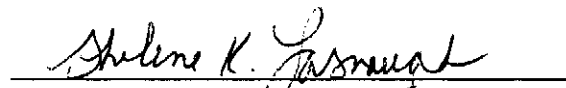
**RESPONSE:** Admitted.

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF INGHAM )

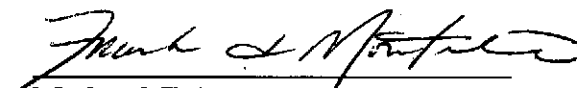
On this 29 day of November, 2011, before me, a Notary Public in and for said county, personally appeared Frederick Headen, who being first duly sworn, did depose and say that he is employed by the Michigan Department of Treasury as Director, Bureau of Local Government Services; that the above Responses to Plaintiffs' First Request for Admissions dated ~~November 30~~, 2011, signed by him <sup>Dec. 1</sup> are true and correct to the best of his knowledge, information and belief, and said responses were furnished by officials and employees of the Michigan Department of Treasury. He certifies upon information and belief that the matters set forth in said response(s) are correct and that the person(s) who furnished such response(s) had personal knowledge and are competent to testify with respect thereto.

  
Frederick Headen

Subscribed and sworn to before me this  
29 day of November 2011

  
Shelene K. Fasnaugh  
Notary public, State of Michigan, County of Eaton  
My commission expires February 28, 2013  
Acting in the County of Ingham

Bill Schuette  
Attorney General

  
Michael F. Murphy (P29213)  
Frank J. Monticello (P36693)  
Assistant Attorneys General  
Attorneys for Defendants  
State Operations Division  
P.O. Box 30754  
Lansing, MI 48909  
(517) 373-1162

Dated: December 1, 2011



EXHIBIT 7



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

ANDY DILLON  
STATE TREASURER

**BILL ANALYSIS**

**BILL NUMBER:** House Bills 4214, 4216-4218, SBs 157 and 158  
**TOPIC:** Emergency Management of Local Governments  
**SPONSOR:** Representative Pscholka House Bills and Senator Pavlov (SB 157 & 158)  
**CO-SPONSORS:** None  
**COMMITTEE:** House: Local, Intergovernmental, and Regional Affairs, Senate: Education  
**Analysis Done:** 14 March 2011

**ADMINISTRATION POSITION**

Support

**PROBLEM/BACKGROUND**

Units of local government in Michigan are under unprecedented levels of fiscal stress because of the confluence of a number of factors. Units of local government have made relatively high and unsustainable commitments to fund salaries, pensions, and health care benefits while revenue streams have been under severe pressure due to the restructuring of the auto industry and the reduction in property values coming out of the most recent recession.

As a result, the statute which governs local emergency financial management, Public Act 72 of 1990, the Local Government Fiscal Responsibility Act, needed to be rewritten to provide more tools for Units of local government and emergency financial managers to proactively address fiscal and, in the case of school districts, related academic problems.

Presently, the Michigan Department of Treasury may intervene in financially troubled units of local government if one or more triggering events arise under Act 72. If a serious financial problem is found to exist, the Governor appoints a multi-member review team to fully assess the serious financial problem and to assess whether local officials possess the capacity to resolve it. This process ultimately can result in the appointment by the State of an emergency financial manager who exercises all of the financial authority of both executive and legislative officials in the unit of local government.

However, Public Act 72 has been shown to have certain deficiencies. For example, the process has been criticized for not being sufficiently expeditious. During the time that it takes for the current statutory process to run its course, the financial condition in a unit of local government may further deteriorate, thus limiting the options which the State has at its disposal by the time an emergency financial manager is appointed.

Second, in most units of local government, the largest category of expenditures is related to compensation or personnel. And, within that category, the largest expenditures tend to be for police services, or fire services, or both. The latter two categories also tend to be governed by collective bargaining.

While Act 72 authorizes emergency financial managers to renegotiate collective bargaining agreements, the Act does not authorize emergency financial managers to abrogate such agreements. Often, efforts by emergency financial managers to renegotiate existing collective bargaining agreements prove fruitless because a given union may be unwilling to reopen the terms of an existing agreement. And, while an emergency financial manager can achieve some compensatory savings through layoffs (assuming there are no minimum manning requirements), there is a point beyond which layoffs may hamper the ability of the unit of local government to provide necessary services.

### **DESCRIPTION OF BILL**

The bill would establish a new Local Government and School District Fiscal Accountability Act which would replace the existing Act 72. More specifically, the bill would:

- Establish more extensive criteria to permit the State to review unit of local government financial problems at a much earlier stage.

For example, Act 72 contains 14 separate conditions (such as the failure of a unit of local government to timely pay wages, creditors, or to make required pension contributions) which can trigger a preliminary review by the Department of Treasury. The bill would add four additional conditions (i.e., the failure to abide by a deficit elimination plan, the failure (of a school district) which has a deficit to submit a deficit elimination plan, receipt of a long-term debt rating of, or below, BBB by one or more national rating agencies, and the existence of other facts or circumstances which, in the sole discretion of the State Treasurer (or the State Superintendent for a school district) are indicative of financial stress.

- Authorize the State to require that a unit of local government submit a continuing operations plan or a recovery plan by which the State routinely could monitor the level of fiscal stress in the unit of local government.

As part of a consent agreement, a unit of local government could be required to submit a continuing operations plan which would include detailed, multi-year revenue and expenditure projections, cash-flow projections, and an evaluation of pension and post-employment health care related costs. A recovery plan would contain substantially similar information, but would be developed and implemented by the State and would supersede the locally adopted budget.

- Provide a 30-day period at the commencement of a consent agreement for addressing a situation of severe financial stress through the collective bargaining process.
- Authorize the State to place a unit of local government in receivership upon a declaration of financial emergency by the Governor.

Within ten days of receiving a review team report, the Governor could declare a financial emergency to exist in a unit of local government. Such a declaration could be made if the review team report concluded that two or more statutory factors either existed, or were likely to occur, in a unit of local government during the current fiscal year. The statutory factors include a failure to remit principal or interest on debt, a failure to timely remit certain transfer payments or to remit employee compensation, a failure to eliminate a deficit or to comply with a deficit elimination plan, or a projected general fund deficit in excess of 5 percent of budgeted general fund revenues.

The Governor also could declare a financial emergency to exist in a unit of local government if that unit of local government failed to provide timely and accurate information to the review team, failed to comply with a continuing operations plan or recovery plan, failed materially to abide by a consent agreement, or the chief administrative officer recommended that a financial emergency be declared.

- Provide for enhanced powers for emergency managers to address financial issues within a unit of local government. For example, emergency managers could:
  - Revoke, modify, or terminate existing collective bargaining agreements after making certain findings.
  - Establish staffing levels, notwithstanding any minimum manning provisions contained in a municipal charter or collective bargaining agreement.
  - Remove pension fund trustees and serve as sole pension fund trustee in instances in which a pension fund was actuarially funded at less than 80 percent.
  - Hire a person or firm to serve as either a local inspector or local auditor. The duties of the former would be to ensure the integrity, economy, efficiency, and effectiveness of operations in a unit of local government, while the duties of the latter would be to ensure that internal controls were designed and operating to mitigate risks.
  - Take any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of a unit of local government.
- Authorize emergency managers to recommend to the State Boundary Commission the consolidation of a unit of local government with one or more other units of local government and recommend the dissolution of units of local government in the manner provided by law.
- Provide a uniform emergency financial management process for both units of local government and school districts (in contrast to disparate procedures presently contained in Act 72 for units of local government and for school districts).
- Provide that the emergency manager is immune from liability and protects the EM from frivolous litigation.
- Contains a specific severability clause (Section 31).
- Is tie barred to *SB 158* which makes a critical amendment to the public employment relations act (PERA) which requires new collective bargaining agreements to include the provision allowing an EM to reject, modify, or terminate the CBA. The bill further states that this provision is a prohibited subject of bargaining. *SB 158* also specifies that the agreements could be rejected, modified or terminated pursuant to the new act.

## **OTHER BILLS**

House Bills 4216, 4217 and 4218 changes references from the old act to the new "Local Government and School District Fiscal Accountability Act" in the Revised Municipal Finance Act, the Michigan Election Law, and Home Rule City Act, respectively.

Senate Bill 157 amends the Revised School Code to provide that if a school included on the list of the lowest achieving 5% of public schools were under an EM the superintendent of Public Instruction could

**SUMMARY OF ARGUMENTS**

- Pro** The legislation provides critical tools to local administrators and emergency managers to proactively address fiscal and academic problems. Without the capacity to address the fundamental cost structure of local units of government emergency managers can't bring local units into a state of sustainable fiscal health. Allowing these cost problems to persist only ensures that any future mitigation will be more painful and more costly for the local unit it and its residents. Local units of government, including school districts, must be financially healthy in order to thrive and provide the critical services necessary to ensure the health, safety and welfare of its citizens.
- Con** This bill allows emergency managers too much power and control over local units of government. Emergency managers can't be trusted to act in the interests of the local unit and will use the enhanced powers granted under this bill for their own gain. Stripping local officials of the powers is anti-democratic.

**FISCAL/ECONOMIC IMPACT**

Are there revenue or budgetary implications in the bill to the –

- (a) **Department**  
**Budgetary:** None  
**Revenue:** None  
**Comments:** The department does not expect a large increase in oversight of emergency managers. If however, the number of EMs that have to be managed increases dramatically costs may increase in a materially.
- (b) **State**  
**Budgetary:** None  
**Revenue:** None  
**Comments:** None
- (c) **Local Government** Local government may have some costs associated with the hiring of an emergency manager but those costs will be completely offset from the savings that will accrue to the local unit because of the action of the EM.  
**Comments:**

**OTHER STATE DEPARTMENTS**

The Attorney General will have additional costs associated with the defense of the act. This cost will be paid by the local unit of government. The Department of Education may have increased obligations to

**ANY OTHER PERTINENT INFORMATION**

It is a certainty that several provisions of this act will be litigated.

**ADMINISTRATIVE RULES IMPACT**

The Department of Treasury will have to develop rules to administer the act.

