

# HOUSE BILL No. 5892

February 24, 2010, Introduced by Reps. Lemmons, Bettie Scott, Womack, Roy Schmidt, Johnson and Dean and referred to the Committee on Education.

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

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

9           (b) Review payrolls or other claims against the school

1 district before payment.

2 (c) Negotiate, renegotiate, approve, and enter into contracts  
3 on behalf of the school district. **HOWEVER, AN EMERGENCY FINANCIAL**  
4 **MANAGER MAY NOT ENTER INTO A CONTRACT ON BEHALF OF THE SCHOOL**  
5 **DISTRICT THAT OBLIGATES THE SCHOOL DISTRICT BEYOND THE TERM FIXED**  
6 **BY THE GOVERNOR IN THE APPOINTMENT OF THE EMERGENCY FINANCIAL**  
7 **MANAGER UNDER SECTION 38.**

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

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

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

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

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

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

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

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

5           (l) Create a new position or approve or disapprove the creation  
6 of any new position or the filling of a vacancy in a permanent  
7 position by an appointing authority.

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

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

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

16           (p) ~~Borrow~~ **SUBJECT TO SUBDIVISION (C), BORROW** money on behalf  
17 of the school district.

18           (q) ~~Approve~~ **SUBJECT TO SUBDIVISION (C), APPROVE** or disapprove  
19 of the issuance of obligations of the school district.

20           (r) Order, as necessary, 1 or more school millage elections  
21 for the school district consistent with the ~~school code of 1976,~~  
22 ~~the Michigan election law, Act No. 116 of the Public Acts of 1954,~~  
23 ~~being sections 168.1 to 168.992 of the Michigan Compiled Laws,~~  
24 **REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852, THE**  
25 **MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168. 992,** and  
26 sections 6 and 25 through 34 of article IX of the state  
27 constitution of 1963.

1           (s) Sell or otherwise use the assets of the school district to  
2 meet past or current obligations, provided the use of assets for  
3 this purpose does not impair the education of the pupils of the  
4 district.

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

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