

# EMERGENCY MANAGER REPLACEMENT BILL

## SUMMARY

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Following is a brief analysis of the Emergency Manager Replacement legislation adopted during lame duck. While the bill is an improvement over PA 4, it is a slap in the face to the people of the State of Michigan in that it re-enacts many of the worst provisions of PA 4 and involved no meaningful discussions with the people who called for and won Proposal 1.

The bill ratifies most actions taken under both PA 4 and PA 72 including consent agreements. Further, it grandfathers all Emergency Managers and Emergency Financial Managers as Emergency Managers under the new act.

New communities coming under fiscal scrutiny by the State, local units of government (including school districts) are given four options upon a finding of any fiscal emergency but all actions taken under three of the four options are subject to State oversight. The four options are:

- Neutral Evaluation Process: This option (which is the default position if the local unit fails to act within 7 days of the Governor's determination of a fiscal emergency) allows the local unit of government to call together all stakeholders (including bond holders, vendors, contractors and unions) to seek a solution to the fiscal emergency. If a settlement is reached within 60-90 days, the parties may either sign it or present it as a structured settlement before a federal bankruptcy judge. Any settlement is subject to veto by the State Treasurer if it does not contain sufficient "cuts."
- Consent Agreement: The local unit of government and the State Treasurer may enter into a consent agreement in a fashion similar to P.A. 4
- Receivership (Emergency Manager): The local unit of government may opt for an emergency manager with powers similar to P.A. 4. The principle changes from current law are:
  - If the Emergency Manager proposes to abrogate or modify an existing collective bargaining agreement, sell more than \$50,000 of local assets, or borrow money, the local unit of government may submit an alternative with approximately the same fiscal impact to the State which may then choose between the two options.
  - The local unit of government may demand the removal of an emergency manager after 18 months and, if the fiscal emergency persists, opt for one of the other options.
- Chapter 9 Bankruptcy: This option requires the approval of the Governor and jeopardizes collective bargaining agreements and may jeopardize pension plans.

The bill was not given immediate effect in the House. Therefore, the State is operating as if P.A. 72 is still in effect. The State is taking the position that any action it takes between now and March 27<sup>th</sup>, when the new act takes effect will be grandfathered as noted above.

