



A Union of Professionals

AFT Michigan
AFL-CIO

LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT EMERGENCY MANAGER

- Provides for the control of financial and academic operations of a *school district through a consent agreement with the superintendent and/or receivership under an emergency manager.*

Impact on Collective Bargaining

- ***Under a consent agreement***, an existing collective bargaining agreement remains in place until it expires. Once it expires the school district will not have to negotiate a new contract unless the State Treasurer says so.
- **An Emergency Manager** may reject, modify, or terminate the terms of an existing collective bargaining agreement. Any changes must “address the financial emergency for the benefit of the public as a whole.” And can “not target specific classes of employees.” A school district in receivership is exempt from collective bargaining requirements for five years or until the receivership is terminated, whichever occurs first.
- **Even if a school district is not under a consent decree or Emergency Manager** all new *collective bargaining agreements* between public employers and public employees are to include a provision allowing an EM to reject, modify, or terminate the collective bargaining agreement.

Consent Agreements

Preliminary Review

- The ***State Superintendent of Schools*** can determine the existence of a school district financial problem. **Preliminary review triggers include**, among others: a written request from the school district; the district has failed for to pay wages or other compensation owed to employees; provide an annual financial report, end its most recently completed fiscal year with a deficit in 1 or more of its funds and the school district has not submitted a deficit elimination plan; or a school district is in breach of its obligations under a deficit elimination plan; **the existence of other facts or circumstances that in the superintendent of public instruction’s sole discretion for a school district are indicative of school district financial stress.**

- The Governor **appoints a review team** if a finding of probable financial stress is made. Review team determines if the school district is ***not in financial stress, is in mild financial stress, or is in severe financial stress.*** Governor makes final decision.
- If mild or severe financial stress exists, the review team negotiates a consent agreement with the superintendent, which must be approved by the school board.
- *In a consent agreement, a superintendent may be granted the powers prescribed for an emergency manager, except the power to reject, modify, or terminate CBAs. However, once the contract expires district will not have to bargain a new one.*

Receivership

The review team will file reports with the Governor who will determine if a school district is in severe financial stress.

- If the Governor determines that a financial emergency exists, the school district may ***request a hearing.*** After the hearing, the Governor has to confirm or revoke the determination of financial emergency. If confirmed, ***the district could appeal*** the determination of a financial emergency to the Ingham County Circuit Court, by a vote of two-thirds of the school board.
- When a finding of financial emergency is confirmed, the Governor is required to **declare the local government in receivership and to appoint an emergency manager (EM).** The EM's compensation and reimbursement for expenses shall be paid by the school district.

Emergency Manager

- The EM must develop a financial, operating and academic plan.
- **EM may abrogate or modify a contract. Any changes must “address the financial emergency for the benefit of the public as a whole.”** And can “not target specific classes of employees.” **Once in receivership district is exempt from collective bargaining requirements for five years or until the receivership is terminated, whichever occurs first.**
- The EM may order **millage elections, borrow funds, and apply for a loan from the state.**
- The superintendent's and school board's members' ***salary and benefits will be eliminated*** during a receivership, except as restored by the EM. The superintendent and school board cannot exercise any of the powers of those offices during receivership.