



michigan suburbs alliance

**TESTIMONY OF THE MICHIGAN SUBURBS ALLIANCE TO THE
HOUSE COMMITTEE ON LOCAL, INTERGOVERNMENTAL AND REGIONAL AFFAIRS
REGARDING EMERGENCY FINANCIAL MANAGEMENT REFORM,
HOUSE BILLS 4214 AND 4215 OF 2011.**

February 10, 2011

Honorable Chairman Ouimet and Members of the Committee:

There can be no question that the financial situation of Michigan local governments, universally, is dire. Structural issues in municipal finance policy have for more than a decade gone unaddressed by the Legislature despite repeated pleas for reform from local government leaders. Expert studies from blue ribbon panels of the State Treasurer's office, Michigan's research universities and eminent civic organizations such as the Citizens Research Council have document this problem thoroughly: it is neither new nor unresolvable.

With the onset of the nation's financial crisis, the issues that local government leaders have long struggled against in the face of inaction in Lansing and exacerbated by factors beyond the individual control of any local government such as rampant unemployment or precipitous decline in housing values, have risen to such a point of concern as to at long last prompt legislative action. While decisions made by civic leaders past and present have complicated the municipal finance picture, those were in most cases obligations taken on in good faith with the expectation of reasonable continued economic stability. The current environment is anything but stable as commitments from the State for revenue sharing have been broken, the ability of local governments to generate revenue have been grossly and structurally restricted and the powers of municipal leaders to proactively address emerging financial crises have been constrained or ignored. In short, the problem is complex, multilateral and systemic.

The State's approach to emergency financial management too has been so disjointed as to be largely ineffectual. Act 72 is rarely utilized, in part because it is an extreme response designed to counteract serious negligence. An effective emergency policy should recognize the economic environment in which our elected and appointed leaders are operating, provide appropriate unusual powers and reserve extreme actions for extreme situations. House Bills 4214 and 4215, while clearly well-intentioned in that they seek to prompt immediate reforms to stave off insolvency, violate many of the principles of our democracy and fail to account for core systemic issues facing Michigan's local governments such as the interaction of the Headlee Amendment and Proposal A which cannot be addressed permanently by any means but the wholesale dissolution of a municipality.

The Michigan Suburbs Alliance encourages the House to act to reform Act 72, but finds that the direction taken by HB 4214 and HB 4215 is so incompatible with Michigan's values and traditions as to undermine our democracy and compromise the long-term viability and attractiveness of our communities. We urge the bills significant amendment and ask lawmakers to oppose them unless numerous substantive issues are resolved.

MICHIGAN VALUES AND PRINCIPLES SHOULD UNDERPIN EXTREME-MEASURES POLICIES

Although our local units of government are creatures of the state Legislature, Michigan has a long tradition of local control that recognizes the rights of citizens to determine the destiny of their communities with minimal interference from the State. The Suburbs Alliance believes that our democratically-elected officials have the highest level of accountability to the public and are best able to reflect their values and priorities through their actions. **Obviating the authority the people exercise through their elected representatives is an extreme act that should be enabled only in the most dire situations.** Moreover, the powers of an autocratic authority imposed by the State should be extraordinarily limited to exclusively address the crisis at hand. At the forefront of any emergency policy should be a respect for our democracy and a recognition that overriding a vote of the people is an act of last resort.

Michigan citizens are also extraordinarily responsible individuals, rarely pointing the finger at another for their problems. That said, **our communities deserve an acknowledgment of the State's shared responsibility for the challenges they now face** and should be treated as partners in addressing these issues. The leaders of our cities, townships and counties are not the enemy of the State but allies who should be supported rather than vilified as incompetent. There is hardly a community in financial crisis in our state that is under actual "mismanagement". In fact, most of them have been making do, continuing to deliver critical public services with consistently declining support from the State. By recognizing that the current economic environment has created a near-impossible situation for many communities and extending new powers to their leaders, the State can build partnerships that will help ensure the long-term viability of our local governments.

ACT 72 SHOULD ENABLE SWIFT ACTIONS BUT HONOR OUR DEMOCRACY

The process of determining a financial emergency outlined in the current act and in HB 4214 is both reasonable and direct. It is the subsequent empowerment of an Emergency Financial Manager to enact severe changes without regard to the will of the people or the values of the community that seriously compromises our value of democracy and local control. We recognize that there may be some extraordinary circumstance in which this extreme unilateral authority is justified, but HB 4214's procedure does not amount to that. If the Legislature is to maintain the general structure of HB 4214 (which we believe should be amended, see below), we believe that several issues should be addressed directly:

Restrict the EFM to Financial Issues

Currently Act 72 limits the authority of the EFM to financial matters. This should be retained. There is no reasonable justification in declaring a financial emergency to give an individual the right to overturn votes of the people or their elected representatives on issues ranging from civil rights to voting processes to community design.

Restrict the EFM to General Fund Insolvency Issues

When a community develops a special fund (e.g. a parks millage), especially if created by a vote of the people to tax themselves for a specific purpose, that fund should be sacrosanct if it is itself solvent. No EFM should be able to expropriate the people's money for purposes he or she unilaterally determines are of a higher priority than those directly determined by the people themselves.

Remove the Bar from Office Clause

A ban on elected office for those who happen to be serving at the time of determination of a financial emergency is patently unjust. Good men and women working to help their communities in a difficult time may face an impossible task – especially in situations where the State itself has failed to keep faith with revenue agreements for shared taxes or mandates – and barring them from office is a punishment best reserved for individuals who commit a gross crime.

Eliminate the Power to Sell Any Asset

While the development of certain municipal assets may contribute to the insolvency of a government, that is not a universal truth. The sale of community assets that are “free and clear” will result in a one-time inflow of revenue which may allow some debts to be paid but may also severely compromise the long-term health of a community. Assets that community members have invested in over decades should not be disposed of unilaterally – such an act should require the approval of the people or their democratically elected representatives.

Eliminate the Power to Dissolve a Government

Every city and village in Michigan was created by a vote of people, not an act of the Legislature or the will of an individual. Empowering an autocratic authority to dissolve a community without the vote of its residents or a vote of the Legislature is an indecency.

We also believe that two structural improvements to Act 72 could have far-reaching positive effects for local governments, the state and the people.

Extend EFM Powers to City Leaders

To protect our democracy, a community that faces a financial emergency should have the option of being self-empowered to take the actions of an EFM that they are barred from currently. For example, the right to redraw contracts and collective bargaining agreements is reserved to Emergency Financial Managers. Any administrator would tell you that given the same authorities, they could lessen the financial stress in their community. Those extraordinarily powers should only be afforded to governments and administrators after a review finding a financial emergency. **Give them the tools and they will fix the problem!**

Provide Recall Protection During an Emergency

While an EFM may act with impunity, our local government leaders are often not similarly empowered. Extreme actions to resolve a crisis can generate immediate anger in a community. Our local leaders should be insulated from the recall provisions of the law during a financial emergency to allow them to act with authority and face the community's evaluation at the next election, rather than in the midst of dealing with a crisis.

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