

State Review Team Finds Financial Emergency in City of Detroit

What is Next for the City of Detroit?



On February 19, 2013, the six-person Review Team appointed by Michigan's Governor to conduct a detailed financial review of the City of Detroit delivered its report to the Governor. The Report concludes that a financial emergency exists in the City.

As a result of the Review Team's conclusion, the Governor is required to take action under Michigan's emergency financial manager law by no later than March 21, 2013.

The following flow chart summarizes the next steps to be taken in the financial review process of the City of Detroit.

Michigan's emergency manager law is intended to allow the state to monitor the financial affairs of Michigan cities and to appoint a manager in situations where a financial emergency exists. Under current law (Public Act 72 of 1990), the state-appointed manager is referred to as an emergency financial manager (EFM). An EFM has authority to manage the financial affairs of a city. Effective March 28, 2013, under a new law (Public Act 436 of 2012), the manager is referred to as an emergency manager (EM). An EM has authority to manage essentially all affairs of the city, including exercising all powers otherwise vested in the mayor and city council. Any EFM appointed by the state before March 28, 2013 will be vested automatically with all the powers of an EM on March 28, 2013.

With prior authorization by the state, an EFM or an EM has the power to file for bankruptcy of the City under Chapter 9 of the U.S. Bankruptcy Code applicable to municipal bankruptcies.

Under the Bankruptcy Code, the City must be prepared to show that its purpose in filing the Chapter 9 petition is to resolve claims, not just to "buy time or evade creditors." The City is also required to negotiate with its creditors prior to filing the petition, or else demonstrate that doing so would not be worthwhile.

Immediately upon the filing of the Chapter 9 petition, all efforts of creditors to collect prepetition claims against the City will be enjoined through the imposition of an automatic stay, except for the application of special revenues pledged to indebtedness.

During the pendency of the Chapter 9 proceeding, the City will be subject to minimal court oversight on the use of its assets, including application to settle prepetition claims.

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Review Team Report Delivered 2/19/2013
Concluded Financial Emergency Exists

By 3/21/2013, Governor Must Make 1 of 3 Determinations

