



Pennsylvania Offers A Curious Case To Explore Alternatives To Early Warning Systems And State Intervention: Can Michigan Keep Its Horses From Wandering Off?

INFORMING THE DEBATE

Michigan Applied Public Policy Research Brief



Institute for Public Policy
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The MAPPR Program supports university faculty-led research projects that are focused on current issues being discussed in communities across the State, and often across the nation. A paper briefing of the research follows completion of the project wherein related policy implications are presented.

The MAPPR Program came about in 1992 following a two-day meeting with leaders from the business sector, nonprofit agencies, and university faculty and staff. The group recognized the pressure on urban core leaders to make critical choices having long-term impact on communities with little access to research-based information to consider or support their decisions. A commitment to generate a bank of research as a reference was set in the framework of the MAPPR Program.

Since, the MAPPR Program has bridged the statehouse and the university while cultivating multidimensional connections among community decision makers. The projects as well as the briefings serve as a central point of discussion and brainstorming. The briefings are reviewed by not only Michigan stakeholders, but also by other states' frontrunners who share the need for evidence-based research.

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Authors

Mary Schulz, MS
Associate Director
Center for Local Government Finance and Policy
Department of Agriculture
Food and Resource Economics
MSU Extension

Shu Wang, PhD
Assistant Professor
Center for Local Government Finance and Policy
Department of Agriculture
Food and Resource Economics
MSU Extension

Sponsor

The Institute for Public Policy and Social Research
College of Social Science
Michigan State University

Series Editors

AnnMarie Schneider, M.S.
Institute for Public Policy and Social Research
Michigan State University

Leah Owens
Institute for Public Policy and Social Research
Communications Assistant
Michigan State University



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EXECUTIVE SUMMARY

The purpose of this report is to apply the Early Warning System (EWS) used by Pennsylvania with Michigan local government financial and socioeconomic data, as a way to assess potential fiscal distress that cities, townships, and counties may experience. Pennsylvania has experience with using its EWS since 1987 and targeting state financial and technical resources to struggling communities. The Pennsylvania EWS was chosen because, although underlying economic conditions are similar in Michigan and Pennsylvania, the states' approaches to local distress are different. Therefore, Pennsylvania offers a curious case to explore alternatives to early warning systems and state intervention. The researchers had access to the EWS through Pennsylvania's Department of Community & Economic Development (DCED) participation in the Michigan Government Fiscal Sustainability Workgroup that the MSUE Center for Local Government Finance and Policy facilitates, and the MAPPR grant to hire the software development firm, CitizenDeveloper, to apply Pennsylvania's platform for Michigan's local government data.

POLICY ISSUE

Many local governments in Michigan are fiscally troubled due to factors that include long-term economic decline and population loss, cuts to state revenue sharing, depressed property tax values, growing pension and retiree healthcare benefit revenue demands and, in some cases, poor management.

The Local Financial Stability and Choice Act, (PA 436 of 2012), and the concept of the Emergency Financial Manager ("EM") was created to provide for State intervention and in some instances, complete State receivership of local governance when the State determines a financial emergency exists. Emergency management and the use of an EM have been the subject of ongoing discussion, along with whether the EM law needs revision, especially in recent years due, in large part, to the Flint Water Crisis.

In recent years, Michigan appears reluctant to use state interventions available in PA 436 of 2012, including the use of emergency managers. The State is looking for less invasive options to help fiscally distressed local units. The Department of Treasury has recently regained an interest in developing and using an early warning system to help detect early signs of local distress as well as devoting resources toward early intervention and education efforts.

State legislators responsible for allocating budget resources need to see the value in identifying communities trending toward fiscal distress in order to avoid a state takeover

or municipal bankruptcy given the high economic, political and bond market costs of such actions and provide funds, at a minimum, to develop an EWS for Michigan.

PUBLIC-PROVIDED SERVICES

There are 1856 Michigan cities, townships, villages and counties, each providing an array of essential public services.

The Michigan legislature, in the Emergency Manager law¹, acknowledges that:

“...the health, safety, and welfare of the citizens of this state would be materially and adversely affected by the insolvency of local governments and that the fiscal accountability of local governments is vitally necessary to the interests of the citizens of this state to assure the provision of necessary governmental services essential to public health, safety, and welfare.”

Differences among public-provided services are a function of three factors: (1) legal responsibility, (2) underlying local social and economic conditions, and (3) price/cost of service delivery.

Local government units have the legal power and responsibility for financing and delivering public services. In some states, local governments have the primary responsibility for providing health, education, and welfare services. In others, the responsibility is provided via the state and/or shared among local units. Most public-provided services must meet legally mandated standards (e.g., drinking water systems must meet Safe Drinking Water Act (SDWA) standards and ² SDWA National Primary Drinking Water Regulations³ among others; wastewater systems must maintain compliance with its NPDES⁴ permit).

The level of public-provided services in any local government is also a function of the needs and resources of the people it serves.

“A local government's workload is determined by a wide variety of conditions, some involving the characteristics of the residential population and others relating to environmental conditions or settlement patterns. For example, cities with larger

¹ Local Financial Stability and Choice Act 436 of 2012, MCL 141.1543 Sec. 3.

² Act 399 of 1976

³ E.g., Maximum contaminant levels (MCLs) of allowable contaminant in drinking water

⁴ National Pollutant Discharge Elimination System

numbers of school-age children must have a larger education budget; those with higher crime rates, a larger police budget; those with more poor people, a larger budget for welfare services; and so on if equal services are to be provided. Communities with little or no snowfall need not budget for snow removal services while others must be prepared to spend a large amount. Densely settled communities often require more sophisticated and expensive sewage collection facilities to prevent contamination of water supplies and ensure an adequate level of public health.”⁵

Finally, the provision of public-provided services are labor intensive. Wage levels differ among labor markets, both between public and private sector employees. The cost of other inputs into the delivery of public-provided services vary among locations. Michigan local governments provide governmental services essential to public health, safety, and welfare of Michigan’s citizens.

DIFFERENCE BETWEEN LOCAL GOVERNMENT AND BUSINESS

Local governments and businesses are two different entities. Both are institutions that bestow benefits on society.

A local government derives its powers through the state constitution and state and court-made laws⁶. It is an entity that exists to govern and represent collectively a society and to strive to fulfill the needs of all of its members and to provide a sense of wholeness and identity to a particular location of people.

A business is associated with commerce and transactions that involve the profit making of a particular person or industry. Businesses exist to provide goods and services to people via the marketplace.

National and State laws provide the legal authority to businesses for the opportunity to engage in commerce and earn profits.

Local governments must price public-provided services to cover its costs and are prohibited from setting tax rates, fees and fines for its services to make a profit. At times,

⁵ Congressional Budget Office. (1978) *City Need and the Responsiveness of Federal Grant Programs*. Washington, DC: Author. pg8.

https://www.cbo.gov/sites/default/files/95th-congress-1977-1978/reports/1978_08_city.pdf

⁶ Guide to Michigan County Government, Fifth Edition (2019). Michigan State University Extension, East Lansing Michigan. Pg. 1-13.

local governments have underpriced public-provided services which has led to delayed maintenance and replacement of infrastructure used in service delivery. At other times, local governments cannot raise adequate revenues to provide an adequate level of public-provided services. When this deficiency occurs, it is an indication that the National and State government have an obligation to make resources available to these local governments. Unfortunately, intergovernmental transfers to poorer local governments continue the long decline in absolute and relative terms that began in the 1980s⁷.

METHODOLOGY

Pennsylvania is a strong example of how a state government can play an active role in helping municipalities prevent, detect and mitigate financial distress. Pennsylvania's mandate to address local unit financial distress is formalized in The Financially Distressed Municipalities Act of 1987, or simply, Act 47⁸. The Department of Community and Economic Development (DCED) is charged with the responsibility of assisting municipalities experiencing the symptoms of financial distress. The DCED plays two roles: 1) Assisting municipalities formally designated as distressed, and 2) Administering an early intervention program to help local units avoid becoming formally designated as distressed. The legislature provides funding for the financial and technical programs and assistance delivered by DCED staff. The difference between Michigan's approach to financial distress using state appointed emergency managers and Pennsylvania's approach can be captured in an analogy. Pennsylvania and Michigan both learn that there is a barn with horses that needs state action. Pennsylvania shows up to the barn with horse feed, a veterinary and a horse trainer. In contrast, Michigan shows up with a saddle and a whip to find the barn door has been left open and the horses have wandered off. In short, Michigan could support its localities but instead has used them to meet its own ends. Michigan could do things differently.

⁷ Sugrue, Thomas J. *The Origins of the Urban Crisis: Race and Inequality In Postwar Detroit*. E-book, Princeton, N.J.: Princeton University Press, 1996, <https://hdl-handle-net.proxy1.cl.msu.edu/2027/heb.00082>. Accessed 2 Mar 2020.

Michelle Wilde Anderson, *The New Minimal Cities*, 123 Yale L.J. (2014) Available at <http://digitalcommons.law.yale.edu/ylj/vol123/iss5/1>

⁸ In 1987, the Pennsylvania State Legislature enacted the Municipalities Financial Recovery Act (Act 47), which consists of vast legislation centering on a broad perspective of municipal finance: "It is hereby declared to be a public policy of the Commonwealth to foster fiscal integrity of municipalities so that they provide for the health, safety and welfare of their citizens; pay principal and interest on their debt obligations when due; meet financial obligations to their employees, vendors and suppliers; and provide for proper financial accounting procedures, budgeting and taxing practices. The failure of a municipality to do so is hereby determined to affect adversely the health, safety and welfare not only of the citizens of the municipality but also of other citizens in this Commonwealth." 53 P.S. § 11701.101(a)

The Pennsylvania EWS⁹ seeks to identify local authorities that are not yet in a state of fiscal emergency. They are demonstrating signs of fiscal distress and are in need of early intervention including financial aid and technical assistance from the State. DCED revamped the EWS in 2017, in response to State research that found that 48% of Pennsylvania cities and 13% of all Pennsylvania municipalities exhibited signs of financial distress¹⁰. The system is used annually to analyze the financial condition of 2,560 cities, townships and boroughs. Once identified, the distressed municipalities are prioritized for early intervention by the State.

Michigan has been implementing legislation that illuminate important symptoms of financial distress. The recent enactment of the Protecting Local Government Retirement and Benefits Act of 2017, or PA 202, designed to identify and correct severe retiree pension and OPEB (primarily healthcare) underfunding. These employee-earned, local government, unfunded obligations are estimated by the Michigan Treasury¹¹ to be \$9.4 billion for pensions and \$8.9 billion for OPEB as of January 23, 2020. The state requires local governments to fund these obligations through increased revenues and/or reduced retiree benefits. In some cases, these retiree expenses are putting pressures on the local government's budget and affecting current local service quality.

Local governments are responsible for maintaining infrastructure it owns including local roads and sidewalks, drinking water systems, wastewater systems and storm water systems. The state makes grants available to local units to develop an asset management plan (AMP) for wastewater and storm water systems. As plans develop, local units identify and quantify expected costs of repair and/or replacement of infrastructure capital within these systems. The state requires local units to have an AMP for its drinking water system, however, there are no grant funds available to help defray plan development costs. The various water AMPs help local units develop capital budgets to have a better awareness of infrastructure capital need and cost. These necessary water infrastructure expenses are estimated in the billions of dollars for Michigan communities alone, and Michiganders will have to pay for them¹².

⁹ Act 47 mandated the creation of a municipal distress early warning system and early intervention process: "the department shall develop an early warning system utilizing necessary fiscal and socioeconomic variables to identify municipal financial emergencies before they reach crisis proportions and to notify an affected municipality appropriately. The department shall be responsible for testing the validity and reliability of these variables and shall continuously monitor them to assure their effectiveness." 53 P.S. § 11701.121(f).

¹⁰ An Analysis of Survey of Financial Condition Data, Drs. Patricia Patrick and John Trussell, May 2013.

¹¹ Local Retirement System Underfunded Status Report, FY 2018, as of January 23, 2020.

¹² 21st Century Infrastructure Commission Report, 2016

https://www.michigan.gov/documents/snyder/21st_Century_Infrastructure_Commission_Final_Report_1_54_4276_7.pdf

The deferred maintenance costs on critical assets Michigan local units own and operate have been accumulating for decades. The 21st Century Infrastructure Report of 2016¹³ showed that average annual investment in capital infrastructure by the state and local units from 2010-2014 was 6.4% of their budget, lagging the U.S. average of 10.2%. Over the decade from 2002-2013, Michigan's decline in spending as a share of GDP was nearly the biggest in the nation. Only two states spent less of its financial resources on infrastructure. This matters because local governments may not be able to pay for these costs out of locally sourced revenues. At a minimum, deferred maintenance costs at the level of billions of dollars will put pressure and perhaps significant pressure on local governments' current and future financial flexibility, forcing communities to choose between police and potholes, and in the worst case, push some into financial distress.

Symptoms of Financial Distress

A local unit of government is experiencing symptoms of financial distress when it is facing difficulty maintaining its financial commitments related to operating expenses (i.e., timely vendor payments, leases and payroll), debt holders (i.e., bond payments, pension and OPEB contributions), and capital expenditures (i.e., water system maintenance/replacement, local roads maintenance/replacement). There has been considerable research on municipal financial condition analysis, however, to date, there is no agreed upon definition among researchers of financial distress.

Research to measure the financial condition of Michigan's local governments, has been supported by the Institute for Public Policy and Survey Research (IPPSR) at Michigan State University for the past two decades.¹⁴ The measures used in the early work focused on economic conditions, property tax base, condition of the general fund, and level of debt. This system was used by the Michigan Department of Treasury to monitor the fiscal condition of local governments from 2007-2010. The 2018 system proposed by Kleine and Schulz, calculates two scores, an internal score that measures the financial performance of local units and an external score that measures the fiscal resources available to a local unit. Presenting two scores allows local units to be evaluated based on how effectively they use their

¹³ Ibid.

¹⁴ Robert Kleine, Philip Kloha and Carol S. Weissert. 2003. Monitoring Local Government Fiscal Health: Michigan's New 10-Point Scale of Fiscal Distress. *Government Finance Review* 19(3): 18-23.

Robert Kleine and Mary Schulz. 2018. A new approach to evaluating the fiscal health of Michigan local governments: Comparing fiscal performance relative to available resources.

https://www.canr.msu.edu/center_for_local_government_finance_and_policy/FiscalDistressIndicatorMAPPR_rptKleineSchulz2018L.pdf

resources. A comparison of these two scores may be most useful in identifying situations that warrant a deeper analysis to determine if assistance from the state would be appropriate.

A deeper analysis of the fiscal distress of a local unit would show if the financial distress was *event driven*, i.e., caused by an extraordinary event affecting operations or the capital structure, such as losing a large customer). Or was it contract driven? For example, Genesee County and General Motors left the Flint water system prior or just after the city, for austerity purposes, switched from GLWA (Detroit) water to using its antiquated water treatment plant and the Flint River to provide drinking water to its resident and business customers. Or was it litigation or a court-ordered consent decree or judgement levy that brought on the fiscal distress? Local governments could experience *cyclical* distress like in the Great Recession, for example. The Great Recession severely reduced property taxable values, its primary revenue source in most Michigan cities). To meet budget demands, cities took on debt and/or reduced assets. With tax revenues improving more slowly than expenses, some local units were left in worsened financial positions than prior to the economy collapse. Finally, there is *systemic/structural* distress where a local government's ability to generate revenues relative to expenses is inadequate and cannot be alleviated without state infusion of resources, and/or policy modifications.

Pennsylvania's legislature codified the process of determining whether a local government is in financial distress by defining financial distress relative to 11 criteria within Act 47. The act has criteria to measure deficits (expenditures exceeding revenues), missed payments (payroll, vendor, taxes, bond), and whether the municipality unsuccessfully negotiated an adjustment of claim, filed for bankruptcy and/or reduced public services (public safety, roads, etc.). The DCED uses these distress criteria to monitor the financial condition of Pennsylvania municipalities.

Indicators of Financial Distress

There is a plethora of research attending to local government fiscal condition and fiscal distress spanning a half century¹⁵. Much of the analysis uses lagged data to make a determination on the fiscal health of a local government. This lag stems from the use of audited data, which by its nature, reflects the prior fiscal year. More recently, there are

¹⁵ Samuel B. Stone, Akheil Singla, James Comeaux, Charlotte Kirschner. (2015) *A Comparison of Financial Indicators: The Case of Detroit*. Public Budgeting & Finance, Volume 35, Issue 4.
Evgenia Gorina, C. Maher, M. Jofee. (2017) *Local Fiscal Distress: Measurement and Prediction*. Public Budgeting & Finance, Spring 2018.

research efforts attempting to predict fiscal distress or, at a minimum, get an early warning that a local unit may be slipping into fiscal distress.¹⁶

There is no agreement as to the best suite of indicators to use in fiscal condition analysis. The primary indicators suggested are financial (e.g., cash ratio, current ratio, debt to assets ratio, fund balance as percent of expenditures). Some analyses add community needs and resource availability type indicators (e.g., population, income, poverty, property value, and housing).

Pennsylvania EWS uses 15 indicators, 7 financial, 5 economic and 3 socio-demographic. The DCED selected indicators through qualitative research and internal policy discussions. Local governments (cities, townships and boroughs) are required to electronically submit financial data used in the EWS analysis. These financial data are supplemented with demographic and economic data.

Financial indicators:

- Equity as Proportion of Revenue
- Equity as Proportion of Assets
- Operating Position
- Debt as Proportion of Revenue
- Liquidity
- Public Safety Expense as Proportion of Revenue
- Pension Factor

Economic indicators:

- Median Household Income
- Median Housing Values
- Unemployment Rate
- % Housing Units Vacant
- % Owner-Occupied Housing Units

¹⁶Evgenia Gorina, C. Maher, M. Joffe. (2017) *Local Fiscal Distress: Measurement and Prediction*. Public Budgeting & Finance, Spring 2018.

Tracy Gordon. (2018) *Predicting Municipal Fiscal Distress: Aspiration or Reality?* Working Paper WP18TG1. Lincoln Institute of Land Policy.

Evgenia Gorina, Marc Joffe, Craig Maher. (2018) *Using Fiscal Ratios to Predict Local Fiscal Distress*. Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, V.A.

Socio-demographic indicators:

- % Population 65+ Years Old
- % Families Below Poverty Level
- % Persons with Bachelor's Degree or Higher

Local government data for 2,560 local authorities, including counties, cities, townships and boroughs are submitted electronically during the local auditing process. Pennsylvania's EWS operates as an internal system and does not publicize data sets or analyses. Their EWS bifurcates municipalities into those with populations 2,000 and greater and those with populations with fewer than 2,000. The goal of its system is to identify fiscally distressed municipalities before, "they reach crisis proportions,¹⁷" in order to provide early warning and State resources and ultimately limit the degree of fiscal distress. The reason for the bifurcated groupings by population size is that Pennsylvania's Act 47 program is tailored to larger communities. As such, the Act 47 program's design is too large and cumbersome for smaller communities to use and get the desired benefits. Other DCED programs and opportunities exist that better suit smaller communities. Therefore, Pennsylvania tailored its EWS to focus on potential Act 47 triggering communities which then prioritizes DCED Act 47 resources to those best equipped to use them¹⁸.

From the 15 indicators, a numerical score is generated, which reflects the degree to which the municipality is in need of state early intervention. To produce this score, the EWS first calculates a value for each indicator based on the indicator formula (e.g., Equity as a Proportion of Revenue is calculated by dividing General Fund Equity by General Fund Revenue, i.e., equity = total assets - total liabilities). Then, it compares each indicator value against an inflection point (think of the inflection point as a benchmark value)¹⁹. If an indicator value surpasses the inflection point/benchmark value, then the municipality is assigned a set number of points²⁰. The maximum number of points for all 15 indicators total 100. If all 15 of a municipality's indicator values surpass the inflection point/benchmark values, then it will receive a score of 100 points. If none of its indicator values surpass the inflection point/benchmark values, then it will receive a score of 0 points.

¹⁷ 53 P.S. § 11701.121(f) – Act 47

¹⁸ Personal communication with DCED staff, Andrew Sheaf, January 2020.

¹⁹ When DCED revamped the EWS system in 2017, it analyzed data for municipalities that had Act 47 declarations between the 5-year period, 2011 to 2016. Most of the inflection points (benchmark values) equal the median values for the municipalities designated as fiscally distressed under Act 47.

²⁰ DCED staff crowd sourced its own field staff with professional experience working with distressed communities to get their practitioner opinions as to how important they would say each indicator was with respect to a municipality's fiscal health.

Given the current financial and administrative capacity of the DCED, staff have the goal of aiding the “top 100 communities” based on their EWS status²¹. Assistance can be in the form of early intervention program grants and/or technical assistance offered to communities identified as experiencing distress or to others not yet considered distressed, but trending toward this designation.²²

Applying Pennsylvania EWS to Michigan

As mentioned above, Michigan can do things better when it comes to truly assisting fiscally distressed local governments. This research helps show a different pathway from the current neoliberal “cut your way” to fiscal solvency approach Michigan applies to its subordinate entities.²³

Michigan and Pennsylvania local units of government share similarities in terms of experience with shrinking cities and urban area decline, experience of local governments in fiscal distress, weather, broadly considered Midwestern states, and legal responsibility conferred to local governmental units. Pennsylvania is further along in terms of identifying and providing targeted state resources into fiscally distressed communities to mitigate and work towards returning them to a structurally sustainable financial footing. Pennsylvania’s approach to mitigating identified fiscal distress through its EWS begins with establishing a financial aid package for municipalities in need.

The Pennsylvania EWS was designed to identify fiscal distress in its cities, townships and boroughs, but not counties. Michigan has 280 cities. For our research, we used 2017 data for Michigan cities in the Pennsylvania EWS. We were constrained to only 2017 data because the pension factor data first became available in 2017 and the 2018 pension data was not available when the analysis was done. We substituted one indicator metric, Percent of Families Below Poverty Rate, for Taxable Housing Value per Capita. This decision was driven by the 2017 Kleine and Schulz work examining the importance of

²¹ Personal communication with DCED Local Government Policy Manager, Andrew Sheaf, January 2020.

²² Act 47 provides definitions of and legal frameworks for resolving “economically nonviable municipalities” (P.S. § 11701.401-447), “fiscal emergencies in municipalities” (53 P.S. § 11701.601-610) and “receivership in municipalities” (53 P.S. § 11701.701-712) which inform DCED intervention activities.

²³ The Pew Charitable Trusts. (September 2016) *State Strategies to Detect Local Fiscal Distress: How states assess and monitor the financial health of local governments* provides a useful case study in Appendix A on efforts 22 states use to monitor local government fiscal health and Pennsylvania stands out from its peers with regard to how it builds strong relationships with its local governments and tries to mitigate fiscal problems before they “get out of hand”.

taxable value (TV) per capita and the city's ability to provide an adequate public services²⁴. It was found that cities with a TV per capita less than \$20,000, in most cases, will struggle financially and provide a less than desirable level of public services. The indicator, Percent of Families Below Poverty Rate, is highly correlated with unemployment rate and median household income indicators. Therefore, we felt this was an appropriate substitution to make to be able to include TV per capita in the model EWS.

The indicator, Debt as a Proportion of Revenue, which is used in the Pennsylvania EWS and is assigned a higher number of points relative to other indicators, was not included in any results. Unfortunately, issues with the software development firm could not be resolved during the analysis period.

We will present these findings to Michigan Department of Treasury staff in the spring of 2020. We are working with the software development firm to resolve the outstanding issue regarding the missing indicator and will run additional scenarios with the complete set of indicators and share those results with Treasury Department staff and legislators.

RESULTS

Scenario 1: In the first scenario we imagined all 280 Michigan cities were teleported into Pennsylvania and ran the EWS. Why did we choose to pretend that Michigan cities were cities in Pennsylvania? Given the similarities between Michigan and Pennsylvania highlighted earlier, we wanted to see if Michigan cities that have experienced fiscal distress and perhaps experienced state receivership under Michigan's emergency manager law would be flagged as exhibiting symptoms of fiscal distress under Pennsylvania governance. Many of the Michigan cities, whose financial situation along with other factors influenced the decision to install an emergency financial manager²⁵ or emergency manager²⁶ in early 2000, were indeed flagged as exhibiting symptoms of fiscal distress again or still in 2017. What does that say about the effectiveness of Michigan's application of emergency manager powers or more broadly, the State's reluctance to share revenues with Michigan local

²⁴ Robert Kleine and Mary Schulz (2017). Service Solvency: An Analysis of the Ability of Michigan Cities to Provide an Adequate Level of Public Services. MSUE White Paper. Center for Local Government Finance and Policy.
[https://www.canr.msu.edu/center_for_local_government_finance_and_policy/uploads/GMI_062_Service_Solvency_Report_\(1\).pdf](https://www.canr.msu.edu/center_for_local_government_finance_and_policy/uploads/GMI_062_Service_Solvency_Report_(1).pdf)

²⁵ Public Act 72 of 1990 used emergency financial manager (EFM) language, however the EFM's powers were broadened from Public Act 101 of 1988.

²⁶ In 2011, Public Act 4 of 2011 repealed PA 72 and changed the name to emergency manager and again secured additional powers in the EM. PA 4 was repealed by a Michigan voter referendum in November 2012, which is no small undertaking. Almost immediately after PA 4 was repealed, the Michigan legislature enacted Public Act 436 of 2012, however there was no name change to the emergency manager.

governments, and cities in particular? One question it answers is whether an emergency manager can solve a financial crisis created by a low tax base and a lack of revenue sharing. The answer is no, they cannot.

Scenario 2: In the second scenario we kept Michigan cities at home and “Michiganized” the inflection points of each indicator (think of the inflection point as a benchmark value of distress points based on the medians from all EM cities). We determined the “Michiganized” inflection points by taking the 2017 median value for each indicator of Michigan local units of government that have experienced receivership. These adjustments included Wayne County, even though it is not a city, as well as Muskegon Heights, because Muskegon Heights School has experienced receivership for multiple years under various versions of the EM law. The school and city are two different governmental entities that share the same economic base, and thus the same set of structural problems are reflected in the city’s financials. With or without Wayne County or Muskegon Heights, the distress points do not change much. Of course, there are multiple ways to “Michiganize” indicator inflection points, we aim to have robust discussions with Michigan Treasury staff and Michigan legislators interested in launching Michigan’s second EWS.

It should come as no surprise that the “Michiganized” indicator inflection points again flagged cities that have experienced state receivership as exhibiting symptoms of fiscal distress. Many of the cities in the “receivership club” can be characterized as post-industrial with a diminished property tax base. It would be a fool’s errand to expect these cities to achieve financial self-sufficiency without serious and committed additional financial and perhaps managerial pledges by the State, at a minimum.

Pennsylvania’s PA 47 program administered by its DCED makes this commitment to its local units of government. Is Pennsylvania’s PA 47 program and EWS perfect? It’s unclear. Pennsylvania has many municipalities designated as part of its Municipalities Financial Recovery Program, some since the late 1980s. Pittsburgh was designated in late 2003. In early 2018, its distressed designation was rescinded. It may be too early to tell whether Pittsburgh is on sound financial footing. However, Pennsylvania’s reluctance to withdraw DCED program benefits from nearly half of the total designated distressed municipalities points to its commitment and perhaps to its need to take a fresh look at its Act 47 program.

CONCLUSION

In 2019, Michigan’s population was nearly 10 million and almost half, 4.6 million, lived in 148 cities with a population greater than 5,000. The remaining cities with a population of fewer than 5,000 have fewer than 300,000 residents. This analysis highlights the fact that

making sure that cities, at a minimum, need to have the support and commitment of the State so the public services provided (water, heat, light, power, sewage disposal and transportation²⁷) meet legal and regulatory standards. Public service providers have legal and ethical responsibilities and standards related to service delivery.

The State “police power” doctrine is reserved by the states, limited only by the Constitution’s Supremacy Clause and individual rights protected in Constitutional Amendments. The application of police power has traditionally implied a capacity to (1) promote the public health, morals, or safety, and the general well-being of the community; (2) enact and enforce laws for the promotion of the general welfare; (3) regulate private rights in the public interest; and (4) extend measures to all great public needs.²⁸ Michigan’s general purpose local units of government (county, city, township, and village) cannot easily be altered, let alone dissolved. Should a local government find itself not generating enough revenues to cover expenses, Michigan requires local units of government to balance their budget annually. The State then requires local units to submit a deficit elimination plan (DEP) to the state to show how it will increase revenues and/or reduce expenditures until the deficit is resolved. For some local units of government this DEP requirement has resulted in continued cuts to service operating expenses, i.e., number of personnel and/or personnel wages and benefits, capital improvements, etc., regardless of the reductions’ impact on service delivery, a “cut your way to solvency” mindset. This short-term perspective to municipal condition analysis can lead to detrimental decisions that put resident’s health, safety and wellbeing at risk.

Michigan’s “penny-wise and pound-foolish” approach is best captured by the state’s takeover of the City of Flint with the Governor’s appointment²⁹ of an emergency manager who answers to their state employer’s fiscal austerity interests, culminating in the state-made Flint Water Crisis. As of January 2019, the State paid over \$30 million in legal fees alone for state employees, including emergency managers. This figure clearly does not capture all the financial, social, and health costs of the water crisis.

Michigan’s legislature and the state have an opportunity to invest in programs designed to help its local governments prevent, detect and mitigate financial distress. This new

²⁷ The Constitution of the State of Michigan of 1963. Article VII, Section 24.

²⁸ Pennsylvania General Assembly, Local Government Commission. What is the “police power”? Pennsylvania Legislator's Municipal Deskbook, 2003 Oct. 2003. Oct [cited 2003 Nov 3]. Available from: <http://www.lgc.state.pa.us/download.cfm?file=/Reports/deskbook17/Health-Welfare-Safety-01-What-is-the-Police-Power.pdf>.

Galva JE, Atchison C, Levey S. Public health strategy and the police powers of the state. Public Health Rep. 2005;120 Suppl 1(Suppl 1):20–27. doi:10.1177/00333549051200S106 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2569983/>

²⁹ PA 436 of 2012. MCL 141.1549 sec. 9(1).

approach is much needed to move Michigan past its primary go-to-option of appointing an emergency manager who may or may not put distressed communities on a stronger and sustainable financial footing.

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