



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JOHN D. CHERRY, JR.
LT. GOVERNOR

March 25, 2010

Wilce Cooke, Mayor
City of Benton Harbor
200 East Wall Street
Benton Harbor, MI 49022

Dear Mayor Cooke:

On January 27, 2010, the Benton Harbor Financial Review Team transmitted its report to my Office that concluded, pursuant to Section 14(3)(c) of Public Act 72 of 1990, the Local Government Fiscal Responsibility Act, that a local government financial emergency existed in the City of Benton Harbor because no satisfactory plan existed to resolve a serious financial problem.

On February 26, 2010, I concurred in the assessment of the Benton Harbor Financial Review Team and determined, pursuant to Section 15(2) of the Act, that a local government financial emergency existed in the City of Benton Harbor because no satisfactory plan existed to resolve a serious financial problem. By letter dated February 26, 2010, I notified you and the Commissioners of the City of Benton Harbor of my determination and set forth the findings of fact upon which that determination was based. The letter also provided notice of the City's right to request a hearing upon the determination.

On March 8, 2010, you requested, pursuant to Section 15(2) of the Act, a hearing upon the determination of a local government financial emergency in the City of Benton Harbor. The hearing was conducted on March 17, 2010, before State Treasurer Robert J. Kleine.

On March 22, 2010, the State Treasurer submitted to me his report concerning the testimony and information received at the hearing. Having carefully reviewed the record of that hearing, and pursuant to Section 15(2) of the Act, I hereby confirm my determination that a local government financial emergency exists in the City of Benton Harbor because no satisfactory plan exists to resolve a serious financial problem.

The testimony presented on behalf of the Benton Harbor Financial Review Team by Frederick Headen, Director of the Bureau of Local Government Services and member of the Review Team, documented the financial condition of the City, which I summarize as follows:

- A 13.1 percent increase in the City's general fund deficit from June 30, 2008 to June 30, 2009.

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- A failure by City officials for the last eight fiscal years, to file annual financial audit reports with the Department of Treasury as required by State law.
- A marked deterioration in the City's pooled cash over the last four years, from \$1.7 million in 2006 to \$315,000 in 2009, representing one measure of the extent to which City expenditures outpaced available revenues.
- A failure by City officials to make minimum required contributions to the City's General Employees' Retirement System and the Police and Fire Retirement System for the last several years, resulting in both retirement systems having to liquidate assets to make pension payments.
- A failure by City officials to reconcile financial records in a timely manner resulting in cash balances in the City's general ledger differing significantly from actual bank balances and causing the City to incur bank service charges, mostly for overdraft charges, of \$80,000 to \$100,000 annually.

Although you, and the City Manager, did offer testimony, that testimony largely concerned a December 2009, corrective action plan which the Review Team considered and found to be inadequate to resolve the City's financial emergency. Furthermore, I note the City Manager's statement on the record "that in no way do I dispute the findings of the State Review Team. I find them to be accurate, I find them to be an honest assessment of what has transpired, and I do believe that a financial manager is a prudent next step for the City of Benton Harbor."

Section 15(2) of Public Act 72 of 1990, the Local Government Fiscal Responsibility Act, provides in part, as follows:

Following the hearing, or if no hearing is requested following the expiration of the deadline by which a hearing may be requested, the governor shall either confirm or revoke, in writing, the determination of the existence of a local financial emergency. If confirmed, the governor shall provide a written report of the findings of fact of the continuing *or newly developed conditions or events* providing a basis for the confirmation of a local financial emergency, and a concise and explicit statement of the underlying facts supporting these factual findings. Emphasis supplied.

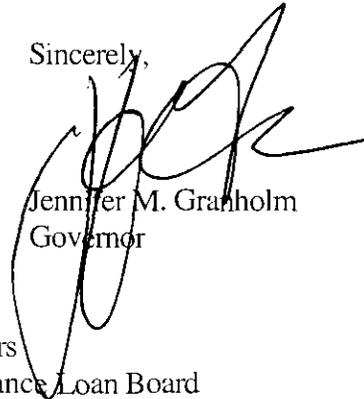
The Michigan Court of Appeals has held in regards to the foregoing provision that, while the Act "does not encompass any right to present evidence of last ditch efforts by city officials to avoid the consequences of years of mismanagement" in an effort to rebut a declaration of financial emergency, I, as Governor, may consider continuing or newly developed conditions or events which *support* a determination of financial emergency.

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It is noteworthy in regards to newly developed conditions or events which support my determination of financial emergency that, on Friday March 19, 2010, your City Manager informed the State Treasurer in writing that the City was experiencing "a significant cash shortage" which threatened the City's ability to meet its "Tuesday [March 23, 2010] payroll obligation." The crisis of a payless payday was averted only because of the early release by the Department of Treasury of the City's April State revenue sharing payment. The fact that Benton Harbor City officials were confronted by the imminent risk of payless paydays a mere two days after the City's Act 72 hearing, is the latest indication of a financial emergency in the City which City officials do not appear to have the ability to address without outside assistance.

Therefore, pursuant to Section 18(1) of the Act, I hereby assign responsibility for managing the financial emergency in the City of Benton Harbor to the Local Emergency Financial Assistance Loan Board established pursuant to Public Act 243 of 1980, the Emergency Municipal Loan Act, and direct them to appoint an emergency financial manager.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Granholm", is written over the typed name and title. The signature is stylized and somewhat illegible due to its cursive nature.

Jennifer M. Granholm
Governor

cc: City of Benton Harbor Commissioners
Local Emergency Financial Assistance Loan Board