

114TH CONGRESS  
2D SESSION

# H. R. 4754

To require the Attorney General to ensure that State-appointed emergency financial managers do not violate Constitutional protections and that they ensure public health and safety, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2016

Mr. CONYERS (for himself, Mrs. LAWRENCE, Mr. KILDEE, Mr. CLYBURN, Mr. BUTTERFIELD, Mr. GRIJALVA, Mr. ELLISON, Mr. NADLER, Ms. LOFGREN, Ms. JACKSON LEE, Mr. COHEN, Mr. JOHNSON of Georgia, Ms. JUDY CHU of California, Mr. DEUTCH, Ms. BASS, Ms. DELBENE, Ms. MAXINE WATERS of California, Mr. LARSON of Connecticut, Mr. GRAYSON, Mr. DOGGETT, Mr. AL GREEN of Texas, Mr. MCGOVERN, Mrs. WATSON COLEMAN, Ms. PLASKETT, Mr. CARTWRIGHT, Mr. HASTINGS, Mr. CUMMINGS, Ms. FUDGE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RUSH, Ms. BROWN of Florida, and Mr. FATTAH) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require the Attorney General to ensure that State-appointed emergency financial managers do not violate Constitutional protections and that they ensure public health and safety, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Financial  
3 Manager Reform Act of 2016”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Local government units are charged with  
7 providing critical law enforcement, educational train-  
8 ing, public safety, and health services for the com-  
9 munities they serve.

10 (2) The mismanagement of Federal grant  
11 money, including conflicts of interest and abuse of  
12 discretion, undermines the ability of local govern-  
13 ment units to provide these essential services.

14 (3) The U.S. Government Accountability Office  
15 found that Federal grant management operations  
16 for local government units were adversely impacted  
17 in cases where unaccountable emergency financial  
18 managers were appointed.

19 (4) The Federal Government has a strong in-  
20 terest in preventing the mismanagement of Federal  
21 funds intended to support local law enforcement ef-  
22 forts to protect health and safety by ensuring that  
23 local government units are accountable for such  
24 funds.

25 (5) The appointment of an emergency financial  
26 manager may adversely impact voting rights when

1 such appointment disproportionately affects minority  
2 communities whose local elected officials are dis-  
3 placed by such financial manager.

4 (6) The appointment of an emergency financial  
5 manager can adversely impact public health and  
6 safety priorities, including the safety of public drink-  
7 ing water systems, in instances where they are unac-  
8 countable to local elected leaders.

9 (7) Under article I, section 10, clause 1 of the  
10 U.S. Constitution, a State is prohibited from impair-  
11 ing a contractual obligation. In addition, some State  
12 constitutions explicitly prohibit impairment of a col-  
13 lective bargaining agreement and accrued financial  
14 benefits under a pension plan or a retirement sys-  
15 tem. Such impairment is unconstitutional and a vio-  
16 lation of law unless consented to by all parties.

17 **SEC. 3. SAFEGUARDS REGARDING STATE APPOINTMENT OF**  
18 **AN EMERGENCY FINANCIAL MANAGER.**

19 (a) REDUCTION OF BYRNE-JAG FUNDS.—The At-  
20 torney General may withhold 5 percent of the funds that  
21 would otherwise be allocated to a State under the program  
22 under subpart 1 of part E of title I of the Omnibus Crime  
23 Control and Safe Streets Act of 1968 (42 U.S.C. 3750  
24 et seq.) for the fiscal year following any fiscal year in

1 which an emergency financial manager is appointed by  
2 that State or continues in a previous appointment and—

3 (1) the chief legal officer or other appropriate  
4 State official does not, by the date of the appoint-  
5 ment and every 18 months thereafter while the ap-  
6 pointment remains in effect, submit to the Attorney  
7 General a certification that—

8 (A) such appointment does not have the  
9 purpose nor will it have the effect of denying,  
10 abridging, or diluting the right to vote on ac-  
11 count of race or color; and

12 (B) the community for which the emer-  
13 gency financial manager is appointed has been  
14 given an opportunity, by public notice issued si-  
15 multaneously with the submission to the Attor-  
16 ney General, to submit comments in full for a  
17 period of at least 30 days with regard to sub-  
18 paragraph (A);

19 (2) the Attorney General interposes an objec-  
20 tion under paragraph (1)(A) by not later than 60  
21 days after submission of comments under paragraph  
22 (1)(B) and the emergency financial manager there-  
23 after continues in the appointment;

24 (3) such emergency financial manager is au-  
25 thorized to make decisions affecting public health or

1 safety of the residents or employees of a local gov-  
2 ernment unit, including the disbursement of any  
3 emergency funds provided by any Federal or State  
4 entity for the purpose of addressing lead or other  
5 contamination of drinking water in a public water  
6 system, without receiving prior approval from the  
7 governor of the State and appropriate local elected  
8 officials;

9 (4) such emergency financial manager does not  
10 have adequate oversight in effect to ensure against  
11 conflicts of interest, mismanagement, and abuse of  
12 discretion by such emergency financial manager;

13 (5) such emergency financial manager is au-  
14 thorized to reject, modify, or terminate one or more  
15 terms and conditions of an existing collective bar-  
16 gaining agreement without mutual consent as to  
17 such rejection, modification, or termination by all  
18 parties to the agreement;

19 (6) such emergency financial manager is au-  
20 thorized to reject, modify, or terminate one or more  
21 terms of an existing contract without mutual consent  
22 by all parties to the contract or without submitting  
23 such rejection, modification, or termination for ap-  
24 proval by a bankruptcy court under title 11, United  
25 States Code; or

1           (7) such emergency financial manager is ap-  
2           pointed and members of the community under the  
3           jurisdiction of such appointment were not provided  
4           prior thereto—

5                   (A) an opportunity, by public notice issued  
6                   simultaneously with the submission to the At-  
7                   torney General required pursuant to paragraph  
8                   (1) for a period of at least 30 days, to make  
9                   public comment as to any conflicts of interest  
10                  the proposed appointee may have, whether the  
11                  proposed appointee has the requisite experience  
12                  and financial acumen, and whether the pro-  
13                  posed appointee is empowered to propose  
14                  sources of financial assistance, such as loans,  
15                  grants, and revenue sharing; and

16                   (B) with the name of a State official to  
17                   whom may be conveyed complaints about the  
18                   appointee, including complaints about any con-  
19                   flicts of interest, mismanagement, or dereliction  
20                   of duty.

21           (b) REALLOCATION.—Amounts not allocated under  
22           the program referred to in subsection (a) to a State shall,  
23           to the extent practicable, be reallocated under that pro-  
24           gram to the local government unit for which the emer-  
25           gency financial manager is appointed.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) The term “emergency financial manager”  
4 means any person appointed by a State, including a  
5 financial control board or commission, emergency  
6 manager, receiver, coordinator, or overseer that  
7 oversees or manages a local government unit.

8 (2) The term “local government unit” includes  
9 cities, towns, municipalities, school board districts,  
10 law enforcement departments or any other body, de-  
11 partment, or office which exercises authority over  
12 matters of local concern at the direction of local  
13 elected officials or governing bodies or the ap-  
14 pointees of local elected officials or governing bodies.

15 (3) The term “adequate oversight” means, in  
16 the case of an emergency financial manager—

17 (A) a monthly, publically available report,  
18 reviewed and approved by the governor and ap-  
19 propriate local elected officials, accounting for  
20 all financial activities of the emergency financial  
21 manager (including possible conflicts of inter-  
22 est, mismanagement, and abuses of discretion)  
23 related to the duties of the emergency financial  
24 manager; and

25 (B) an independent State-approved pub-  
26 lically available audit of the emergency financial

1 manager's duty-related activities on an annual  
2 basis or, if the term of an emergency financial  
3 manager is less than one year, at least one such  
4 audit.

5 (4) The term "State" means any one of the  
6 several States.

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