

115TH CONGRESS 1ST SESSION

H. R. 2325

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.

IN THE HOUSE OF REPRESENTATIVES

May 3, 2017

Mr. Conyers (for himself, Mr. Kildee, Mrs. Lawrence, Mr. Cartwright, Mr. Veasey, Mr. Cohen, Ms. Lee, Mrs. Watson Coleman, Ms. Norton, Ms. Lofgren, Ms. Judy Chu of California, Mr. Nadler, Mr. Johnson of Georgia, Ms. Jackson Lee, Mr. Connolly, Ms. Eddie Bernice Johnson of Texas, Mr. Cummings, Ms. Jayapal, Mr. Jeffries, and Ms. Bass) introduced the following bill; which was referred to the Committee on the Judiciary

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,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Emergency Financial
- 5 Manager Reform Act of 2017".

1 SEC. 2. FINDINGS.

- 2 The Congress finds the following:
- 3 (1) Local government units are charged with 4 providing critical law enforcement, educational train-5 ing, public safety, and health services for the com-6 munities they serve.
 - (2) The mismanagement of Federal grant money, including conflicts of interest and abuse of discretion, undermines the ability of local government units to provide these essential services.
 - (3) The U.S. Government Accountability Office found that Federal grant management operations for local government units were adversely impacted in cases where unaccountable emergency financial managers were appointed.
 - (4) The Federal Government has a strong interest in preventing the mismanagement of Federal funds intended to support local law enforcement efforts to protect health and safety by ensuring that local government units are accountable for such funds.
 - (5) The appointment of an emergency financial manager may adversely impact voting rights when such appointment disproportionately affects minority communities whose local elected officials are displaced by such financial manager.

- 1 (6) The appointment of an emergency financial
 2 manager can adversely impact public health and
 3 safety priorities, including the safety of public drink4 ing water systems, in instances where they are unac5 countable to local elected leaders.
- 6 (7) Under article I, section 10, clause 1 of the 7 U.S. Constitution, a State is prohibited from impair-8 ing a contractual obligation. In addition, some State 9 constitutions explicitly prohibit impairment of a col-10 lective bargaining agreement and accrued financial 11 benefits under a pension plan or a retirement sys-12 tem. Such impairment is unconstitutional and a vio-13 lation of law unless consented to by all parties.

14 SEC. 3. SAFEGUARDS REGARDING STATE APPOINTMENT OF

15 AN EMERGENCY FINANCIAL MANAGER.

16 (a) REDUCTION OF BYRNE-JAG FUNDS.—The Attorney General may withhold 5 percent of the funds that 18 would otherwise be allocated to a State under the program 19 under subpart 1 of part E of title I of the Omnibus Crime 20 Control and Safe Streets Act of 1968 (42 U.S.C. 3750 21 et seq.) for the fiscal year following any fiscal year in which an emergency financial manager is appointed by 23 that State or continues in a previous appointment and— 24 (1) the chief legal officer or other appropriate

State official does not, by the date of the appoint-

- 1 ment and every 18 months thereafter while the ap-2 pointment remains in effect, submit to the Attorney 3 General a certification that—
 - (A) such appointment does not have the purpose nor will it have the effect of denying, abridging, or diluting the right to vote on account of race or color; and
 - (B) the community for which the emergency financial manager is appointed has been given an opportunity, by public notice issued simultaneously with the submission to the Attorney General, to submit comments in full for a period of at least 30 days with regard to subparagraph (A);
 - (2) the Attorney General interposes an objection under paragraph (1)(A) by not later than 60 days after submission of comments under paragraph (1)(B) and the emergency financial manager thereafter continues in the appointment;
 - (3) such emergency financial manager is authorized to make decisions affecting public health or safety of the residents or employees of a local government unit, including the disbursement of any emergency funds provided by any Federal or State entity for the purpose of addressing lead or other

- contamination of drinking water in a public water system, without receiving prior approval from the governor of the State and appropriate local elected officials;
 - (4) such emergency financial manager does not have adequate oversight in effect to ensure against conflicts of interest, mismanagement, and abuse of discretion by such emergency financial manager;
 - (5) such emergency financial manager is authorized to reject, modify, or terminate one or more terms and conditions of an existing collective bargaining agreement without mutual consent as to such rejection, modification, or termination by all parties to the agreement;
 - (6) such emergency financial manager is authorized to reject, modify, or terminate one or more terms of an existing contract without mutual consent by all parties to the contract or without submitting such rejection, modification, or termination for approval by a bankruptcy court under title 11, United States Code; or
 - (7) such emergency financial manager is appointed and members of the community under the jurisdiction of such appointment were not provided prior thereto—

- (A) an opportunity, by public notice issued 1 2 simultaneously with the submission to the At-3 torney General required pursuant to paragraph 4 (1) for a period of at least 30 days, to make public comment as to any conflicts of interest 6 the proposed appointee may have, whether the 7 proposed appointee has the requisite experience 8 and financial acumen, and whether the pro-9 posed appointee is empowered to propose 10 sources of financial assistance, such as loans, 11 grants, and revenue sharing; and
- 12 (B) with the name of a State official to
 13 whom may be conveyed complaints about the
 14 appointee, including complaints about any con15 flicts of interest, mismanagement, or dereliction
 16 of duty.
- 17 (b) REALLOCATION.—Amounts not allocated under 18 the program referred to in subsection (a) to a State shall, 19 to the extent practicable, be reallocated under that program to the local government unit for which the emer-21 gency financial manager is appointed.

22 SEC. 4. DEFINITIONS.

- 23 In this Act:
- 24 (1) The term "emergency financial manager" 25 means any person appointed by a State, including a

- financial control board or commission, emergency manager, receiver, coordinator, or overseer that oversees or manages a local government unit.
 - (2) The term "local government unit" includes cities, towns, municipalities, school board districts, law enforcement departments or any other body, department, or office which exercises authority over matters of local concern at the direction of local elected officials or governing bodies or the appointees of local elected officials or governing bodies.
 - (3) The term "adequate oversight" means, in the case of an emergency financial manager—
 - (A) a monthly, publically available report, reviewed and approved by the governor and appropriate local elected officials, accounting for all financial activities of the emergency financial manager (including possible conflicts of interest, mismanagement, and abuses of discretion) related to the duties of the emergency financial manager; and
 - (B) an independent State-approved publically available audit of the emergency financial manager's duty-related activities on an annual basis or, if the term of an emergency financial

1	manager is less than one year, at least one such
2	audit.
3	(4) The term "State" means any one of the
4	several States.

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