

**Statement of Rep. John Conyers, Jr.**  
**Judiciary Forum on Legal Implications of Michigan Emergency Manager**  
**Law**  
**Highland Park, MI.**  
**February 21, 2012, 5:00 PM**

I want to thank everyone for being here for this important Judiciary Committee Forum.

Since the Emergency Manager Law was signed into law one year ago, there have been two lawsuits filed challenging its constitutionality, dozens of protests, a half dozen public forums, and scores of media stories. A petition drive has been organized to allow the voters to repeal the law this November. The Department of Justice is reviewing the law; and just this month, a state court threw out the Highland Park Schools Emergency Manager due to violations of Michigan's Open Meetings Act. My staff has conducted a comprehensive investigation concerning the law and its implementation. As a result of all of these activities, we have learned the following:

First, it is clear that the law is unconstitutional by virtue of the fact that it violates the Contracts Clause of the U.S. Constitution. As the nation's preeminent authority on constitutional issues involving bankruptcy -- UCLA Law Professor Kenneth Klee -- has told us "as currently drafted, the [Michigan EM Law] is violative of the Contracts Clause ... No prior legislature has had the audacity to legislate the unilateral termination, rejection, or modification of a collective bargaining agreement."

Second, other provisions of the law may well violate the Voting Rights Act, and numerous other sections of the U.S. and Michigan Constitution relating to separation of powers, representative rights, and due process among other protections.

- This should come as no surprise to the Snyder administration, whose own analysis stated that "[t]his bill allows emergency managers too much power and control over local units of government. Emergency managers can't be trusted to act in the interests of the local unit and will use the enhanced powers granted under this bill for their own gain. Stripping local officials of the powers is anti-democratic."

- Nor should anyone be surprised that the Voting Rights Act is implicated when the Emergency Manager Law is being used to prevent more than half of the African American voters in the state from having their vote count in local elections.

Third, if we have learned anything in the more than 20 years since the first Emergency Manager law was enacted, it's that the law not only has not worked, but that it has led to abuse, mismanagement and conflicts of interest. Consider the following:

- Highland Park -- where the Emergency Manager was terminated for paying himself unauthorized funds.
- Pontiac – which faced a potential loss of \$1.4 million in federal funds as a result of mismanagement by an Emergency Manager.
- Hamtramck – was under an Emergency Manager for seven years and still is unable to pay its pension and has been forced to petition the state for bankruptcy.

Clearly, we need to repeal this law – either legislatively, by voter initiative or in a court of law – and replace it with a more balanced statute that allows for state intervention and support without outright takeover. Such laws have worked in other cities – including New York, Cleveland, and Philadelphia – and there is no reason they can't work in Michigan.

Beyond that, I believe the cities, state and federal government need to work together to respond not only our urban fiscal crises, but the underlying causes -- the unemployment crisis, the health care crisis, the education crisis, and the foreclosure crisis. Certainly, Detroit and other cities can and should negotiate reasonable concessions with organized labor. But the state needs to make good on its promise to share revenue with Detroit and other cities. If Michigan would pay Detroit the more than \$300 million it has promised, it would eliminate the city's budget shortfall this year as well as the overall structural deficit. To me it is the height of irresponsibility for the state to seek to take over Detroit's finances, when the State itself is the leading cause of Detroit's financial problems.

Finally, as long as the Emergency Manager law is in place, it is necessary that the federal government and the U.S. Congress become involved in overseeing it. Given the controversy the law has generated and the numerous abuses that have been identified, the Department of Justice needs to review both the law and its application. As Ranking Member of the House Judiciary Committee, I plan to

conduct direct oversight as well, above and beyond the Investigative Report I am issuing today.

Our nation was built upon the fundamental building blocks of voting rights and guarantees of contract and collective bargaining. Unfortunately, the State of Michigan has chosen to abandon these precious rights in a futile effort to balance our cities' books. These efforts have not worked, and before we go any further, it is incumbent that we all to work together to craft a more sensible and constitutional solution.