

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.

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## 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

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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,*

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.

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

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

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

22 (5) The appointment of an emergency financial  
23 manager may adversely impact voting rights when  
24 such appointment disproportionately affects minority  
25 communities whose local elected officials are dis-  
26 placed 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 drink-  
4 ing water systems, in instances where they are unac-  
5 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 At-  
17 torney 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  
22 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  
25 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—

4               (A) such appointment does not have the  
5               purpose nor will it have the effect of denying,  
6               abridging, or diluting the right to vote on ac-  
7               count of race or color; and

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

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

20             (3) such emergency financial manager is au-  
21             thorized to make decisions affecting public health or  
22             safety of the residents or employees of a local gov-  
23             ernment unit, including the disbursement of any  
24             emergency funds provided by any Federal or State  
25             entity for the purpose of addressing lead or other

1       contamination of drinking water in a public water  
2       system, without receiving prior approval from the  
3       governor of the State and appropriate local elected  
4       officials;

5           (4) such emergency financial manager does not  
6       have adequate oversight in effect to ensure against  
7       conflicts of interest, mismanagement, and abuse of  
8       discretion by such emergency financial manager;

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

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

22          (7) such emergency financial manager is ap-  
23      pointed and members of the community under the  
24      jurisdiction of such appointment were not provided  
25      prior thereto—

1           (A) an opportunity, by public notice issued  
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  
5 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 con-  
15 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 pro-  
20 gram 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

1 financial control board or commission, emergency  
2 manager, receiver, coordinator, or overseer that  
3 oversees or manages a local government unit.

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

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

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

21 (B) an independent State-approved pub-  
22 lically available audit of the emergency financial  
23 manager’s duty-related activities on an annual  
24 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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