

UNIFORM BUDGETING AND ACCOUNTING ACT (EXCERPT)
Act 2 of 1968

141.438 Incurring debts or obligations; dividing appropriations into allotments; expenditures; application or diversion of money; restrictions on delegation of duties; enforcement power; suit against chief administrative officer of county; standing; mediation; 60-day period to bring suit in Michigan court of appeals; court jurisdiction; limitation; certain actions barred; expenditure of funds; severability.

Sec. 18.

(1) A member of the legislative body, chief administrative officer, administrative officer, or employee of the local unit shall not create a debt or incur a financial obligation on behalf of the local unit unless the debt or obligation is permitted by law.

(2) The chief administrative officer may cause the appropriations made by the legislative body for the local unit and its budgetary centers to be divided into allotments if the allotments are based upon the periodic requirements of the local unit and its budgetary centers.

(3) Except as otherwise provided in section 19, an administrative officer of the local unit shall not incur expenditures against an appropriation account in excess of the amount appropriated by the legislative body. The chief administrative officer, an administrative officer, or an employee of the local unit shall not apply or divert money of the local unit for purposes inconsistent with those specified in the appropriations of the legislative body.

(4) No duties shall be delegated to the chief administrative officer that diminish any charter or statutory responsibilities of an elected or appointed official, including, but not limited to, the charter responsibility of a legislative body to approve the making of contracts by the local unit.

(5) The enforcement of a general appropriations act approved by the legislative body of a county is a power vested in the chief administrative officer of that county.

(6) An elected official who heads a branch of county government or the chief judge of a court funded by a county has standing to bring suit against the chief administrative officer of that county concerning an action relating to the enforcement of a general appropriations act for that branch of county government or that court. If a court and the chief administrative officer of a county are involved in mediation, before the chief judge of that court brings a suit on the court's own behalf against the chief administrative officer of the county under this subsection, a mediator shall certify in writing that the parties are unable to resolve the issues by mediation.

(7) Except as otherwise provided in subsection (8) and notwithstanding any provision of law to the contrary, any suit brought under subsection (6) or section 16(9) shall only be brought in the Michigan court of appeals within 60 days after 1 of the following:

(a) The adoption of a general appropriations act.

(b) An amendment to a general appropriations act or an action relating to the enforcement of that general appropriations act, if the amendment or action constitutes a basis for the suit.

(8) If a court is involved in mediation under subsection (6) or section 16(9) during the 60-day period to bring a suit in the Michigan court of appeals provided for in subsection (7), any suit brought on the court's behalf under subsection (6) or section 16(9) shall only be brought in the Michigan court of appeals within 90 days after 1 of the following:

(a) The adoption of a general appropriations act.

(b) An amendment to a general appropriations act or an action relating to the enforcement of that general appropriations act, if the amendment or action constitutes a basis for the suit.

(9) The court's jurisdiction over and review of the issues raised in a suit brought under subsection (7)(b) or (8) is limited to that portion of the general appropriations act that is directly affected by the amendment or action.

(10) The jurisdiction of the court of appeals over a suit brought under subsection (6) or section 16(9) is exclusive and that jurisdiction or any judicial duties inherent in that jurisdiction shall not be transferred to any other court. However, the court of appeals may request the supreme court to assign a retired judge under section 226 of the revised judicature act of 1961, 1961 PA 236, MCL 600.226, to assist the court of appeals by resolving discovery issues, reviewing the evidence, making proposed findings of fact and conclusions of law, and performing any other necessary related judicial duties.

(11) Unless an action brought under subsection (7) or (8) is timely preserved for review by the Michigan court of appeals, litigation of any issue as to a general appropriations act or any amendment to that general appropriations act, or an action relating to the enforcement of that general appropriations act, is barred.

(12) The pendency of a claim in a suit under this section shall not constitute a basis for expenditure of funds by any department or branch of, or court funded by, the county in excess of that authorized by a general appropriations act, including an amendment to that general appropriations act.

(13) If any portion of this section or the application of this section to any circumstance is found to be invalid by a court, the invalidity shall not affect the remaining portions or application of this section that can be given effect.

without the invalid portion or application. The provisions of this section are severable.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980 ;-- Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001 ;-- Am. 2013, Act 172, Imd. Eff. Nov. 18, 2013