

## **Local Effects of State Takeovers: Drinking water systems in Michigan**

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### **Introduction**

This paper is motivated by the growing use of state takeovers of local units of government and the growing financial precarity of many U.S. cities. We seek to better understand the political dynamics of state takeovers and their implications for communities, and specifically for safe, affordable drinking water services. We build on previous research indicating that state takeovers have political origins and drivers and negative social and economic consequences for affected communities (e.g., Seamster 2018; Morel 2018). While state takeovers are nominally designed to help ensure the continuation of critical public services and support communities, their implementation and intersection with austerity politics can ultimately undermine these goals.

In this paper we take a closer look at bias in the implementation of state takeovers and the effects of state takeovers on drinking water services. This work is motivated in part by the Flint water crisis and the central role state takeover played in creating and perpetuating prolonged drinking water contamination in the city (Pauli 2019; Nickels 2019; Hughes 2020). The Flint Water Advisory Task Force argues that the appointment of an emergency manager replaced local decision making, which led to several agency failures and ultimately the crisis (2016). The Flint case is a prominent example of how state intervention and austerity can critically and fatally disrupt local services. We seek to understand more systematically how state officials in Michigan made decisions about state takeovers, and how these takeovers affected other drinking water systems in the state. State takeovers in Michigan occur under the authority of Public Act 436 (PA 436), one of the broadest and most permissive state municipal takeover policies in the U.S. (Sapotichne et al. 2015; Nickels 2019). Given these conditions of high discretion by state officials, and pervasive powers of Emergency Managers, what drives state intervention in municipal financial distress? What are the implications of such takeovers for public services, and drinking water specifically?

To answer these questions, we conducted two analyses. First, we operationalize legislated criteria for state takeovers and apply these measures to cities that have and have not been under the authority of a state-appointed emergency manager. This provides new insight into whether state officials have objectively and equitably applied these criteria to Michigan cities when determining whether state takeover was necessary. Second, we conduct a media analysis for those cities that have experienced a state takeover to identify changes to drinking water services, or issues with drinking water services that have arisen, as a result of being under emergency management. This provides some initial insight into the extent to which drinking water is targeted by emergency managers and vulnerable to municipal financial stress. Our analysis provides insights and applications for the evaluation and development of state municipal takeover policies.

### **State Municipal Takeovers and Austerity Politics**

State municipal takeover policies are ostensibly designed to address severe financial stress in local governments. A primary motivation for such interventions has often been a desire to protect credit ratings of the target city, other cities in the state, and of the state itself (Berman 1995; Sapotichne et al. 2015). Some see such measures as being designed to make cities “debt-

ready” by reducing uncertainty and improving debt-to-revenue ratios (Sassen 2006). State takeovers also provide a mechanism for shrinking the local state. In this sense municipal takeovers are emblematic of “austerity urbanism” (Peck 2012) and the rise of economic dominance in urban policy as part of the larger neoliberal project (Hackworth 2007; Weaver 2016). Lake (2015) neatly summarizes the “consequences of the economic dominance of urban policy” in four points: it subordinates social concerns, policy goals are economically oriented, taxes stop being revenue for social programs and become private subsidies, and public and urban policy are financialized (p. 75).

In the U.S., 19 state governments have municipal intervention laws of some kind, which grant variable powers to appointed emergency managers over debt, labor, taxes and fees, finances, and budget; in a few states, emergency managers have the power to dissolve the municipality entirely (Nickels 2019). Over the last twenty years, the number of states with municipal takeover laws has increased along with the financial precarity of U.S. local governments (Sapotichne et al. 2015; Chernick and Reschovsky 2017; Morel 2018). Strong state takeover laws have been advocated by conservative political groups, such as Michigan’s Mackinac Center for Public Policy, funded by the Koch brothers.

In many cases state takeovers have proven to be a divisive and unpopular response to local financial stress (Pauli 2019). Most criticisms of municipal takeover focus on the suspension of local control and representative democracy which, while valid, “does not fully capture the reality that unelected officials are making decisions that carry consequences beyond their tenure” (Nickels 2019, 11). Anderson (2011) refers to emergency management as “democratic dissolution,” with the ability to reconfigure a community’s networks of representation. Emergency managers have the ability to fundamentally reshape communities (Fasenfest 2019).

While the financial and political implications of state takeovers have been documented, less attention has been paid to the consequences of state takeovers for public services, including drinking water provision. As evidenced by the experience of the Flint water crisis, drinking water safety and infrastructure can be highly vulnerable to the austerity policies of emergency managers (Pauli 2019; Hughes 2020), with lasting consequences for community health and well-being. Drinking water services may be attractive revenue streams in the finance sector, particularly because they are necessities, and revenue from water rates is backed by the state. This means risk is low and revenues can potentially be high, such that the value of drinking water services are greater to the financial sector even than to the public sector.

While state takeover policies leverage techno-rational language and decision criteria (Hughes 2020), they typically provide discretion in implementation and there is growing evidence that they are unevenly applied (Lee et al. 2016). Part of the challenge is that modeling and predicting financial stress in municipal governments is more art than science; there are ongoing debates about the best methods and indicators, and even whether it is possible (Stone et al. 2015). But studies have found that state takeovers have disproportionately targeted communities with large Black and Latino populations and elected leaders (e.g., Morel 2018).

Michigan provides the most power to emergency managers of any state (Sapotichne et al. 2015; Nickels 2019) and allows for significant discretion in initiating a takeover. The law (Public Act 436) offers a wide range of quantifiable indicators for use in determining municipal financial stress, each of which is able to trigger state takeover, and provides the potential for state takeover “at the discretion of the Treasurer. As in other cases, there is emerging evidence

that the state has disproportionately targeted Black communities for emergency management (Seamster 2018; Breznau and Kirkpatrick 2018). However, we still lack a rigorous examination of takeover decisions in Michigan and their consequences for public service provision.

This paper uses an analysis of Michigan's Public Act 436 (PA 436) to answer two research questions that help to fill gaps in our understanding of the politics of state takeover laws and their consequences for communities:

- 1) Under conditions of high discretion, what drives state intervention? How predictable and uniform is it?
- 2) What are implications of state takeovers for public services, and specifically for drinking water safety, accessibility, and affordability?

### **The Origins and Applications of Municipal Takeovers in Michigan**

Michigan's approach to addressing local financial emergencies has evolved since the late 1990s. Public Act (PA) 101 was enacted following the very first state-government takeover of Ecorse in 1986 (that became a court intervention) and was quickly followed by the financial crisis of Hamtramck in 1988. The legislation was meant to provide the state with a formal mechanism for state government oversight, establishing Emergency Financial Managers with broad powers. The legislation was part of a legislative package meant to assist Hamtramck and had similar elements to the following bills, including provisions for triggering state review and the composition of the Loan Board (Hohman 2012; MU 2017).

Public Act (PA) 72, the "Local Government Fiscal Responsibility Act" or more commonly referred to as the "Emergency Financial Manager Act", replaced PA 101 in 1990. It acted as the primary statute authorizing State intervention into local government with financial problems and included the takeover of public schools. This legislation was deemed necessary for the survival of local government, to assist them with "prudent fiscal management" (Michigan Treasury). PA 72 was triggered when a local government failed to pay creditors or make timely pension contributions, or had payless paydays. Certain officials or residents can request a preliminary review under the legislation as well. Once triggered, a preliminary review of the financial condition of the city is conducted by the State Treasurer that then reports the result to the Governor, who then appoints a financial review team for a more detailed review if a financial problem is found to exist. This Review team then reports back to the governor within 60 days with one of three conclusions: a serious financial problem does not exist, a financial problem exists but a Consent Agreement has been adopted, a financial problem exists but no satisfactory plan exists to resolve it. It is the third conclusion (or a violation of a consent agreement) that results in the appointment of an Emergency Financial Manager (EFM) by the Local Emergency Financial Assistance Loan Board. This Board includes the State Treasurer, Director of the Department of Management and Budget, Director of Department of Energy, Labor and Economic growth. The compensation to the EFM (paid for by the city) is also set by the Loan Board, as well as the approval of actual and necessary expenses.

PA 72 was revoked in 2011, when PA 4 was signed into law by then-Governor Snyder and renamed the "Local Financial Stability and Choice Act". The bill was one of the first signed by Governor Snyder when he came into office ([Hakala 2016](#)). The law was passed in a majority Republican legislature and displaced local democratic rule with powers granted to emergency managers to make unilateral change with the goal of balancing municipal budgets. PA 4

provided the power to displace democratic institutions and break existing contracts as well as privatize and act with no local accountability or oversight. PA 72 allowed emergency managers to renegotiate existing labor contracts, acting as an agent of the local government in bargaining and then approving subsequent agreements or contracts (Local Government Fiscal Responsibility Act 72 Michigan Legislative Council §§141.1221). Under PA 4 on the other hand, an emergency manager can establish or implement staffing levels including layoffs, direct staff, change labor contracts and vendor contracts, amend budgets without local legislative body approval, reduce or eliminate local official benefits and pay, sell local government assets, remove local board members, dissolve municipal governments and institute Bankruptcy proceedings all the while filing reports quarterly to the State Treasurer (State of Michigan Department of Treasury, 2011). These changes led to a public revolt and a repeal through a referendum (Hammer, 2017). PA 4 was repealed by the public during the November 2012 ballot, and argued as intruding “too far” into the city (Oosting 2012). The new law was argued to give greater and more expansive powers to emergency managers (Rozycki 2017 eds. Klemanski and Dulio). PA 4 also changed the name of Emergency Financial Managers to Emergency Managers, a change that continued through to PA 436 (Hohman 2012). Critics deemed PA 4 draconian, with the local government usurping control to states and emergency managers able to break collective bargaining agreements (Oosting 2012).

#### Current Law: PA 436

PA 436, “the Local Financial Stability and Choice Act” replaced the repealed PA 4. Following the political conflicts surrounding PA 4, it included an appropriation of money to ensure it was immune from repeal by referendum (Rozycki 2017 eds. Klemanski and Dulio). The appropriation provision used obscure state principles to prevent the legislation from being challenged by public referendum and repealed like PA 4 (Hammer 2017).

The most significant change in PA 436 from PA 4 is Section 7 that gives local elected officials governing the city or school district the choice of one of four options: a consent agreement, an emergency manager, a neutral evaluation process, or file for Chapter 9 bankruptcy. This choice was meant to increase city powers; “PA 436, in effect, told [cities] they were going to have to swallow some harsh medicine, but it at least gave them a small selection of pills to choose from” (Guyette 2013). Governor Snyder argued that the changes made in PA 436 signaled that the state listened to voters; “it builds in local control and option while also ensuring the tools to protect communities...” (Oosting 2012).

Although there is a choice, the state treasurer has to agree with the approach, and if they do not, they can be forced into the other options (Hakala 2016). In addition, PA 436 only applied to those cities where financial problems occurred after March 28th, 2013. Those that had their financial problems before that date will still fall under the harshly disputed PA 4, although can seek to have their emergency manager removed after 18 months (Guyette 2013). The governor can still be the one to order a financial review and based on the review findings declare a financial emergency (Scorsone 2013). PA 436 also requires the state to pay the salary of an emergency manager rather than the local government (a change even from PA 72). An emergency manager can also be voted out by local governments after 18 months (Michigan Radio Newsroom 2013), a slight departure from its predecessors meant to quell the criticisms of its undemocratic nature. Section 9(11) outlines that “...if an emergency manager has served

for less than 18 months after his or her appointment under this act, the governing body of the local government may pass a resolution petitioning the governor to remove the emergency manager as provided in this section and allow the local government to proceed under the neutral evaluation process...". If there is a two-thirds majority vote of the elected board and the Chief Administrative Officer is in agreement, an emergency manager can be removed. If so, however, the local government is still required to negotiate a consent agreement with the state or begin mediation.

Many argue that even with these departures from PA 72, PA 436 was only a slight revision from its predecessor (Hammer 2017). PA 436 is similar to PA 4 with broad powers given to an emergency manager: from changing city personnel and budgets to modifying contracts (Rozycki 2017 eds. Klemanski and Dulio).

## **Data and Methods**

We seek to answer two questions:

- 1) Under conditions of high discretion, what drives state intervention? How predictable and uniform is it?
- 2) What are implications of state takeovers for public services, and specifically for drinking water safety, accessibility, and affordability?

### RQ1: What Drives State Intervention?

To answer Question 1, we operationalize the logic and language of PA 436 to determine how evenly or objectively the law has been applied to Michigan cities. We examine all Michigan cities with a population of 7,500 or more (a total of 111 cities, including the 11 cities that have come under emergency management). This threshold was chosen based on criteria for receiving state funding through Michigan's Economic Vitality and Incentive Program (cities below this threshold do not qualify). We collected demographic information about these 111 cities (race, income, population) as well as financial and political data (personnel numbers, intergovernmental revenue, fund balance, and pension obligations).

The debate around an ideal model for determining stress is ongoing in Michigan as well as for cities in general (see Crosby and Robbins 2013, McDonald 2017, Kleine and Schulz 2018). There are two options available for replicating/measuring financial distress according to Michigan state policy: the language in the law (PA 436) or in the letters of determination sent to cities that come under emergency management. Using the language in the law presents several challenges. PA 436 contains a list of triggers that animate the enforcement actions in the bill. This list is nearly identical to the previous versions of Michigan's EM law (PA 72 1990, PA 4 2011). But, as Kleine et al (2002) observe, these indicators lack predictive power; they lack a sense of proportion. They are not tied to specific and uniformly available data nor are they linked to the literature concerned with identifying and predicting financial stress in local governments. In 2006, responding to Kleine et al (2002), Michigan institutionalized a new set of metrics. These were an improvement but still subject to some criticism, notably the need to update ranges for scoring and enhancing the metric's ability to "scale distress" (Plerhoples and Scorsone 2011) and its focus on the general fund and replicability (Crosby and Robbins 2013). A detailed proposal to improve the system that was sensitive to net stress and relative stress, service provision, non-uniform resolution and structural rather than accountancy

understanding of stress in some cities was proposed (Plerhoples and Scorsone 2012). But in 2011 the use of these scores were halted by the newly elected Snyder administration and not clearly replaced by a new system; nor was it clear if or how the results of previous tests would be used by the new Snyder administration (Spreen and Cheek 2016). So the language of the legislation became the de facto method again of determining financial stress. We concur with Kline et al's (2002) evaluation of the triggers listed in the legislation do not offer useful indicators for analysis. The letters of determination issued by the state in each instance of review and enforcement of PA 436 cite aberrations or distress signals to justify enforcement of the law. We find these letters to be a clearer indication of how the State was operationalizing local fiscal distress.

Our concern here is not to predict or perfectly model distress, nor is it to propose a perfect set of indicators. Our purpose here is to identify any cities that theoretically *could* have been held to the same standard as the 11 EM cities but were not. Finding that such cities do exist, we explore the other (non-financial) characteristics that may have determined the application of PA 436. This approach requires collected data that capture the financial condition of cities according to the letters, along with income and population data, for all Michigan cities in our dataset.

The state of Michigan requires that all local units of government, regardless of size, must file an Annual Local Unit Fiscal Report with the State Treasury within 6 months of the end of the local unit's fiscal year; this report is commonly referred to by the form number, f65. Michigan Treasury has made f65 data publicly available on its website from 2010 to the present. The f65 is a rich data source. It includes a variety of financial indicators that are self-reported by the local unit to the state. These are the types of indicators that appear in the letters of determination.

A reading of the letters of determination reveal that supporting evidence for the application of PA 436 can, for the most part, be categorized as a concern in one of the following areas: deficits, pension obligation, excess debt, capacity to pay debt and accounting practices. The supporting evidence presented in these letters pays close attention to the general fund. We extracted the following values for each city for FY2011: own revenue, public wages, pension obligation, general fund net position, debt to revenue ratio, cash. We also included two variables of change: change in own revenue per capita from 2010 to 2011 and change in general fund net position 2010 to 2011.

These raw numbers were calculated as per capita values or as ratios to facilitate cross comparison. These values were then transformed into z scores. The z score provides uniformity, granularity and relativity in the scoring. The output of negative and positive values means that a single red flag should be muted in the final score of an otherwise average or above average city. Each variable was assigned a theoretical (+) or (-) value for the effect that it would have on the likelihood of justifying the state's use of EM law and transformed as necessary before the score was tallied. A second version of the score, only added the points against a city, to not allow for optimal performance in one indicator diminish concern in another.

## *Data*

Data from the State Treasury site is available annually. All available f65 files for cities were downloaded and merged into a single csv file. Though f65s are required by all local units the focus here is on cities primarily due to their unique and sometimes antagonistic relationship with the state. Ideally, we would have data that matched the era of PA 436 EM cities which starts in 2009. As noted above, f65 data is available online from FY2010 to present. The data does have NA values, notably in the 2010 Pension obligations. There are also duplicate entries which were filtered out with R. Because of these limitations we chose FY2011 as the year best suited to construct the relatively clean set of indicators described above.

Census data (ACS 2012 5 year estimates) for income and population were downloaded using social explorer. A sheet that identifies each EM city and its EM start date was created manually, based on the Michigan Treasury department's web page that summarizes Municipalities and School Districts in Financial Emergency. There were three cities that went under EM in 2009 and one in 2010. The remaining 7 EM cities were put under EM rule between 2011 and 2014.

Cities with populations below 7500 were excluded from the dataset for two reasons: First, 7500 is the cutoff point used in EVIP. EVIP is a Snyder era funding scheme that creates inter-locality competition for the not-constitutionally guaranteed portion of State funding. One of our theoretical assumptions is that this new flexibility in distributing State funds to local governments is a crucial part of uneven EM application, so this threshold is pertinent. The second reason for the cutoff is that it is a threshold that captures all EM cities, with River Rouge having the lowest EM city population of 7951 in 2012.

Using the details of the f65 data we have constructed 8 variables to mirror the stated logic of the EM letters of determination.

**Change in own revenue 2010 – 2011 [orcp 1011,1012]:** f65 does not provide an "own revenue line", this was calculated by subtracting federal and state grants from the total revenue number. Because this is a change value it is calculated for FY10 to FY11 as a percentage change for easier comparison. The raw range of values is (-.45) to .99<sup>1</sup>

**Aggregate Net Position [gf\_netpo]:** Consistent deficits in the general fund are cited as rationale for implementation of EM law. Net Position of the General Fund as reported in an f65 is used here. They are calculated per capita for comparison. Zero represents a critical threshold; and change in net position does as well. The raw range of values is (-300) to 1142.

**Change in Net Position 2010 to 2011 [gf\_netpo\_ch]:** Using the Net position of the General Fund per capita from 2010 to 2011 the net change (per capita) was calculated for each city. Values range from (-198) to 1525<sup>2</sup>.

**Pension obligation PC [penob11]:** f65 contains data for "Net Aggregate Pension Obligation". We transformed this to a per capita number for comparisons between cities. Penob10 was omitted because there are 96?? NA values for pension in the FY10 f65

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<sup>1</sup> Ecorse and Auburn Hills are outliers due to \$0 figures from 2010. The realistic cap is .42.

<sup>2</sup> Ecorse and Auburn Hills are outliers due to \$0 figures from 2010. The realistic cap is 142.



data. This also prevented calculating a change variable here. The range of [penob] is (-2752) to 3099.

**Long Term Debt (as percentage Own Revenue) [debrev 11]:** f65 provides a line for long term debt which we calculated as a percentage of Own Revenue. Most cities have more debt than revenue. So, values of this variable are best thought of as a multiplier. Kalamazoo has a ratio of 6.8, so in order to pay off all their long-term debt with revenues from a single year, they would need to increase their revenues by a factor of 6.8. We assumed here that higher numbers would be an indication for EM selection<sup>3</sup>. The range is from 0 to 8.57.

**Cash and Assets (per capita) [cash 11]:** f65 data provides a single data point for the value of cash and assets. It is calculated here per capita. The range is 0 to 645.

**State IG transfer:** we treat state IG transfer as a political variable because the amount of state money to any municipality is not even, nor is it fully guaranteed from one year to the next. Snyder's EVIP introduced a new layer of state discretion by introducing performance (compliance with state directives) based competitions for a portion of previously constitutionally guaranteed state revenues. We removed federal dollars to focus on state-city politics, as well as to avoid accounting for federal economic recovery dollars that may have still been being delivered to cities at the time.

**Race:** we use a crude measure of race, but one that has particular relevance in the US: Percentage African-American. Because of deeply institutionalized and structural limitations placed on African Americans in the U.S., we use this statistic *not* as an inherent disadvantage but as a condition that might be used to willfully or subconsciously make a determination about the political and economic fate of a place (Stanley 2016, Hammer 2018, Highsmith 2015).

**HHinc:** Much like the use of race above, the household income indicator is used to describe the condition of a place that might lead some state-level actors to sustain an indifference to the fate of a place.

#### RQ2: What Are the Implications of State Takeover for Drinking Water Services?

We collated a list of cities under emergency management in Michigan. Some of the cities fell under PA 436 and others by its predecessors PA 4 and PA 72. The aim was to identify the effects on drinking water systems including changes in prices, decisions about privatization, and emerging water quality issues. The cities examined included: Flint, Hamtramck, Highland Park, Pontiac, Village of Three Oaks, Ecorse, Benton Harbor, Allen Park, River Rouge, Detroit, and Lincoln Park. Given the different options under PA 436 we also added Inkster and the Royal Oak Township, two cities that chose the consent agreement route.

To understand the relationship between emergency management and drinking water services, we conducted a qualitative media analysis in each city. As Gould (2004) emphasizes, media analyses identify messages and the frames of issues. Our aim was to utilize media

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<sup>3</sup> Though *Flint*, *Ecorse*, *Ionia*, *Norton Shores*, *Plymouth* all have a 0 (2 are EM cities).

content analysis to “gain strategic insight and intelligence into issues and trends reported in the media” on our specific topics and keywords (Macnamara 2005, p. 21).

We used newspaper articles and local media releases as evidence of notable changes to drinking water services while under emergency management. We chose three main categories to guide data collection: water system, emergency management, and private interests, which we used as key terms for the search engine. A protocol with a specific emphasis was vital to our collection of data (Altheid 2011). We used major news sources and local newspapers/sources, and verified these accounts using Michigan Department of Treasury documents and academic sources where necessary (Table 1 and Table 2 describe the media sources we used, including their coverage and possible left/right bias). Articles were read carefully and relevant content was captured according to our analytical categories. Each category was compared to ensure consistency across media sources. The data were analyzed according to the topic, the way in which the information was framed, and the spokesperson/outlet that was sharing the information (Gould 2004). The summaries were then combined according to each category. We synthesized the findings qualitatively to identify any relationships between the categories and incorporated these interpretations (Altheid 2011).

Table 1: Newspapers used in the media analysis

<b>Major Newspaper</b>	<b>Regional Newspaper</b>	<b>Local Newspaper</b>
NY Times	The News-Herald	Detroit News
Huffington Post	WNDU	Detroit Free Press
CBS	Mlive	Fox 2 Detroit
The Guardian		Detroit Metro Times
MSNBC		Hamtramck Review
The Atlantic		Oakland Press
		Crains Detroit

Table 2: Characterization of political bias in media sources

Left Bias	Right Bias	Not obvious
NY Times	Detroit News	Michigan Radio
Huffington Post	Fox 2 Detroit	Mlive
CBS		Detroit Metro Times
WNDU		Detroit Free Press
MSNBC		Oakland Press

Qualitative media analysis was the most suitable approach for this project due to its preliminary and innovative nature. Rather than counting and coding using quantitative analysis, we wanted to understand the relationships between broader concepts and policy systems to build conceptual and theoretical bridges, as well as uncover meaningful patterns (between emergency management and water systems for example). Qualitative analysis often aims to uncover the relationship between text and its audiences, while also being mindful of context and target audiences (Macnamara 2005). Our data were only analyzed by one researcher without inter-coder reliability. There is, therefore, room for bias and limits to reliability. The analysis was conducted at three distinct time points, once in the initial search of sources and the second time once sources were chosen, with the articles read and summarized again. During the last analysis, the researcher reviewed all sources to ensure framing and context were adequately considered. We relied on a range of media sources, from national news outlets to local newspapers. Our research aimed to uncover the ways in which factual information was shared with the public, and although the frames, audience, and source were considered, the nature of the events under examination (water system and emergency management information) was often delivered in a manner that made the facts easy to find and validate the data between sources. The descriptive nature of our analysis therefore, reduced the limitations often associated with qualitative methodologies. As Macnamara (2005) emphasizes, validity of such analyses is achieved more so through a thorough understanding of research objectives and careful data selection. To increase the likelihood of replicability, we developed a method of coding and established guidelines and considered potential biases in reporting.

### **Results I: Why Michigan takes over municipalities**

Our key finding is that our composite scores based on legislation do very little to predict which cities have been under emergency management. We measured the power of these indicators in two ways. The first measure describes the accuracy of each indicator in predicting

which cities would be put under EM rule. In theory at least one financial indicator, or a composite score should be able to identify all eleven cities. The financial precarity of the eleven cities placed under EM should be unequivocal, placing them at the top of the list. Table 3 shows the number of EM cities that do make it into the top eleven positions for each variable, as a raw number and then as a percentage. For the net position of the general fund score we see seven of the eleven cities in the top positions (65%), which is the best performance of any of the f65 indicators. For Score 2 and Pension obligation per capita we see five of the eleven EM cities in the top positions (45%).

The indicator that performs the best in placing EM cities is intergovernmental revenue per capita (82%) followed by percent African American (65%, matching the general fund indicator). Household income captures six of the eleven EM cities, performing better than Score2 and Pension obligation. The same measures are included using a more forgiving top 20 but the patterns remain unchanged.

Table 4 shows the differences in means for each variable and the p value for that difference. The raw data for indicators is displayed here (making it easier to digest than z-scores) for reference. The relationships are as predicted with a few notable exceptions<sup>4</sup>. Of the high scoring variables in Table 3, the f65 variable of General Fund is statistically significant. The political variables of Intergovernmental Revenue per capita, percent African American and household income have comparably strong significance. From the f65 variables, when comparing means, the cash assets indicators show significance (though not quite as robust) but do not perform as well in Table 3, capturing 3 of 11 cities (27%). In short, in this model, non-financial variables are more useful in predicting which cities will go under EM than financial variables. The exception is that the poor net position of the General Fund is consistently associated with EM rule. This suggests that despite a long list of probable red-flags, a city's general fund is key for decision making by state officials, but the importance of this indicators is not articulated in the legislation.

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<sup>4</sup> Ecourse created a change in gf outlier by posting a 0 in 2010. This throws off the EM mean, which throws off the predicted relationship.

Table 3. Prediction scores for each variable (financial in green, political in orange)

	HH Income	Pct AfAm	StateIGpc	IGchange	OwnRevPC	OwnRvCh	PublicWagePC	PensionPC	GFnetPos	GFchange	DebtRatio	Cash	Score	Score2
top11	6	7	9	3	0	2	2	5	7	3	2	3	3	5
top20	9	8	9	5	1	4	3	7	7	3	2	5	4	7
as % top 11	55%	64%	82%	27%	0%	18%	18%	45%	64%	27%	18%	27%	27%	45%
as % top 20	45%	40%	45%	25%	5%	20%	15%	35%	35%	15%	10%	25%	20%	35%

Table 4. Mean group raw data and p values

	HH Income	Pct AfAm	StateIGpc	IGchange	OwnRevPC	OwnRvCh	PublicWagePC	PensionPC	GFnetPos	GFchange	DebtRatio	Cash	Score	Score2
p val	<u>0.0001</u>	<u>0.0016</u>	<u>0.0015</u>	0.7244	0.2026	0.4587	0.7387	0.3156	<u>0.0003</u>	0.3876	0.6234	0.037	0.7022	
AvgNoEM	47876.9	0.10	94	0.0108	594	-0.012	13	548	204	18.8	2.27	153	-0.078	2.28
AvgEM	29749.8	0.52	186	-0.0086	857	0.068	15	1056	-40	146.8	2.69	83	0.712	5.25

We note that two of the most powerful predictors of emergency management – the general fund net position and the level of financial support from the state – are paired with change variables that are relatively weak. In the interest of further exploring changes we have charted change data for the duration of the Snyder administration (2010 to 2018). Figure 1 shows the trends of the general fund net position of EM cities and Non-EM cities. It could be interpreted as evidence to support the effectiveness of EM law. After the years of primary EM activity, net positions become positive numbers and eventually track with non-EM cities. However, Figure 2 complicates this understanding. Figure 2 shows the percent change of state dollars from the previous year between EM and non-EM cities. With the exception of 2014, EM cities faced comparatively steep reductions in state funding, sometimes experiencing reductions while non-EM cities saw increases.

Figure 1: General Fund net position (net) of EM and No EM cities

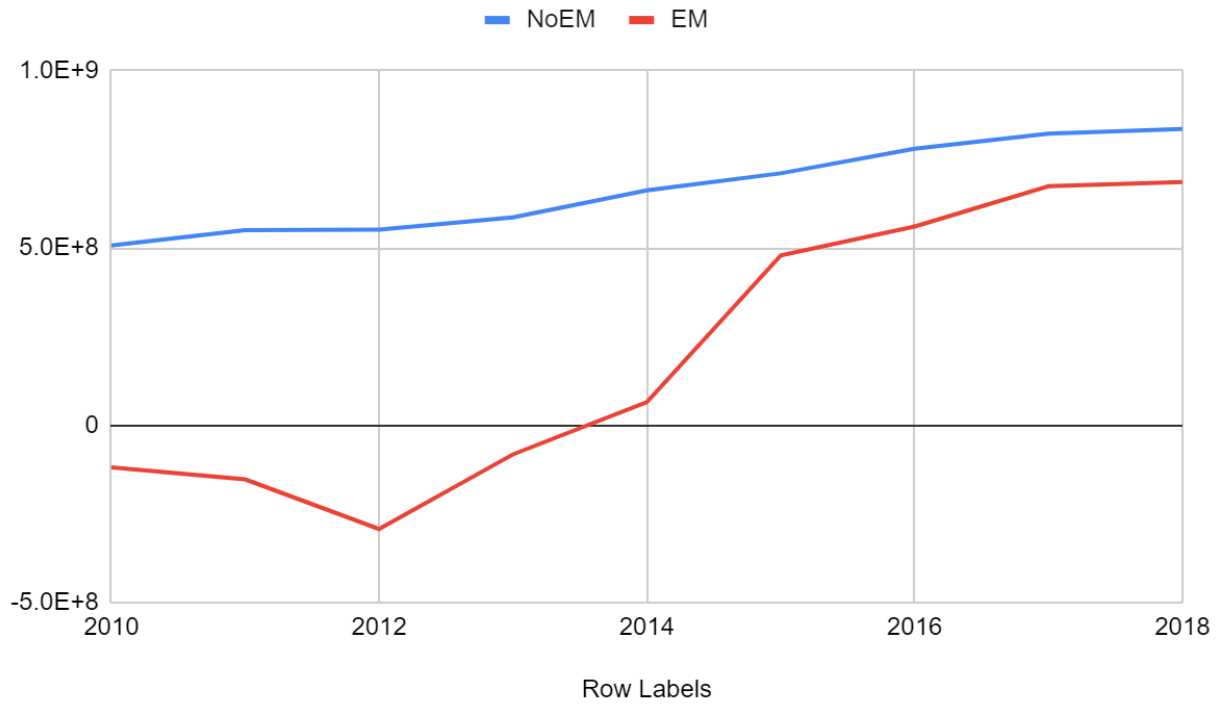
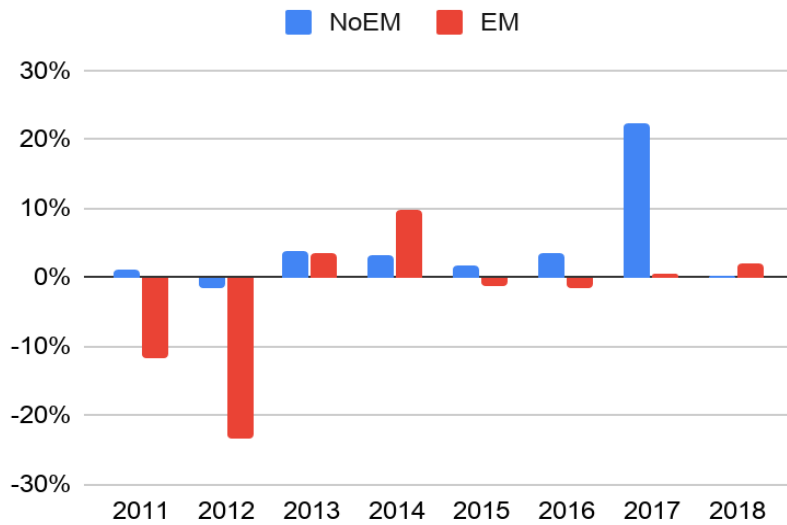


Figure 2: Percentage change of state transfer dollars from previous year, EM and NoEM cities



## **Results II: Effects of takeover on drinking water systems**

We found evidence in many cases that emergency managers made decisions about city drinking water systems, such as changing the water source or increasing water bills, and that these decisions have on the whole had negative repercussions for residents. In most cases these decisions were made with the intention of saving money or reducing spending, with decision makers often worrying that the city would not appear to be doing all it could to improve its financial position. Often decisions regarding public water systems were made in attempts to improve local financial status, and led to poor water quality, shut offs, and increases in water bills, all of which impact residents most. Out of eleven cities, six have had their drinking water systems affected by emergency management.

Detroit was under emergency management from 2013 to 2018, and in 2013 there was an attempt to sell the water system to improve the city's finances under PA 436. The Emergency manager, Kevin Orr, made the water system an asset in the bankruptcy process. In preparation for privatization, there was a crackdown on unpaid water bills to make it attractive on the open market. This led to a series of shutoffs when residents could not pay overdue bills. In 2014, the office of then-Emergency Manager Kevin Orr referred to the shutoffs as "a necessary part of Detroit's restructuring" (Swaine 2014). Shutoffs peaked in 2014 and showed a significant decrease in 2019 once the city was out of receivership. In the end the water system was not sold, with a lack of public oversight and in particular a lack of support from suburban interests<sup>5</sup>.

Highland Park faced multiple periods of emergency management. During the first period of receivership, the Emergency Manager ordered shutoffs for those residents that could not pay their overdue water bills. By 2003 over half of the residents had their water shut off because of unpaid bills, which led to the city council proposing a water management contract. Similar to Detroit, there was an attempt to privatize the water system which was stopped only once it became public that the company would be allowed to bottle and sell the water (Caruso 2011). Following an almost decade long history of emergency manager involvement in the city, in 2013 the city was almost facing emergency management once again (while its public school system was already under emergency management). The Michigan Treasury found that Highland Park was collecting only 10% of residential water bills at which point the city told the board they were contracting with a private vendor to help clear the water bill backlog. Residents, however, claimed that they were not receiving water bills and expressed concern about how large they would be once they did (CBS Detroit 2014). In Benton Harbor, during the first year of receivership that lasted from 2010 to 2016, there were also spikes in water bills (Smith 2011). During emergency management, the city of Pontiac signed a contract with United Water for the operation of its water system. In 2014, the Oakland County Water system took over following many customer complaints over water issues with frozen lines and water main breaks (Blitchok 2014).

The city of Inkster opted to a consent agreement under PA 436. Although it did not have an Emergency Manager, there were similar decisions made regarding the water system.

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<sup>5</sup> Detroit has a history of conflict of between city and suburban interests in the water system. Regional boundaries that are argued to be rooted in racial divides and social cleavages (Kornberg 2016).

Although the city council considered reducing water bills for residents they decided not to because they did not want to look irresponsible under PA 436 (AlHajal 2013).

In River Rouge, although a consent agreement was signed, our analysis could not find any effects on the water system during the 6 years under the agreement.

Table 5 summarizes the effect of emergency management on drinking water services. It is possible that there were other effects on the water system and public services beyond those we found. Some effects were perhaps not made public or simply were not captured in the media. In Allen Park for example, we found no evidence of drinking water effects and only limited privatization when the emergency manager supported selling a community center and ice rink (Herndon 2013). In Three Oaks Village as well as in River Rouge, no water or other public service effects were found. Lincoln Park had no effects on the water system or other public services that we could find. However, Lincoln Park had among the shortest periods of receivership under PA 436.

Table 5: Emergency Management and Public Services

City	PA/PA 436 Route <sup>6</sup>	Water System Effects	Other Effects
<b>Allen Park</b>	Emergency manager 2012-2014	Little effects found (some issues with smell and taste in 2017)	Little effects found (community center and ice rink privatized with contract with EM)
<b>Benton Harbor</b>	Emergency manager 2010-2014	Spikes in water bills in 2011; high lead levels found in 2015 (and 2018)	EM sold parkland for golf resort and dialysis center
<b>Detroit</b>	Emergency manager 2013-2014	Attempt to sell water system in 2013; shutoffs as an EM decision in 2014	Public schools, parkland for condos, etc.
<b>Ecorse</b>	Emergency manager 2009-2013	Little effects found (some issues with smell and taste in 2017)	Major privatization since 1986;

<sup>6</sup> Some of the cities examined were placed under emergency management under PA 4 or PA 72, and where available under PA 436 the chosen route (out of the 4) was also recorded. Only the time spent under solely Emergency Manager control are listed here (although the emergency managers were then succeeded by a Receivership Transition Advisory Board).



			Several city services privatized under EM
<b>Flint</b>	Emergency manager 2002-2004; 2011-2015	EM decision to change water source	Lack of investment in public service; water system
<b>Hamtramck City</b>	Emergency manager 2000-2009; 2013-2014	Shut offs for outstanding bills following receivership when meters went unread and city now needing to collect	Outsourcing of several services in 2013
<b>Highland Park</b>	Emergency manager 2000-2005; 2005-2009	Sludge accumulation with water problems MDEQ ordering treatment plant be shut down in 2012; systemic issues with water billing system with residents at council meeting for high water bills; attempt to sell water system until it came out company would bottle water	Attempts to sell of water system (failed); attempt to sell of public safety duties
<b>Inkster</b>	Consent agreement 2012-2016	City council careful with reducing water bills (out of fear of being irresponsible); high water bills with new digital water meter issues	
<b>Lincoln Park</b>	Emergency manager 2014-2015 (after consent agreement rejected)	N/A	N/A
<b>Pontiac</b>	Emergency manager 2009-2013	Oakland County Water System taking over from the hired private company United Water which had many customer complaints over broken and frozen pipes and low responsiveness	EM contracting out many public services
<b>Three Oaks</b>	Emergency manager	N/A	N/A

<b>Village</b>	2008-2011		
<b>River Rouge</b>	Consent agreement 2009-2015	N/A	N/A
<b>Royal Oak Township</b>	Consent agreement 2014-2017	N/A	N/A

Source: Authors' compilation of newspaper articles, government websites/documents, and media releases<sup>7</sup>.

### Discussion and Conclusion

Our findings provide evidence that decisions about state takeovers in Michigan are not entirely driven by objective measures of financial stress. Further, while the aim of state takeovers is nominally to ensure continuation of public services, we find that state takeovers in Michigan have had detrimental consequences for drinking water services in the majority of cases. State takeovers in many ways threaten communities and long-term sustainability, and municipalities are unequally vulnerable to state takeovers. These findings also further reinforce emerging claims that municipal drinking water systems are bound up in larger political contexts and conflicts over growth and authority, and that financialization plays a central role in these processes.

It makes political sense that states must exercise discretion in the application of takeover legislation, and indeed PA 436 was written to provide broad discretion (more than most). As Peck (2012) argues, “austerity urbanism” is “a relational strategy: austerity is ultimately concerned with offloading costs, displacing responsibility; it is about making others pay the price of fiscal retrenchment” (632). In the U.S., “others” have long been African Americans and cities, particularly from the perspective of state legislatures. Organized deprivation of “the other” has historically been leveraged for political gain (Hackworth 2019). Discretionary state interventions provide a mechanism for the state to potentially selectively target communities that are inconsequential to their electoral future. This economic dominance in urban policy (Lake 2015) not only reshapes the financial landscape of cities, it can serve to erase the social context of place. The economic rationale is grounded in the ahistorical view of a level playing field and equal opportunity for all which is blind to the legacy of deeply embedded structural limitations placed on sections of the population, particularly along the lines of race and class.

Despite being unpopular with the public from the beginning, its role in the Flint crisis, and growing evidence of its biased application, PA 436 remains law in Michigan. Support for the

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<sup>7</sup> Sources: AlHajal, 2013; 2014; Associated Press, 2011; 2012; 2016; Blitchok, 2014; Broda, 2017; Burns, 2013; CBS Detroit, 2012; 2013; Carmody, 2012; Cohen, 2016; Corey, 2018; Cwiek, 2012; 2016; 2018; Davey, 2011; Draplin, 2016; Detroit News, 2017; Egan, 2015; Ferretti, 2018; Fox2Detroit, 2015; 2018; Goodin-Smith, 2018; Guyette, 2016; 2017; Gross, 2016; Hackman, 2014; Herndon, 2013; 2017; Jackman, 2017; LaFaive, 1999; 2002; 2014; Lukacs, 2014; Livengood, 2018; Mahler, 2011; Maiman, 2018; Matheny, 2017; Moser, 2001; Oosting, 2013; 2017; Pluta, 2012; Rahal, 2017; Ramirez, 2017; Resnikoff, 2013; Robertson, 2016; Sands, 2012; 2013; Shea, 2009; Smith, 2011; 2012; Stafford, 2016; Strachan, 2015; Strauss, 2016; Weber & Smith, 2011; WNDU, 2018; Woods, 2013.

law among municipal officials outweighs opposition (43% to 26%), with some evidence of differentiation along race and political lines (Ivacko and Homer 2017).

PA 436 has its basis in the assumption that the market is the cure for financial distress. Such assumptions make declining cities ideal sites of market-centric policy experimentation, which can include rewriting the rules and policies that govern local governments (Akers 2013). Such tactics however, can have long term effects, some that are yet to be known. Fasenfest and Pride (2016) argue that short term solutions can actually lead to the exacerbation of fiscal crises because they ignore structural problems. Fasenfest and Pride tie their argument to water systems as well, with a focus on Flint and Detroit. Neoliberal cost reduction focus led to the Detroit Water System shutting down services for unpaid water bills, while still allowing sports facilities and commercial users with unpaid dues access water without similar repercussions. Advocates have argued that privatization can be associated with higher financing costs, rates, unaffordable service, water shut offs and service risks (Food and Water Watch 2011).

Cost-saving measures are encouraged under PA 436, and as our media analysis has shown, this includes essential public services. PA 436 leads emergency managers and city councils to make decisions around the public water system that often leave residents having to pay the significant cost with higher bills, shut offs, and poor water quality. Residents in cities under emergency management often bear the brunt of the negative effects and restrictions of state takeovers. Decisions around water are an explicit example of this, with emergency managers making decisions that endanger residents or increase the financial burden for a basic resource. It is an important, visible, and every day, resource that highlights the visceral effects of PA 436 and emergency management. In addition, many of these decisions are made under the umbrella of decreasing debt often in conjunction with extreme privatization of other public services. Considering the effects on water systems and public services shows its detrimental effects on residents, and often those most vulnerable – the poor.

We expect these patterns to hold when looking across service areas. Although water serves as an important empirical measure of decisions made under PA 436 with direct effects on residents, it is not the only public service manifestation. Privatization is evident through water systems, however the extreme privatization under PA 436 is also seen in other public services. Detroit has had severe privatization over the years. There are several examples, from land ownership by a few wealthy investors to the DeVos family's influence on the privatization of public schools (Higgins and Gray 2016). Beyond the attempts to outsource water treatment to an indicted company, in Pontiac the emergency manager sold several assets, including the golf course, sports arena, outsourcing clerical functions, the sewage treatment plant and police services. Privatization in Benton Harbor was quite controversial, with the Emergency Manager selling the redeveloped Jean Klock Park to the Whirlpool Corporation to turn it into a golf resort (Harbor Shores Resort). The following year the emergency manager sold more land that was meant for public recreation (Mahler 2011; Smith 2012). Although some cities were found not to have had direct emergency manager effects on the water system, they had some privatization under receivership. In Ecorse, there was extreme privatization of city services that started prior to emergency management in the late 80s. The city contracted out government services and financial crisis still followed. Several city services were privatized with Ecorse becoming somewhat of a poster child of the benefits of contracting out public services (Gayle and Goodrich 2006). As the first city to have gone bankrupt in Michigan back in the 80's, Louis

Schimmel - an employee of the Municipal Advisory Council of Michigan at the time - became the Receiver for almost 4 years. Schimmel eliminated the city's deficit through union contracts and privatized nearly all city services (Kaza 1989; LaFaive 1999). During its period of emergency management in 2009, the Emergency Manager in Ecorse continued this trend, privatizing the emergency, police, and other services (AlHajal 2013). Louis Schimmel was also the Emergency Manager of Hamtramck where he also privatized several services in 2000 (Clark and Govina 2017). He also became the Emergency Manager in Pontiac in 2011, taking over a previous Manager. His approach did not change, in Pontiac he contracted out police, fire, and the department of public works in Pontiac, as well as selling the sewage disposal system to Oakland County (Resnikoff 2013).

Future research can examine how these findings hold across state municipal takeover policies, and particularly in relation to the discretion and power given to the state in deciding when to intervene and what role they can play in service delivery.

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