

Ingham judge strikes down 2 parts of Detroit consent agreement with state

5:37 PM, September 12, 2012 |

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LANSING — An Ingham County judge today struck down two sections of the consent agreement between the state of Michigan and the city of Detroit, saying they grant powers reserved to emergency managers to Mayor Dave Bing and other officials.

The sections Judge Paula Manderfield struck down were used by Bing and the financial advisory board in July to impose 10% wage cuts on Detroit police officers and firefighters, as well as changes in work rules, said attorney Andrew Paterson of Novi, an attorney for the public worker union AFSCME Council 25.

Sections 4.1 and 4.3 are “severed and declared void,” because they violate the emergency manager law, Public Act 4, Manderfield said in a written order following a hearing in Lansing.

Manderfield said she would grant a stay of her order pending an appeal by the state, though no written stay had been issued late Wednesday.

Assistant Attorney General Kathleen Cavanaugh said she planned to appeal because Manderfield had no jurisdiction to issue the order.

But AFSCME member and judicial activist Robert Davis of Highland Park was jubilant and said the imposed wage cuts will now be reversed.

“The dictatorship of Mayor Bing and Gov. Snyder is no more,” Davis said.

It’s the latest development in a series of legal wrangles involving both the emergency manager law and the April consent agreement as the city and state grapples with chronic Detroit deficits and the possibility of city bankruptcy. The consent agreement

avoided the appointment in Detroit of an emergency manager who would take over the powers of the mayor and City Council, plus new ones.

Public Act 4 itself was stayed in August pending a Nov. 6 vote on whether it should be repealed. But the Detroit consent agreement remains in effect because it was agreed to while the emergency manager law was still in force.

Section 4.1 says, in part, that Bing has “the authority to negotiate, renegotiate, execute, amend, modify, reject or terminate collective bargaining agreements.”

Paterson argued that under Public Act 4 only emergency managers — not a city mayor — can be granted that power.

Section 4.3 says the program management director appointed under the consent agreement may impose a contract proposed by the mayor and financial advisory board if the City Council fails to approve it.

At an earlier hearing on July 26, city attorney Michael Muller had agreed with Paterson that the two disputed sections should be struck from the consent agreement.

But on Wednesday, another city attorney, James Noseda, said Muller was pinch hitting for him that day and did not understand what he was saying.

Noseda said “three words:” in Section 4.1 are problematic, but there is no problem with Section 4.3.

Only an emergency manager can tear up an existing contract, but Bing and the financial advisory board have the power to impose new terms under Public Act 4 because there is no existing contract, Noseda argued. Collective bargaining agreements for city employees expired in July, he said.

Naomi Patton, a spokeswoman for Bing, declined comment, saying city officials had not yet reviewed the ruling.

Snyder officials had no immediate comment.

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