

52:27 BB-55 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 52:27BB-55 et al. (Municipalities in unsound financial condition and school districts therein-- various amendments)
LAWS 1981 CHAPTER 211

Bill No. A3507

Sponsor(s) Karcher

Date Introduced June 15, 1981

Committee: Assembly Revenue, Finance and Appropriations

Senate Revenue, Finance and Appropriations

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.
Date of Passage: Assembly June 25, 1981 Substituted for S3327
Senate June 29, 1981 (not attached since identical to A3507)

Date of approval July 20, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~
Committee Statement: Assembly Yes ~~No~~
Senate ~~Yes~~ No
Fiscal Note ~~Yes~~ No
Veto Message ~~Yes~~ No
Message on signing Yes ~~No~~

Following were printed:

Reports ~~Yes~~ No
Hearings ~~Yes~~ No

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ASSEMBLY, No. 3507
STATE OF NEW JERSEY

INTRODUCED JUNE 15, 1981

By Assemblyman KARCHER

Referred to Committee on Revenue and Appropriations

AN ACT relating to municipalities in unsound financial condition and amending and supplementing P. L. 1947, c. 151, supplementing P. L. 1977, c. 272 and repealing sections 64, 69, 70, 71, 72, 92, 93, 94 and 95 of P. L. 1947, c. 151.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 55 of P. L. 1947, c. 151 (C. 52:27BB-55) is amended to
2 read as follows:

3 55. Application of article. The provisions of this article *and*
4 *section 20 and 21 of this amendatory and supplementary act* shall
5 take effect in a municipality when **[**at the end of a fiscal year**]**
6 any of the following conditions exist:

7 (1) A default exists in the payment of **[**principal or interest
8 upon**]** bonded obligations or **[**bond anticipation obligations**]** notes
9 for which no funds or insufficient funds are on hand and segregated
10 in a special trust fund.

11 (2) Payments due and owing the State, county, school district
12 or special district, or any of them, are unpaid for **[**other than**]**
13 the year just closed and the year next preceding that year.

14 (3) An appropriation for "cash deficit of preceding year" in an
15 amount in excess of 5% of the total amount of taxes levied upon
16 real and personal property for all purposes in such preceding year,
17 is required to be included in the next regular budget **[**and was
18 required to be included in the budget for the year just closed**]**;
19 provided, however, in establishing the excess, if any, over the
20 5% there shall first be deducted from such appropriation the
21 amount, if any, that was caused by the failure to receive miscel-

24 (4) Less than ~~[(50%)]~~ 75% of the total amount of taxes levied
 25 for all purposes upon real and personal property in the taxing
 26 district, in the year just closed and in the year next preceding that
 27 year, respectively, were collected during the year of levy. ~~[This~~
 28 subsection shall apply only if more than 25% of the amount of such
 29 taxes for such year next preceding remained outstanding at the
 30 end of the year just closed.]

31 (5) The appropriation required to be included in the next regu-
 32 lar budget for the liquidation of ~~[floating debt in accordance with~~
 33 sections 40:2-21 (d) and 40:2-23 (b) of the Revised Statutes] ~~[~~
 34 *all bonded obligations or notes* exceeds 25% of the total of appro-
 35 priations for operating purposes (except dedicated revenue appro-
 36 priations) in the budget for the year just ended.

37 (6) *Gross failure to comply with provisions of the "Local Bond*
 38 *Law" (N. J. S. 40A:2-1 et seq.), the "Local Budget Law" (N. J. S.*
 39 *40A:4-1 et seq.), or the "Local Fiscal Affairs Law" (N. J. S.*
 40 *40A:5-1 et seq.) which substantially jeopardizes the fiscal integrity*
 41 *of the municipality.*

1 2. Section 56 of P. L. 1947, c. 151 (C. 52:27BB-56) is amended
 2 to read as follows:

3 56. Determination by the board: Notice and hearing. If the
 4 director finds in the course of his ~~[annual examination of the~~
 5 approved budget, the statement of current liabilities, the annual
 6 financial statement, or any other report, regular or special, filed
 7 with the division by a governing body or a municipal officer] *duties*
 8 that any of the conditions listed in section 55 of this act exist in a
 9 municipality not subject to supervision under sections 52:27-1 to
 10 52:27-66, inclusive, of the Revised Statutes, he ~~[shall]~~ *may* forth-
 11 with give notice to the governing body that the question of the
 12 application of this article to that municipality will be placed before
 13 the board for its determination at a time and place which shall be
 14 stated in the notice.

15 The board, at the time and place stated in the notice, shall give
 16 the local governing body and any other interested parties an oppor-
 17 tunity to be heard. If the board finds, after hearing, that any of the
 18 conditions listed in section 55 of this act exist in the municipalitv

26 *Attorney General and shall be effective upon the approval by any*
 27 *two of the above cabinet officers. To remain effective, the resolution*
 28 *must be renewed each year by the board and approved by two of*
 29 *the above named cabinet officers.*

30 *For each municipality subject to supervision pursuant to this*
 31 *article and sections 20 and 21 of this amendatory and supple-*
 32 *mentary act, the board shall by resolution determine which of the*
 33 *provisions of this article and sections 20 and 21 of this amendatory*
 34 *and supplementary act are in effect within the municipality. This*
 35 *resolution is not subject to the approval of the above cabinet officers.*

36 *Thereafter, the board may modify the resolution to terminate or*
 37 *limit the operation of any provisions of this article or to put addi-*
 38 *tional provisions into effect.*

39 Notice shall be given by registered mail to the clerk of the muni-
 40 cipality. Upon receipt of such notice the governing body and muni-
 41 cipal officers shall observe the provisions of this article and shall
 42 comply with all orders of the director issued under it while the
 43 municipality remains subject to its provisions.

1 3. Section 57 of P. L. 1947, c. 151 (C. 52:27BB-57) is amended
 2 to read as follows:

3 57. Limitation on debt *and other financial liabilities.* **[In a muni-**
 4 **cipality subject to this article,]** *The board may require that obliga-*
 5 *tions, bonded or otherwise, shall not be issued or authorized by the*
 6 *municipality, including school [district,] districts or any special*
 7 **[district] districts** *except as expressly authorized by [this section]*
 8 *the director.*

9 **[This section shall not affect the power:**

10 (1) To issue tax anticipation, tax revenue, or any other obliga-
 11 tions of a strictly current character, except emergency obligations.

12 (2) To fund outstanding obligations in accordance with sections
 13 40:1-61 to 40:1-74, both inclusive, of the Revised Statutes.

14 (3) To issue obligations in order to comply with an order issued
 15 in accordance with law by a State Board, department or other
 16 agency.

17 (4) To issue obligations, with the prior written approval of the
 18 board, in accordance with any law authorizing borrowing to finance
 19 the relief of the poor, the operation of work relief projects, or
 20 other measures for the relief of unemployment; and for
 21 emergencies.]

25 *any revenues or engaging the credit of the municipality in any*
 26 *way or undertake any financial liabilities or indebtedness whatso-*
 27 *ever unless expressly authorized by the director.*

1 4. Section 58 of P. L. 1947, c. 151 (C. 52:27BB-58) is amended to
 2 read as follows:

3 58. Limitation upon appropriations *and expenditures*. [In a
 4 municipality subject to this article, the amount to be raised by taxes
 5 on real and personal property for municipal purposes, school pur-
 6 poses, and any special district purposes shall not be increased by
 7 more than 5% in excess of such amount, respectively, for the
 8 year next preceding the year in which this article takes effect in
 9 that municipality.] *The board may require that any or all expendi-*
 10 *tures and appropriations of a municipality subject to this article*
 11 *and sections 20 and 21 of this amendatory and supplementary act*
 12 *be expressly authorized by the director.*

13 This section shall not be construed to authorize an appropriation
 14 of less than the full amount required for the payment of debt
 15 service; or to authorize the abrogation of any covenant entered
 16 into with bondholders. *With the approval of the director, the*
 17 *municipality may exceed the spending limitations of P. L. 1976,*
 18 *c. 68 (C. 40A:4-45.1 et seq.).*

19 [The board, upon application of the governing body setting forth
 20 the circumstances in full, may authorize a municipality to adopt a
 21 budget in excess of the limitation of this section. The board shall
 22 authorize such a budget only if it finds that the appropriation of
 23 an amount in excess of the limitation is necessary for:

24 (1) Appropriations required by law or for purposes made man-
 25 datory by law, including debt service, judgments and deferred
 26 charges.

27 (2) The protection of the public health, safety, morals or welfare.

28 (3) The prevention of irreparable damage to public property or
 29 the realization upon municipal assets.

30 (4) The meeting of any lawful yearly expenditure of the munici-
 31 pality; provided the board shall first hold a public hearing after
 32 five days' notice published at the expense of the municipality in a

3 60. Compliance with requirements of law. The director may
4 order the governing body or an officer of a municipality subject to
5 this article to perform any duty prescribed by law whether or not
6 a specific penalty or enforcement procedure is provided by such
7 law. The orders may be enforced as authorized by law. *Whenever*
8 *any directive of the board or director has not been fully performed*
9 *or carried out by the officials or employees of the municipality, the*
10 *board may perform directly or cause to be performed by its agents*
11 *including the director, in the name of the municipality, such act.*

12 *The board may direct that any or all municipal officers and*
13 *employees shall work under the supervision of the director to the*
14 *extent that their duties and responsibilities relate to the fiscal*
15 *affairs of the municipality. However, nothing herein shall infringe*
16 *or supersede any supervisory powers which the Director of the*
17 *Division of Taxation in the State Department of the Treasury may*
18 *have.*

1 6. Section 61 of P. L. 1947, c. 151 (C. 52:27BB-61) is amended to
2 read as follows:

3 61. Liquidation of **[floating]** debt. The board may, under this
4 section, authorize *or direct* a municipality subject to this act to
5 liquidate *or refinance* its current debt **[other than as required by**
6 **sections 40:2-21 (d), and 40:2-23 (b) of the Revised Statutes.**

7 The board may:

8 (1) Authorize liquidation to continue for as many years as may
9 be necessary to avoid an appropriation for the liquidation of all
10 current obligations in any one year, of more than 25% of the total
11 of appropriations for operating purposes (except dedicated re-
12 venue appropriations in the budget for the year just ended.

13 (2) Authorize the payment of amounts due other jurisdictions
14 in accordance with an agreement entered into between the governing
15 body of the municipality and such other jurisdictions. **[pursuant**
16 **to a plan.**

17 Liquidations under this section shall be in accordance with a
18 plan of liquidation adopted **[by resolution of the governing body**
19 **and approved]** by the board. A plan so adopted and approved
20 shall be binding upon the municipality and annual appropriations
21 as required by the plan shall be mandatory. A plan shall not be
22 amended except with the prior writt

27 supervision of the [State] board, however,] *board* shall continue
28 for the duration of the liquidation plan, *notwithstanding the opera-*
29 *tion of the termination provisions in section 91 (C. 52:27BB-91).*

1 7. Section 73 of P. L. 1947, c. 151 (C. 52:27BB-73) is amended
2 to read as follows:

3 73. Supervision of revenue administration. If the board finds
4 that tax assets are not being realized upon because of weak or
5 inadequate revenue administration, it may *have the director* super-
6 vise and control the methods and procedures used for the assess-
7 ment, collection, and enforcement of taxes upon real and personal
8 property; and the administration of licenses and other miscella-
9 neous revenues.

10 The board shall determine the specific changes in revenue ad-
11 ministration that are necessary in the municipality. The measures
12 determined by the board as necessary may be enforced by order of
13 the board in the same manner as authorized for other orders of
14 the board. But the concurrence of the Director of the Division of
15 Taxation in the State Department of [Taxation and Finance] *the*
16 *Treasury* shall be a condition precedent to the enforcement by
17 the board of such orders as fall within the scope of the said
18 director's supervisory powers.

1 8. Section 80 of P. L. 1947, c. 151 (C. 52:27BB-80) is amended
2 to read as follows:

3 80. [Local administrator of finance. If the board finds that
4 unsound conditions in a municipality to which sections 69 to 91,
5 inclusive, of this act apply are due, in whole or in part, to a failure
6 to liquidate old obligations, The] *The* board may recommend to
7 the local governing body that a [local administrator of finance]
8 *fiscal control officer* be appointed. If the board recommends the
9 appointment of an [administrator] *officer*, it shall submit to the
10 governing body the names of not less than three persons who are
11 found by the board to be qualified to perform the duties of [ad-
12 ministrator] *officer* for that municipality. The governing body
13 shall, thereupon, appoint as [administrator] *officer* one of the
14 persons so named.

1 9. Section 81 of P. L. 1947, c. 151 (C. 52:27BB-81) is amended
2 to read as follows:

3 81. ~~Local administrator~~ *fiscal control officer*; powers and
4 duties. An ~~administrator~~ *officer* shall have such of the powers
5 and duties ~~authorized by~~ *of the director in sections 57 and 58*
6 *and 82 to 87 inclusive, of this act, as are specifically assigned to*
7 *him by [the governing body upon the recommendation of] the*
8 *board. An [administrator] officer shall exercise his powers and*
9 *perform his duties under the general supervisions of the [board]*
10 *director.*

1 10. Section 82 of P. L. 1947, c. 151 (C. 52:27BB-82) is amended
2 to read as follows:

3 82. Administration of assets and liabilities. ~~A local governing~~
4 ~~body, upon the recommendation of the board, may authorize and~~
5 ~~direct the administrator] If the board finds the unsound financial~~
6 ~~conditions in the municipality are due in whole or in part to failure~~
7 ~~to liquidate old liabilities, excluding those covered by section 61~~
8 ~~(C. 52:27BB-61), it may authorize the director to liquidate any or~~
9 ~~all of the municipality's liabilities which are due and unpaid for~~
10 ~~more than 2 years and all of its unrealized assets which have been~~
11 ~~outstanding for 2 years, computed in the case of taxes and assess-~~
12 ~~ments from December 1 of the year of levy or assessment, other~~
13 ~~intangible property from the date of accrual, and tangible property~~
14 ~~from the date of acquisition of title. The several officers of the~~
15 ~~municipality shall thereafter, immediately upon request by the~~
16 ~~[administrator] director, certify to him all assets and liabilities~~
17 ~~of the municipality which have been placed under his administra-~~
18 ~~tion pursuant to this section and shall at the same time deliver~~
19 ~~to him all evidences and records of the existence and legality of~~
20 ~~such assets and liabilities as may be in their possession or control.~~

21 The ~~administrator] director~~ shall exercise in the nature of the
22 municipality, all powers pertaining to the enforcement of obliga-
23 tions that are vested by law in the municipality. But the ~~admin-~~
24 ~~istrator] director~~ shall have no power to accept less than the full
25 amount in satisfaction of the obligations, nor to agree to the trans-
26 fer of title of property to the municipality in lieu thereof without
27 the prior approval of the governing body. The ~~administrator]~~
28 ~~director~~ shall forthwith pay all moneys coming into his hands to
29 the treasurer.

1 11. Section 83 of P. L. 1947, c. 151 (C. 52:27BB-83) is amended

5 pursuant to section 82 of this act, in a separate "liquidation fund."
6 The **[administrator]** *director* may apply the proceeds of the
7 "liquidation fund" to the payment of obligations placed under his
8 administration.

1 12. Section 84 of P. L. 1947, c. 151 (C. 52:27BB-84) is amended
2 to read as follows:

3 84. Study of cooperative agreements. **[An administrator]** *The*
4 *director* when so instructed by the board **[or by the local govern-**
5 **ing body,]** shall fully investigate and determine the possibilities
6 of maintaining the services of the municipality at lower cost through
7 the use of contractual agreements with other municipalities or with
8 the county. He shall report his conclusions to the governing body
9 and to the board. When so designated by the **[governing body,]**
10 *board*, he shall act as the agent of the municipality in the negotia-
11 tions of agreements with other jurisdictions.

12 **[The director and the board shall render all possible guidance**
13 **and assistance to the administrator for the purpose of effectuating**
14 **sound interjurisdictional agreements.]**

1 13. Section 85 of P. L. 1947, c. 151 (C. 52:27BB-85) is amended
2 to read as follows:

3 85. **[Administrator]** *Director* may act as controller. If the board
4 finds that sound fiscal conditions will be promoted by the exercise
5 of a control function in **[a]** *the* municipality **[to which sections 69**
6 **to 91, inclusive, of this act apply,]** and that the function is not, or
7 cannot be, maintained in a practical manner by regular local officers,
8 the board may *instruct* **[recommend to the governing body that]**
9 the **[administrator]** *director* perform the control function. **[When**
10 **the board so recommends, it shall be the duty of the governing**
11 **body to authorize and direct the administrator to act in accordance**
12 **with this section.]**

1 14. Section 86 of P. L. 1947, c. 151 (C. 52:27BB-86) is amended
2 to read as follows:

3 86. Procedure of control. The board may prescribe the procedure
4 to be followed in each municipality in which the **[administrator]**
5 *director* is authorized and directed to exercise the control function.

6 **[The board shall prescribe a procedure that so far as possible will**

5 prepare and adopt its annual budget in accordance with this sec-
 6 tion.] *The director shall fix a date for the municipal governing*
 7 *body to submit its proposed annual budget to the board. The board*
 8 *may approve the budget, modify it or instruct the director to pre-*
 9 *pare an alternative budget to be submitted to the board for its*
 10 *approval. Once a budget is approved by the board, it shall be*
 11 *deemed adopted.*

12 *The board may approve a budget which exceeds the spending*
 13 *limitations of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).*

14 If the board finds that the appropriation of the amounts required
 15 [by chapter 2, Title 40, of the Revised Statutes] for "deferred
 16 charges and statutory expenditures" other than debt service, can-
 17 not be made without a probable increase in the cash deficit, the
 18 board may authorize by written order an appropriation of less
 19 than the full amount required for "deferred charges and statutory
 20 expenditures" but not less than the greatest amount that the board
 21 finds possible without an anticipated increase in the cash deficit.
 22 If a liquidation fund has been created in the municipality, in ac-
 23 cordance with section 83 of this act, the board may authorize the
 24 appropriation to be made to the liquidation fund in lieu of that
 25 for "deferred charges and statutory expenditures."

26 This section shall not be construed to authorize the appropriation
 27 of less than the full amount required for the payment of debt ser-
 28 vices, for a judgment, or for any other item for which the munici-
 29 pality is obligated by contract to appropriate a specific sum.

1 16. Section 88 of P. L. 1947, c. 151 (C. 52:27BB-88) is amended
 2 to read as follows:

3 88. [Administrator] *Fiscal control officer* agent of board. The
 4 [administrator] *fiscal control officer appointed pursuant to sec-*
 5 *tion 80 shall perform as the agent of the [board] director such*
 6 *duties with respect to the fiscal affairs of the municipality as the*
 7 *[board] director in the exercise of [its] his powers, may require.*

1 17. Section 89 of P. L. 1947, c. 151 (C. 52:27BB-89) is amended
 2 to read as follows:

3 89. General duties of board. The board shall exercise its powers,
 4 shall offer guidance and assistance, and shall in every other respect
 5 promote the rehabilitation of the financial affairs of [a] the mu-
 6 nicipality [to which sections 69 to 91, inclusive, of this act apply].

1 18. Section 90 of P. L. 1947, c. 151 (C. 52:27BB-90) is amended

5 may be exercised by the director under the supervision of the board
6 when so authorized by resolution of the board.

1 19. Section 91 of P. L. 1947, c. 151 (C. 52:27BB-91) is amended
2 to read as follows:

3 91. Termination of supervision. [The application of sections 69
4 to 91, inclusive, of this act to a municipality shall terminate when:

5 (1) The provisions of article 4 of this act no longer apply to the
6 municipality; or

7 (2) The municipality has operated for 3 successive years with-
8 out incurring a cash deficit in excess of 5% of the amount levied
9 for all purposes upon real and personal property within the mu-
10 nicipality.

11 A municipality shall remain subject to this article as long as any
12 of the conditions listed in section 55 of this act exist; and until
13 *State supervision of a municipality pursuant to this act shall cease*
14 *if: (1) the resolution placing the municipality under State super-*
15 *vision has not been renewed in accordance with section 56, or (2)*
16 *the conditions listed in section 55 of this act have ceased and the*
17 *municipality has operated during the last fiscal year without in-*
18 *curring a cash deficit (as computed in the manner provided by*
19 *N. J. S. 40A:4-42).*

20 *When the director finds that none of the conditions listed in sec-*
21 *tion 55 of this act have existed for the period of 1 year in a mu-*
22 *nicipality subject to this article, and he finds that the municipality*
23 *operated during the last fiscal year without incurring a cash deficit*
24 *(as computed in the manner provided by N. J. S. 40A:4-42 he shall*
25 *give notice to the local governing body that the question of the*
26 *application of this article to that municipality will be placed before*
27 *the board for its determination at a time and place which shall be*
28 *stated in the notice.*

29 *The board, at the time and place stated in the notice, shall, after*
30 *giving the local governing body and other interested parties an*
31 *opportunity to be heard, determine whether any of the conditions*
32 *listed in section 55 (C. 52:27BB-55) continue to exist in the*
33 *municipality, and whether the municipality operated during the*
34 *last fiscal year without incurring such cash deficit. If the board*
35 *finds that such conditions have not existed for the period of 1 year*

42 *Notice shall be given by registered mail to the clerk of the mu-*
43 *nicipality.*

1 20. (New section)

2 The board may authorize the director to suspend collective bar-
3 gaining agreements and civil service laws and to fix the hours and
4 terms and conditions of employment for all municipal employees
5 and to hire and fire municipal employees.

1 21. (New section) Subject to the approval of the board, the
2 State shall be reimbursed by the municipality for the reasonable
3 value of services which it provided to the municipality pursuant
4 to this act.

1 22. (New section) P. L. 1977, c. 272 is supplemented as follows:

2 Notwithstanding the provisions of section 5 of P. L. 1977, c. 272
3 (C. 54:4-2.2e), if the State has provided or by May 1 of the year
4 immediately succeeding the year of the director's computation
5 pursuant to that section is scheduled to provide an advance pay-
6 ment or payments to a municipality subject to article IV of the
7 "Local Government Supervision Act (1947)," P. L. 1947, c. 151
8 (C. 52:27BB-54 et seq.) for the State's liability for in-lieu of tax
9 payment on behalf of any new State facility, including the land on
10 which the facility is located, to be constructed in the municipality;
11 then, commencing with the computations and certifications for the
12 first year for which the State is liable to the municipality for said
13 payments, the Director of the Division of Taxation shall exclude
14 from the amount certified in lieu of tax payment required each
15 year by P. L. 1977, c. 272, an amount equal to that which the State
16 would otherwise be obligated to pay the municipality pursuant to
17 P. L. 1977, c. 272 for that facility including the land on which the
18 facility is located until the total amount withheld from in lieu of
19 tax payments to the municipality equals the amount of the advance
20 payment or payments made to the municipality.

21 The Director of the Division of Local Government Services shall
22 each year on or before November 1 provide the Director of the
23 Division of Taxation with a certification of the amounts and dates
24 of said advance payment or payments which have been provided
25 or are scheduled to be provided by May 1 of the immediately suc-
26 ceeding year. These certifications for a municipality shall no longer
27 be provided when the Director of the Division of Taxation notifies
28 the Director of the Division of Local Government Services that
29 the amount which has been excluded for a municipality equals what

1 23. Sections 64 (C. 52:27BB-64), 69 to 72 (C. 52:27BB-69 to
2 52:27BB-72) and 92 to 95 (C. 52:27BB-92 to 52:27BB-95) of P. L.
3 1947, c. 151 are repealed.

1 24. This act shall take effect immediately.

STATEMENT

This bill amends and supplements the law governing "Municipalities in Unsound Financial Condition and School Districts Therein." This law has not been amended since its passage in 1947. The amendments update the statute in light of the subsequent changes in municipal law. In addition, the bill adjusts the criteria which trigger operation of the statute as well as expands the State's ability to regulate municipalities falling within the purview of the law.

In order to relieve fiscal distress, the bill also would permit the spending limitations of the "cap" law to be exceeded and provide a mechanism for the State to obtain credit for advance in lieu of tax payments made for any new State facility to be constructed within the municipality.

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ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3507

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1981

This bill amends and supplements the law governing "Municipalities in Unsound Financial Condition and School Districts Therein." This law has not been amended since its passage in 1947. The amendments update the statute in light of the subsequent changes in municipal law. In addition, the bill adjusts the criteria which trigger operation of the statute as well as expands the State's ability to regulate municipalities falling within the purview of the law.

In order to relieve fiscal distress, the bill also would permit the spending limitations of the "cap" law to be exceeded and provide a mechanism for the State to obtain credit for advance in lieu of tax payments made for any new State facility to be constructed within the municipality.

The Assembly Committee amendments modify the provisions of Assembly Bill No. 3507 in the following manner:

1. The criteria under which a municipality may come under the "unsound financial condition law" are amended to assure that only Camden would be immediately affected.
2. A judicial determination is required of gross failure to comply with local finance laws in order for a municipality to come under the act.
3. The resolution declaring a municipality subject to the act is required to state which provisions of the act will be evoked by the board. This resolution is subject to the approval of two of the three cabinet officers set forth in the bill. The board may terminate or limit the provisions set forth in the resolution, but may put additional provisions into effect only upon approval of two of the three cabinet officers.
4. Direction is given to the board to limit the approval power of the

6. The power of the director to suspend collective bargaining agreements and civil service laws is eliminated. Instead, collective bargaining agreements newly entered into are subjected to the director's approval. An exception is made in the case of an arbitration proceeding, where the arbitration award shall be binding without the director's approval. The board is permitted to authorize the municipality to appoint or dismiss unclassified managerial employees without regard to any procedural or other statutory requirements. The director may be authorized to fix the hours and terms and conditions of, and to hire and fire, employees not covered by civil service or collective bargaining agreements.
7. Reimbursement of the State by the municipality for the cost of services rendered, is limited to that required in any annual State appropriations act.
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APR 2 11 7-20-81

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 3507

STATE OF NEW JERSEY

INTRODUCED JUNE 15, 1981

By Assemblyman KARCHER

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8 upon] bonded obligations or [bond anticipation obligations] notes
9 for which no funds or insufficient funds are on hand and segregated
10 in a special trust fund.

11 (2) Payments due and owing the State, county, school district
12 or special district, or any of them, are unpaid for [other than]
13 the year just closed and the year next preceding that year.

14 (3) An appropriation for "cash deficit of preceding year" in an
15 amount in excess of *[5%]* *4%* of the total amount of taxes
16 levied upon real and personal property for all purposes in such
17 preceding year, is required to be included in the next regular budget
18 [and was required to be included in the budget for the year just
19 closed] *and was required to be included in the budget for the year
20 just closed*; provided, however, in establishing the excess, if any,
21 over the *[5%]* *4%* there shall first be deducted from such
22

24 (4) Less than [(50%)] *[75%]* *70%* of the total amount of
 25 taxes levied for all purposes upon real and personal property in
 26 the taxing district, in the year just closed and in the year next
 27 preceding that year, respectively, were collected during the year
 28 of levy. [This subsection shall apply only if more than 25% of the
 29 amount of such taxes for such year next preceding remained out-
 30 standing at the end of the year just closed.]

31 (5) The appropriation required to be included in the next regu-
 32 lar budget for the liquidation of [floating debt in accordance with
 33 sections 40:2-21 (d) and 40:2-23 (b) of the Revised Statutes]
 34 *all bonded obligations or notes exceeds 25% of the total of appro-*
 35 *priations for operating purposes (except dedicated revenue appro-*
 36 *priations) in the budget for the year just ended.*

37 (6) *[Gross]* *A judicial determination of gross* failure to*
 38 *comply with provisions of the "Local Bond Law" (N. J. S. 40A:2-1*
 39 *et seq.), the "Local Budget Law" (N. J. S. 40A:4-1 et seq.), or the*
 40 *"Local Fiscal Affairs Law" (N. J. S. 40A:5-1 et seq.) which sub-*
 41 *stantially jeopardizes the fiscal integrity of the municipality.*

1 2. Section 56 of P. L. 1947, c. 151 (C. 52:27BB-56) is amended
 2 to read as follows:

3 56. Determination by the board: Notice and hearing. If the
 4 director finds in the course of his [annual examination of the
 5 approved budget, the statement of current liabilities, the annual
 6 financial statement, or any other report, regular or special, filed
 7 with the division by a governing body or a municipal officer] *duties*
 8 *that any of the conditions listed in section 55 of this act exist in a*
 9 *municipality not subject to supervision under sections 52:27-1 to*
 10 *52:27-66, inclusive, of the Revised Statutes, he [shall] *[may]**
 11 **shall* forthwith give notice to the governing body that the ques-*
 12 *tion of the application of this article to that municipality will be*
 13 *placed before the board for its determination at a time and place*
 14 *which shall be stated in the notice.*

15 The board, at the time and place stated in the notice, shall give
 16 the local governing body and any other interested parties an oppor-
 17 tunity to be heard. If the board finds, after hearing, that any of the
 18 conditions listed in section 55 of this act exist in the municipality,
 19 it [shall] *may* by resolution determine that [the provisions of this
 20 article are, from and after the date of such resolution, in effect
 21 within that municipality] *the municipality is subject to supervision*

26 *Attorney General and shall be effective upon the approval by any*
 27 *two of the above cabinet officers. To remain effective, the resolution*
 28 **[must]* *shall* be renewed each year by the board and approved*
 29 *by two of the above named cabinet officers.*

30 **[For]* *The resolution shall state for* each municipality*
 31 *subject to supervision pursuant to this article and sections 20 and*
 32 *21 of this amendatory and supplementary act, *[the board shall*
 33 *by resolution determine]* which of the provisions of this article*
 34 *and sections 20 and 21 of this amendatory and supplementary act*
 35 *are in effect within the municipality. *[This resolution is not*
 35A *subject to the approval of the above cabinet officers.]**

36 *Thereafter, the board may modify the resolution to terminate or*
 37 *limit the operation of any provisions of this article *[or]* *, or,*
 38 *with the approval of any two of the above cabinet officers,* to put*
 38A *additional provisions into effect.*

39 Notice shall be given by registered mail to the clerk of the muni-
 40 cipality. Upon receipt of such notice the governing body and muni-
 41 cipal officers shall observe the provisions of this article and shall
 42 comply with all orders of the director issued under it while the
 43 municipality remains subject to its provisions.

1 3. Section 57 of P. L. 1947, c. 151 (C. 52:27BB-57) is amended
 2 to read as follows:

3 57. Limitation on debt *and other financial liabilities.* [In a muni-
 4 cipality subject to this article,] *The board may require that obliga-*
 5 *tions, bonded or otherwise, shall not be issued or authorized by the*
 6 *municipality, including school [district,] districts or any special*
 7 *[district] districts except as expressly authorized by [this section]*
 8 *the director.*

9 [This section shall not affect the power:

10 (1) To issue tax anticipation, tax revenue, or any other obliga-
 11 tions of a strictly current character, except emergency obligations.

12 (2) To fund outstanding obligations in accordance with sections
 13 40:1-61 to 40:1-74, both inclusive, of the Revised Statutes.

14 (3) To issue obligations in order to comply with an order issued
 15 in accordance with law by a State Board, department or other
 16 agency.

17 (4) To issue obligations, with the prior written approval of the
 18 board, in accordance with any law authorizing borrowing to finance
 19 the relief of the poor, the operation of work relief projects, or

24 *into any arrangements or contracts requiring the expenditure of*
 25 *any revenues or engaging the credit of the municipality in any*
 26 *way or undertake any financial liabilities or indebtedness whatso-*
 27 *ever unless expressly authorized by the director. *The board shall*
 28 *limit those purchases and contracts requiring authorization of the*
 29 *director to those exceeding \$4,500.00, unless the board shall find*
 30 *good and sufficient cause for requiring otherwise. In any case, the*
 31 *board shall inform the municipal governing body, by resolution,*
 32 *of the types and amounts of the purchases and contracts which shall*
 33 *require authorization.**

1 4. Section 58 of P. L. 1947, c. 151 (C. 52:27BB-58) is amended to
 2 read as follows:

3 58. Limitation upon appropriations *and expenditures.* [In a
 4 municipality subject to this article, the amount to be raised by taxes
 5 on real and personal property for municipal purposes, school pur-
 6 poses, and any special district purposes shall not be increased by
 7 more than 5% in excess of such amount, respectively, for the
 8 year next preceding the year in which this article takes effect in
 9 that municipality.] *The board may require that any or all expendi-*
 10 *tures and appropriations of a municipality subject to this article*
 11 *and sections 20 and 21 of this amendatory and supplementary act*
 12 *be expressly authorized by the director.*

13 This section shall not be construed to authorize an appropriation
 14 of less than the full amount required for the payment of debt
 15 service; or to authorize the abrogation of any covenant entered
 16 into with bondholders. *With the approval of the director, the*
 17 *municipality may exceed the spending limitations of P. L. 1976,*
 18 *c. 68 (C. 40A:4-45.1 et seq.).*

19 [The board, upon application of the governing body setting forth
 20 the circumstances in full, may authorize a municipality to adopt a
 21 budget in excess of the limitation of this section. The board shall
 22 authorize such a budget only if it finds that the appropriation of
 23 an amount in excess of the limitation is necessary for:

24 (1) Appropriations required by law or for purposes made man-
 25 datory by law, including debt service, judgments and deferred
 26 charges.

27 (2) The protection of the public health, safety, morals or welfare.

28 (3) The prevention of irreparable damage to public property or
 29 the realization upon municipal assets.

34 If the board grants an authorization it shall determine the
 35 amount necessary to meet the need of the municipality and shall
 36 fix the total amount of all municipal appropriations including the
 37 excess above the limitation of this section.】

1 5. Section 60 of P. L. 1947, c. 151 (C. 52:27BB-60) is amended to
 2 read as follows:

3 60. Compliance with requirements of law. The director may
 4 order the governing body or an officer of a municipality subject to
 5 this article to perform any duty prescribed by law whether or not
 6 a specific penalty or enforcement procedure is provided by such
 7 law. The orders may be enforced as authorized by law. *Whenever*
 8 *any directive of the board or director has not been fully performed*
 9 *or carried out by the officials or employees of the municipality, the*
 10 *board may perform directly or cause to be performed by its agents*
 11 *including the director, in the name of the municipality, such act.*

12 *The board may direct that any or all municipal officers and*
 13 *employees shall work under the supervision of the director to the*
 14 *extent that their duties and responsibilities relate to the fiscal*
 15 *affairs of the municipality. However, nothing herein shall infringe*
 16 *or supersede any supervisory powers which the Director of the*
 17 *Division of Taxation in the State Department of the Treasury may*
 18 *have.*

1 6. Section 61 of P. L. 1947, c. 151 (C. 52:27BB-61) is amended to
 2 read as follows:

3 61. Liquidation of **【floating】** debt. The board may, under this
 4 section, authorize *or direct* a municipality subject to this act to
 5 liquidate *or refinance* its current debt **【other than as required by**
 6 **sections 40:2-21 (d), and 40:2-23 (b) of the Revised Statutes.**

7 The board may:

8 (1) Authorize liquidation to continue for as many years as may
 9 be necessary to avoid an appropriation for the liquidation of all
 10 current obligations in any one year, of more than 25% of the total
 11 of appropriations for operating purposes (except dedicated re-
 12 venue appropriations in the budget for the year just ended.

13 (2) Authorize the payment of amounts due other jurisdictions
 14 in accordance with an agreement entered into between the governing
 15 body of the municipality and such other jurisdictions.】 *pursuant*
 16 *to a plan.*

17 Liquidations under this section shall be subject to the provisions of

21 as required by the plan shall be mandatory. A plan shall not be
22 amended except with the prior written consent of the board.

23 Whenever a municipality is operating under an approved plan
24 of liquidation [and none of the conditions listed in subsections 1, 3
25 and 4 of section 55 of this act exist in that municipality, the limita-
26 tions of sections 57 and 58 of this act shall not apply. The], *the*
27 supervision of the [State] board, however,] *board* shall continue
28 for the duration of the liquidation plan, *notwithstanding the opera-*
29 *tion of the termination provisions in section 91 (C. 52:27BB-91).*

1 7. Section 73 of P. L. 1947, c. 151 (C. 52:27BB-73) is amended
2 to read as follows:

3 73. Supervision of revenue administration. If the board finds
4 that tax assets are not being realized upon because of weak or
5 inadequate revenue administration, it may *have the director* super-
6 vise and control the methods and procedures used for the assess-
7 ment, collection, and enforcement of taxes upon real and personal
8 property; and the administration of licenses and other miscella-
9 neous revenues.

10 The board shall determine the specific changes in revenue ad-
11 ministration that are necessary in the municipality. The measures
12 determined by the board as necessary may be enforced by order of
13 the board in the same manner as authorized for other orders of
14 the board. But the concurrence of the Director of the Division of
15 Taxation in the State Department of [Taxation and Finance] *the*
16 *Treasury* shall be a condition precedent to the enforcement by
17 the board of such orders as fall within the scope of the said
18 director's supervisory powers.

1 8. Section 80 of P. L. 1947, c. 151 (C. 52:27BB-80) is amended
2 to read as follows:

3 80. [Local administrator of finance. If the board finds that
4 unsound conditions in a municipality to which sections 69 to 91,
5 inclusive, of this act apply are due, in whole or in part, to a failure
6 to liquidate old obligations, The] *The* board may recommend to
7 the local governing body that a [local administrator of finance]
8 *fiscal control officer* be appointed. If the board recommends the
9 appointment of an [administrator] *officer*, it shall submit to the
10 governing body the names of not less than three persons who are
11 found by the board to be qualified to perform the duties of [ad-
12 ministrator] *officer* for that municipality. The governing body

17 amount fixed by the governing body and approved by the board.
 18 He shall give bond for the faithful performance of his duties in
 19 an amount fixed by the governing body and approved by the board.
 20 An **[administrator]** *officer* shall continue his employment until his
 21 services are terminated by the governing body, with the approval
 22 of the board.

1 9. Section 81 of P. L. 1947, c. 151 (C. 52:27BB-81) is amended
 2 to read as follows:

3 81. **[Local administrator]** *fiscal control officer*; powers and
 4 duties. An **[administrator]** *officer* shall have such of the powers
 5 and duties **[authorized by]** *of the director in sections 57 and 58*
 6 *and 82 to 87 inclusive, of this act, as are specifically assigned to*
 7 *him by [the governing body upon the recommendation of] the*
 8 *board. An [administrator] officer shall exercise his powers and*
 9 *perform his duties under the general supervisions of the [board]*
 10 *director.*

1 10. Section 82 of P. L. 1947, c. 151 (C. 52:27BB-82) is amended
 2 to read as follows:

3 82. Administration of assets and liabilities. **[A local governing**
 4 **body, upon the recommendation of the board, may authorize and**
 5 **direct the administrator]** *If the board finds the unsound financial*
 6 *conditions in the municipality are due in whole or in part to failure*
 7 *to liquidate old liabilities, excluding those covered by section 61*
 8 *(C. 52:27BB-61), it may authorize the director to liquidate any or*
 9 *all of the municipality's liabilities which are due and unpaid for*
 10 *more than 2 years and all of its unrealized assets which have been*
 11 *outstanding for 2 years, computed in the case of taxes and assess-*
 12 *ments from December 1 of the year of levy or assessment, other*
 13 *intangible property from the date of accrual, and tangible property*
 14 *from the date of acquisition of title. The several officers of the*
 15 *municipality shall thereafter, immediately upon request by the*
 16 **[administrator]** *director, certify to him all assets and liabilities*
 17 *of the municipality which have been placed under his administra-*
 18 *tion pursuant to this section and shall at the same time deliver*
 19 *to him all evidences and records of the existence and legality of*
 20 *such assets and liabilities as may be in their possession or control.*

21 The **[administrator]** *director* shall exercise in the nature of the
 22 municipality, all powers pertaining to the enforcement of obliga-
 23 tions that are vested by law in the municipality. But the **[admini-**

28 *director* shall forthwith pay all moneys coming into his hands to
29 the treasurer.

1 11. Section 83 of P. L. 1947, c. 151 (C. 52:27BB-83) is amended
2 to read as follows:

3 83. Liquidation fund. In a municipality not operating on a full
4 cash basis, the treasurer shall place such moneys, paid to him
5 pursuant to section 82 of this act, in a separate "liquidation fund."
6 The **[administrator]** *director* may apply the proceeds of the
7 "liquidation fund" to the payment of obligations placed under his
8 administration.

1 12. Section 84 of P. L. 1947, c. 151 (C. 52:27BB-84) is amended
2 to read as follows:

3 84. Study of cooperative agreements. **[An administrator]** *The*
4 *director* when so instructed by the board **[or by the local govern-**
5 **ing body,]** shall fully investigate and determine the possibilities
6 of maintaining the services of the municipality at lower cost through
7 the use of contractual agreements with other municipalities or with
8 the county. He shall report his conclusions to the governing body
9 and to the board. When so designated by the **[governing body,]**
10 *board*, he shall act as the agent of the municipality in the negotia-
11 tions of agreements with other jurisdictions.

12 **[The director and the board shall render all possible guidance**
13 **and assistance to the administrator for the purpose of effectuating**
14 **sound interjurisdictional agreements.]**

1 13. Section 85 of P. L. 1947, c. 151 (C. 52:27BB-85) is amended
2 to read as follows:

3 85. **[Administrator]** *Director* may act as controller. If the board
4 finds that sound fiscal conditions will be promoted by the exercise
5 of a control function in **[a]** *the* municipality **[to which sections 69**
6 **to 91, inclusive, of this act apply,]** and that the function is not, or
7 cannot be, maintained in a practical manner by regular local officers,
8 the board may *instruct* **[recommend to the governing body that]**
9 the **[administrator]** *director* perform the control function. **[When**
10 **the board so recommends, it shall be the duty of the governing**
11 **body to authorize and direct the administrator to act in accordance**
12 **with this section.]**

1 14. Section 86 of P. L. 1947, c. 151 (C. 52:27BB-86) is amended
2 to read as follows:

3 86. Procedure of control. The board may prescribe the procedure
4 to be followed in each municipality in which the **[administrator]**

8 cash available and will safeguard the payment of commitments
9 and regular expenses.

1 15. Section 87 of P. L. 1947, c. 151 (C. 52:27BB-87) is amended
2 to read as follows:

3 87. Preparation of budgets. [A municipality to which sections
4 69 to 91, inclusive, apply, may, with the approval of the board,
5 prepare and adopt its annual budget in accordance with this sec-
6 tion.] *The director shall fix a date for the municipal governing*
7 *body to submit its proposed annual budget to the board. The board*
8 *may approve the budget, modify it or instruct the director to pre-*
9 *pare an alternative budget to be submitted to the board for its*
10 *approval. Once a budget is approved by the board, it shall be*
11 *deemed adopted.*

11A **Nothing in this act shall limit the power of the chief administra-*
11B *tive officer of the municipality and the municipal governing body*
11C *pursuant to law in consultation with the director to determine*
11D *within funds available in its annual budget the purposes for which*
11E *expenditures are to be made by the municipality and the amounts*
11F *of those expenditures, subject to law and the general require-*
11G *ments imposed by the board on the financial affairs of the munici-*
11H *pality.**

12 *The board may approve a budget which exceeds the spending*
13 *limitations of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.).*

14 If the board finds that the appropriation of the amounts required
15 [by chapter 2, Title 40, of the Revised Statutes] for "deferred
16 charges and statutory expenditures" other than debt service, can-
17 not be made without a probable increase in the cash deficit, the
18 board may authorize by written order an appropriation of less
19 than the full amount required for "deferred charges and statutory
20 expenditures" but not less than the greatest amount that the board
21 finds possible without an anticipated increase in the cash deficit.
22 If a liquidation fund has been created in the municipality, in ac-
23 cordance with section 83 of this act, the board may authorize the
24 appropriation to be made to the liquidation fund in lieu of that
25 for "deferred charges and statutory expenditures."

26 This section shall not be construed to authorize the appropriation
27 of less than the full amount required for the payment of debt ser-
28 vices, for a judgment, or for any other item for which the munici-
29 pality is obligated by contract to appropriate a specific sum.

5 *tion 80* shall perform as the agent of the [board] *director* such
 6 duties with respect to the fiscal affairs of the municipality as the
 7 [board] *director* in the exercise of [its] *his* powers, may require.

1 17. Section 89 of P. L. 1947, c. 151 (C. 52:27BB-89) is amended
 2 to read as follows:

3 89. General duties of board. The board shall exercise its powers,
 4 shall offer guidance and assistance, and shall in every other respect
 5 promote the rehabilitation of the financial affairs of [a] *the mu-*
 6 *nicipality [to which sections 69 to 91, inclusive, of this act apply].*

1 18. Section 90 of P. L. 1947, c. 151 (C. 52:27BB-90) is amended
 2 to read as follows:

3 90. Delegation of powers to director. The powers and duties
 4 vested by [sections 61 to 91, inclusive, of] this act in the board
 5 may be exercised by the director under the supervision of the board
 6 when so authorized by resolution of the board.

1 19. Section 91 of P. L. 1947, c. 151 (C. 52:27BB-91) is amended
 2 to read as follows:

3 91. Termination of supervision. [The application of sections 69
 4 to 91, inclusive, of this act to a municipality shall terminate when:

5 (1) The provisions of article 4 of this act no longer apply to the
 6 municipality; or

7 (2) The municipality has operated for 3 successive years with-
 8 out incurring a cash deficit in excess of 5% of the amount levied
 9 for all purposes upon real and personal property within the mu-
 10 nicipality.

11 A municipality shall remain subject to this article as long as any
 12 of the conditions listed in section 55 of this act exist; and until]
 13 *State supervision of a municipality pursuant to this act shall cease*
 14 *if: (1) the resolution placing the municipality under State super-*
 15 *vision has not been renewed in accordance with section 56, or (2)*
 16 *the conditions listed in section 55 of this act have ceased and the*
 17 *municipality has operated during the last fiscal year without in-*
 18 *curring a cash deficit (as computed in the manner provided by*
 19 *N. J. S. 40A:4-42).*

20 *When the director finds that none of the conditions listed in sec-*
 21 *tion 55 of this act have existed for the period of 1 year in a mu-*
 22 *nicipality subject to this article, and he finds that the municipality*
 23 *operated during the last fiscal year without incurring a cash deficit*
 24 *(as computed in the manner provided by N. J. S. 40A:4-42) he shall*

29 *The board, at the time and place stated in the notice, shall, after*
 30 *giving the local governing body and other interested parties an*
 31 *opportunity to be heard, determine whether any of the conditions*
 32 *listed in section 55 (C. 52:27BB-55) continue to exist in the*
 33 *municipality, and whether the municipality operated during the*
 34 *last fiscal year without incurring such cash deficit. If the board*
 35 *finds that such conditions have not existed for the period of 1 year,*
 36 *and that the municipality operated during said year without incur-*
 37 *ring such cash deficit, it shall, by resolution, determine that the*
 38 *provisions of this article will no longer be in effect in the munic-*
 39 *ipality.*

40 *The director shall forthwith certify to the governing body that*
 41 *the provisions of this article no longer affect that municipality.*

42 *Notice shall be given by registered mail to the clerk of the mu-*
 43 *nicipality.*

1 20. (New section)

2 The board may***[**authorize the director to suspend collective bar-
 3 **gaining** agreements and civil service laws and to fix the hours and
 4 terms and conditions of employment for all municipal employees
 5 and to hire and fire municipal employees.**]*** **provide that all collec-*
 6 *tive bargaining agreements entered into during the time the*
 7 *municipality is subject to the provisions of this act shall be subject*
 8 *to the review and approval of the director. However, in any in-*
 9 *stance where negotiations on a collective bargaining agreement have*
 10 *reached an impasse and the matter has been submitted to an*
 11 *arbitrator pursuant to law, any arbitration award shall be binding*
 12 *without the approval of the director. In any arbitration proceeding*
 13 *the director shall furnish the arbitrator with a statement of the*
 14 *financial condition and capacity of the municipality.*

15 *The board may authorize the municipality to appoint or dismiss*
 16 *unclassified persons in managerial positions necessary to the*
 17 *rehabilitation of the financial affairs of the municipality without*
 18 *regard to any procedural or other statutory requirements.*

19 *The board may authorize the director to fix the hours and terms*
 20 *and conditions of employment for all municipal employees, and to*
 21 *appoint and dismiss municipal employees, to the extent permitted*
 22 *under the provisions of Title 11 of the Revised Statutes and of*
 23 *any collective bargaining agreements in effect.**

1 21. (New section) Subject to the ***[**approval of the board**]*** **in-*

1 22. (New section) P. L. 1977, c. 272 is supplemented as follows:

2 Notwithstanding the provisions of section 5 of P. L. 1977, c. 272
3 (C:54:4-2.2e), if the State has provided*,* or by May 1 of the year
4 immediately succeeding the year of the director's computation
5 pursuant to that section is scheduled to provide*,* an advance pay-
6 ment or payments to a municipality subject to article IV of the
7 "Local Government Supervision Act (1947)," P. L. 1947, c. 151
8 (C. 52:27BB-54 et seq.) for the State's liability for in lieu of tax
9 payment on behalf of any new State facility, including the land on
10 which the facility is located, to be constructed in the municipality;
11 then, commencing with the computations and certifications for the
12 first year for which the State is liable to the municipality for said
13 payments, the Director of the Division of Taxation shall exclude
14 from the amount certified in lieu of tax payment required each
15 year by P. L. 1977, c. 272, an amount equal to that which the State
16 would otherwise be obligated to pay the municipality pursuant to
17 P. L. 1977, c. 272 for that facility including the land on which the
18 facility is located until the total amount withheld from in lieu of
19 tax payments to the municipality equals the amount of the advance
20 payment or payments made to the municipality.

21 The Director of the Division of Local Government Services shall
22 each year on or before November 1 provide the Director of the
23 Division of Taxation with a certification of the amounts and dates
24 of said advance payment or payments which have been provided
25 or are scheduled to be provided by May 1 of the immediately suc-
26 ceeding year. These certifications for a municipality shall no longer
27 be provided when the Director of the Division of Taxation notifies
28 the Director of the Division of Local Government Services that
29 the amount which has been excluded for a municipality equals what
30 the State was otherwise obligated to pay the municipality pursuant
31 to this section.

1 23. Sections 64 (C. 52:27BB-64), 69 to 72 (C. 52:27BB-69 to
2 52:27BB-72) and 92 to 95 (C. 52:27BB-92 to 52:27BB-95) of P. L.
3 1947, c. 151 are repealed.

1 24. This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JULY 20, 1981

KATHRYN FORSYTH

Press Note: The original press release on A-3507 was erroneous in some respects. Please use this release in filing your stories.

Governor Brendan Byrne today signed a bill restructuring the 1947 law governing "municipalities in unsound fiscal condition" to expand the state's power to regulate the fiscal affairs of municipalities experiencing fiscal difficulties. The City of Camden is the only municipality which currently falls under the purview of the act.

In addition, the bill permits the state to advance in-lieu of tax payments to Camden on behalf of the state prison to be constructed there and allows Camden to exceed the spending limitations set by the "cap" law.

The bill, A-3507, was sponsored by Assembly Majority Leader Alan Rarigar (D-Middlesex). The Governor signed it in a public ceremony in his office.

The measure amends the triggering criteria which permit the state to intervene in the fiscal affairs of a municipality if any one of five factors occurs. The factors include such things as a default on bonded obligations or notes, a significant cash deficit or a poor tax collection rate. The amendments liberalize the criteria to some extent so that the state can intervene at an earlier point in the fiscal troubles of the municipality.

In addition, the bill adds a sixth criterion which permits the state to intervene in a municipality's fiscal affairs after a judicial determination that there has been "gross failure" on the part of the municipality to comply with the provisions of the Local Bond Law, the Local Budget Law and the Local Fiscal Affairs Law.

The determination that a municipality is subject to the act is made by the Local Finance Board with the approval of two of the the following Cabinet officers: the Attorney General, the Treasurer and the Commissioner of Community Affairs.

The law as supplemented and amended will permit the Local Finance Board, through its Director, to exercise the following powers:

- approve all bonding, purchases, contracting, loans or other undertakings requiring the expenditure of revenues or the incurring of financial liability, except that "good and sufficient cause" must be shown in order to subject contracts and purchases of less than \$4500 to the Director's approval;
- supervise all municipal officers and employees to the extent that their duties relate to fiscal matters;
- supervise revenue administration;
- adopt a plan to liquidate the municipality's debt;
- provide for the liquidation of liabilities;
- exercise control functions;
- approve the municipal budget and modify it if necessary;
- permit the municipality to exceed the caps;
- review and approve future collective bargaining agreements, but rights to binding arbitration under existing laws are preserved and the arbitrators award would be binding without the Director's approval;
- permit the municipality to appoint or dismiss unclassified persons in managerial positions;
- fix the hours, terms and conditions of employment and appoint or dismiss municipal employees to the extent permitted by civil service laws or collective bargaining agreement;
- be reimbursed by the municipality for the reasonable value of the service provided to it pursuant to the act.

The State's supervision will cease if the municipality has operated for a year free of the triggering conditions and without a cash deficit.

In addition, the Local Finance Board would have to annually renew its resolution subjecting the municipality to the act.