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Title 52.
Subtitle 3.
Chapter
27BBBB.(New)
Municipal
Stabilization and
Recovery.
§§1-5, 8-19 -
C.52:27BBBB-1
to
52:27BBBB-17
§20 - Note

P.L.2016, CHAPTER 4, *approved May 27, 2016*
Senate, No. 1711 (*Third Reprint*)

1 AN ACT concerning certain municipalities confronted by severe
2 fiscal distress ¹**[and]** ¹ supplementing Title 52 of the Revised
3 Statutes ¹ ¹ and amending P.L.1977, c.85 ¹**[and]** ²**[,¹]** and²
4 P.L.1974, c.123 ²**[¹, and P.L.1999, c.59¹]**².

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) This act shall be known and may be cited as
10 the “Municipal Stabilization and Recovery Act.”

11
12 2. (New section) The Legislature finds and declares that:

13 a. The short and long-term fiscal stability of local government
14 units is essential to the interests of the citizens of this State to assure
15 the efficient and effective provision of necessary governmental
16 services vital to public health, safety, and welfare, including the fiscal
17 health of our State’s municipalities.

18 b. In certain extreme cases, local governments that experience
19 severe fiscal distress become incapable of addressing the
20 circumstances that led to that extraordinary distress or of
21 developing a comprehensive plan for financial rehabilitation and
22 recovery.

23 c. It is necessary and appropriate for the State to take action to
24 assist local governments experiencing severe budget imbalances
25 and other conditions of severe fiscal distress or emergency by
26 requiring prudent fiscal management and operational efficiencies in
27 the provision of public services.

28 d. As the State entity primarily responsible for the financial
29 integrity and stability of all local government units, the Local Finance
30 Board should be authorized, under certain limited circumstances, to

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted March 10, 2016.

²Assembly AJU committee amendments adopted May 23, 2016.

³Assembly floor amendments adopted May 26, 2016.

1 develop a comprehensive rehabilitation plan for local governments that
2 are experiencing severe fiscal distress, and to act on behalf of local
3 government units to remedy the distress.

4

5 3. (New section) As used in ²**[this act]** P.L. , c. (C.)
6 (pending before the Legislature as this bill)²:

7 “Commissioner” means the Commissioner of Community
8 Affairs.

9 “Director” means the Director of the Division of Local
10 Government Services in the Department of Community Affairs.

11 “Director’s designee” means one or more individuals designated
12 by the director, as the director deems appropriate, to act in the
13 director’s stead or exercise one or more of the authorities granted to
14 the director by the Local Finance Board pursuant to the terms of
15 ²**[this Act]** P.L. , c. (C.) (pending before the Legislature
16 as this bill)².

17 “Fiscal distress” means a fiscal condition based on a
18 municipality’s tax rate, cash deficit, insufficient percentage of tax
19 collections, insufficient collection of other revenues, over-
20 anticipation of the revenues of prior years, non-liquidation of
21 interfund transfers, reliance on emergency authorizations, continual
22 rollover of tax anticipation notes, inefficiencies in the provision of
23 municipal services such that associated costs substantially exceed
24 costs for similar services in other municipalities, or other factors
25 indicating a constrained ability to meet the municipality’s
26 budgetary requirements.

27 “Governing body” means the municipal council, committee,
28 board, or other entity having control of the finances of a
29 municipality, and shall include the mayor.

30 “Local Finance Board” means the Local Finance Board in the
31 Division of Local Government Services in the Department of
32 Community Affairs.

33 “Municipality in need of stabilization and recovery” means a
34 municipality that: (1) has experienced a decrease of more than 50
35 percent in its total assessed ²non-equalized² property values during
36 the ²**[immediately preceding]²** five-year period ²terminating at the
37 end of the tax year immediately preceding the enactment of P.L. ,
38 c. (C.) (pending before the Legislature as this bill)² , as
39 determined by the director ²**[**, and, upon the recommendation of the
40 director finding that the municipality is experiencing fiscal distress,
41 the commissioner determines the municipality should appropriately
42 be subject to the provisions of P.L. , c. (C.) (pending before
43 the Legislature as this bill)² ; and (2) has experienced an increase
44 in outstanding debt exceeding 50 percent during the immediately
45 preceding five-year period, as determined by the director, and upon
46 the recommendation of the director finding that the municipality is
47 experiencing fiscal distress, the commissioner determines the

1 municipality should appropriately be subject to the provisions of
 2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
 4 4. (New section) ²a.² The director may ascertain whether a
 5 municipality should be deemed a municipality in need of
 6 stabilization and recovery. If the director ascertains that a
 7 municipality should be deemed a municipality in need of
 8 stabilization and recovery, the director shall recommend that the
 9 commissioner make that determination. Within ²[14] ⁷ days of
 10 receipt of the director's recommendation, the commissioner shall
 11 make the final determination of whether to deem the municipality a
 12 municipality in need of stabilization and recovery and subject to the
 13 provisions of P.L. , c. (C.) (pending before the Legislature
 14 as this bill). The commissioner shall notify the Governor, the State
 15 Treasurer, and the director when a determination has been made and
 16 a municipality is subject to the provisions of P.L. , c. (C.)
 17 (pending before the Legislature as this bill). The director shall then
 18 notify the municipal clerk, or other appropriate municipal official of
 19 the municipality, in writing, of the determination. A municipality
 20 in need of stabilization and recovery shall be subject to the
 21 provisions of P.L. , c. (C.) (pending before the Legislature
 22 as this bill) ²[for a period of five consecutive years] until the end of
 23 the recovery plan adopted pursuant to subsection b. of this section
 24 and approved by the commissioner pursuant to subsection c. of this
 25 section, or until first day of the 61st month next following the date
 26 on which the municipality becomes subject to the requirements and
 27 provisions of sections 5 through ³[12] ¹¹ , ³[and] ³ 14
 28 ³[through] ³ 16 ³, and 17³ of P.L. , c. (C.) (pending before
 29 the Legislature as this bill), as applicable.

30 b. Not later than 150 days next following the commissioner's
 31 final determination that a municipality is in need of stabilization
 32 and recovery, the governing body of the municipality in need of
 33 stabilization and recovery shall prepare and adopt a resolution
 34 containing a five-year recovery plan, commencing on the first day
 35 of the first fiscal year of the municipality next following the
 36 enactment of P.L. , c. (C.) (pending before the Legislature
 37 as this bill), that is sufficient to effectuate the financial stability of
 38 the municipality. The recovery plan shall establish processes and
 39 identify specific actions undertaken by the municipality following
 40 the determination that it is a municipality in need of stabilization
 41 and recovery pursuant to subsection a. of this section, and actions to
 42 be undertaken by the municipality if the recovery plan is approved
 43 pursuant to subsection c. of this section. The recovery plan shall
 44 include a proposed balanced budget for the first fiscal year of the
 45 municipality next following the enactment of P.L. , c. (C.)
 46 (pending before the Legislature as this bill), which shall be
 47 consistent with the "Local Budget Law," N.J.S.40A:4-1 et seq.,
 48 except as otherwise stated in this subsection. There shall be no
 49 requirement for the proposed balanced budget to identify amounts

1 outstanding, including accrued interest, on any obligation to the
2 State of New Jersey³, including any office, department, division,
3 bureau, board, commission, or agency of the State,³ for deferred
4 pension and health benefit payments for the first fiscal year of the
5 municipality prior to the enactment of P.L. , c. (C.) (pending
6 before the Legislature as this bill). For the purposes of the
7 proposed budget prepared pursuant to this subsection, the
8 municipality in need of stabilization and recovery is not required to
9 appropriate the total amount necessary for the extinguishment of all
10 outstanding property tax appeal debt. For the purposes of the
11 proposed budget prepared pursuant to this subsection, the
12 municipality in need of stabilization and recovery shall identify and
13 account for the loss in revenue from any anticipated set-offs arising
14 from all such property tax appeal debt or identify and appropriate
15 for any amounts owed in the ³**[2017]** first³ fiscal year of the
16 municipality³ next following the enactment of P.L. , c. (C.)
17 (pending before the Legislature as this bill)³ for the continued
18 repayment of debts related to all property tax appeals settled by the
19 municipality. To effectuate financial stability, in addition to the
20 proposed balanced budget, the recovery plan shall include detailed
21 processes to:

22 (1) achieve sustainable net reductions in the municipality's
23 general appropriations to be commensurate with revenues
24 anticipated in the proposed budget;

25 (2) ensure that the municipality remits to the county in which it
26 is located the full amount of all property taxes or payments in lieu
27 of property taxes owed by law to the county on the dates on which
28 the payments are due;

29 (3) ensure that the municipality remits to the school district
30 servicing the municipality the full amount of all property taxes or
31 payments in lieu of property taxes owed by law to the school
32 district on the dates the payments are due;

33 (4) schedule for the repayment of debts, including any accrued
34 interest, as of the date of the commissioner's determination
35 pursuant to subsection a. of this section, including, without
36 limitation, any money owed to the State of New Jersey³, including
37 any office, department, division, bureau, board, commission, or
38 agency of the State,³ for deferred pension and health benefits
39 payments;

40 (5) account for future payments on bonded debt and unbonded
41 debt, including, without limitation, any general obligation bonds,
42 refunding bonds, pension refunding bonds, tax appeal bonds, and
43 unbonded tax appeal settlements, obligations, liens, or judgments
44 known to the municipality as of the date of the commissioner's
45 determination pursuant to subsection a. of this section;

46 (6) account for future payments on any off balance sheet
47 liabilities of the municipality known to the municipality as of the

1 date of the commissioner's determination pursuant to subsection a.
 2 of this section:

3 (7) ensure the repayment of the loan in accordance with section
 4 ³[17] 18³ of P.L. , c. (C.) (pending before the Legislature as
 5 this bill), including accrued interest; and

6 (8) increase the municipality's revenues, including, without
 7 limitation, through the establishment of long-term economic and
 8 land use development strategies.

9 c. The recovery plan shall be submitted by the governing body
 10 to the commissioner. The commissioner, within five business days
 11 next following the day of receipt of the plan, shall determine, in the
 12 commissioner's sole and exclusive discretion, whether the recovery
 13 plan is likely or is not likely to achieve financial stability for the
 14 municipality. If the commissioner determines that the recovery
 15 plan is likely to achieve financial stability for the municipality, the
 16 plan shall be effective and the provisions of sections 5 through
 17 ³[12] 11³ , ³[and]³ 14 ³[through] , ³ 16 ³ , and 17³ of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill) shall
 19 not be applicable with respect to the municipality in need of
 20 stabilization and recovery. If the commissioner determines that the
 21 recovery plan is likely to achieve financial stability for the
 22 municipality, the plan shall be implemented beginning on the first
 23 day of the first fiscal year of the municipality next following the
 24 enactment of P.L. , c. (C.) (pending before the
 25 Legislature as this bill) and the municipality in need of stabilization
 26 and recovery shall strictly comply with the recovery plan. If the
 27 commissioner determines that the plan is not likely to achieve
 28 financial stability for the municipality, ³[or]³ if the municipality
 29 fails to submit a plan, ³if the commissioner determines that the
 30 municipality is not strictly complying with a recovery plan
 31 approved by the commissioner pursuant to this subsection, or if the
 32 commissioner determines that a recovery plan approved by the
 33 commissioner pursuant to this subsection is no longer likely to
 34 achieve financial stability,³ the municipality shall be immediately
 35 subject to the requirements and provisions of sections 5 through
 36 ³[12] 11³ , ³[and]³ 14 ³[through] , ³ 16 ³ , and 17³ of P.L. ,
 37 c. (C.) (pending before the Legislature as this bill) for as
 38 the long as the municipality is deemed a municipality in need of
 39 stabilization and recovery².

40
 41 5. (New section) a. (1) Notwithstanding the provisions of any
 42 law, rule, or regulation to the contrary, ²[upon the determination by
 43 the commissioner that a municipality is in need of stabilization and
 44 recovery, and at any time during the succeeding five years,] if the
 45 municipality in need of stabilization and recovery fails to submit a
 46 plan, if the commissioner has determined pursuant to subsection c.
 47 of section 4 of P.L. , c. (C.) (pending before the Legislature as
 48 this bill) that the recovery plan is not likely to achieve financial

1 stability for the municipality in need of stabilization and recovery,
2 if the commissioner determines that the municipality is not strictly
3 complying with a recovery plan approved by the commissioner
4 pursuant to subsection c. of section 4 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), or if the commissioner
6 determines that a recovery plan approved by the commissioner
7 pursuant to subsection c. of section 4 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) is no longer likely to
9 achieve financial stability,² the Local Finance Board may, in its
10 exclusive discretion ²at any time during which the municipality is
11 deemed a municipality in need of stabilization and recovery² ,
12 assume and reallocate to, and vest exclusively in the director any of
13 the functions, powers, privileges, and immunities of the governing
14 body of that municipality set forth in any statute, regulation,
15 ordinance, resolution, charter, or contract to which the municipality
16 is a party that are, or may be, substantially related to the fiscal
17 condition or financial rehabilitation and recovery of that
18 municipality. The duration of the transfer of the functions, powers,
19 privileges, and immunities of the governing body shall not exceed
20 ²[five consecutive years] the duration of the time the municipality
21 is deemed a municipality in need of stabilization and recovery².

22 (2) In the event the Local Finance Board assumes and
23 reallocates to the director any function, power, privilege, or
24 immunity of the governing body of a municipality in need of
25 stabilization and recovery set forth in a contract to which that
26 municipality is a party, the municipality shall remain the party to
27 the contract and neither the Local Finance Board nor the director
28 shall assume any contractual obligations or liability arising out of
29 that contract or be subject to any claim for breach of that contract or
30 any other claim related to that contract. Any actions or steps taken
31 by the director under P.L. , c. (C.) (pending before the
32 Legislature as this bill) shall be deemed to be by, and on behalf of,
33 the municipality in need of stabilization.

34 (3) The authorities granted to the director by the Local Finance
35 Board pursuant to this section shall extend to any and all actions
36 that, in the exclusive discretion of the director, may help stabilize
37 the finances, restructure the debts, or assist in the financial
38 rehabilitation and recovery of the municipality in need of
39 stabilization and recovery. Notwithstanding the provisions of any
40 law, rule, regulation, or contract to the contrary, the director shall
41 have the authority to take any steps to stabilize the finances,
42 restructure the debts, or assist in the financial rehabilitation and
43 recovery of the municipality in need of stabilization and recovery,
44 including, but not limited to:

45 (a) implementing governmental, administrative, and operational
46 efficiency and oversight measures;

47 (b) dissolving, terminating, transferring, abolishing, or
48 otherwise disposing of any municipal authority, board, commission,
49 or department, or any function thereof; provided, however, that no

1 such action shall be taken until adequate provision has been made
2 for the payment of the creditors or obligees of the entity to be
3 impacted unless otherwise permitted by law. This shall include the
4 power to take any steps required of the governing body under
5 applicable laws, including but not limited to the “municipal and
6 county utilities authorities law,” P.L.1957, c.183 (C.40:14B-1 et
7 seq.), the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
8 (C.40A:5A-1 et seq.) the “Water Infrastructure Protection Act,”
9 P.L.2015, c.18 (C.58:30-1 et seq.), the “Local Redevelopment and
10 Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et seq.), and the
11 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).
12 To the extent that the Local Finance Board or the director exercise
13 any powers under the “Local Authorities Fiscal Control Law,”
14 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal
15 authority or municipal public utility in the municipality in need of
16 stabilization and recovery;

17 (c) vetoing the minutes of the governing body of the
18 municipality in need of stabilization and recovery, any board,
19 commission, or department of the municipality in need of
20 stabilization and recovery, and any independent board or authority
21 in the municipality in need of stabilization and recovery, including,
22 but not limited to, the housing authority, parking authority,
23 redevelopment authority, planning board, and zoning board of
24 adjustment. A true copy of the minutes of every meeting of the
25 governing body and any board, commission, department, or
26 independent board, or authority shall be delivered forthwith, by and
27 under the certification of the secretary thereof, to the director. No
28 action taken at the meeting shall have force or effect until 15
29 business days after a copy of the minutes have been so delivered to
30 the director, unless during this 15-day period the director shall
31 approve in writing the minutes or any part thereof, in which case
32 the action shall become effective upon approval. If, within that 15-
33 day period, the director returns a copy of the minutes with a veto of
34 any action taken by the governing body, board, commission,
35 department, or independent board or authority, or any member
36 thereof at the meeting, the action shall be null and void and of no
37 effect. The director may approve all or part of the action taken at a
38 meeting;

39 (d) controlling litigation and the municipality’s legal affairs,
40 including, but not limited to, suing in the municipality’s corporate
41 name; prosecuting, defending, and resolving litigation, arbitration,
42 disputes, and controversies; and retaining and directing municipal
43 corporation counsel and other special counsel as the director may
44 deem appropriate;

45 (e) selling, conveying, leasing, monetizing, or otherwise
46 disposing of any interest in any municipally-owned assets,
47 including but not limited to, any water, sewer, wastewater, and
48 storm water infrastructure, equipment or facilities, services, and in
49 any real property, including any improvements thereon; provided

1 that the director shall not sell, convey, lease, monetize, or otherwise
2 dispose of any municipally-owned water asset ¹pursuant to an
3 agreement with a private entity¹ until one-year after the effective
4 date of P.L. , c. (C.) (pending before the Legislature as this
5 bill) to allow the municipality in need of stabilization and recovery
6 to maximize the value of that asset;

7 (f) amending or terminating any existing contracts or
8 agreements, which shall not include bonds, notes, indentures, or
9 other similar financing instruments and documents to which the
10 municipality is a party, in accordance with the terms thereof; or
11 unilaterally amending or terminating any contracts or agreements
12 which shall not include bonds, notes, indentures, or other similar
13 financing instruments and documents to which the municipality is a
14 party, provided that the director determines that the unilateral
15 termination or amendment is reasonable and directly related to
16 stabilizing the finances or assisting with the fiscal rehabilitation and
17 recovery of the municipality in need of stabilization and recovery;

18 (g) unilaterally modifying, amending, or terminating any
19 collective negotiations agreements, except those related to school
20 districts, to which the municipality is a party, or unilaterally
21 modifying, amending, or terminating the terms and conditions of
22 employment during the term of any applicable collective
23 negotiations agreement, or both, provided that the director
24 determines that the modifications, amendments, or terminations are
25 reasonable and directly related to stabilizing the finances or
26 assisting with the fiscal rehabilitation and recovery of the
27 municipality in need of stabilization and recovery;

28 (h) acting as the sole agent in collective negotiations on behalf
29 of the municipality in need of stabilization and recovery;

30 (i) with respect to any expired collective negotiations
31 agreement to which the municipality in need of stabilization and
32 recovery is a party, unilaterally modifying wages, hours, or any
33 other terms and conditions of employment;

34 (j) unilaterally abolishing any non-elected positions in the
35 municipality in need of stabilization and recovery at any time. All
36 of the functions, powers, and duties of abolished positions shall be
37 exercised or delegated by the director; provided, however, that the
38 provisions of Title 11A, Civil Service, shall not apply to any
39 employment action under this paragraph;

40 (k) unilaterally appointing, transferring, or removing employees
41 of the municipality in need of stabilization and recovery, including,
42 but not limited to, department heads and division heads, as the case
43 may be, but excluding appointed officials who have obtained tenure
44 in office; provided, however, that the provisions of Title 11A, Civil
45 Service, shall not apply to any employment action under this
46 paragraph;

47 (l) acting as the appropriate authority, including, without
48 limitation, the appointing authority, for purposes of Title 40A of the
49 New Jersey Statutes;

- 1 (m) entering into any agreement with the county in which the
2 municipality in need of stabilization and recovery is located, any of
3 the other municipalities located in that county, or any
4 instrumentality of the State to share or consolidate municipal
5 services pursuant to any law applicable to consolidation or sharing
6 of services, including, without limitation, the “Uniform Shared
7 Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et al.)
8 and P.L.2015, c.279 (C.40A:14-90.1 et al.);
- 9 (n) procuring any goods, services, commodities, information
10 technology, software, hardware, or other items on behalf of the
11 municipality in need of stabilization and recovery, in accordance
12 with either the “Local Public Contracts Law,” P.L.1971, c.198
13 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at
14 the discretion of the director;
- 15 (o) retaining any professionals on behalf of the municipality in
16 need of stabilization and recovery, and directing the work of
17 professionals or any professionals previously retained by the
18 municipality in need of stabilization and recovery, in accordance
19 with either the “Local Public Contracts Law,” P.L.1971, c.198
20 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at
21 the discretion of the director;
- 22 (p) retaining bond counsel, adopting bond ordinances to the
23 extent necessary, making appropriate bond applications, and taking
24 any other steps necessary to restructure and adjust debt, on behalf of
25 the municipality in need of stabilization and recovery;
- 26 (q) exercising on behalf of the municipality in need of
27 stabilization and recovery any authority granted to a municipality
28 pursuant to the “Local Redevelopment and Housing Law,”
29 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it
30 necessary or appropriate to help stabilize the finances, restructure
31 the debts, or assist with the financial rehabilitation and recovery of
32 the municipality in need of stabilization and recovery;
- 33 (r) exercising on behalf of the municipality in need of
34 stabilization and recovery any authority granted to a municipality
35 pursuant to the “Redevelopment Area Bond Financing Law,”
36 P.L.2001, c.310 (C. 40A:12A-64 et seq.) when the director deems it
37 necessary or appropriate to help stabilize the finances, restructure
38 the debts, or assist with the financial rehabilitation and recovery of
39 the municipality in need of stabilization and recovery;
- 40 (s) exercising on behalf of the municipality in need of
41 stabilization and recovery any authority granted to a municipality
42 pursuant to the “Long Term Tax Exemption Law,” P. L.1991, c.431
43 (C.40A:20-1 et seq.) when the director deems it necessary or
44 appropriate to help stabilize the finances, restructure the debts, or
45 assist the financial rehabilitation and recovery of the municipality in
46 need of stabilization and recovery;
- 47 (t) authorizing and filing, on behalf of the municipality in need
48 of stabilization and recovery, subject only to the written approval of
49 the majority of the members of the legislative Joint Budget

1 Oversight Committee, a petition and other pleadings and papers
2 with any United States court or federal bankruptcy court for the
3 purpose of effecting a plan of readjustment or composition of debts
4 as set forth in R.S.52:27-40 et seq., and taking any other and further
5 actions necessary or appropriate in connection with any case or
6 proceeding; and

7 (u) negotiating and executing any contracts, agreements, or
8 other documents on behalf of the municipality in need of
9 stabilization and recovery as may be necessary or appropriate to
10 effectuate any of the actions or steps specifically identified in P.L. ,
11 c. (C.) (pending before the Legislature as this bill) or that
12 may otherwise, as the director deems necessary or appropriate, help
13 stabilize the finances, restructure the debts, or assist with the
14 financial rehabilitation and recovery of the municipality in need of
15 stabilization and recovery.

16 (4) Subject to subsection b. of section 11 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), the Local Finance
18 Board may authorize the director to take any action authorized to be
19 taken under the "Local Bond Law," N.J.S.40A:2-1 et seq., and the
20 "Municipal Qualified Bond Act," P.L.1976, c.38 (C.40A:3-1 et
21 seq.) by a governing body of a local unit.

22 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and
23 regulations promulgated thereunder, shall in no way infringe on the
24 authority of the Local Finance Board or the director set forth in this
25 section or any actions taken by the director pursuant to this section.

26 (6) Any function, power, privilege, or immunity of the
27 municipal governing body that is not assumed by the Local Finance
28 Board and reallocated to and vested exclusively in the director
29 pursuant to this section shall remain allocated to and vested in that
30 governing body unless and until such time as the function, power,
31 privilege, immunity, or duty may be allocated to and vested
32 exclusively in the Local Finance Board or the director pursuant to
33 this section. The Local Finance Board or the director may exercise
34 any power implied or incidental to a power that has been
35 specifically allocated.

36 b. (1) Notwithstanding the provisions of any law, rule, or
37 regulation to the contrary, including any requirements set forth in
38 ¹【chapter 49 of Title 40 of the Revised Statutes (C.40:49-1 et seq.)】
39 R.S.40:49-1 et seq.¹, the "Senator Byron M. Baer Open Public
40 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or ¹【section 2 of
41 P.L.1935, c.193 (C.52:27-41)】 R.S.52:27-41¹, the director shall
42 have the exclusive authority to pass, adopt, repeal, or amend any
43 ordinance or resolution of the municipality in need of stabilization
44 and recovery, modify any meeting agenda of the governing body of
45 the municipality in need of stabilization and recovery, and
46 negotiate, enter into, amend, or terminate any contract or
47 agreement, on behalf of the municipality in need of stabilization
48 and recovery, provided that the director deems the action necessary
49 or appropriate to help stabilize the finances, restructure the debts, or

1 assist with the financial rehabilitation and recovery of the
2 municipality in need of stabilization and recovery.

3 (2) When exercising powers under this section, the director
4 shall, to the extent practicable, comply with all notice, hearing, and
5 other requirements to which the municipality in need of
6 stabilization and recovery is generally subject, but in no instance
7 shall the director be deemed a “public body” pursuant to the
8 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
9 c.231 (C.10:4-6 et seq.).

10 (3) The director may issue to the appropriate elected and
11 appointed officials and employees, agents, and contractors of a
12 municipality in need of stabilization and recovery the orders that the
13 director deems appropriate to stabilize the finances, restructure the
14 debts, or assist the financial rehabilitation and recovery of the
15 municipality in need of stabilization and recovery pursuant to the
16 authority granted by the Local Finance Board pursuant to this
17 section. Any order by the director shall be binding on the
18 appropriate elected and appointed officials and employees, agents,
19 and contractors of a municipality in need of stabilization and
20 recovery and may be enforced as other orders of the director are
21 enforced under general law.

22

23 6. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to
24 read as follows:

25 3. a. (1) Negotiations between a public fire or police
26 department and an exclusive representative concerning the terms
27 and conditions of employment shall begin at least 120 days prior to
28 the day on which their collective negotiation agreement is to expire.
29 The parties shall meet at least three times during that 120-day
30 period. The first of those three meetings shall take place no later
31 than the 90th day prior to the day on which their collective
32 negotiation agreement is to expire. By mutual consent, the parties
33 may agree to extend the period during which the second and third
34 meetings are required to take place beyond the day on which their
35 collective negotiation agreement is to expire. A violation of this
36 paragraph shall constitute an unfair practice and the violator shall
37 be subject to the penalties prescribed by the commission pursuant to
38 rule and regulation.

39 Prior to the expiration of their collective negotiation agreement,
40 either party may file an unfair practice charge with the commission
41 alleging that the other party is refusing to negotiate in good faith.
42 The charge shall be filed in the manner, form and time specified by
43 the commission in rule and regulation. If the charge is sustained,
44 the commission shall order that the respondent be assessed for all
45 legal and administrative costs associated with the filing and
46 resolution of the charge; if the charge is dismissed, the commission
47 shall order that the charging party be assessed for all legal and
48 administrative costs associated with the filing and resolution of the

1 charge. The filing and resolution of the unfair practice charge shall
2 not delay or impair the impasse resolution process.

3 (2) Whenever those negotiations concerning the terms and
4 conditions of employment shall reach an impasse, the commission,
5 through the Division of Public Employment Relations shall, upon
6 the request of either party, or upon its own motion take such steps,
7 including the assignment of a mediator, as it may deem expedient to
8 effect a voluntary resolution of the impasse.

9 b. (1) In the event of a failure to resolve the impasse by
10 mediation, the Division of Public Employment Relations, at the
11 request of either party, shall invoke factfinding with
12 recommendation for settlement of all issues in dispute unless the
13 parties reach a voluntary settlement prior to the issuance of the
14 factfinder's report and recommended terms of settlement.
15 Factfindings shall be limited to those issues that are within the
16 required scope of negotiations unless the parties to the factfinding
17 agree to factfinding on permissive subjects of negotiation.

18 (2) Notwithstanding the provisions of paragraph (2) of
19 subsection a. of this section or paragraph (1) of this subsection,
20 either party may petition the commission for arbitration on or after
21 the date on which their collective negotiation agreement expires.
22 The petition shall be filed in a manner and form prescribed by the
23 commission. The party filing the petition shall notify the other
24 party of its action. The notice shall be given in a manner and form
25 prescribed by the commission.

26 Any mediation or factfinding invoked pursuant to paragraph (2)
27 of subsection a. of this section or paragraph (1) of subsection b. of
28 this section shall terminate immediately upon the filing of a petition
29 for arbitration.

30 (3) Upon the filing of a petition for arbitration pursuant to
31 paragraph (2) of this subsection, an arbitrator selected pursuant to
32 paragraph (1) of subsection e. of this section shall conduct an initial
33 meeting as a mediation session to effect a voluntary resolution of
34 the impasse.

35 c. (Deleted by amendment, P.L.2010, c.105)

36 d. The resolution of issues in dispute shall be binding
37 arbitration under which the award on the unsettled issues is
38 determined by conventional arbitration. The arbitrator shall
39 determine whether the total net annual economic changes for each
40 year of the agreement are reasonable under the nine statutory
41 criteria set forth in subsection g. of this section and shall adhere to
42 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-
43 16.7). The non-petitioning party, within five days of receipt of the
44 petition, shall separately notify the commission in writing of all
45 issues in dispute. The filing of the written response shall not delay,
46 in any manner, the interest arbitration process.

47 e. (1) The commission shall take measures to assure the
48 impartial selection of an arbitrator or arbitrators from its special
49 panel of arbitrators. On the first business day following receipt of

1 an interest arbitration petition, the commission shall, independent of
2 and without any participation by either of the parties, randomly
3 select an arbitrator from its special panel of arbitrators. The
4 selection by the commission shall be final and shall not be subject
5 to review or appeal.

6 (2) Applicants for initial appointment to the commission's
7 special panel of arbitrators shall be chosen based on their
8 professional qualifications, knowledge, and experience, in
9 accordance with the criteria and rules adopted by the commission.
10 Such rules shall include relevant knowledge of local government
11 operations and budgeting. Appointment to the commission's special
12 panel of arbitrators shall be for a three-year term, with
13 reappointment contingent upon a screening process similar to that
14 used for determining initial appointments. Arbitrators currently
15 serving on the panel shall demonstrate to the commission their
16 professional qualification, knowledge and experience, in accordance
17 with the criteria and rules adopted by the commission, within one
18 year of the effective date of this act. Any arbitrator who does not
19 satisfactorily demonstrate such to the commission within the
20 specified time shall be disqualified.

21 (3) Arbitrators serving on the commission's special panel shall
22 be guided by and subject to the objectives and principles set forth in
23 the "Code of Professional Responsibility for Arbitrators of Labor-
24 Management Disputers [Disputes]" of the National Academy of
25 Arbitrators, the American Arbitration Association, and the Federal
26 Mediation and Conciliation Service.

27 (4) Arbitrators shall be required to complete annual training
28 offered by the State Ethics Commission. Any arbitrator failing to
29 satisfactorily complete the annual training shall be immediately
30 removed from the special panel.

31 The commission may suspend, remove, or otherwise discipline
32 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),
33 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.
34 An arbitrator who fails to render an award within the time
35 requirements set forth in this section shall be fined \$ 1,000 for each
36 day that the award is late.

37 f. (1) At a time prescribed by the commission, the parties shall
38 submit to the arbitrator their final offers on each economic and non-
39 economic issue in dispute. The offers submitted pursuant to this
40 section shall be used by the arbitrator for the purposes of
41 determining an award pursuant to subsection d. of this section.

42 (2) In the event of a dispute, the commission shall have the
43 power to decide which issues are economic issues. Economic
44 issues include those items which have a direct relation to employee
45 income including wages, salaries, hours in relation to earnings, and
46 other forms of compensation such as paid vacation, paid holidays,
47 health and medical insurance, and other economic benefits to
48 employees.

1 (3) Throughout formal arbitration proceedings the chosen
2 arbitrator may mediate or assist the parties in reaching a mutually
3 agreeable settlement.

4 All parties to arbitration shall present, at the formal hearing
5 before the issuance of the award, written estimates of the financial
6 impact of their last offer on the taxpayers of the local unit to the
7 arbitrator with the submission of their last offer.

8 (4) Arbitration shall be limited to those subjects that are within
9 the required scope of collective negotiations, except that the parties
10 may agree to submit to arbitration one or more permissive subjects
11 of negotiation.

12 (5) The decision of an arbitrator or panel of arbitrators shall
13 include an opinion and an award, and shall be rendered within 90
14 calendar days of the commission's assignment of that arbitrator.

15 Each arbitrator's decision shall be accompanied by a written
16 report explaining how each of the statutory criteria played into the
17 arbitrator's determination of the final award. The report shall
18 certify that the arbitrator took the statutory limitations imposed on
19 the local levy cap into account in making the award.

20 Any arbitrator violating the provisions of this paragraph may be
21 subject to the commission's powers under paragraph (3) of
22 subsection e. of this section. The decision shall be final and binding
23 upon the parties and shall be irreversible, except:

24 (a) Within 14 calendar days of receiving an award, an aggrieved
25 party may file notice of an appeal of an award to the commission on
26 the grounds that the arbitrator failed to apply the criteria specified
27 in subsection g. of this section or violated the standards set forth in
28 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form
29 and manner prescribed by the commission. In deciding an appeal,
30 the commission, pursuant to rule and regulation and upon petition,
31 may afford the parties the opportunity to present oral arguments.
32 The commission may affirm, modify, correct or vacate the award or
33 may, at its discretion, remand the award to the same arbitrator or to
34 another arbitrator, selected by lot, for reconsideration. The
35 commission's decision shall be rendered no later than 60 calendar
36 days after the filing of the appeal with the commission.

37 Arbitration appeal decisions shall be accompanied by a written
38 report explaining how each of the statutory criteria played into their
39 determination of the final award. The report shall certify that in
40 deciding the appeal, the commission took the local levy cap into
41 account in making the award.

42 An aggrieved party may appeal a decision of the commission to
43 the Appellate Division of the Superior Court.

44 (b) An arbitrator's award shall be implemented immediately.

45 (6) The parties shall share equally the costs of arbitration
46 subject to a fee schedule approved by the commission. The fee
47 schedule shall provide that the cost of services provided by the
48 arbitrator shall not exceed \$ 1,000 per day. The total cost of
49 services of an arbitrator shall not exceed \$ 10,000. If the parties

1 cancel an arbitration proceeding without good cause, the arbitrator
2 may impose a fee of not more than \$ 500. The parties shall share
3 equally in paying that fee if the request to cancel or adjourn is a
4 joint request. Otherwise, the party causing such cancellation shall
5 be responsible for payment of the entire fee.

6 g. The arbitrator shall decide the dispute based on a reasonable
7 determination of the issues, giving due weight to those factors listed
8 below that are judged relevant for the resolution of the specific
9 dispute. In the award, the arbitrator or panel of arbitrators shall
10 indicate which of the factors are deemed relevant, satisfactorily
11 explain why the others are not relevant, and provide an analysis of
12 the evidence on each relevant factor; provided, however, that in
13 every interest arbitration proceeding, the parties shall introduce
14 evidence regarding the factor set forth in paragraph (6) of this
15 subsection and the arbitrator shall analyze and consider the factor
16 set forth in paragraph (6) of this subsection in any award:

17 (1) The interests and welfare of the public. Among the items
18 the arbitrator or panel of arbitrators shall assess when considering
19 this factor are the limitations imposed upon the employer by
20 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

21 (2) Comparison of the wages, salaries, hours, and conditions of
22 employment of the employees involved in the arbitration
23 proceedings with the wages, hours, and conditions of employment
24 of other employees performing the same or similar services and
25 with other employees generally:

26 (a) In private employment in general; provided, however, each
27 party shall have the right to submit additional evidence for the
28 arbitrator's consideration.

29 (b) In public employment in general; provided, however, each
30 party shall have the right to submit additional evidence for the
31 arbitrator's consideration.

32 (c) In public employment in the same or similar comparable
33 jurisdictions, as determined in accordance with section 5 of
34 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each
35 party shall have the right to submit additional evidence concerning
36 the comparability of jurisdictions for the arbitrator's consideration.

37 (3) The overall compensation presently received by the
38 employees, inclusive of direct wages, salary, vacations, holidays,
39 excused leaves, insurance and pensions, medical and hospitalization
40 benefits, and all other economic benefits received.

41 (4) Stipulations of the parties.

42 (5) The lawful authority of the employer. Among the items the
43 arbitrator or panel of arbitrators shall assess when considering this
44 factor are the limitations imposed upon the employer by P.L.1976,
45 c.68 (C.40A:4-45.1 et seq.).

46 (6) The financial impact on the governing unit, its residents, the
47 limitations imposed upon the local unit's property tax levy pursuant
48 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.
49 When considering this factor in a dispute in which the public

1 employer is a county or a municipality, the arbitrator or panel of
2 arbitrators shall take into account, to the extent that evidence is
3 introduced, how the award will affect the municipal or county
4 purposes element, as the case may be, of the local property tax; a
5 comparison of the percentage of the municipal purposes element or,
6 in the case of a county, the county purposes element, required to
7 fund the employees' contract in the preceding local budget year with
8 that required under the award for the current local budget year; the
9 impact of the award for each income sector of the property
10 taxpayers of the local unit; the impact of the award on the ability of
11 the governing body to (a) maintain existing local programs and
12 services, (b) expand existing local programs and services for which
13 public moneys have been designated by the governing body in a
14 proposed local budget, or (c) initiate any new programs and services
15 for which public moneys have been designated by the governing
16 body in a proposed local budget.

17 (7) The cost of living.

18 (8) The continuity and stability of employment including
19 seniority rights and such other factors not confined to the foregoing
20 which are ordinarily or traditionally considered in the determination
21 of wages, hours, and conditions of employment through collective
22 negotiations and collective bargaining between the parties in the
23 public service and in private employment.

24 (9) Statutory restrictions imposed on the employer. Among the
25 items the arbitrator or panel of arbitrators shall assess when
26 considering this factor are the limitations imposed upon the
27 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

28 h. A mediator, factfinder, or arbitrator while functioning in a
29 mediatory capacity shall not be required to disclose any files,
30 records, reports, documents, or other papers classified as
31 confidential received or prepared by him or to testify with regard to
32 mediation, conducted by him under this act on behalf of any party
33 to any cause pending in any type of proceeding under this act.
34 Nothing contained herein shall exempt such an individual from
35 disclosing information relating to the commission of a crime.

36 i. The Director of the Division of Local Government Services
37 in the Department of Community Affairs may notify the
38 commission, through the Division of Public Employment Relations,
39 that a municipality deemed a "municipality in need of stabilization
40 and recovery" pursuant to section 4 of P.L. , c. (C.)
41 (pending before the Legislature as this bill) will not participate in
42 any impasse procedures authorized by this section. Upon such
43 notice, any pending impasse procedures authorized by this section
44 shall immediately cease, and any pending petition for arbitration
45 shall be vacated. Nothing in this subsection shall be construed to
46 limit the scope of any general or specific powers of the Local
47 Finance Board or the director set forth in P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 j. The Local Finance Board may provide that any arbitration
2 award, including but not limited to an interest arbitration award,
3 involving a municipality deemed a “municipality in need of
4 stabilization and recovery” pursuant to section 4 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be subject to the
6 review and approval of the Director of the Division of Local
7 Government Services in the Department of Community Affairs,
8 including those on a collective negotiations agreement where the
9 matter has been submitted to an arbitrator pursuant to law, and no
10 such award shall be binding without the approval of the director.
11 Nothing in this subsection shall be construed to limit the scope of
12 any general or specific powers of the Local Finance Board or the
13 director set forth in P.L. , c. (C.) (pending before the
14 Legislature as this bill).
15 (cf: P.L.2014, c.11, s.1)

16
17 7. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to
18 read as follows:

19 a. Public employers, their representatives or agents are
20 prohibited from:

21 (1) Interfering with, restraining or coercing employees in the
22 exercise of the rights guaranteed to them by this act.

23 (2) Dominating or interfering with the formation, existence or
24 administration of any employee organization.

25 (3) Discriminating in regard to hire or tenure of employment or
26 any term or condition of employment to encourage or discourage
27 employees in the exercise of the rights guaranteed to them by this
28 act.

29 (4) Discharging or otherwise discriminating against any
30 employee because he has signed or filed an affidavit, petition or
31 complaint or given any information or testimony under this act.

32 (5) Refusing to negotiate in good faith with a majority
33 representative of employees in an appropriate unit concerning terms
34 and conditions of employment of employees in that unit, or refusing
35 to process grievances presented by the majority representative.

36 (6) Refusing to reduce a negotiated agreement to writing and to
37 sign such agreement.

38 (7) Violating any of the rules and regulations established by the
39 commission.

40 b. Employee organizations, their representatives or agents are
41 prohibited from:

42 (1) Interfering with, restraining or coercing employees in the
43 exercise of the rights guaranteed to them by this act.

44 (2) Interfering with, restraining or coercing a public employer in
45 the selection of his representative for the purposes of negotiations
46 or the adjustment of grievances.

47 (3) Refusing to negotiate in good faith with a public employer,
48 if they are the majority representative of employees in an

1 appropriate unit concerning terms and conditions of employment of
2 employees in that unit.

3 (4) Refusing to reduce a negotiated agreement to writing and to
4 sign such agreement.

5 (5) Violating any of the rules and regulations established by the
6 commission.

7 c. The commission shall have exclusive power as hereinafter
8 provided to prevent anyone from engaging in any unfair practice
9 listed in subsections a. and b. above. Whenever it is charged that
10 anyone has engaged or is engaging in any such unfair practice, the
11 commission, or any designated agent thereof, shall have authority to
12 issue and cause to be served upon such party a complaint stating the
13 specific unfair practice charged and including a notice of hearing
14 containing the date and place of hearing before the commission or
15 any designated agent thereof; provided that no complaint shall issue
16 based upon any unfair practice occurring more than 6 months prior
17 to the filing of the charge unless the person aggrieved thereby was
18 prevented from filing such charge in which event the 6-month
19 period shall be computed from the day he was no longer so
20 prevented.

21 In any such proceeding, the provisions of the Administrative
22 Procedure Act P.L.1968, c. 410 (C. 52:14B-1 et seq.) shall be
23 applicable. Evidence shall be taken at the hearing and filed with the
24 commission. If, upon all the evidence taken, the commission shall
25 determine that any party charged has engaged or is engaging in any
26 such unfair practice, the commission shall state its findings of fact
27 and conclusions of law and issue and cause to be served on such
28 party an order requiring such party to cease and desist from such
29 unfair practice, and to take such reasonable affirmative action as
30 will effectuate the policies of this act. All cases in which a
31 complaint and notice of hearing on a charge is actually issued by
32 the commission, shall be prosecuted before the commission or its
33 agent, or both, by the representative of the employee organization
34 or party filing the charge or his authorized representative.

35 d. The commission shall at all times have the power and duty,
36 upon the request of any public employer or majority representative,
37 to make a determination as to whether a matter in dispute is within
38 the scope of collective negotiations. The commission shall serve the
39 parties with its findings of fact and conclusions of law. Any
40 determination made by the commission pursuant to this subsection
41 may be appealed to the Appellate Division of the Superior Court.

42 e. The commission shall adopt such rules as may be required to
43 regulate the conduct of representation elections, and to regulate the
44 time of commencement of negotiations and of institution of impasse
45 procedures so that there will be full opportunity for negotiations and
46 the resolution of impasses prior to required budget submission
47 dates.

48 f. The commission shall have the power to apply to the
49 Appellate Division of the Superior Court for an appropriate order

1 enforcing any order of the commission issued under subsection c. or
2 d. hereof, and its findings of fact, if based upon substantial evidence
3 on the record as a whole, shall not, in such action, be set aside or
4 modified; any order for remedial or affirmative action, if reasonably
5 designed to effectuate the purposes of this act, shall be affirmed and
6 enforced in such proceeding.

7 g. The Director of the Division of Local Government Services
8 in the Department of Community Affairs may notify the
9 commission that a municipality deemed a “municipality in need of
10 stabilization and recovery” pursuant to section 4 of P.L. _____,
11 c. (C. _____) (pending before the Legislature as this bill) shall not
12 be subject to the commission’s authority to prevent an unfair
13 practice pursuant to subsection a. of this section. Upon such notice,
14 neither the commission, nor any designee, shall have the authority
15 to issue or cause to be served upon such municipality in need of
16 stabilization and recovery any complaint alleging an unfair practice
17 under subsection a. of this section or to hold any hearings with
18 respect thereto. Nothing in this subsection shall be construed to
19 limit the scope of any general or specific powers of the Local
20 Finance Board or the Director set forth in P.L. _____, c. (C. _____)
21 (pending before the Legislature as this bill).

22 (cf: P.L.1979, c.477, s.1)

23
24 8. (New section) In a municipality in need of stabilization and
25 recovery, the director may prepare the annual budget or to instruct
26 the municipal governing body to prepare and submit a proposed
27 annual budget. If the municipal governing body is submitting a
28 proposed annual budget, the director shall fix a date for the
29 municipal governing body to submit that budget to the Local
30 Finance Board, and the board may approve the budget, modify it or
31 instruct the director to prepare an alternative budget. If the director
32 prepares the budget, it shall be submitted to the Local Finance
33 Board for its approval. Once a budget is approved by the Local
34 Finance Board, the budget shall be deemed adopted.

35 a. The director shall have the authority to make temporary
36 appropriations necessary for the period prior to the adoption of the
37 budget, and to make emergency temporary appropriations pursuant
38 to N.J.S.40A:4-20 to meet an urgent situation or event which
39 immediately endangers the health, safety, or property of the
40 residents of the municipality, and to make emergency
41 appropriations pursuant to N.J.S.40A:4-46.

42 b. The director shall have the authority to spend money and
43 authorize expenditures, in accordance with the approved budget or
44 any temporary or emergency appropriations.

45
46 9. (New section) The director may delegate to the director’s
47 designee any power granted to the Director pursuant to P.L. _____,
48 c. (C. _____) (pending before the Legislature as this bill). The
49 designation to a director’s designee shall be in writing and filed

1 with the Local Finance Board. Any action of a director's designee
2 taken subsequent to the delegation shall be deemed to have been
3 taken by the Director. If any claims are asserted against the
4 director's designee, the director's designee shall, for that purpose
5 only, be considered a State officer within the scope of the "New
6 Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

7
8 10. (New section) In a municipality in need of stabilization and
9 recovery, any initiative approved by the voters of the municipality
10 pursuant to section 17-35 of P.L.1950, c.210 (C.40:69A-184) and
11 any referendum approved pursuant to section 17-36 of P.L.1950,
12 c.210 (C.40:69A-185) shall be advisory only and may be followed,
13 or disregarded, by the Local Finance Board and the director in their
14 discretion. The provisions of this section shall not apply to a
15 referendum approved pursuant to section 11 of P.L. , c. (C.)
16 (pending before the Legislature as this bill).

17
18 11. (New section) a. Notwithstanding the provisions of any law
19 or regulation, including, without limitation, the "Local Bond Law,"
20 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"
21 P.L.1979, c.38 (C. 40A:3-1 et seq.), that requires the adoption of an
22 ordinance or resolution to authorize any action of a municipality, a
23 resolution issued by the director shall suffice in lieu of a municipal
24 ordinance or resolution for all purposes, except for bond
25 ordinances, in a municipality in need of stabilization and recovery.

26 b. In the case of bond ordinances in a municipality in need of
27 stabilization and recovery, the director's resolution in lieu of such
28 ordinances shall be published in full in a newspaper circulating in
29 the municipality and a copy of the resolution shall be filed for
30 public inspection with the municipal clerk of the municipality in
31 need of stabilization and recovery. The publication of the director's
32 resolution shall occur not less than 10 days prior to the time and
33 place of a public hearing to be had on the resolution. The resolution
34 shall become effective on the 45th day after the public hearing,
35 unless:

36 (1) the resolution is modified by the director subsequent to the
37 meeting, in which case there shall be a second public hearing on no
38 less than 10 days' notice; or

39 (2) there is filed with the municipal clerk within 45 days of the
40 hearing, a petition requesting a referendum in said municipality
41 signed by either five percent or 10,000 of the registered voters of
42 said municipality, whichever is lesser.

43 If a petition is filed, the resolution pertaining to the bond
44 measures issued by the director shall be submitted to the registered
45 voters of said municipality at the next general or regular municipal
46 election and in the same manner and form as other public questions
47 to be voted upon by voters of a single municipality.

1 12. (New section) If any provision of P.L. , c. (C.)
 2 (pending before the Legislature as this bill) or its application is held
 3 invalid, the invalidity shall not affect other applications of that
 4 provision, or other provisions of P.L. , c. (C.) (pending
 5 before the Legislature as this bill), which reasonably can be given
 6 effect despite the invalidity, and to this end the provisions of P.L. ,
 7 c. (C.) (pending before the Legislature as this bill) are
 8 severable.

9
 10 ²13. Section 1 of P.L.1999, c.59 (C.43:8C-1) is amended to
 11 read as follows:

12 1. As used in this act, unless the context indicates otherwise:

13 "Chief executive officer" means the mayor of a municipality, the
 14 elected county executive of a county, the director of the board of
 15 chosen freeholders in a county that does not have an elected county
 16 executive, and the chairman or other presiding officer of any other
 17 governing body.

18 "Consolidated municipality" or "municipal consolidation" means
 19 the resultant municipal entity created after approval and adoption of
 20 a public question in favor of consolidation pursuant to the
 21 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et
 22 seq.) , or a municipality in need of stabilization and recovery, as
 23 defined by section 2 of P.L. , c. (C.) (pending before the
 24 Legislature as this bill), for the exclusive purposes of section 2 of
 25 P.L.1999, c.59 (C.438C-2).

26 "Director" means the Director of the Division of Local
 27 Government Services in the Department of Community Affairs.

28 "Governing body" means the board, commission, council or
 29 other body having the control of the finances of a local unit; and in
 30 those local units in which a chief executive officer is authorized by
 31 law to participate in such control through powers of
 32 recommendation, approval or veto, the term includes such executive
 33 officer to the extent of such participation.

34 "Interlocal services contract" means a contract between two or
 35 more local units for the joint provision of governmental services
 36 pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-
 37 1 et seq.).

38 "Joint services contract" means a contract between two or more
 39 local units to form a joint meeting for the joint provision of
 40 governmental services pursuant to the "Consolidated Municipal
 41 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.).

42 "Local unit" means a municipality, consolidated municipality,
 43 county, authority as defined in section 3 of P.L.1983, c.313
 44 (C.40A:5A-3), joint meeting or fire district.

45 (cf: P.L.1999,c.59,s.1)]²

46
 47 ²13. (New section) a. In order to achieve financial stability, a
 48 municipality in need of stabilization and recovery, as determined by
 49 the commissioner pursuant to subsection a. of section 4 of P.L. ,

1 c. (C.) (pending before the Legislature as this bill), may offer
2 and implement an incentive program for retirement or termination
3 of employment after approval of such incentive program by the
4 director. The program shall be limited to full-time employees in
5 any department, office, section, or other organizational component
6 of the municipality in need of stabilization and recovery to achieve
7 financial stability. The incentive program may include one or more
8 of the following:

- 9 (1) cash payments or the purchase of annuities;
10 (2) employer contributions to an approved employee deferred
11 compensation program to the extent permitted by federal law;
12 (3) payment by the municipality for continuation of health
13 benefits coverage after retirement for not more than five years or
14 until the employee attains the age of eligibility for Medicare,
15 whichever occurs first;
16 (4) payment by the municipality for health benefits coverage
17 after retirement under the "New Jersey State Health Benefits
18 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under
19 group insurance contracts pursuant to N.J.S.40A:10-23, for
20 employees and dependents in accordance with the law and rules
21 governing the State Health Benefits Program or the law governing
22 such group insurance contracts, as the case may be, for employees
23 who fail to meet the service requirement for payment for such
24 coverage after retirement by no more than five years, but who are
25 otherwise eligible for employer payment for health benefits
26 coverage after retirement; or
27 (5) additional service credit for employees who are members of
28 the Public Employees' Retirement System of New Jersey, pursuant
29 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's
30 Retirement System of New Jersey, pursuant to P.L.1944, c.255
31 (C.43:16A-1 et seq.), or a municipal retirement system created
32 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275
33 (C.43:13-22.50 et seq.), as provided in this section.

34 b. No later than six months prior to the date on which a
35 proposed incentive program is to begin, the municipality shall
36 submit detailed information concerning the incentive program to the
37 director, in a form and manner prescribed by the director, which
38 shall include the following:

- 39 (1) the governmental services affected by the plan adopted by
40 the municipality pursuant to subsection b. of section 4 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill);
42 (2) the departments, offices, sections, and other organizational
43 components of the municipality to be affected, and a list of the
44 employees thereof;
45 (3) the incentives to be offered;
46 (4) the estimated number of employees who will retire or
47 terminate employment under the incentive program;
48 (5) fiscal information sufficient to demonstrate that the
49 incentive program in conjunction with the plan adopted by the

1 municipality pursuant to subsection b. of section 4 of P.L. _____,
2 c. (C. _____) (pending before the Legislature as this bill) will result in
3 a reduction for the municipality in the number of employees
4 providing the affected governmental services, including information
5 on the number of employees by which the municipality will reduce
6 employment for a period of at least five years;
7 (6) fiscal information sufficient to demonstrate that, taking into
8 consideration the costs of the incentive program, the plan adopted
9 by the municipality pursuant to subsection b. of section 4 of P.L. _____,
10 c. (C. _____) (pending before the Legislature as this bill) will result in
11 a reduction in the cost of providing the affected governmental
12 services for the municipality;
13 (7) information on the fiscal stability of the municipality
14 sufficient to demonstrate that the municipality will be able to pay
15 the costs for the incentive program which will result in net savings
16 and shall not necessitate any increase in property taxes for the
17 municipality;
18 (8) information sufficient to demonstrate that the municipality
19 will continue to provide the affected governmental services without
20 the number of employees that are expected to take the incentive;
21 and
22 (9) any other information which the director may require.
23 c. The director may, for good cause, permit a municipality to
24 submit information without complying with the time period for
25 submission of information or which does not conform to the
26 specific informational requirements of this section.
27 d. The director shall provide to the Director of the Division of
28 Pensions and Benefits in the Department of the Treasury sufficient
29 information relating to the incentive program so that the Director of
30 the Division of Pensions and Benefits may provide to the director:
31 (1) an estimate of the anticipated liability of the affected
32 retirement systems;
33 (2) a determination of whether the incentive program is
34 reasonably calculated to produce a reduction in the number of
35 employees of the municipality; and
36 (3) taking into consideration the liability for the incentive
37 program, an estimate of the net savings in the employment costs to
38 provide the affected governmental services.
39 e. In order to make the calculation required by paragraph (2) of
40 subsection d. of this section, the Director of the Division of
41 Pensions and Benefits in the Department of the Treasury shall
42 submit the proposed incentive program to the actuary of each
43 retirement system which would be affected by the incentive
44 program. Each actuary shall estimate the additional liability to the
45 retirement system for the incentive program, including the liability
46 for the additional service credit and the earlier retirement of
47 employees under the incentive program. Each actuary shall provide
48 the Director of the Division of Pensions and Benefits with an
49 opinion on whether the incentive program is reasonably calculated

1 to produce a reduction in the number of employees of the
2 municipality providing the affected governmental services, and a
3 net savings, taking into consideration the liability for the incentive
4 program, in the employment costs to provide the affected
5 governmental services. The State shall conduct the actuarial work
6 required by this subsection at no charge to the municipality.

7 f. If the incentive program includes the provision of additional
8 service credit under State retirement systems for eligible
9 employees, the beginning and ending dates for the incentive
10 program and the time period during which the eligible employees
11 will have to elect to participate in the incentive program shall be
12 subject to approval by the Director of the Division of Pensions and
13 Benefits in the Department of the Treasury.

14 g. If the director determines that the incentive program will
15 result in the municipality continuing to provide the affected
16 governmental services with fewer employees and at a lower cost,
17 and that the incentive program will result in net savings and will not
18 necessitate any increase in local property taxes for the municipality,
19 the director shall approve the incentive program for
20 implementation.

21 h. For employees who are members of the Police and Firemen's
22 Retirement System of New Jersey, pursuant to P.L.1944, c.255
23 (C.43:16A-1 et seq.), an incentive program for retirement may
24 provide additional months of service credit for an employee who
25 has 20 or more years of service credit on the last day for retirement
26 under the incentive program, so that the employee shall have an
27 aggregate amount of service credit under the retirement system of
28 no more than 30 years on the effective date of retirement. In no
29 case shall more than 60 months of additional service credit be
30 provided under the incentive program.

31 i. For employees who are members of the Public Employees'
32 Retirement System of New Jersey, pursuant to P.L.1954, c.84
33 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive
34 program for retirement may provide not more than 60 additional
35 months of service credit for an employee who has 20 or more years
36 of service credit on the last day for retirement under the incentive
37 program.

38 j. An incentive program may require one or more of the
39 following criteria: a minimum number of years of service credit in a
40 retirement system, a minimum number of years of service with the
41 municipality, or a minimum age for eligibility to participate in the
42 program.

43 k. An employee who receives an incentive benefit for
44 retirement or termination of employment under this section shall
45 forfeit any tenure, civil service, or other employment right for
46 continued employment or for return to employment based upon the
47 employment for which the employee receives the incentive benefit.

48 l. When the needs of the municipality require the continuation
49 in service of an employee who elects to retire and receive an

1 incentive benefit under this section, the effective retirement date of
2 the employee may be delayed, with the approval of the governing
3 body of the municipality and the agreement of the employee, until
4 the first day of any month not later than the twelfth month after the
5 last date for retirement under the incentive program. If an
6 employee whose retirement is delayed under this subsection dies
7 before the retirement becomes effective, the retirement shall be
8 effective on the first day of the month after the date of death of the
9 employee, unless the employee's beneficiary for retirement benefits
10 requests in writing to the board of trustees of the retirement system
11 that benefits payable for death in active service be paid on behalf of
12 the employee.

13 m. An employee retiring with an incentive benefit under this
14 section who has not paid the full amount of a loan from the
15 retirement system by the effective date of retirement may repay the
16 loan through deductions from the monthly retirement benefits in the
17 same monthly amount which was deducted from the member's
18 compensation immediately preceding retirement, until the balance
19 of the amount borrowed with interest at the statutory rate is repaid.
20 If the retiree dies before the outstanding balance of the loan and
21 interest is repaid, the remaining balance shall be repaid as provided
22 in the laws governing the retirement system for repayment of loans.

23 n. Notwithstanding the provisions of the laws governing the
24 retirement system, an employee purchasing service credit to qualify
25 for a benefit under this section ³may³, for each affected retirement
26 system, purchase a portion of the service credit which the employee
27 is eligible to purchase.

28 o. If the incentive program is approved and implemented, the
29 actuary to the affected retirement system shall determine the full
30 amount of the liability of the retirement system for the incentive
31 program including the liability for the additional service credit and
32 the earlier retirement of employees under the incentive program in
33 accordance with the assumptions used by the retirement system to
34 determine the full liabilities of the system. The municipality shall
35 pay the amount of the liability determined by the actuary to the
36 retirement system in a lump sum or through annual installment
37 payments with regular interest at the rate used by the retirement
38 system to determine liabilities and to estimate investment return for
39 a period approved by the Director of the Division of Pensions and
40 Benefits in the Department of the Treasury which shall not exceed
41 15 years. The municipality shall pay the cost for the actuarial work
42 to determine the full liability of the retirement system if the
43 incentive program is approved and implemented. If the
44 municipality does not make payments for the liability, the cost of
45 the actuarial work, and administrative expenses in a timely manner,
46 the municipality shall be subject to interest and penalties on the
47 payments on the same basis provided for late payment of employer
48 contributions to the retirement system under the laws and rules
49 governing the retirement system.

1 p. The Director of the Division of Pensions and Benefits in the
2 Department of the Treasury shall provide the municipality with
3 information on the estimated liability for the proposed incentive
4 program, and actual liability if the program is approved and
5 implemented. If the program provides additional service credit to
6 employees under the Public Employees' Retirement System of New
7 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the
8 Police and Firemen's Retirement System of New Jersey, pursuant to
9 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the
10 eligible employees of the municipality with information on the
11 benefits they would receive under the incentive program, and other
12 appropriate assistance, to enable employees to decide whether to
13 accept the incentive benefit and retire from the retirement systems if
14 they accept the incentive benefit.

15 q. The powers, duties, and responsibilities related to retirement
16 systems under this section for municipal retirement systems shall be
17 exercised and performed by the governing bodies of the retirement
18 systems.

19 r. Prior to the beginning date of the incentive program,
20 appropriate representatives of the governing body of the
21 municipality which implements an incentive program pursuant to
22 this section shall meet and consult with the majority representative
23 of the bargaining unit or units which include the employees of the
24 municipality who would be eligible for the incentive program.

25 s. For a period of five years after the last date for retirement or
26 termination of employment under an incentive program
27 implemented pursuant to this section, the employment level of the
28 municipality for the provision of governmental services previously
29 performed by employees that participated in the incentive program
30 shall not, without the approval of the director, exceed the
31 employment level specified in the incentive program approved by
32 the director. The director may approve an increase in the
33 employment level to provide the affected governmental services if
34 the director determines that:

35 (1) changes in local conditions such as increased residential or
36 commercial development, increased population, or other changes,
37 have created an increased need or demand for the affected
38 governmental services; and

39 (2) an increase in the employment level for the affected
40 governmental services is warranted and will provide for the delivery
41 of governmental services in an effective and cost efficient manner.
42 The municipality shall submit annual reports to the director for five
43 years after the last date for retirement or termination of employment
44 under an incentive program implemented pursuant to this section, in
45 the form and manner required by the director, concerning the
46 number of employees and the employment costs to provide the
47 affected governmental services.

48 t. If the municipality exceeds the employment levels under
49 subsection s. of this section, it shall be required by the director to

1 reimburse the Division of Pensions and Benefits in the Department
2 of the Treasury for the costs of the actuarial work performed for the
3 municipality pursuant to subsection e. of this section, as determined
4 by the director of that division.²

5
6 14. (New section) The enumeration of any specific power or
7 authority granted to the Local Finance Board or the director
8 pursuant to P.L. , c. (C.) (pending before the Legislature
9 as this bill) shall not be construed to limit or restrict in any way the
10 general authorities granted by P.L. , c. (C.) (pending
11 before the Legislature as this bill) to the Local Finance Board or the
12 director to take actions necessary or appropriate to help stabilize the
13 finances, restructure the debts, or assist with the financial
14 rehabilitation and recovery of the municipality in need of
15 stabilization and recovery.

16
17 15. (New section) P.L. , c. (C.) (pending before the
18 Legislature as this bill) shall be construed liberally to give effect to
19 its intent that severe fiscal distress in municipalities in need of
20 stabilization and recovery shall be addressed and corrected. ³【The
21 authorities granted to the director herein are intended to supplement
22 authority provided in the “Local Government Supervision Act
23 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) and other
24 applicable laws. To the extent any inconsistency exists between the
25 terms of P.L. , c. (C.) (pending before the Legislature as
26 this bill) and other applicable laws, the terms of P.L. , c. (C.)
27 (pending before the Legislature as this bill) shall prevail.】³

28
29 ³16. (New section) The authorities granted to the director in
30 P.L. , c. (C.) (pending before the Legislature as this bill)
31 are intended to supplement authority provided in the “Local
32 Government Supervision Act (1947),” P.L.1947, c.151 (C.52:27BB-
33 1 et seq.) and other applicable laws. To the extent any
34 inconsistency exists between the terms of P.L. , c. (C.)
35 (pending before the Legislature as this bill) and other applicable
36 laws, the terms of P.L. , c. (C.) (pending before the
37 Legislature as this bill) shall prevail.³

38
39 ³【16.】 ³17. (New section) The director or the director’s
40 designee shall attend the regularly scheduled meetings of the
41 municipal council in a municipality in need of stabilization and
42 recovery. On or before the first day of the sixth year next following
43 the determination that a municipality is in need of stabilization and
44 recovery pursuant to section 4 of P.L. , c. (C.) (pending
45 before the Legislature as this bill), the director shall provide a final
46 report to the Governor and Legislature regarding the municipality in
47 need of stabilization and recovery.

1 ³~~17.~~ ^{18.} (New section) The State Treasurer, in consultation
2 with the commissioner, shall direct the Director of the Division of
3 Budget and Accounting to transfer appropriations from any State
4 department to any other State department as may be necessary to
5 provide a secured loan, for the exclusive purpose of covering
6 expenses of the municipality during the 2016 calendar year, and for
7 a term not to exceed 180 days, to a municipality for which a
8 recovery plan is required under section 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) to be submitted to the
10 director on such terms and conditions that may be required by the
11 commissioner.²

12
13 ³~~18.~~ ^{19.} (New section) Notwithstanding any law, rule, or
14 regulation to the contrary, the amount of consolidated municipal
15 property tax relief aid and energy tax receipts property tax relief aid
16 paid to a municipality in need of stabilization and recovery shall not
17 be less than the amount certified for the municipality in the
18 Certification of State Aid for Calendar Year 2016 and Fiscal Year
19 2017 Budgets issued by the Division of Local Government Services
20 in the Department of Community Affairs.²

21
22 ²~~17.~~ ³~~19.~~ ^{20.} This act shall take effect immediately ²but
23 shall remain inoperative until the enactment of P.L. , c. (C.)
24 (pending before the Legislature as Senate Bill No.1715 of 2016, as
25 amended).²

26

27

28

29 The “Municipal Stabilization and Recovery Act.”

SENATE, No. 1711

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 29, 2016

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator KEVIN J. O'TOOLE

District 40 (Bergen, Essex, Morris and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

The “Municipal Stabilization and Recovery Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain municipalities confronted by severe
2 fiscal distress and supplementing Title 52 of the Revised Statutes
3 and amending P.L.1977, c.85 and P.L.1974, c.123.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Municipal Stabilization and Recovery Act.”

10
11 2. (New section) The Legislature finds and declares that:

12 a. The short and long-term fiscal stability of local government
13 units is essential to the interests of the citizens of this State to assure
14 the efficient and effective provision of necessary governmental
15 services vital to public health, safety, and welfare, including the fiscal
16 health of our State’s municipalities.

17 b. In certain extreme cases, local governments that experience
18 severe fiscal distress become incapable of addressing the
19 circumstances that led to that extraordinary distress or of developing a
20 comprehensive plan for financial rehabilitation and recovery.

21 c. It is necessary and appropriate for the State to take action to
22 assist local governments experiencing severe budget imbalances and
23 other conditions of severe fiscal distress or emergency by requiring
24 prudent fiscal management and operational efficiencies in the
25 provision of public services.

26 d. As the State entity primarily responsible for the financial
27 integrity and stability of all local government units, the Local Finance
28 Board should be authorized, under certain limited circumstances, to
29 develop a comprehensive rehabilitation plan for local governments that
30 are experiencing severe fiscal distress, and to act on behalf of local
31 government units to remedy the distress.

32
33 3. (New section) As used in this act:

34 “Commissioner” means the Commissioner of Community
35 Affairs.

36 “Director” means the Director of the Division of Local
37 Government Services in the Department of Community Affairs.

38 “Director’s designee” means one or more individuals designated
39 by the director, as the director deems appropriate, to act in the
40 director’s stead or exercise one or more of the authorities granted to
41 the director by the Local Finance Board pursuant to the terms of
42 this Act.

43 “Fiscal distress” means a fiscal condition based on a
44 municipality’s tax rate, cash deficit, insufficient percentage of tax
45 collections, insufficient collection of other revenues, over-
46 anticipation of the revenues of prior years, non-liquidation of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 interfund transfers, reliance on emergency authorizations, continual
2 rollover of tax anticipation notes, inefficiencies in the provision of
3 municipal services such that associated costs substantially exceed
4 costs for similar services in other municipalities, or other factors
5 indicating a constrained ability to meet the municipality's
6 budgetary requirements.

7 "Governing body" means the municipal council, committee,
8 board, or other entity having control of the finances of a
9 municipality, and shall include the mayor.

10 "Local Finance Board" means the Local Finance Board in the
11 Division of Local Government Services in the Department of
12 Community Affairs.

13 "Municipality in need of stabilization and recovery" means a
14 municipality that: (1) has experienced a decrease of more than 50
15 percent in its total assessed property values during the immediately
16 preceding five-year period, as determined by the director, and, upon
17 the recommendation of the director finding that the municipality is
18 experiencing fiscal distress, the commissioner determines the
19 municipality should appropriately be subject to the provisions of
20 P.L. , c. (C.) (pending before the Legislature as this bill); and
21 (2) has experienced an increase in outstanding debt exceeding 50
22 percent during the immediately preceding five-year period, as
23 determined by the director, and upon the recommendation of the
24 director finding that the municipality is experiencing fiscal distress,
25 the commissioner determines the municipality should appropriately
26 be subject to the provisions of P.L. , c. (C.) (pending before
27 the Legislature as this bill).

28
29 4. (New section) The director may ascertain whether a
30 municipality should be deemed a municipality in need of
31 stabilization and recovery. If the director ascertains that a
32 municipality should be deemed a municipality in need of
33 stabilization and recovery, the director shall recommend that the
34 commissioner make that determination. Within 14 days of receipt
35 of the director's recommendation, the commissioner shall make the
36 final determination of whether to deem the municipality a
37 municipality in need of stabilization and recovery and subject to the
38 provisions of P.L. , c. (C.) (pending before the Legislature
39 as this bill). The commissioner shall notify the Governor, the State
40 Treasurer, and the director when a determination has been made and
41 a municipality is subject to the provisions of P.L. , c. (C.)
42 (pending before the Legislature as this bill). The director shall then
43 notify the municipal clerk, or other appropriate municipal official of
44 the municipality, in writing, of the determination. A municipality
45 in need of stabilization and recovery shall be subject to the
46 provisions of P.L. , c. (C.) (pending before the Legislature
47 as this bill) for a period of five consecutive years.

1 5. (New section) a. (1) Notwithstanding the provisions of any
2 law, rule, or regulation to the contrary, upon the determination by
3 the commissioner that a municipality is in need of stabilization and
4 recovery, and at any time during the succeeding five years, the
5 Local Finance Board may, in its exclusive discretion, assume and
6 reallocate to, and vest exclusively in the director any of the
7 functions, powers, privileges, and immunities of the governing body
8 of that municipality set forth in any statute, regulation, ordinance,
9 resolution, charter, or contract to which the municipality is a party
10 that are, or may be, substantially related to the fiscal condition or
11 financial rehabilitation and recovery of that municipality. The
12 duration of the transfer of the functions, powers, privileges, and
13 immunities of the governing body shall not exceed five consecutive
14 years.

15 (2) In the event the Local Finance Board assumes and
16 reallocates to the director any function, power, privilege, or
17 immunity of the governing body of a municipality in need of
18 stabilization and recovery set forth in a contract to which that
19 municipality is a party, the municipality shall remain the party to
20 the contract and neither the Local Finance Board nor the director
21 shall assume any contractual obligations or liability arising out of
22 that contract or be subject to any claim for breach of that contract or
23 any other claim related to that contract. Any actions or steps taken
24 by the director under P.L. , c. (C.) (pending before the
25 Legislature as this bill) shall be deemed to be by, and on behalf of,
26 the municipality in need of stabilization.

27 (3) The authorities granted to the director by the Local Finance
28 Board pursuant to this section shall extend to any and all actions
29 that, in the exclusive discretion of the director, may help stabilize
30 the finances, restructure the debts, or assist in the financial
31 rehabilitation and recovery of the municipality in need of
32 stabilization and recovery. Notwithstanding the provisions of any
33 law, rule, regulation, or contract to the contrary, the director shall
34 have the authority to take any steps to stabilize the finances,
35 restructure the debts, or assist in the financial rehabilitation and
36 recovery of the municipality in need of stabilization and recovery,
37 including, but not limited to:

38 (a) implementing governmental, administrative, and operational
39 efficiency and oversight measures;

40 (b) dissolving, terminating, transferring, abolishing, or otherwise
41 disposing of any municipal authority, board, commission, or
42 department, or any function thereof; provided, however, that no
43 such action shall be taken until adequate provision has been made
44 for the payment of the creditors or obligees of the entity to be
45 impacted unless otherwise permitted by law. This shall include the
46 power to take any steps required of the governing body under
47 applicable laws, including but not limited to the “municipal and
48 county utilities authorities law,” P.L.1957, c.183 (C.40:14B-1 et

1 seq.), the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
2 (C.40A:5A-1 et seq.) the “Water Infrastructure Protection Act,”
3 P.L.2015, c.18 (C.58:30-1 et seq.), the “Local Redevelopment and
4 Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et seq.), and the
5 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).
6 To the extent that the Local Finance Board or the director exercise
7 any powers under the “Local Authorities Fiscal Control Law,”
8 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal
9 authority or municipal public utility in the municipality in need of
10 stabilization and recovery;

11 (c) vetoing the minutes of the governing body of the
12 municipality in need of stabilization and recovery, any board,
13 commission, or department of the municipality in need of
14 stabilization and recovery, and any independent board or authority
15 in the municipality in need of stabilization and recovery, including,
16 but not limited to, the housing authority, parking authority,
17 redevelopment authority, planning board, and zoning board of
18 adjustment. A true copy of the minutes of every meeting of the
19 governing body and any board, commission, department, or
20 independent board, or authority shall be delivered forthwith, by and
21 under the certification of the secretary thereof, to the director. No
22 action taken at the meeting shall have force or effect until 15
23 business days after a copy of the minutes have been so delivered to
24 the director, unless during this 15-day period the director shall
25 approve in writing the minutes or any part thereof, in which case
26 the action shall become effective upon approval. If, within that 15-
27 day period, the director returns a copy of the minutes with a veto of
28 any action taken by the governing body, board, commission,
29 department, or independent board or authority, or any member
30 thereof at the meeting, the action shall be null and void and of no
31 effect. The director may approve all or part of the action taken at a
32 meeting;

33 (d) controlling litigation and the municipality’s legal affairs,
34 including, but not limited to, suing in the municipality’s corporate
35 name; prosecuting, defending, and resolving litigation, arbitration,
36 disputes, and controversies; and retaining and directing municipal
37 corporation counsel and other special counsel as the director may
38 deem appropriate;

39 (e) selling, conveying, leasing, monetizing, or otherwise
40 disposing of any interest in any municipally-owned assets,
41 including but not limited to, any water, sewer, wastewater, and
42 storm water infrastructure, equipment or facilities, services, and in
43 any real property, including any improvements thereon; provided
44 that the director shall not sell, convey, lease, monetize, or otherwise
45 dispose of any municipally-owned water asset until one-year after
46 the effective date of P.L. , c. (C.) (pending before the
47 Legislature as this bill) to allow the municipality in need of
48 stabilization and recovery to maximize the value of that asset;

1 (f) amending or terminating any existing contracts or
2 agreements, which shall not include bonds, notes, indentures, or
3 other similar financing instruments and documents to which the
4 municipality is a party, in accordance with the terms thereof; or
5 unilaterally amending or terminating any contracts or agreements
6 which shall not include bonds, notes, indentures, or other similar
7 financing instruments and documents to which the municipality is a
8 party, provided that the director determines that the unilateral
9 termination or amendment is reasonable and directly related to
10 stabilizing the finances or assisting with the fiscal rehabilitation and
11 recovery of the municipality in need of stabilization and recovery;

12 (g) unilaterally modifying, amending, or terminating any
13 collective negotiations agreements, except those related to school
14 districts, to which the municipality is a party, or unilaterally
15 modifying, amending, or terminating the terms and conditions of
16 employment during the term of any applicable collective
17 negotiations agreement, or both, provided that the director
18 determines that the modifications, amendments, or terminations are
19 reasonable and directly related to stabilizing the finances or
20 assisting with the fiscal rehabilitation and recovery of the
21 municipality in need of stabilization and recovery;

22 (h) acting as the sole agent in collective negotiations on behalf
23 of the municipality in need of stabilization and recovery;

24 (i) with respect to any expired collective negotiations agreement
25 to which the municipality in need of stabilization and recovery is a
26 party, unilaterally modifying wages, hours, or any other terms and
27 conditions of employment;

28 (j) unilaterally abolishing any non-elected positions in the
29 municipality in need of stabilization and recovery at any time. All
30 of the functions, powers, and duties of abolished positions shall be
31 exercised or delegated by the director; provided, however, that the
32 provisions of Title 11A, Civil Service, shall not apply to any
33 employment action under this paragraph;

34 (k) unilaterally appointing, transferring, or removing employees
35 of the municipality in need of stabilization and recovery, including,
36 but not limited to, department heads and division heads, as the case
37 may be, but excluding appointed officials who have obtained tenure
38 in office; provided, however, that the provisions of Title 11A, Civil
39 Service, shall not apply to any employment action under this
40 paragraph;

41 (l) acting as the appropriate authority, including, without
42 limitation, the appointing authority, for purposes of Title 40A of the
43 New Jersey Statutes;

44 (m) entering into any agreement with the county in which the
45 municipality in need of stabilization and recovery is located, any of
46 the other municipalities located in that county, or any
47 instrumentality of the State to share or consolidate municipal
48 services pursuant to any law applicable to consolidation or sharing

1 of services, including, without limitation, the “Uniform Shared
2 Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et al.)
3 and P.L. 2015, c.279 (C.);

4 (n) procuring any goods, services, commodities, information
5 technology, software, hardware, or other items on behalf of the
6 municipality in need of stabilization and recovery, in accordance
7 with either the “Local Public Contracts Law,” P.L.1971, c.198
8 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at
9 the discretion of the director;

10 (o) retaining any professionals on behalf of the municipality in
11 need of stabilization and recovery, and directing the work of
12 professionals or any professionals previously retained by the
13 municipality in need of stabilization and recovery, in accordance
14 with either the “Local Public Contracts Law,” P.L.1971, c.198
15 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at
16 the discretion of the director;

17 (p) retaining bond counsel, adopting bond ordinances to the
18 extent necessary, making appropriate bond applications, and taking
19 any other steps necessary to restructure and adjust debt, on behalf of
20 the municipality in need of stabilization and recovery;

21 (q) exercising on behalf of the municipality in need of
22 stabilization and recovery any authority granted to a municipality
23 pursuant to the “Local Redevelopment and Housing Law,”
24 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it
25 necessary or appropriate to help stabilize the finances, restructure
26 the debts, or assist with the financial rehabilitation and recovery of
27 the municipality in need of stabilization and recovery;

28 (r) exercising on behalf of the municipality in need of
29 stabilization and recovery any authority granted to a municipality
30 pursuant to the “Redevelopment Area Bond Financing Law,”
31 P.L.2001, c.310 (C. 40A:12A-64 et seq.) when the director deems it
32 necessary or appropriate to help stabilize the finances, restructure
33 the debts, or assist with the financial rehabilitation and recovery of
34 the municipality in need of stabilization and recovery;

35 (s) exercising on behalf of the municipality in need of
36 stabilization and recovery any authority granted to a municipality
37 pursuant to the “Long Term Tax Exemption Law,” P. L.1991, c.431
38 (C.40A:20-1 et seq.) when the director deems it necessary or
39 appropriate to help stabilize the finances, restructure the debts, or
40 assist the financial rehabilitation and recovery of the municipality in
41 need of stabilization and recovery;

42 (t) authorizing and filing, on behalf of the municipality in need
43 of stabilization and recovery, subject only to the written approval of
44 the majority of the members of the legislative Joint Budget
45 Oversight Committee, a petition and other pleadings and papers
46 with any United States court or federal bankruptcy court for the
47 purpose of effecting a plan of readjustment or composition of debts
48 as set forth in R.S.52:27-40 et seq., and taking any other and further

1 actions necessary or appropriate in connection with any case or
2 proceeding; and

3 (u) negotiating and executing any contracts, agreements, or
4 other documents on behalf of the municipality in need of
5 stabilization and recovery as may be necessary or appropriate to
6 effectuate any of the actions or steps specifically identified in P.L. ,
7 c. (C.) (pending before the Legislature as this bill) or that
8 may otherwise, as the director deems necessary or appropriate, help
9 stabilize the finances, restructure the debts, or assist with the
10 financial rehabilitation and recovery of the municipality in need of
11 stabilization and recovery.

12 (4) Subject to subsection b. of section 11 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the Local Finance
14 Board may authorize the director to take any action authorized to be
15 taken under the "Local Bond Law," N.J.S.40A:2-1 et seq., and the
16 "Municipal Qualified Bond Act," P.L.1976, c.38 (C.40A:3-1 et
17 seq.) by a governing body of a local unit.

18 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and
19 regulations promulgated thereunder, shall in no way infringe on the
20 authority of the Local Finance Board or the director set forth in this
21 section or any actions taken by the director pursuant to this section.

22 (6) Any function, power, privilege, or immunity of the
23 municipal governing body that is not assumed by the Local Finance
24 Board and reallocated to and vested exclusively in the director
25 pursuant to this section shall remain allocated to and vested in that
26 governing body unless and until such time as the function, power,
27 privilege, immunity, or duty may be allocated to and vested
28 exclusively in the Local Finance Board or the director pursuant to
29 this section. The Local Finance Board or the director may exercise
30 any power implied or incidental to a power that has been
31 specifically allocated.

32 b. (1) Notwithstanding the provisions of any law, rule, or
33 regulation to the contrary, including any requirements set forth in
34 chapter 49 of Title 40 of the Revised Statutes (C.40:49-1 et seq.),
35 the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
36 c.231 (C.10:4-6 et seq.), or section 2 of P.L.1935, c.193 (C.52:27-
37 41), the director shall have the exclusive authority to pass, adopt,
38 repeal, or amend any ordinance or resolution of the municipality in
39 need of stabilization and recovery, modify any meeting agenda of
40 the governing body of the municipality in need of stabilization and
41 recovery, and negotiate, enter into, amend, or terminate any contract
42 or agreement, on behalf of the municipality in need of stabilization
43 and recovery, provided that the director deems the action necessary
44 or appropriate to help stabilize the finances, restructure the debts, or
45 assist with the financial rehabilitation and recovery of the
46 municipality in need of stabilization and recovery.

47 (2) When exercising powers under this section, the director
48 shall, to the extent practicable, comply with all notice, hearing, and

1 other requirements to which the municipality in need of
2 stabilization and recovery is generally subject, but in no instance
3 shall the director be deemed a "public body" pursuant to the
4 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
5 c.231 (C.10:4-6 et seq.).

6 (3) The director may issue to the appropriate elected and
7 appointed officials and employees, agents, and contractors of a
8 municipality in need of stabilization and recovery the orders that the
9 director deems appropriate to stabilize the finances, restructure the
10 debts, or assist the financial rehabilitation and recovery of the
11 municipality in need of stabilization and recovery pursuant to the
12 authority granted by the Local Finance Board pursuant to this
13 section. Any order by the director shall be binding on the
14 appropriate elected and appointed officials and employees, agents,
15 and contractors of a municipality in need of stabilization and
16 recovery and may be enforced as other orders of the director are
17 enforced under general law.

18

19 6. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to read
20 as follows:

21 3. a. (1) Negotiations between a public fire or police
22 department and an exclusive representative concerning the terms
23 and conditions of employment shall begin at least 120 days prior to
24 the day on which their collective negotiation agreement is to expire.
25 The parties shall meet at least three times during that 120-day
26 period. The first of those three meetings shall take place no later
27 than the 90th day prior to the day on which their collective
28 negotiation agreement is to expire. By mutual consent, the parties
29 may agree to extend the period during which the second and third
30 meetings are required to take place beyond the day on which their
31 collective negotiation agreement is to expire. A violation of this
32 paragraph shall constitute an unfair practice and the violator shall
33 be subject to the penalties prescribed by the commission pursuant to
34 rule and regulation.

35 Prior to the expiration of their collective negotiation agreement,
36 either party may file an unfair practice charge with the commission
37 alleging that the other party is refusing to negotiate in good faith.
38 The charge shall be filed in the manner, form and time specified by
39 the commission in rule and regulation. If the charge is sustained,
40 the commission shall order that the respondent be assessed for all
41 legal and administrative costs associated with the filing and
42 resolution of the charge; if the charge is dismissed, the commission
43 shall order that the charging party be assessed for all legal and
44 administrative costs associated with the filing and resolution of the
45 charge. The filing and resolution of the unfair practice charge shall
46 not delay or impair the impasse resolution process.

47 (2) Whenever those negotiations concerning the terms and
48 conditions of employment shall reach an impasse, the commission,

1 through the Division of Public Employment Relations shall, upon
2 the request of either party, or upon its own motion take such steps,
3 including the assignment of a mediator, as it may deem expedient to
4 effect a voluntary resolution of the impasse.

5 b. (1) In the event of a failure to resolve the impasse by
6 mediation, the Division of Public Employment Relations, at the
7 request of either party, shall invoke factfinding with
8 recommendation for settlement of all issues in dispute unless the
9 parties reach a voluntary settlement prior to the issuance of the
10 factfinder's report and recommended terms of settlement.
11 Factfindings shall be limited to those issues that are within the
12 required scope of negotiations unless the parties to the factfinding
13 agree to factfinding on permissive subjects of negotiation.

14 (2) Notwithstanding the provisions of paragraph (2) of
15 subsection a. of this section or paragraph (1) of this subsection,
16 either party may petition the commission for arbitration on or after
17 the date on which their collective negotiation agreement expires.
18 The petition shall be filed in a manner and form prescribed by the
19 commission. The party filing the petition shall notify the other
20 party of its action. The notice shall be given in a manner and form
21 prescribed by the commission.

22 Any mediation or factfinding invoked pursuant to paragraph (2)
23 of subsection a. of this section or paragraph (1) of subsection b. of
24 this section shall terminate immediately upon the filing of a petition
25 for arbitration.

26 (3) Upon the filing of a petition for arbitration pursuant to
27 paragraph (2) of this subsection, an arbitrator selected pursuant to
28 paragraph (1) of subsection e. of this section shall conduct an initial
29 meeting as a mediation session to effect a voluntary resolution of
30 the impasse.

31 c. (Deleted by amendment, P.L.2010, c.105)

32 d. The resolution of issues in dispute shall be binding arbitration
33 under which the award on the unsettled issues is determined by
34 conventional arbitration. The arbitrator shall determine whether the
35 total net annual economic changes for each year of the agreement
36 are reasonable under the nine statutory criteria set forth in
37 subsection g. of this section and shall adhere to the limitations set
38 forth in section 2 of P.L.2010, c.105 (C.34:13A-16.7). The non-
39 petitioning party, within five days of receipt of the petition, shall
40 separately notify the commission in writing of all issues in dispute.
41 The filing of the written response shall not delay, in any manner,
42 the interest arbitration process.

43 e. (1) The commission shall take measures to assure the
44 impartial selection of an arbitrator or arbitrators from its special
45 panel of arbitrators. On the first business day following receipt of
46 an interest arbitration petition, the commission shall, independent of
47 and without any participation by either of the parties, randomly
48 select an arbitrator from its special panel of arbitrators. The

1 selection by the commission shall be final and shall not be subject
2 to review or appeal.

3 (2) Applicants for initial appointment to the commission's
4 special panel of arbitrators shall be chosen based on their
5 professional qualifications, knowledge, and experience, in
6 accordance with the criteria and rules adopted by the commission.
7 Such rules shall include relevant knowledge of local government
8 operations and budgeting. Appointment to the commission's special
9 panel of arbitrators shall be for a three-year term, with
10 reappointment contingent upon a screening process similar to that
11 used for determining initial appointments. Arbitrators currently
12 serving on the panel shall demonstrate to the commission their
13 professional qualification, knowledge and experience, in accordance
14 with the criteria and rules adopted by the commission, within one
15 year of the effective date of this act. Any arbitrator who does not
16 satisfactorily demonstrate such to the commission within the
17 specified time shall be disqualified.

18 (3) Arbitrators serving on the commission's special panel shall
19 be guided by and subject to the objectives and principles set forth in
20 the "Code of Professional Responsibility for Arbitrators of Labor-
21 Management Disputers [Disputes]" of the National Academy of
22 Arbitrators, the American Arbitration Association, and the Federal
23 Mediation and Conciliation Service.

24 (4) Arbitrators shall be required to complete annual training
25 offered by the State Ethics Commission. Any arbitrator failing to
26 satisfactorily complete the annual training shall be immediately
27 removed from the special panel.

28 The commission may suspend, remove, or otherwise discipline
29 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),
30 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.
31 An arbitrator who fails to render an award within the time
32 requirements set forth in this section shall be fined \$ 1,000 for each
33 day that the award is late.

34 f. (1) At a time prescribed by the commission, the parties shall
35 submit to the arbitrator their final offers on each economic and non-
36 economic issue in dispute. The offers submitted pursuant to this
37 section shall be used by the arbitrator for the purposes of
38 determining an award pursuant to subsection d. of this section.

39 (2) In the event of a dispute, the commission shall have the
40 power to decide which issues are economic issues. Economic
41 issues include those items which have a direct relation to employee
42 income including wages, salaries, hours in relation to earnings, and
43 other forms of compensation such as paid vacation, paid holidays,
44 health and medical insurance, and other economic benefits to
45 employees.

46 (3) Throughout formal arbitration proceedings the chosen
47 arbitrator may mediate or assist the parties in reaching a mutually
48 agreeable settlement.

1 All parties to arbitration shall present, at the formal hearing
2 before the issuance of the award, written estimates of the financial
3 impact of their last offer on the taxpayers of the local unit to the
4 arbitrator with the submission of their last offer.

5 (4) Arbitration shall be limited to those subjects that are within
6 the required scope of collective negotiations, except that the parties
7 may agree to submit to arbitration one or more permissive subjects
8 of negotiation.

9 (5) The decision of an arbitrator or panel of arbitrators shall
10 include an opinion and an award, and shall be rendered within 90
11 calendar days of the commission's assignment of that arbitrator.

12 Each arbitrator's decision shall be accompanied by a written
13 report explaining how each of the statutory criteria played into the
14 arbitrator's determination of the final award. The report shall
15 certify that the arbitrator took the statutory limitations imposed on
16 the local levy cap into account in making the award.

17 Any arbitrator violating the provisions of this paragraph may be
18 subject to the commission's powers under paragraph (3) of
19 subsection e. of this section. The decision shall be final and binding
20 upon the parties and shall be irreversible, except:

21 (a) Within 14 calendar days of receiving an award, an aggrieved
22 party may file notice of an appeal of an award to the commission on
23 the grounds that the arbitrator failed to apply the criteria specified
24 in subsection g. of this section or violated the standards set forth in
25 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form
26 and manner prescribed by the commission. In deciding an appeal,
27 the commission, pursuant to rule and regulation and upon petition,
28 may afford the parties the opportunity to present oral arguments.
29 The commission may affirm, modify, correct or vacate the award or
30 may, at its discretion, remand the award to the same arbitrator or to
31 another arbitrator, selected by lot, for reconsideration. The
32 commission's decision shall be rendered no later than 60 calendar
33 days after the filing of the appeal with the commission.

34 Arbitration appeal decisions shall be accompanied by a written
35 report explaining how each of the statutory criteria played into their
36 determination of the final award. The report shall certify that in
37 deciding the appeal, the commission took the local levy cap into
38 account in making the award.

39 An aggrieved party may appeal a decision of the commission to
40 the Appellate Division of the Superior Court.

41 (b) An arbitrator's award shall be implemented immediately.

42 (6) The parties shall share equally the costs of arbitration subject
43 to a fee schedule approved by the commission. The fee schedule
44 shall provide that the cost of services provided by the arbitrator
45 shall not exceed \$ 1,000 per day. The total cost of services of an
46 arbitrator shall not exceed \$ 10,000. If the parties cancel an
47 arbitration proceeding without good cause, the arbitrator may
48 impose a fee of not more than \$ 500. The parties shall share equally

1 in paying that fee if the request to cancel or adjourn is a joint
2 request. Otherwise, the party causing such cancellation shall be
3 responsible for payment of the entire fee.

4 g. The arbitrator shall decide the dispute based on a reasonable
5 determination of the issues, giving due weight to those factors listed
6 below that are judged relevant for the resolution of the specific
7 dispute. In the award, the arbitrator or panel of arbitrators shall
8 indicate which of the factors are deemed relevant, satisfactorily
9 explain why the others are not relevant, and provide an analysis of
10 the evidence on each relevant factor; provided, however, that in
11 every interest arbitration proceeding, the parties shall introduce
12 evidence regarding the factor set forth in paragraph (6) of this
13 subsection and the arbitrator shall analyze and consider the factor
14 set forth in paragraph (6) of this subsection in any award:

15 (1) The interests and welfare of the public. Among the items the
16 arbitrator or panel of arbitrators shall assess when considering this
17 factor are the limitations imposed upon the employer by P.L.1976,
18 c.68 (C.40A:4-45.1 et seq.).

19 (2) Comparison of the wages, salaries, hours, and conditions of
20 employment of the employees involved in the arbitration
21 proceedings with the wages, hours, and conditions of employment
22 of other employees performing the same or similar services and
23 with other employees generally:

24 (a) In private employment in general; provided, however, each
25 party shall have the right to submit additional evidence for the
26 arbitrator's consideration.

27 (b) In public employment in general; provided, however, each
28 party shall have the right to submit additional evidence for the
29 arbitrator's consideration.

30 (c) In public employment in the same or similar comparable
31 jurisdictions, as determined in accordance with section 5 of
32 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each
33 party shall have the right to submit additional evidence concerning
34 the comparability of jurisdictions for the arbitrator's consideration.

35 (3) The overall compensation presently received by the
36 employees, inclusive of direct wages, salary, vacations, holidays,
37 excused leaves, insurance and pensions, medical and hospitalization
38 benefits, and all other economic benefits received.

39 (4) Stipulations of the parties.

40 (5) The lawful authority of the employer. Among the items the
41 arbitrator or panel of arbitrators shall assess when considering this
42 factor are the limitations imposed upon the employer by P.L.1976,
43 c.68 (C.40A:4-45.1 et seq.).

44 (6) The financial impact on the governing unit, its residents, the
45 limitations imposed upon the local unit's property tax levy pursuant
46 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.
47 When considering this factor in a dispute in which the public
48 employer is a county or a municipality, the arbitrator or panel of

1 arbitrators shall take into account, to the extent that evidence is
2 introduced, how the award will affect the municipal or county
3 purposes element, as the case may be, of the local property tax; a
4 comparison of the percentage of the municipal purposes element or,
5 in the case of a county, the county purposes element, required to
6 fund the employees' contract in the preceding local budget year with
7 that required under the award for the current local budget year; the
8 impact of the award for each income sector of the property
9 taxpayers of the local unit; the impact of the award on the ability of
10 the governing body to (a) maintain existing local programs and
11 services, (b) expand existing local programs and services for which
12 public moneys have been designated by the governing body in a
13 proposed local budget, or (c) initiate any new programs and services
14 for which public moneys have been designated by the governing
15 body in a proposed local budget.

16 (7) The cost of living.

17 (8) The continuity and stability of employment including
18 seniority rights and such other factors not confined to the foregoing
19 which are ordinarily or traditionally considered in the determination
20 of wages, hours, and conditions of employment through collective
21 negotiations and collective bargaining between the parties in the
22 public service and in private employment.

23 (9) Statutory restrictions imposed on the employer. Among the
24 items the arbitrator or panel of arbitrators shall assess when
25 considering this factor are the limitations imposed upon the
26 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

27 h. A mediator, factfinder, or arbitrator while functioning in a
28 mediatory capacity shall not be required to disclose any files,
29 records, reports, documents, or other papers classified as
30 confidential received or prepared by him or to testify with regard to
31 mediation, conducted by him under this act on behalf of any party
32 to any cause pending in any type of proceeding under this act.
33 Nothing contained herein shall exempt such an individual from
34 disclosing information relating to the commission of a crime.

35 i. The Director of the Division of Local Government Services in
36 the Department of Community Affairs may notify the commission,
37 through the Division of Public Employment Relations, that a
38 municipality deemed a "municipality in need of stabilization and
39 recovery" pursuant to section 4 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) will not participate in any
41 impassé procedures authorized by this section. Upon such notice,
42 any pending impassé procedures authorized by this section shall
43 immediately cease, and any pending petition for arbitration shall be
44 vacated. Nothing in this subsection shall be construed to limit the
45 scope of any general or specific powers of the Local Finance Board
46 or the director set forth in P.L. , c. (C.) (pending before
47 the Legislature as this bill).

1 j. The Local Finance Board may provide that any arbitration
2 award, including but not limited to an interest arbitration award,
3 involving a municipality deemed a “municipality in need of
4 stabilization and recovery” pursuant to section 4 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be subject to the
6 review and approval of the Director of the Division of Local
7 Government Services in the Department of Community Affairs,
8 including those on a collective negotiations agreement where the
9 matter has been submitted to an arbitrator pursuant to law, and no
10 such award shall be binding without the approval of the director.
11 Nothing in this subsection shall be construed to limit the scope of
12 any general or specific powers of the Local Finance Board or the
13 director set forth in P.L. , c. (C.) (pending before the
14 Legislature as this bill).
15 (cf: P.L.2014, c.11, s.1)

16
17 7. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to
18 read as follows:

19 a. Public employers, their representatives or agents are
20 prohibited from:

21 (1) Interfering with, restraining or coercing employees in the
22 exercise of the rights guaranteed to them by this act.

23 (2) Dominating or interfering with the formation, existence or
24 administration of any employee organization.

25 (3) Discriminating in regard to hire or tenure of employment or
26 any term or condition of employment to encourage or discourage
27 employees in the exercise of the rights guaranteed to them by this
28 act.

29 (4) Discharging or otherwise discriminating against any
30 employee because he has signed or filed an affidavit, petition or
31 complaint or given any information or testimony under this act.

32 (5) Refusing to negotiate in good faith with a majority
33 representative of employees in an appropriate unit concerning terms
34 and conditions of employment of employees in that unit, or refusing
35 to process grievances presented by the majority representative.

36 (6) Refusing to reduce a negotiated agreement to writing and to
37 sign such agreement.

38 (7) Violating any of the rules and regulations established by the
39 commission.

40 b. Employee organizations, their representatives or agents are
41 prohibited from:

42 (1) Interfering with, restraining or coercing employees in the
43 exercise of the rights guaranteed to them by this act.

44 (2) Interfering with, restraining or coercing a public employer in
45 the selection of his representative for the purposes of negotiations
46 or the adjustment of grievances.

47 (3) Refusing to negotiate in good faith with a public employer,
48 if they are the majority representative of employees in an

1 appropriate unit concerning terms and conditions of employment of
2 employees in that unit.

3 (4) Refusing to reduce a negotiated agreement to writing and to
4 sign such agreement.

5 (5) Violating any of the rules and regulations established by the
6 commission.

7 c. The commission shall have exclusive power as hereinafter
8 provided to prevent anyone from engaging in any unfair practice
9 listed in subsections a. and b. above. Whenever it is charged that
10 anyone has engaged or is engaging in any such unfair practice, the
11 commission, or any designated agent thereof, shall have authority to
12 issue and cause to be served upon such party a complaint stating the
13 specific unfair practice charged and including a notice of hearing
14 containing the date and place of hearing before the commission or
15 any designated agent thereof; provided that no complaint shall issue
16 based upon any unfair practice occurring more than 6 months prior
17 to the filing of the charge unless the person aggrieved thereby was
18 prevented from filing such charge in which event the 6-month
19 period shall be computed from the day he was no longer so
20 prevented.

21 In any such proceeding, the provisions of the Administrative
22 Procedure Act P.L.1968, c. 410 (C. 52:14B-1 et seq.) shall be
23 applicable. Evidence shall be taken at the hearing and filed with the
24 commission. If, upon all the evidence taken, the commission shall
25 determine that any party charged has engaged or is engaging in any
26 such unfair practice, the commission shall state its findings of fact
27 and conclusions of law and issue and cause to be served on such
28 party an order requiring such party to cease and desist from such
29 unfair practice, and to take such reasonable affirmative action as
30 will effectuate the policies of this act. All cases in which a
31 complaint and notice of hearing on a charge is actually issued by
32 the commission, shall be prosecuted before the commission or its
33 agent, or both, by the representative of the employee organization
34 or party filing the charge or his authorized representative.

35 d. The commission shall at all times have the power and duty,
36 upon the request of any public employer or majority representative,
37 to make a determination as to whether a matter in dispute is within
38 the scope of collective negotiations. The commission shall serve the
39 parties with its findings of fact and conclusions of law. Any
40 determination made by the commission pursuant to this subsection
41 may be appealed to the Appellate Division of the Superior Court.

42 e. The commission shall adopt such rules as may be required to
43 regulate the conduct of representation elections, and to regulate the
44 time of commencement of negotiations and of institution of impasse
45 procedures so that there will be full opportunity for negotiations and
46 the resolution of impasses prior to required budget submission
47 dates.

1 f. The commission shall have the power to apply to the
2 Appellate Division of the Superior Court for an appropriate order
3 enforcing any order of the commission issued under subsection c. or
4 d. hereof, and its findings of fact, if based upon substantial evidence
5 on the record as a whole, shall not, in such action, be set aside or
6 modified; any order for remedial or affirmative action, if reasonably
7 designed to effectuate the purposes of this act, shall be affirmed and
8 enforced in such proceeding.

9 g. The Director of the Division of Local Government Services in
10 the Department of Community Affairs may notify the commission
11 that a municipality deemed a "municipality in need of stabilization
12 and recovery" pursuant to section 4 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall not be subject to
14 the commission's authority to prevent an unfair practice pursuant to
15 subsection a. of this section. Upon such notice, neither the
16 commission, nor any designee, shall have the authority to issue or
17 cause to be served upon such municipality in need of stabilization
18 and recovery any complaint alleging an unfair practice under
19 subsection a. of this section or to hold any hearings with respect
20 thereto. Nothing in this subsection shall be construed to limit the
21 scope of any general or specific powers of the Local Finance Board
22 or the Director set forth in P.L. , c. (C.) (pending before
23 the Legislature as this bill).

24 (cf: P.L.1979, c.477, s.1)

25
26 8. (New section) In a municipality in need of stabilization and
27 recovery, the director may prepare the annual budget or to instruct
28 the municipal governing body to prepare and submit a proposed
29 annual budget. If the municipal governing body is submitting a
30 proposed annual budget, the director shall fix a date for the
31 municipal governing body to submit that budget to the Local
32 Finance Board, and the board may approve the budget, modify it or
33 instruct the director to prepare an alternative budget. If the director
34 prepares the budget, it shall be submitted to the Local Finance
35 Board for its approval. Once a budget is approved by the Local
36 Finance Board, the budget shall be deemed adopted.

37 a. The director shall have the authority to make temporary
38 appropriations necessary for the period prior to the adoption of the
39 budget, and to make emergency temporary appropriations pursuant
40 to N.J.S.40A:4-20 to meet an urgent situation or event which
41 immediately endangers the health, safety, or property of the
42 residents of the municipality, and to make emergency
43 appropriations pursuant to N.J.S.40A:4-46.

44 b. The director shall have the authority to spend money and
45 authorize expenditures, in accordance with the approved budget or
46 any temporary or emergency appropriations.

1 9. (New section) The director may delegate to the director's
2 designee any power granted to the Director pursuant to P.L. , c.
3 (C.) (pending before the Legislature as this bill). The designation
4 to a director's designee shall be in writing and filed with the Local
5 Finance Board. Any action of a director's designee taken
6 subsequent to the delegation shall be deemed to have been taken by
7 the Director. If any claims are asserted against the director's
8 designee, the director's designee shall, for that purpose only, be
9 considered a State officer within the scope of the "New Jersey Tort
10 Claims Act," N.J.S.59:1-1 et seq.

11

12 10. (New section) In a municipality in need of stabilization and
13 recovery, any initiative approved by the voters of the municipality
14 pursuant to section 17-35 of P.L.1950, c.210 (C.40:69A-184) and
15 any referendum approved pursuant to section 17-36 of P.L.1950,
16 c.210 (C.40:69A-185) shall be advisory only and may be followed,
17 or disregarded, by the Local Finance Board and the director in their
18 discretion. The provisions of this section shall not apply to a
19 referendum approved pursuant to section 11 of P.L. , c. (C.)
20 (pending before the Legislature as this bill).

21

22 11. (New section) a. Notwithstanding the provisions of any law
23 or regulation, including, without limitation, the "Local Bond Law,"
24 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"
25 P.L.1979, c.38 (C. 40A:3-1 et seq.), that requires the adoption of an
26 ordinance or resolution to authorize any action of a municipality, a
27 resolution issued by the director shall suffice in lieu of a municipal
28 ordinance or resolution for all purposes, except for bond
29 ordinances, in a municipality in need of stabilization and recovery.

30 b. In the case of bond ordinances in a municipality in need of
31 stabilization and recovery, the director's resolution in lieu of such
32 ordinances shall be published in full in a newspaper circulating in
33 the municipality and a copy of the resolution shall be filed for
34 public inspection with the municipal clerk of the municipality in
35 need of stabilization and recovery. The publication of the director's
36 resolution shall occur not less than 10 days prior to the time and
37 place of a public hearing to be had on the resolution. The resolution
38 shall become effective on the 45th day after the public hearing,
39 unless:

40 (1) the resolution is modified by the director subsequent to the
41 meeting, in which case there shall be a second public hearing on no
42 less than 10 days' notice; or

43 (2) there is filed with the municipal clerk within 45 days of the
44 hearing, a petition requesting a referendum in said municipality
45 signed by either five percent or 10,000 of the registered voters of
46 said municipality, whichever is lesser.

47 If a petition is filed, the resolution pertaining to the bond
48 measures issued by the director shall be submitted to the registered

1 voters of said municipality at the next general or regular municipal
2 election and in the same manner and form as other public questions
3 to be voted upon by voters of a single municipality.

4
5 12. (New section) If any provision of P.L. , c. (C.)
6 (pending before the Legislature as this bill) or its application is held
7 invalid, the invalidity shall not affect other applications of that
8 provision, or other provisions of P.L. , c. (C.) (pending
9 before the Legislature as this bill), which reasonably can be given
10 effect despite the invalidity, and to this end the provisions of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) are
12 severable.

13
14 13. Section 1 of P.L.1999, c.59 (C.43:8C-1) is amended to read
15 as follows:

16 1. As used in this act, unless the context indicates otherwise:

17 "Chief executive officer" means the mayor of a municipality, the
18 elected county executive of a county, the director of the board of
19 chosen freeholders in a county that does not have an elected county
20 executive, and the chairman or other presiding officer of any other
21 governing body.

22 "Consolidated municipality" or "municipal consolidation" means
23 the resultant municipal entity created after approval and adoption of
24 a public question in favor of consolidation pursuant to the
25 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et
26 seq.) , or a municipality in need of stabilization and recovery, as
27 defined by section 2 of P.L. , c. (C.) (pending before the
28 Legislature as this bill), for the exclusive purposes of section 2 of
29 P.L.1999, c.59 (C.438C-2).

30 "Director" means the Director of the Division of Local
31 Government Services in the Department of Community Affairs.

32 "Governing body" means the board, commission, council or
33 other body having the control of the finances of a local unit; and in
34 those local units in which a chief executive officer is authorized by
35 law to participate in such control through powers of
36 recommendation, approval or veto, the term includes such executive
37 officer to the extent of such participation.

38 "Interlocal services contract" means a contract between two or
39 more local units for the joint provision of governmental services
40 pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-
41 1 et seq.).

42 "Joint services contract" means a contract between two or more
43 local units to form a joint meeting for the joint provision of
44 governmental services pursuant to the "Consolidated Municipal
45 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.).

46 "Local unit" means a municipality, consolidated municipality,

1 county, authority as defined in section 3 of P.L.1983, c.313
2 (C.40A:5A-3), joint meeting or fire district.
3 (cf: P.L.1999,c.59,s.1)

4
5 14. (New section) The enumeration of any specific power or
6 authority granted to the Local Finance Board or the director
7 pursuant to P.L. , c. (C.) (pending before the Legislature
8 as this bill) shall not be construed to limit or restrict in any way the
9 general authorities granted by P.L. , c. (C.) (pending
10 before the Legislature as this bill) to the Local Finance Board or the
11 director to take actions necessary or appropriate to help stabilize the
12 finances, restructure the debts, or assist with the financial
13 rehabilitation and recovery of the municipality in need of
14 stabilization and recovery.

15
16 15. (New section) P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall be construed liberally to give effect to
18 its intent that severe fiscal distress in municipalities in need of
19 stabilization and recovery shall be addressed and corrected. The
20 authorities granted to the director herein are intended to supplement
21 authority provided in the "Local Government Supervision Act
22 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) and other
23 applicable laws. To the extent any inconsistency exists between the
24 terms of P.L. , c. (C.) (pending before the Legislature as
25 this bill) and other applicable laws, the terms of P.L. , c. (C.)
26 (pending before the Legislature as this bill) shall prevail.

27
28 16. (New section) The director or the director's designee shall
29 attend the regularly scheduled meetings of the municipal council in
30 a municipality in need of stabilization and recovery. On or before
31 the first day of the sixth year next following the determination that
32 a municipality is in need of stabilization and recovery pursuant to
33 section 4 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), the director shall provide a final report to the Governor
35 and Legislature regarding the municipality in need of stabilization
36 and recovery.

37
38 17. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 This bill, designated the "Municipal Stabilization and Recovery
44 Act," would authorize the State to assist municipalities
45 experiencing severe fiscal distress by developing a comprehensive
46 rehabilitation plan for such a municipality and implementing that
47 plan on behalf of the municipality.

1 The bill defines a “municipality in need of stabilization and
2 recovery” as a municipality that has experienced a decrease of more
3 than 50 percent in its total assessed property values during the
4 immediately preceding five-year period, as determined by the
5 director, and has experienced an increase in outstanding debt
6 exceeding 50 percent during the immediately preceding five-year
7 period, as determined by the director. Under the bill, the director of
8 the Division of Local Government Services may ascertain whether a
9 municipality should be deemed a “municipality in need of
10 stabilization and recovery,” and if so, shall recommend that the
11 commissioner of Community Affairs make such a determination.
12 Within 14 days of receipt of the director’s recommendation, the
13 commissioner must make the final determination of whether to
14 deem the municipality a “municipality in need of stabilization and
15 recovery” and therefore subject to the provisions of the bill for a
16 period of five consecutive years. The commissioner must notify the
17 Governor, the State Treasurer, and the director when a municipality
18 has been deemed to be subject to the provisions of the bill, and must
19 then notify the municipal clerk, or other appropriate municipal
20 official of the municipality, in writing, of that determination.

21 Following that determination, the Local Finance Board may in its
22 exclusive discretion assume, reallocate to, and vest in the Director,
23 any of the functions, powers, privileges, and immunities of the
24 governing body of that municipality set forth in any statute,
25 regulation, ordinance, resolution, charter, or contract to which the
26 municipality is a party that are, or may be, substantially related to
27 the fiscal condition or financial rehabilitation and recovery of that
28 municipality. The duration of the transfer of the functions, powers,
29 privileges, and immunities of the governing body shall not exceed
30 five consecutive years.

31 The director may be granted the authority by the Local Finance
32 Board to take any steps to stabilize the finances, restructure the
33 debts, or assist in the financial rehabilitation and recovery of the
34 municipality in need of stabilization and recovery. This authority
35 includes, but is not limited to, implementing efficiency and
36 oversight measures; dissolving local agencies; vetoing the minutes
37 of the governing body or any subdivision of the municipality;
38 directing litigation and the municipality’s legal affairs; disposing of
39 municipally-owned assets; amending or terminating any existing
40 contracts (excluding financing instruments such as bonds);
41 modifying the terms, including wages and hours, or other terms of
42 collective negotiations agreements or terminating any collective
43 negotiations agreements to which the municipality is a party;
44 negotiating, on behalf of the municipality, future collective
45 bargaining agreements; abolishing any positions in the
46 municipality; unilaterally appointing, transferring, or removing
47 employees; entering into shared services agreements on behalf of
48 the municipality; procuring goods and services on behalf of the

1 municipality; retaining bond counsel and adopting bond ordinances;
2 exercising on behalf of the municipality any authority granted by
3 the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.
4 40A:12A-1 et seq.), the "Redevelopment Area Bond Financing
5 Law," P.L.2001, c.310 (C. 40A:12A-64 et seq.), or the "Long Term
6 Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.); and
7 authorizing and filing on behalf of the municipality a petition and
8 other pleadings and papers with any United States court or federal
9 bankruptcy court for the purpose of effecting a plan of readjustment
10 or composition of debts as set forth in R.S.52:27-40 et seq. The
11 power to file a bankruptcy petition is subject to the written approval
12 of the majority of the members of the legislative Joint Budget
13 Oversight Committee

14 When exercising powers, the director shall, to the extent
15 practicable, comply with all notice, hearing, and other requirements
16 to which the municipality in need of stabilization and recovery is
17 generally subject. Although the director shall not be deemed a
18 "public body" pursuant to the "Senator Byron M. Baer Open Public
19 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), the director
20 shall, to the extent practicable, comply with its requirements when
21 taking action on behalf of the municipality in need of stabilization
22 and recovery that would otherwise be subject to that act.

23 The bill also authorizes the director to use early retirement
24 incentives under P.L.1999, c.59 (C.43:8C-2) as a mechanism to help
25 stabilize the finances, restructure the debts, or assist the financial
26 rehabilitation and recovery of the municipality in need of
27 stabilization and recovery.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1711

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 23, 2016

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1711 (1R).

As amended, this bill, designated the “Municipal Stabilization and Recovery Act,” requires a municipality deemed in need of stabilization and recovery to adopt a comprehensive recovery plan, and authorizes the State to stabilize such a municipality experiencing severe fiscal distress if it fails to adopt an acceptable recovery plan within 150 days.

The bill defines a “municipality in need of stabilization and recovery” as a municipality that has experienced a decrease of more than 50 percent in its total assessed property values during the five-year period terminating at the end of the tax year immediately preceding enactment of the bill, and has experienced an increase in outstanding debt exceeding 50 percent during the immediately preceding five-year period, as determined by the Director of the Division of Local Government Services. Under the bill, the director may ascertain whether a municipality should be deemed a “municipality in need of stabilization and recovery,” and if so, shall recommend that the Commissioner of Community Affairs make such a determination. Following that determination, the bill requires the subject municipality to adopt a recovery plan, which would include a proposed balanced budget for the next fiscal year of the municipality. The plan would be submitted to the Commissioner of Community Affairs for review. The commissioner would be required to accept the plan or reject the plan. If the commissioner accepts the plan, the municipality would be monitored to ensure compliance.

If the commissioner rejects the plan, or if the municipality fails to submit a plan or adhere to the plan accepted by the commissioner, the bill authorizes the Local Finance Board, to assume, reallocate to, and vest in the director, any of the functions, powers, privileges, and immunities of the governing body of that municipality set forth in any statute, regulation, ordinance, resolution, charter, or contract to which the municipality is a party that are, or may be, substantially related to the fiscal condition or financial rehabilitation and recovery of that municipality.

When exercising powers, the bill requires the director, to the extent practicable, to comply with all notice, hearing, and other requirements to which the municipality in need of stabilization and recovery is generally subject. Although the director shall not be deemed a “public body” pursuant to the "Senator Byron M. Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.), the bill provides that the director, to the extent practicable, must comply with its requirements when taking action on behalf of the municipality in need of stabilization and recovery that would otherwise be subject to that act.

As amended, the bill also authorizes a municipality in need of stabilization and recovery to use early retirement incentives as a mechanism to help stabilize the finances, restructure the debts, or assist the financial rehabilitation and recovery of the municipality in need of stabilization and recovery.

These amendments make this bill identical to Assembly Bill No. 2569 which was also released by the committee on this date.

COMMITTEE AMENDMENTS

-establish requirement for the municipality in need of stabilization and recovery to prepare a recovery plan, which would include a proposed balanced budget for the next fiscal year in the municipality.

-recovery plan would be subject to approval of Commissioner of Community Affairs.

-local government powers could only be assumed by the Local Finance Board if a plan is not approved by the commissioner.

-various technical corrections and clarifications.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1711

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1711, with committee amendments.

As amended, this bill, designated the “Municipal Stabilization and Recovery Act,” authorizes the State to assist municipalities experiencing severe fiscal distress by developing a comprehensive rehabilitation plan for such a municipality and implementing that plan on behalf of the municipality.

The bill defines a “municipality in need of stabilization and recovery” as a municipality that has experienced a decrease of more than 50 percent in its total assessed property values during the immediately preceding five-year period, and has experienced an increase in outstanding debt exceeding 50 percent during the immediately preceding five-year period, as determined by the director. Under the bill, the Director of the Division of Local Government Services may ascertain whether a municipality should be deemed a “municipality in need of stabilization and recovery,” and if so, shall recommend that the Commissioner of Community Affairs make such a determination. Within 14 days of receipt of the director’s recommendation, the commissioner must make the final determination of whether to deem the municipality a “municipality in need of stabilization and recovery” and therefore subject to the provisions of the bill for a period of five consecutive years. The commissioner must notify the Governor, the State Treasurer, and the director when a municipality has been deemed to be subject to the provisions of the bill, and must then notify the municipal clerk, or other appropriate municipal official of the municipality, in writing, of that determination.

Following that determination, the bill authorizes the Local Finance Board, in its exclusive discretion, to assume, reallocate to, and vest in the director, any of the functions, powers, privileges, and immunities of the governing body of that municipality set forth in any statute, regulation, ordinance, resolution, charter, or contract to which the municipality is a party that are, or may be, substantially related to the fiscal condition or financial

rehabilitation and recovery of that municipality. The bill provides that the duration of the transfer of the functions, powers, privileges, and immunities of the governing body shall not exceed five consecutive years.

The bill provides that the director may be granted the authority by the Local Finance Board to take any steps to stabilize the finances, restructure the debts, or assist in the financial rehabilitation and recovery of the municipality in need of stabilization and recovery. Under the bill, this authority includes, but is not limited to:

- implementing efficiency and oversight measures;
- dissolving local agencies;
- vetoing the minutes of the governing body or any subdivision of the municipality;
- directing litigation and the municipality's legal affairs;
- disposing of municipally-owned assets;
- amending or terminating any existing contracts (excluding financing instruments such as bonds);
- modifying the terms, including wages and hours, or other terms of collective negotiations agreements or terminating any collective negotiations agreements to which the municipality is a party;
- negotiating, on behalf of the municipality, future collective bargaining agreements;
- abolishing any positions in the municipality;
- unilaterally appointing, transferring, or removing employees;
- entering into shared services agreements on behalf of the municipality;
- procuring goods and services on behalf of the municipality;
- retaining bond counsel and adopting bond ordinances;
- exercising on behalf of the municipality any authority granted by the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), the "Redevelopment Area Bond Financing Law," P.L.2001, c.310 (C.40A:12A-64 et seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.); and
- authorizing and filing on behalf of the municipality a petition and other pleadings and papers with any United States court or federal bankruptcy court for the purpose of effecting a plan of readjustment or composition of debts as set forth in R.S.52:27-40 et seq. The bill provides that the power to file a bankruptcy petition is subject to the written approval of the majority of the members of the legislative Joint Budget Oversight Committee.

When exercising powers, the bill requires the director, to the extent practicable, to comply with all notice, hearing, and other requirements to which the municipality in need of stabilization and recovery is generally subject. Although the director shall not be deemed a "public body" pursuant to the "Senator Byron M. Baer

Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.), the bill provides that the director shall, to the extent practicable, comply with its requirements when taking action on behalf of the municipality in need of stabilization and recovery that would otherwise be subject to that act.

The bill also authorizes the director to use early retirement incentives under P.L.1999, c.59 (C.43:8C-2) as a mechanism to help stabilize the finances, restructure the debts, or assist the financial rehabilitation and recovery of the municipality in need of stabilization and recovery.

COMMITTEE AMENDMENTS:

The amendments make certain technical changes to the bill, including a change to the title of the bill to reflect that section 13 of the bill amends P.L.1999, c.59 and corrections to certain statutory references.

The amendments also clarify that with respect to the Director of the Division of Local Government Services’ authority to dispose of municipally-owned assets the director may not sell, convey, lease, or dispose of a water asset pursuant to an agreement with a private entity for one year after the effective date of the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate increase in State costs and an indeterminate impact on the revenues and expenditures of affected municipalities, if the Department of Community Affairs exercises the discretionary authority granted by the bill to assume operational control of government functions normally executed by a municipality deemed in need of stabilization and recovery. Without specific information regarding the State’s plan for the fiscal recovery and rehabilitation of a municipality deemed in need of stabilization and recovery, however, the OLS cannot determine how the implementation of the bill may affect State expenditures as well as municipal revenues and expenditures.

STATEMENT TO
[Second Reprint]
SENATE, No. 1711

with Assembly Floor Amendments
(Proposed by Assemblyman PRIETO)

ADOPTED: MAY 26, 2016

These Assembly floor amendments make technical corrections to the bill and clarify that, in the event of an intervention, certain the provisions of the bill will apply and the provisions of the bill should prevail over any other provision of law that is not consistent.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1711
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: MARCH 11, 2016

SUMMARY

- Synopsis:** The “Municipal Stabilization and Recovery Act.”
- Type of Impact:** Indeterminate potential increase in State costs.
 Indeterminate potential impact on revenues and expenditures of certain municipalities.
- Agencies Affected:** Division of Local Government Services and Local Finance Board in Department of Community Affairs. Certain municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditures	Indeterminate Potential Increase – See comments below		
Local Revenue	Indeterminate Potential Impact – See comments below		
Local Expenditures	Indeterminate Potential Impact – See comments below		

- The Office of Legislative Services (OLS) estimates that the enactment of Senate Bill No. 1711 may result in an indeterminate increase in State costs and an indeterminate impact on the revenues and expenditures of affected municipalities, if the Department of Community Affairs exercises the discretionary authority granted by the bill to assume operational control of government functions normally executed by a municipality deemed in need of stabilization and recovery.
- Without specific information regarding the State’s plan for the fiscal recovery and rehabilitation of a municipality deemed in need of stabilization and recovery, the OLS cannot determine how the implementation of the bill’s provisions may affect State expenditures as well as municipal revenues and expenditures.

BILL DESCRIPTION

Senate Bill No. 1711 of 2016, designated as the “Municipal Stabilization and Recovery Act,” authorizes the Local Finance Board to reallocate to the Division of Local Government Services (“division”) in the Department of Community Affairs, for a five-year period, the responsibility

for the management of the day-to-day operations of a municipality deemed in need of stabilization and recovery. The bill defines a “municipality in need of stabilization and recovery” as a municipality that has experienced, during the immediately preceding five-year period, a decrease of more than 50 percent in its total assessed property values and an increase of more than 50 percent in its outstanding debt, as determined by the division.

Specifically, the Local Finance Board may reallocate to the division any of the functions, powers, privileges, and immunities of the municipal governing body set forth in any statute, regulation, ordinance, resolution, charter, or contract to which the municipality is a party, that are, or may be, substantially related to the fiscal condition or financial rehabilitation of the municipality. Most notably, the division may dissolve local departments and agencies; dispose of municipally-owned assets; amend or terminate existing contracts (excluding financial instruments); hire, terminate, and transfer personnel; enter into shared services agreements; and modify the terms of collective negotiations agreements to which the municipality is a party. The sale, conveyance, lease, monetization, or other disposition of any municipally-owned water asset is prohibited for one year following the effective date of the bill. The Local Finance Board may empower the division to retain professional staff and bond counsel, and exercise municipal redevelopment powers.

The bill also suspends municipal participation in any impasse procedures established by the “New Jersey Employer-Employee Relations Act,” P.L.1944, c.100 (C.34:13A-1 et seq.) and exempts the municipality from the Public Employment Relations Commission’s authority to prevent unfair practices. The Local Finance Board may require that any interest arbitration award be subject to review and approval of the division and that no such award is binding without the division’s approval. The bill permits the division to utilize a retirement incentive program, permitted under P.L.1999, c.59 (C.43:8C-1 et seq.), to assist in the stabilization of the municipality’s finances. Finally, the division may be authorized to file, on behalf of the municipality and subject only to the written approval of the Legislature’s Joint Budget Oversight Committee, a bankruptcy petition.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of Senate Bill No. 1711 may result in an indeterminate increase in State costs and an indeterminate impact on the revenues and expenditures of affected municipalities, if the Department of Community Affairs exercises the discretionary authority granted by the bill to assume operational control of government functions normally executed by a municipality deemed in need of stabilization and recovery. Without specific information regarding the State’s plan for the fiscal recovery and rehabilitation of a municipality deemed in need of stabilization and recovery, the OLS cannot determine how the implementation of the bill’s provisions may affect State expenditures as well as municipal revenues and expenditures.

Section: Local Government

Analyst: Scott A. Brodsky
Senior Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 1711

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 9, 2016

SUMMARY

- Synopsis:** The “Municipal Stabilization and Recovery Act”
- Type of Impact:** Indeterminate potential increase in State costs.
Indeterminate potential impact on revenues and expenditures of certain municipalities.
- Agencies Affected:** Division of Local Government Services and Local Finance Board (Community Affairs), Division of Pensions and Benefits (Treasury), and certain municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditures	Indeterminate Potential Increase – See comments below		
Local Revenue	Indeterminate Potential Increase – See comments below		
Local Expenditures	Indeterminate Potential Impact – See comments below		

- The Office of Legislative Services estimates that the enactment of Senate Bill No. 1711 (3R) may result in an indeterminate increase in State costs and have an indeterminate impact on the revenues and expenditures of affected municipalities. The only municipality that qualifies as a “municipality in need of stabilization and recovery” is the City of Atlantic City.
- Without specific information regarding Atlantic City’s fiscal recovery plan, or any plan that may be implemented by the State if it assumes operational control of Atlantic City’s governmental functions, the OLS cannot determine how the implementation of the bill’s provisions may affect State and municipal finances.
- The OLS does not have sufficient information to estimate the fiscal impact of any retirement incentive program offered by Atlantic City. The Mayor of Atlantic City has indicated that implementation of a retirement incentive program could save the city \$7 million.
- The State would experience a short-term increase in costs if any short-term loan is provided to Atlantic City. A short-term loan of \$40 million was provided to Atlantic City in 2014.

- The bill provides that Atlantic City would receive not less than \$26.620 million in total State formula aid through the Consolidated Municipal Property Tax Relief Aid and Energy Tax Receipts Property Tax Relief Aid programs.

BILL DESCRIPTION

Senate Bill No. 1711 (3R), designated as the “Municipal Stabilization and Recovery Act,” requires a municipality deemed in need of stabilization and recovery to adopt a comprehensive recovery plan and authorizes the State to assume responsibility for the management of the day-to-day operations of a municipality in need of stabilization and recovery if it fails to adopt an acceptable recovery plan within 150 days. The bill defines a “municipality in need of stabilization and recovery” as a municipality that has experienced, during the five-year period immediately preceding the year in which the bill is enacted, a decrease of more than 50 percent in its total assessed property values and an increase of more than 50 percent in its outstanding debt, as determined by the Director of the Division of Local Government Services in the Department of Community Affairs (“director”).

Under the bill, the director may ascertain whether a municipality should be deemed a municipality in need of stabilization and recovery, and if so, shall recommend that the Commissioner of Community Affairs (“commissioner”) make such a determination. Following the commissioner’s determination, the bill requires the subject municipality to adopt a recovery plan designed to restore fiscal stability to the municipality. The recovery plan must include a proposed balanced budget for the next fiscal year of the municipality. The recovery plan would be submitted to the commissioner for review. If the commissioner accepts the recovery plan, the municipality must implement the plan beginning on the first day of its next fiscal year. The commissioner would monitor the municipality to ensure compliance with the recovery plan.

If the commissioner rejects the recovery plan, or if the municipality fails to submit a recovery plan or adhere to the recovery plan accepted by the commissioner, the bill authorizes the Local Finance Board to assume or reallocate to the director any functions, powers, privileges, and immunities of the municipal governing body set forth in any statute, regulation, ordinance, resolution, charter, or contract to which the municipality is a party, that are, or may be, substantially related to the fiscal condition or financial rehabilitation of the municipality. Most notably, the director may dissolve local departments and agencies; dispose of municipally-owned assets; amend or terminate existing contracts (excluding financial instruments); hire, terminate, and transfer personnel; enter into shared services agreements; and modify the terms of collective negotiations agreements to which the municipality is a party. The sale, conveyance, lease, monetization, or other disposition of any municipally-owned water asset is prohibited for one year following the effective date of the bill. The Local Finance Board may empower the director to retain professional staff and bond counsel, and exercise municipal redevelopment powers.

The bill also suspends municipal participation in any impasse procedures established by the “New Jersey Employer-Employee Relations Act,” P.L.1944, c.100 (C.34:13A-1 et seq.) and exempts the municipality from the Public Employment Relations Commission’s authority to prevent unfair practices. The Local Finance Board may require that any interest arbitration award be subject to review and approval of the director and that no such award is binding without the director’s approval. The bill permits the municipality or the Local Finance Board (if it has assumed municipal authority) to utilize a retirement incentive program to assist in the stabilization of the municipality’s finances. Finally, the director may be authorized to file, on behalf of the municipality and subject only to the written approval of the Legislature’s Joint Budget Oversight Committee, a bankruptcy petition.

The bill authorizes the State Treasurer, in consultation with the commissioner, to transfer State funds for the purpose of making a short-term loan for up to 180 days to support calendar year 2016 expenditures of the municipality, on such terms and conditions that may be required by the commissioner. Finally, the bill guarantees the municipality a total municipal formula aid distribution not less than the amount certified by the Division of Local Government Services for Calendar Year 2016 or Fiscal Year 2017, as applicable.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enactment of Senate Bill No. 1711 (3R) may result in an indeterminate increase in State costs and an indeterminate impact on the revenues and expenditures of affected municipalities. The OLS notes that one municipality, the City of Atlantic City, qualifies as a municipality in need of stabilization and recovery. From 2010 to 2016, the total assessed value of property in Atlantic City declined by 64% (from \$20.480 billion to \$7.439 billion) while Atlantic City's net debt (obligations supported by the property tax levy and other municipal revenues) increased by 102% (from \$122.4 million to \$248.8 million). The State may incur additional costs if Atlantic City's proposed recovery plan is rejected and the Local Finance Board exercises the discretionary authority granted by the bill to assume operational control of municipal government functions. The State would experience a short-term increase in costs if any short-term loan is provided to Atlantic City.

The Recovery Plan

The bill requires Atlantic City, not later than 150 days following the commissioner's determination that it is a municipality in need of stabilization and recovery, to prepare and adopt a five-year recovery plan sufficient to effectuate the financial stability of the municipality. Without specific information regarding Atlantic City's recovery plan, or any plan that may be implemented by the State if it assumes operational control of Atlantic City's governmental functions, the OLS cannot determine how the implementation of any plan may affect State and municipal finances. The second report of the Emergency Manager for Atlantic City concluded that the municipality will need to continue to seek new ways to improve its budget situation through further downsizing of operations, alternative service delivery options, privatization of operations, establishing new or improved revenue sources, and the potential monetization of assets.

The recovery plan must include detailed processes that will allow the municipality to: achieve sustainable net reductions in the municipality's general appropriations commensurate with anticipated revenues; fulfill its financial obligations to Atlantic County and the Atlantic City School District; repay amounts owed to New Jersey for deferred contributions to the State's pension systems and health benefits program; repay all bonded and unbonded debt obligations, including tax appeal settlements; account for off balance sheet liabilities, such as accumulated absence payments; ensure the repayment of any short-term loans provided by the State in 2016; and increase municipal revenues through the establishment of long-term economic and land use development strategies.

Although the recovery plan must include a balanced budget, the OLS notes that N.J.S.40A:4-22 requires all municipalities to adopt a budget for which total anticipated revenues equals total appropriations. In response to a Fiscal Year 2017 OLS Discussion Point, the Department of Community Affairs projected that Atlantic City's projected budget deficit for Calendar Year 2016 is \$105.5 million. Information provided by the department does not take into account any additional revenues, such as investment alternative tax receipts or funds redirected from the Atlantic City Alliance, which may be redirected to Atlantic City through the enactment of separate legislation. The department has also acknowledged that Atlantic City failed to make a payment for the Public Employees Retirement System and made only a nominal contribution to the Police and Firemen's Retirement System. Atlantic City is obligated to make these contributions in future years, and pursuant to State law, an interest rate of 10% accrues to the unpaid balance.

The proposed budget submitted with the recovery plan must identify any amounts appropriated in 2017 for the repayment of debts associated with property tax appeals settled by the municipality. According to its 2015 Annual Debt Statement, Atlantic City has issued over \$150 million to resolve outstanding property tax appeal judgments. In an official statement for the issuance of \$41.760 million in General Obligation Refunding Bonds, dated May 21, 2015, Atlantic City reported that there was approximately \$134 million in settled, but not funded (bonded) property tax appeal refunds. At that time Atlantic City reported that it was making monthly payments of \$150,000 to the Marina District Development Corporation, owner of the Borgata Casino Hotel, to reduce an unfunded property tax liability of \$87.950 million. It now appears that the Marina District Development Corporation has elected, pursuant to law, to apply its refund due after its tax appeal as a credit against future property taxes.

Retirement Incentive Program

Section 13 of Senate Bill No. 1711 (3R) authorizes Atlantic City to offer and implement an incentive program for retirement or termination of employment after the approval of an incentive program by the director. P.L.1999, c.59 (C.43:8C-1 et seq.) allows for the implementation of an incentive program by local units entering into an inter-local services contract, joint services contract, or following a municipal consolidation. Information that would allow the OLS to estimate the fiscal impact of an incentive program is not available at this time. According to an article published by NJ Spotlight on May 24, 2016, the Mayor of Atlantic City stated that an early retirement initiative for municipal employees could generate as much as \$7 million savings. It is unclear whether these savings would be achieved in one year or over a period of several years.

The benefits that may be offered under an incentive program include: cash payments or the purchase of annuities; employer contributions to deferred compensation plans; employer-paid continuation-after-retirement health benefits coverage for limited periods of time for up to five years; employer-paid health benefits coverage after retirement for employees and dependents under the State Health Benefits Program or a municipal employer's private carrier plan, notwithstanding that the employee does not meet the service requirement to be eligible for such paid coverage; or up to five years of additional service credit in State, county, municipal retirement systems. If Atlantic City chooses to offer a retirement incentive plan, the municipality will decide which additional benefits will be offered to employees and which employees are eligible to participate in the incentive program.

Approval of an incentive plan requires a sufficient demonstration that the incentive program would result in a reduction in the number of employees and employment costs necessary to provide the affected governmental services. The Director of the Division of Pensions and Benefits in the Department of the Treasury would provide information on the cost of the incentive program for the State retirement systems, and on the savings in employment costs, at

no charge to the municipality. Atlantic City would be required to pay the costs for the incentives and would be prohibited from increasing the number of employees to provide the affected governmental services for five years without approval of the director. If Atlantic City violates the employment restriction, it would be required to reimburse the State for the costs of the actuarial work provided by the Division of Pensions and Benefits.

Additional Financial Assistance & State Aid

Section 17 of Senate Bill No. 1711 (3R) permits the State Treasurer, in consultation with the commissioner, to reallocate State funds appropriated to other Executive Departments to provide a secured loan to pay Atlantic City's expenses during calendar year 2016. The loan may be for a term not to exceed 180 days and would be provided under such terms and conditions that may be required by the commissioner. A language provision in the annual appropriations act allows the transfer of State funds for the purpose of making a short-term loan for up to 180 days to any local government unit faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Under the current budget language, short-term loans may be provided to municipalities that qualify for Urban Aid; a municipality under State financial supervision pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.); a municipality that has issued qualified bonds; or a municipality identified by the director to be facing serious fiscal distress.

In December 2014, the State provided Atlantic City with a short-term loan of \$40 million at an interest rate of 0.75 percent to fund a temporary emergency appropriation. On May 21, 2015, Atlantic City issued \$41.760 million in taxable General Obligation Refunding Bonds to repay the State loan. According to the official statement for the issuance of the bonds, \$7.980 million of the debt issuance will yield an interest rate of 7.25 percent and mature on March 1, 2028. The remaining \$33.780 million will yield an interest rate of 7.75 percent and mature on March 1, 2040. The debt service schedule published in the official statement indicates that over the term of the bonds, Atlantic City will pay a total of \$99.895 million (\$41.760 million in principal and \$58.135 million in debt service).

Section 18 of Senate Bill No. 1711 (3R) provides that the total amount of Consolidated Municipal Property Tax Relief Aid ("CMPTRA") and Energy Tax Receipts Property Tax Relief Aid ("ETR Aid") paid to a municipality in need of stabilization and recovery may not be less than the amount certified by the Division of Local Government Services for Calendar Year 2016 or Fiscal Year 2017, as applicable. The Certification of State Aid for Calendar Year 2016 and Fiscal Year 2017 Budgets, issued by the Division of Local Government Services on February 26, 2016, indicates that Atlantic City will receive \$20 million in CMPTRA and \$6.260 million in ETR Aid in Calendar Year 2016. Under the proposed municipal aid payment schedule in the Fiscal Year 2017 budget, municipalities operating on a calendar fiscal year receive the bulk of their CMPTRA and ETR Aid in the second half of 2016.

Section: Local Government
Analyst: Scott A. Brodsky
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 2569

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 23, 2016

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

The “Municipal Stabilization and Recovery Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/27/2016)

1 AN ACT concerning certain municipalities confronted by severe
2 fiscal distress, supplementing Title 52 of the Revised Statutes,
3 and amending P.L.1977, c.85 and P.L.1974, c.123.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Municipal Stabilization and Recovery Act.”

10
11 2. (New section) The Legislature finds and declares that:

12 a. The short and long-term fiscal stability of local government
13 units is essential to the interests of the citizens of this State to assure
14 the efficient and effective provision of necessary governmental
15 services vital to public health, safety, and welfare, including the fiscal
16 health of our State’s municipalities.

17 b. In certain extreme cases, local governments that experience
18 severe fiscal distress become incapable of addressing the
19 circumstances that led to that extraordinary distress or of
20 developing a comprehensive plan for financial rehabilitation and
21 recovery.

22 c. It is necessary and appropriate for the State to take action to
23 assist local governments experiencing severe budget imbalances
24 and other conditions of severe fiscal distress or emergency by
25 requiring prudent fiscal management and operational efficiencies in
26 the provision of public services.

27 d. As the State entity primarily responsible for the financial
28 integrity and stability of all local government units, the Local Finance
29 Board should be authorized, under certain limited circumstances, to
30 develop a comprehensive rehabilitation plan for local governments that
31 are experiencing severe fiscal distress, and to act on behalf of local
32 government units to remedy the distress.

33
34 3. (New section) As used in P.L. , c. (C.) (pending before
35 the Legislature as this bill):

36 “Commissioner” means the Commissioner of Community
37 Affairs.

38 “Director” means the Director of the Division of Local
39 Government Services in the Department of Community Affairs.

40 “Director’s designee” means one or more individuals designated
41 by the director, as the director deems appropriate, to act in the
42 director’s stead or exercise one or more of the authorities granted to
43 the director by the Local Finance Board pursuant to the terms of
44 P.L. , c. (C.) (pending before the Legislature as this bill):

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 “Fiscal distress” means a fiscal condition based on a
2 municipality’s tax rate, cash deficit, insufficient percentage of tax
3 collections, insufficient collection of other revenues, over-
4 anticipation of the revenues of prior years, non-liquidation of
5 interfund transfers, reliance on emergency authorizations, continual
6 rollover of tax anticipation notes, inefficiencies in the provision of
7 municipal services such that associated costs substantially exceed
8 costs for similar services in other municipalities, or other factors
9 indicating a constrained ability to meet the municipality’s
10 budgetary requirements.

11 “Governing body” means the municipal council, committee,
12 board, or other entity having control of the finances of a
13 municipality, and shall include the mayor.

14 “Local Finance Board” means the Local Finance Board in the
15 Division of Local Government Services in the Department of
16 Community Affairs.

17 “Municipality in need of stabilization and recovery” means a
18 municipality that: (1) has experienced a decrease of more than 50
19 percent in its total assessed non-equalized property values during
20 the five-year period terminating at the end of the tax year
21 immediately preceding the enactment of P.L. , c. (C.) (pending
22 before the Legislature as this bill), as determined by the director;
23 and (2) has experienced an increase in outstanding debt exceeding
24 50 percent during the immediately preceding five-year period, as
25 determined by the director, and upon the recommendation of the
26 director finding that the municipality is experiencing fiscal distress,
27 the commissioner determines the municipality should appropriately
28 be subject to the provisions of P.L. , c. (C.) (pending before
29 the Legislature as this bill).

30
31 4. (New section) a. The director may ascertain whether a
32 municipality should be deemed a municipality in need of
33 stabilization and recovery. If the director ascertains that a
34 municipality should be deemed a municipality in need of
35 stabilization and recovery, the director shall recommend that the
36 commissioner make that determination. Within 7 days of receipt of
37 the director’s recommendation, the commissioner shall make the
38 final determination of whether to deem the municipality a
39 municipality in need of stabilization and recovery and subject to the
40 provisions of P.L. , c. (C.) (pending before the Legislature
41 as this bill). The commissioner shall notify the Governor, the State
42 Treasurer, and the director when a determination has been made and
43 a municipality is subject to the provisions of P.L. , c. (C.)
44 (pending before the Legislature as this bill). The director shall then
45 notify the municipal clerk, or other appropriate municipal official of
46 the municipality, in writing, of the determination. A municipality
47 in need of stabilization and recovery shall be subject to the
48 provisions of P.L. , c. (C.) (pending before the Legislature

1 as this bill) until the end of the recovery plan adopted pursuant to
2 subsection b. of this section and approved by the commissioner
3 pursuant to subsection c. of this section, or until first day of the 61st
4 month next following the date on which the municipality becomes
5 subject to the requirements and provisions of sections 5 through 12,
6 and 14 through 16 of P.L. , c. (C.) (pending before the
7 Legislature as this bill), as applicable.

8 b. Not later than 150 days next following the commissioner's
9 final determination that a municipality is in need of stabilization
10 and recovery, the governing body of the municipality in need of
11 stabilization and recovery shall prepare and adopt a resolution
12 containing a five-year recovery plan, commencing on the first day
13 of the first fiscal year of the municipality next following the
14 enactment of P.L. , c. (C.) (pending before the Legislature
15 as this bill), that is sufficient to effectuate the financial stability of
16 the municipality. The recovery plan shall establish processes and
17 identify specific actions undertaken by the municipality following
18 the determination that it is a municipality in need of stabilization
19 and recovery pursuant to subsection a. of this section, and actions to
20 be undertaken by the municipality if the recovery plan is approved
21 pursuant to subsection c. of this section. The recovery plan shall
22 include a proposed balanced budget for the first fiscal year of the
23 municipality next following the enactment of P.L. , c. (C.)
24 (pending before the Legislature as this bill), which shall be
25 consistent with the "Local Budget Law," N.J.S.40A:4-1 et seq.,
26 except as otherwise stated in this subsection. There shall be no
27 requirement for the proposed balanced budget to identify amounts
28 outstanding, including accrued interest, on any obligation to the
29 State of New Jersey for deferred pension and health benefit
30 payments for the first fiscal year of the municipality prior to the
31 enactment of P.L. , c. (C.) (pending before the Legislature as
32 this bill). For the purposes of the proposed budget prepared
33 pursuant to this subsection, the municipality in need of stabilization
34 and recovery is not required to appropriate the total amount
35 necessary for the extinguishment of all outstanding property tax
36 appeal debt. For the purposes of the proposed budget prepared
37 pursuant to this subsection, the municipality in need of stabilization
38 and recovery shall identify and account for the loss in revenue from
39 any anticipated set-offs arising from all such property tax appeal
40 debt or identify and appropriate for any amounts owed in the 2017
41 fiscal year of the municipality for the continued repayment of debts
42 related to all property tax appeals settled by the municipality. To
43 effectuate financial stability, in addition to the proposed balanced
44 budget, the recovery plan shall include detailed processes to:

45 (1) achieve sustainable net reductions in the municipality's
46 general appropriations to be commensurate with revenues
47 anticipated in the proposed budget;

1 (2) ensure that the municipality remits to the county in which it
2 is located the full amount of all property taxes or payments in lieu
3 of property taxes owed by law to the county on the dates on which
4 the payments are due;

5 (3) ensure that the municipality remits to the school district
6 serving the municipality the full amount of all property taxes or
7 payments in lieu of property taxes owed by law to the school
8 district on the dates the payments are due;

9 (4) schedule for the repayment of debts, including any accrued
10 interest, as of the date of the commissioner's determination
11 pursuant to subsection a. of this section, including, without
12 limitation, any money owed to the State of New Jersey for deferred
13 pension and health benefits payments;

14 (5) account for future payments on bonded debt and unbonded
15 debt, including, without limitation, any general obligation bonds,
16 refunding bonds, pension refunding bonds, tax appeal bonds, and
17 unbonded tax appeal settlements, obligations, liens, or judgments
18 known to the municipality as of the date of the commissioner's
19 determination pursuant to subsection a. of this section;

20 (6) account for future payments on any off balance sheet
21 liabilities of the municipality known to the municipality as of the
22 date of the commissioner's determination pursuant to subsection a.
23 of this section;

24 (7) ensure the repayment of the loan in accordance with section
25 17 of P.L. , c. (C.) (pending before the Legislature as this
26 bill), including accrued interest; and

27 (8) increase the municipality's revenues, including, without
28 limitation, through the establishment of long-term economic and
29 land use development strategies.

30 c. The recovery plan shall be submitted by the governing body
31 to the commissioner. The commissioner, within five business days
32 next following the day of receipt of the plan, shall determine, in the
33 commissioner's sole and exclusive discretion, whether the recovery
34 plan is likely or is not likely to achieve financial stability for the
35 municipality. If the commissioner determines that the recovery
36 plan is likely to achieve financial stability for the municipality, the
37 plan shall be effective and the provisions of sections 5 through 12,
38 and 14 through 16 of P.L. , c. (C.) (pending before the
39 Legislature as this bill) shall not be applicable with respect to the
40 municipality in need of stabilization and recovery. If the
41 commissioner determines that the recovery plan is likely to achieve
42 financial stability for the municipality, the plan shall be
43 implemented beginning on the first day of the first fiscal year of the
44 municipality next following the enactment of P.L. , c. (C.)
45 (pending before the Legislature as this bill) and the municipality in
46 need of stabilization and recovery shall strictly comply with the
47 recovery plan. If the commissioner determines that the plan is not
48 likely to achieve financial stability for the municipality, or if the

1 municipality fails to submit a plan, the municipality shall be
2 immediately subject to the requirements and provisions of sections
3 5 through 12, and 14 through 16 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) for as the long as the
5 municipality is deemed a municipality in need of stabilization and
6 recovery.

7
8 5. (New section) a. (1) Notwithstanding the provisions of any
9 law, rule, or regulation to the contrary, if the municipality in need
10 of stabilization and recovery fails to submit a plan, if the
11 commissioner has determined pursuant to subsection c. of section 4
12 of P.L. , c. (C.) (pending before the Legislature as this bill)
13 that the recovery plan is not likely to achieve financial stability for
14 the municipality in need of stabilization and recovery, if the
15 commissioner determines that the municipality is not strictly
16 complying with a recovery plan approved by the commissioner
17 pursuant to subsection c. of section 4 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), or if the commissioner
19 determines that a recovery plan approved by the commissioner
20 pursuant to subsection c. of section 4 of P.L. , c. (C.)
21 (pending before the Legislature as this bill) is no longer likely to
22 achieve financial stability, the Local Finance Board may, in its
23 exclusive discretion at any time during which the municipality is
24 deemed a municipality in need of stabilization and recovery, assume
25 and reallocate to, and vest exclusively in the director any of the
26 functions, powers, privileges, and immunities of the governing body
27 of that municipality set forth in any statute, regulation, ordinance,
28 resolution, charter, or contract to which the municipality is a party
29 that are, or may be, substantially related to the fiscal condition or
30 financial rehabilitation and recovery of that municipality. The
31 duration of the transfer of the functions, powers, privileges, and
32 immunities of the governing body shall not exceed the duration of
33 the time the municipality is deemed a municipality in need of
34 stabilization and recovery.

35 (2) In the event the Local Finance Board assumes and
36 reallocates to the director any function, power, privilege, or
37 immunity of the governing body of a municipality in need of
38 stabilization and recovery set forth in a contract to which that
39 municipality is a party, the municipality shall remain the party to
40 the contract and neither the Local Finance Board nor the director
41 shall assume any contractual obligations or liability arising out of
42 that contract or be subject to any claim for breach of that contract or
43 any other claim related to that contract. Any actions or steps taken
44 by the director under P.L. , c. (C.) (pending before the
45 Legislature as this bill) shall be deemed to be by, and on behalf of,
46 the municipality in need of stabilization.

47 (3) The authorities granted to the director by the Local Finance
48 Board pursuant to this section shall extend to any and all actions

1 that, in the exclusive discretion of the director, may help stabilize
2 the finances, restructure the debts, or assist in the financial
3 rehabilitation and recovery of the municipality in need of
4 stabilization and recovery. Notwithstanding the provisions of any
5 law, rule, regulation, or contract to the contrary, the director shall
6 have the authority to take any steps to stabilize the finances,
7 restructure the debts, or assist in the financial rehabilitation and
8 recovery of the municipality in need of stabilization and recovery,
9 including, but not limited to:

10 (a) implementing governmental, administrative, and operational
11 efficiency and oversight measures;

12 (b) dissolving, terminating, transferring, abolishing, or
13 otherwise disposing of any municipal authority, board, commission,
14 or department, or any function thereof; provided, however, that no
15 such action shall be taken until adequate provision has been made
16 for the payment of the creditors or obligees of the entity to be
17 impacted unless otherwise permitted by law. This shall include the
18 power to take any steps required of the governing body under
19 applicable laws, including but not limited to the “municipal and
20 county utilities authorities law,” P.L.1957, c.183 (C.40:14B-1 et
21 seq.), the “Local Authorities Fiscal Control Law,” P.L.1983, c.313
22 (C.40A:5A-1 et seq.) the “Water Infrastructure Protection Act,”
23 P.L.2015, c.18 (C.58:30-1 et seq.), the “Local Redevelopment and
24 Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et seq.), and the
25 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).
26 To the extent that the Local Finance Board or the director exercise
27 any powers under the “Local Authorities Fiscal Control Law,”
28 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal
29 authority or municipal public utility in the municipality in need of
30 stabilization and recovery;

31 (c) vetoing the minutes of the governing body of the
32 municipality in need of stabilization and recovery, any board,
33 commission, or department of the municipality in need of
34 stabilization and recovery, and any independent board or authority
35 in the municipality in need of stabilization and recovery, including,
36 but not limited to, the housing authority, parking authority,
37 redevelopment authority, planning board, and zoning board of
38 adjustment. A true copy of the minutes of every meeting of the
39 governing body and any board, commission, department, or
40 independent board, or authority shall be delivered forthwith, by and
41 under the certification of the secretary thereof, to the director. No
42 action taken at the meeting shall have force or effect until 15
43 business days after a copy of the minutes have been so delivered to
44 the director, unless during this 15-day period the director shall
45 approve in writing the minutes or any part thereof, in which case
46 the action shall become effective upon approval. If, within that 15-
47 day period, the director returns a copy of the minutes with a veto of
48 any action taken by the governing body, board, commission,

1 department, or independent board or authority, or any member
2 thereof at the meeting, the action shall be null and void and of no
3 effect. The director may approve all or part of the action taken at a
4 meeting;

5 (d) controlling litigation and the municipality's legal affairs,
6 including, but not limited to, suing in the municipality's corporate
7 name; prosecuting, defending, and resolving litigation, arbitration,
8 disputes, and controversies; and retaining and directing municipal
9 corporation counsel and other special counsel as the director may
10 deem appropriate;

11 (e) selling, conveying, leasing, monetizing, or otherwise
12 disposing of any interest in any municipally-owned assets,
13 including but not limited to, any water, sewer, wastewater, and
14 storm water infrastructure, equipment or facilities, services, and in
15 any real property, including any improvements thereon; provided
16 that the director shall not sell, convey, lease, monetize, or otherwise
17 dispose of any municipally-owned water asset pursuant to an
18 agreement with a private entity until one-year after the effective
19 date of P.L. , c. (C.) (pending before the Legislature as this
20 bill) to allow the municipality in need of stabilization and recovery
21 to maximize the value of that asset;

22 (f) amending or terminating any existing contracts or
23 agreements, which shall not include bonds, notes, indentures, or
24 other similar financing instruments and documents to which the
25 municipality is a party, in accordance with the terms thereof; or
26 unilaterally amending or terminating any contracts or agreements
27 which shall not include bonds, notes, indentures, or other similar
28 financing instruments and documents to which the municipality is a
29 party, provided that the director determines that the unilateral
30 termination or amendment is reasonable and directly related to
31 stabilizing the finances or assisting with the fiscal rehabilitation and
32 recovery of the municipality in need of stabilization and recovery;

33 (g) unilaterally modifying, amending, or terminating any
34 collective negotiations agreements, except those related to school
35 districts, to which the municipality is a party, or unilaterally
36 modifying, amending, or terminating the terms and conditions of
37 employment during the term of any applicable collective
38 negotiations agreement, or both, provided that the director
39 determines that the modifications, amendments, or terminations are
40 reasonable and directly related to stabilizing the finances or
41 assisting with the fiscal rehabilitation and recovery of the
42 municipality in need of stabilization and recovery;

43 (h) acting as the sole agent in collective negotiations on behalf
44 of the municipality in need of stabilization and recovery;

45 (i) with respect to any expired collective negotiations
46 agreement to which the municipality in need of stabilization and
47 recovery is a party, unilaterally modifying wages, hours, or any
48 other terms and conditions of employment;

1 (j) unilaterally abolishing any non-elected positions in the
2 municipality in need of stabilization and recovery at any time. All
3 of the functions, powers, and duties of abolished positions shall be
4 exercised or delegated by the director; provided, however, that the
5 provisions of Title 11A, Civil Service, shall not apply to any
6 employment action under this paragraph;

7 (k) unilaterally appointing, transferring, or removing employees
8 of the municipality in need of stabilization and recovery, including,
9 but not limited to, department heads and division heads, as the case
10 may be, but excluding appointed officials who have obtained tenure
11 in office; provided, however, that the provisions of Title 11A, Civil
12 Service, shall not apply to any employment action under this
13 paragraph;

14 (l) acting as the appropriate authority, including, without
15 limitation, the appointing authority, for purposes of Title 40A of the
16 New Jersey Statutes;

17 (m) entering into any agreement with the county in which the
18 municipality in need of stabilization and recovery is located, any of
19 the other municipalities located in that county, or any
20 instrumentality of the State to share or consolidate municipal
21 services pursuant to any law applicable to consolidation or sharing
22 of services, including, without limitation, the "Uniform Shared
23 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.)
24 and P.L.2015, c.279 (C.40A:14-90.1 et al.);

25 (n) procuring any goods, services, commodities, information
26 technology, software, hardware, or other items on behalf of the
27 municipality in need of stabilization and recovery, in accordance
28 with either the "Local Public Contracts Law," P.L.1971, c.198
29 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at
30 the discretion of the director;

31 (o) retaining any professionals on behalf of the municipality in
32 need of stabilization and recovery, and directing the work of
33 professionals or any professionals previously retained by the
34 municipality in need of stabilization and recovery, in accordance
35 with either the "Local Public Contracts Law," P.L.1971, c.198
36 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at
37 the discretion of the director;

38 (p) retaining bond counsel, adopting bond ordinances to the
39 extent necessary, making appropriate bond applications, and taking
40 any other steps necessary to restructure and adjust debt, on behalf of
41 the municipality in need of stabilization and recovery;

42 (q) exercising on behalf of the municipality in need of
43 stabilization and recovery any authority granted to a municipality
44 pursuant to the "Local Redevelopment and Housing Law,"
45 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it
46 necessary or appropriate to help stabilize the finances, restructure
47 the debts, or assist with the financial rehabilitation and recovery of
48 the municipality in need of stabilization and recovery;

1 (r) exercising on behalf of the municipality in need of
2 stabilization and recovery any authority granted to a municipality
3 pursuant to the “Redevelopment Area Bond Financing Law,”
4 P.L.2001, c.310 (C.40A:12A-64 et seq.) when the director deems it
5 necessary or appropriate to help stabilize the finances, restructure
6 the debts, or assist with the financial rehabilitation and recovery of
7 the municipality in need of stabilization and recovery;

8 (s) exercising on behalf of the municipality in need of
9 stabilization and recovery any authority granted to a municipality
10 pursuant to the “Long Term Tax Exemption Law,” P. L.1991, c.431
11 (C.40A:20-1 et seq.) when the director deems it necessary or
12 appropriate to help stabilize the finances, restructure the debts, or
13 assist the financial rehabilitation and recovery of the municipality in
14 need of stabilization and recovery;

15 (t) authorizing and filing, on behalf of the municipality in need
16 of stabilization and recovery, subject only to the written approval of
17 the majority of the members of the legislative Joint Budget
18 Oversight Committee, a petition and other pleadings and papers
19 with any United States court or federal bankruptcy court for the
20 purpose of effecting a plan of readjustment or composition of debts
21 as set forth in R.S.52:27-40 et seq., and taking any other and further
22 actions necessary or appropriate in connection with any case or
23 proceeding; and

24 (u) negotiating and executing any contracts, agreements, or
25 other documents on behalf of the municipality in need of
26 stabilization and recovery as may be necessary or appropriate to
27 effectuate any of the actions or steps specifically identified in P.L. ,
28 c. (C.) (pending before the Legislature as this bill) or that
29 may otherwise, as the director deems necessary or appropriate, help
30 stabilize the finances, restructure the debts, or assist with the
31 financial rehabilitation and recovery of the municipality in need of
32 stabilization and recovery.

33 (4) Subject to subsection b. of section 11 of P.L. , c. (C.)
34 (pending before the Legislature as this bill), the Local Finance
35 Board may authorize the director to take any action authorized to be
36 taken under the “Local Bond Law,” N.J.S.40A:2-1 et seq., and the
37 “Municipal Qualified Bond Act,” P.L.1976, c.38 (C.40A:3-1 et
38 seq.) by a governing body of a local unit.

39 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and
40 regulations promulgated thereunder, shall in no way infringe on the
41 authority of the Local Finance Board or the director set forth in this
42 section or any actions taken by the director pursuant to this section.

43 (6) Any function, power, privilege, or immunity of the
44 municipal governing body that is not assumed by the Local Finance
45 Board and reallocated to and vested exclusively in the director
46 pursuant to this section shall remain allocated to and vested in that
47 governing body unless and until such time as the function, power,
48 privilege, immunity, or duty may be allocated to and vested

1 exclusively in the Local Finance Board or the director pursuant to
2 this section. The Local Finance Board or the director may exercise
3 any power implied or incidental to a power that has been
4 specifically allocated.

5 b. (1) Notwithstanding the provisions of any law, rule, or
6 regulation to the contrary, including any requirements set forth in
7 R.S.40:49-1 et seq., the "Senator Byron M. Baer Open Public
8 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or R.S.52:27-41,
9 the director shall have the exclusive authority to pass, adopt, repeal,
10 or amend any ordinance or resolution of the municipality in need of
11 stabilization and recovery, modify any meeting agenda of the
12 governing body of the municipality in need of stabilization and
13 recovery, and negotiate, enter into, amend, or terminate any contract
14 or agreement, on behalf of the municipality in need of stabilization
15 and recovery, provided that the director deems the action necessary
16 or appropriate to help stabilize the finances, restructure the debts, or
17 assist with the financial rehabilitation and recovery of the
18 municipality in need of stabilization and recovery.

19 (2) When exercising powers under this section, the director
20 shall, to the extent practicable, comply with all notice, hearing, and
21 other requirements to which the municipality in need of
22 stabilization and recovery is generally subject, but in no instance
23 shall the director be deemed a "public body" pursuant to the
24 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,
25 c.231 (C.10:4-6 et seq.).

26 (3) The director may issue to the appropriate elected and
27 appointed officials and employees, agents, and contractors of a
28 municipality in need of stabilization and recovery the orders that the
29 director deems appropriate to stabilize the finances, restructure the
30 debts, or assist the financial rehabilitation and recovery of the
31 municipality in need of stabilization and recovery pursuant to the
32 authority granted by the Local Finance Board pursuant to this
33 section. Any order by the director shall be binding on the
34 appropriate elected and appointed officials and employees, agents,
35 and contractors of a municipality in need of stabilization and
36 recovery and may be enforced as other orders of the director are
37 enforced under general law.

38

39 6. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to
40 read as follows:

41 3. a. (1) Negotiations between a public fire or police
42 department and an exclusive representative concerning the terms
43 and conditions of employment shall begin at least 120 days prior to
44 the day on which their collective negotiation agreement is to expire.
45 The parties shall meet at least three times during that 120-day
46 period. The first of those three meetings shall take place no later
47 than the 90th day prior to the day on which their collective
48 negotiation agreement is to expire. By mutual consent, the parties

1 may agree to extend the period during which the second and third
2 meetings are required to take place beyond the day on which their
3 collective negotiation agreement is to expire. A violation of this
4 paragraph shall constitute an unfair practice and the violator shall
5 be subject to the penalties prescribed by the commission pursuant to
6 rule and regulation.

7 Prior to the expiration of their collective negotiation agreement,
8 either party may file an unfair practice charge with the commission
9 alleging that the other party is refusing to negotiate in good faith.
10 The charge shall be filed in the manner, form and time specified by
11 the commission in rule and regulation. If the charge is sustained,
12 the commission shall order that the respondent be assessed for all
13 legal and administrative costs associated with the filing and
14 resolution of the charge; if the charge is dismissed, the commission
15 shall order that the charging party be assessed for all legal and
16 administrative costs associated with the filing and resolution of the
17 charge. The filing and resolution of the unfair practice charge shall
18 not delay or impair the impasse resolution process.

19 (2) Whenever those negotiations concerning the terms and
20 conditions of employment shall reach an impasse, the commission,
21 through the Division of Public Employment Relations shall, upon
22 the request of either party, or upon its own motion take such steps,
23 including the assignment of a mediator, as it may deem expedient to
24 effect a voluntary resolution of the impasse.

25 b. (1) In the event of a failure to resolve the impasse by
26 mediation, the Division of Public Employment Relations, at the
27 request of either party, shall invoke factfinding with
28 recommendation for settlement of all issues in dispute unless the
29 parties reach a voluntary settlement prior to the issuance of the
30 factfinder's report and recommended terms of settlement.
31 Factfindings shall be limited to those issues that are within the
32 required scope of negotiations unless the parties to the factfinding
33 agree to factfinding on permissive subjects of negotiation.

34 (2) Notwithstanding the provisions of paragraph (2) of
35 subsection a. of this section or paragraph (1) of this subsection,
36 either party may petition the commission for arbitration on or after
37 the date on which their collective negotiation agreement expires.
38 The petition shall be filed in a manner and form prescribed by the
39 commission. The party filing the petition shall notify the other
40 party of its action. The notice shall be given in a manner and form
41 prescribed by the commission.

42 Any mediation or factfinding invoked pursuant to paragraph (2)
43 of subsection a. of this section or paragraph (1) of subsection b. of
44 this section shall terminate immediately upon the filing of a petition
45 for arbitration.

46 (3) Upon the filing of a petition for arbitration pursuant to
47 paragraph (2) of this subsection, an arbitrator selected pursuant to
48 paragraph (1) of subsection e. of this section shall conduct an initial

1 meeting as a mediation session to effect a voluntary resolution of
2 the impasse.

3 c. (Deleted by amendment, P.L.2010, c.105)

4 d. The resolution of issues in dispute shall be binding
5 arbitration under which the award on the unsettled issues is
6 determined by conventional arbitration. The arbitrator shall
7 determine whether the total net annual economic changes for each
8 year of the agreement are reasonable under the nine statutory
9 criteria set forth in subsection g. of this section and shall adhere to
10 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-
11 16.7). The non-petitioning party, within five days of receipt of the
12 petition, shall separately notify the commission in writing of all
13 issues in dispute. The filing of the written response shall not delay,
14 in any manner, the interest arbitration process.

15 e. (1) The commission shall take measures to assure the
16 impartial selection of an arbitrator or arbitrators from its special
17 panel of arbitrators. On the first business day following receipt of
18 an interest arbitration petition, the commission shall, independent of
19 and without any participation by either of the parties, randomly
20 select an arbitrator from its special panel of arbitrators. The
21 selection by the commission shall be final and shall not be subject
22 to review or appeal.

23 (2) Applicants for initial appointment to the commission's
24 special panel of arbitrators shall be chosen based on their
25 professional qualifications, knowledge, and experience, in
26 accordance with the criteria and rules adopted by the commission.
27 Such rules shall include relevant knowledge of local government
28 operations and budgeting. Appointment to the commission's special
29 panel of arbitrators shall be for a three-year term, with
30 reappointment contingent upon a screening process similar to that
31 used for determining initial appointments. Arbitrators currently
32 serving on the panel shall demonstrate to the commission their
33 professional qualification, knowledge and experience, in accordance
34 with the criteria and rules adopted by the commission, within one
35 year of the effective date of this act. Any arbitrator who does not
36 satisfactorily demonstrate such to the commission within the
37 specified time shall be disqualified.

38 (3) Arbitrators serving on the commission's special panel shall
39 be guided by and subject to the objectives and principles set forth in
40 the "Code of Professional Responsibility for Arbitrators of Labor-
41 Management Disputers [Disputes]" of the National Academy of
42 Arbitrators, the American Arbitration Association, and the Federal
43 Mediation and Conciliation Service.

44 (4) Arbitrators shall be required to complete annual training
45 offered by the State Ethics Commission. Any arbitrator failing to
46 satisfactorily complete the annual training shall be immediately
47 removed from the special panel.

1 The commission may suspend, remove, or otherwise discipline
2 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),
3 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.
4 An arbitrator who fails to render an award within the time
5 requirements set forth in this section shall be fined \$ 1,000 for each
6 day that the award is late.

7 f. (1) At a time prescribed by the commission, the parties shall
8 submit to the arbitrator their final offers on each economic and non-
9 economic issue in dispute. The offers submitted pursuant to this
10 section shall be used by the arbitrator for the purposes of
11 determining an award pursuant to subsection d. of this section.

12 (2) In the event of a dispute, the commission shall have the
13 power to decide which issues are economic issues. Economic
14 issues include those items which have a direct relation to employee
15 income including wages, salaries, hours in relation to earnings, and
16 other forms of compensation such as paid vacation, paid holidays,
17 health and medical insurance, and other economic benefits to
18 employees.

19 (3) Throughout formal arbitration proceedings the chosen
20 arbitrator may mediate or assist the parties in reaching a mutually
21 agreeable settlement.

22 All parties to arbitration shall present, at the formal hearing
23 before the issuance of the award, written estimates of the financial
24 impact of their last offer on the taxpayers of the local unit to the
25 arbitrator with the submission of their last offer.

26 (4) Arbitration shall be limited to those subjects that are within
27 the required scope of collective negotiations, except that the parties
28 may agree to submit to arbitration one or more permissive subjects
29 of negotiation.

30 (5) The decision of an arbitrator or panel of arbitrators shall
31 include an opinion and an award, and shall be rendered within 90
32 calendar days of the commission's assignment of that arbitrator.

33 Each arbitrator's decision shall be accompanied by a written
34 report explaining how each of the statutory criteria played into the
35 arbitrator's determination of the final award. The report shall
36 certify that the arbitrator took the statutory limitations imposed on
37 the local levy cap into account in making the award.

38 Any arbitrator violating the provisions of this paragraph may be
39 subject to the commission's powers under paragraph (3) of
40 subsection e. of this section. The decision shall be final and binding
41 upon the parties and shall be irreversible, except:

42 (a) Within 14 calendar days of receiving an award, an aggrieved
43 party may file notice of an appeal of an award to the commission on
44 the grounds that the arbitrator failed to apply the criteria specified
45 in subsection g. of this section or violated the standards set forth in
46 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form
47 and manner prescribed by the commission. In deciding an appeal,
48 the commission, pursuant to rule and regulation and upon petition,

1 may afford the parties the opportunity to present oral arguments.
2 The commission may affirm, modify, correct or vacate the award or
3 may, at its discretion, remand the award to the same arbitrator or to
4 another arbitrator, selected by lot, for reconsideration. The
5 commission's decision shall be rendered no later than 60 calendar
6 days after the filing of the appeal with the commission.

7 Arbitration appeal decisions shall be accompanied by a written
8 report explaining how each of the statutory criteria played into their
9 determination of the final award. The report shall certify that in
10 deciding the appeal, the commission took the local levy cap into
11 account in making the award.

12 An aggrieved party may appeal a decision of the commission to
13 the Appellate Division of the Superior Court.

14 (b) An arbitrator's award shall be implemented immediately.

15 (6) The parties shall share equally the costs of arbitration
16 subject to a fee schedule approved by the commission. The fee
17 schedule shall provide that the cost of services provided by the
18 arbitrator shall not exceed \$ 1,000 per day. The total cost of
19 services of an arbitrator shall not exceed \$ 10,000. If the parties
20 cancel an arbitration proceeding without good cause, the arbitrator
21 may impose a fee of not more than \$ 500. The parties shall share
22 equally in paying that fee if the request to cancel or adjourn is a
23 joint request. Otherwise, the party causing such cancellation shall
24 be responsible for payment of the entire fee.

25 g. The arbitrator shall decide the dispute based on a reasonable
26 determination of the issues, giving due weight to those factors listed
27 below that are judged relevant for the resolution of the specific
28 dispute. In the award, the arbitrator or panel of arbitrators shall
29 indicate which of the factors are deemed relevant, satisfactorily
30 explain why the others are not relevant, and provide an analysis of
31 the evidence on each relevant factor; provided, however, that in
32 every interest arbitration proceeding, the parties shall introduce
33 evidence regarding the factor set forth in paragraph (6) of this
34 subsection and the arbitrator shall analyze and consider the factor
35 set forth in paragraph (6) of this subsection in any award:

36 (1) The interests and welfare of the public. Among the items
37 the arbitrator or panel of arbitrators shall assess when considering
38 this factor are the limitations imposed upon the employer by
39 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

40 (2) Comparison of the wages, salaries, hours, and conditions of
41 employment of the employees involved in the arbitration
42 proceedings with the wages, hours, and conditions of employment
43 of other employees performing the same or similar services and
44 with other employees generally:

45 (a) In private employment in general; provided, however, each
46 party shall have the right to submit additional evidence for the
47 arbitrator's consideration.

1 (b) In public employment in general; provided, however, each
2 party shall have the right to submit additional evidence for the
3 arbitrator's consideration.

4 (c) In public employment in the same or similar comparable
5 jurisdictions, as determined in accordance with section 5 of
6 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each
7 party shall have the right to submit additional evidence concerning
8 the comparability of jurisdictions for the arbitrator's consideration.

9 (3) The overall compensation presently received by the
10 employees, inclusive of direct wages, salary, vacations, holidays,
11 excused leaves, insurance and pensions, medical and hospitalization
12 benefits, and all other economic benefits received.

13 (4) Stipulations of the parties.

14 (5) The lawful authority of the employer. Among the items the
15 arbitrator or panel of arbitrators shall assess when considering this
16 factor are the limitations imposed upon the employer by P.L.1976,
17 c.68 (C.40A:4-45.1 et seq.).

18 (6) The financial impact on the governing unit, its residents, the
19 limitations imposed upon the local unit's property tax levy pursuant
20 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.
21 When considering this factor in a dispute in which the public
22 employer is a county or a municipality, the arbitrator or panel of
23 arbitrators shall take into account, to the extent that evidence is
24 introduced, how the award will affect the municipal or county
25 purposes element, as the case may be, of the local property tax; a
26 comparison of the percentage of the municipal purposes element or,
27 in the case of a county, the county purposes element, required to
28 fund the employees' contract in the preceding local budget year with
29 that required under the award for the current local budget year; the
30 impact of the award for each income sector of the property
31 taxpayers of the local unit; the impact of the award on the ability of
32 the governing body to (a) maintain existing local programs and
33 services, (b) expand existing local programs and services for which
34 public moneys have been designated by the governing body in a
35 proposed local budget, or (c) initiate any new programs and services
36 for which public moneys have been designated by the governing
37 body in a proposed local budget.

38 (7) The cost of living.

39 (8) The continuity and stability of employment including
40 seniority rights and such other factors not confined to the foregoing
41 which are ordinarily or traditionally considered in the determination
42 of wages, hours, and conditions of employment through collective
43 negotiations and collective bargaining between the parties in the
44 public service and in private employment.

45 (9) Statutory restrictions imposed on the employer. Among the
46 items the arbitrator or panel of arbitrators shall assess when
47 considering this factor are the limitations imposed upon the
48 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

1 h. A mediator, factfinder, or arbitrator while functioning in a
2 mediatory capacity shall not be required to disclose any files,
3 records, reports, documents, or other papers classified as
4 confidential received or prepared by him or to testify with regard to
5 mediation, conducted by him under this act on behalf of any party
6 to any cause pending in any type of proceeding under this act.
7 Nothing contained herein shall exempt such an individual from
8 disclosing information relating to the commission of a crime.

9 i. The Director of the Division of Local Government Services
10 in the Department of Community Affairs may notify the
11 commission, through the Division of Public Employment Relations,
12 that a municipality deemed a “municipality in need of stabilization
13 and recovery” pursuant to section 4 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) will not participate in
15 any impasse procedures authorized by this section. Upon such
16 notice, any pending impasse procedures authorized by this section
17 shall immediately cease, and any pending petition for arbitration
18 shall be vacated. Nothing in this subsection shall be construed to
19 limit the scope of any general or specific powers of the Local
20 Finance Board or the director set forth in P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22 j. The Local Finance Board may provide that any arbitration
23 award, including but not limited to an interest arbitration award,
24 involving a municipality deemed a “municipality in need of
25 stabilization and recovery” pursuant to section 4 of P.L. , c. (C.)
26 (pending before the Legislature as this bill) shall be subject to the
27 review and approval of the Director of the Division of Local
28 Government Services in the Department of Community Affairs,
29 including those on a collective negotiations agreement where the
30 matter has been submitted to an arbitrator pursuant to law, and no
31 such award shall be binding without the approval of the director.
32 Nothing in this subsection shall be construed to limit the scope of
33 any general or specific powers of the Local Finance Board or the
34 director set forth in P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 (cf: P.L.2014, c.11, s.1)

37
38 7. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to
39 read as follows:

40 a. Public employers, their representatives or agents are
41 prohibited from:

42 (1) Interfering with, restraining or coercing employees in the
43 exercise of the rights guaranteed to them by this act.

44 (2) Dominating or interfering with the formation, existence or
45 administration of any employee organization.

46 (3) Discriminating in regard to hire or tenure of employment or
47 any term or condition of employment to encourage or discourage

1 employees in the exercise of the rights guaranteed to them by this
2 act.

3 (4) Discharging or otherwise discriminating against any
4 employee because he has signed or filed an affidavit, petition or
5 complaint or given any information or testimony under this act.

6 (5) Refusing to negotiate in good faith with a majority
7 representative of employees in an appropriate unit concerning terms
8 and conditions of employment of employees in that unit, or refusing
9 to process grievances presented by the majority representative.

10 (6) Refusing to reduce a negotiated agreement to writing and to
11 sign such agreement.

12 (7) Violating any of the rules and regulations established by the
13 commission.

14 b. Employee organizations, their representatives or agents are
15 prohibited from:

16 (1) Interfering with, restraining or coercing employees in the
17 exercise of the rights guaranteed to them by this act.

18 (2) Interfering with, restraining or coercing a public employer in
19 the selection of his representative for the purposes of negotiations
20 or the adjustment of grievances.

21 (3) Refusing to negotiate in good faith with a public employer,
22 if they are the majority representative of employees in an
23 appropriate unit concerning terms and conditions of employment of
24 employees in that unit.

25 (4) Refusing to reduce a negotiated agreement to writing and to
26 sign such agreement.

27 (5) Violating any of the rules and regulations established by the
28 commission.

29 c. The commission shall have exclusive power as hereinafter
30 provided to prevent anyone from engaging in any unfair practice
31 listed in subsections a. and b. above. Whenever it is charged that
32 anyone has engaged or is engaging in any such unfair practice, the
33 commission, or any designated agent thereof, shall have authority to
34 issue and cause to be served upon such party a complaint stating the
35 specific unfair practice charged and including a notice of hearing
36 containing the date and place of hearing before the commission or
37 any designated agent thereof; provided that no complaint shall issue
38 based upon any unfair practice occurring more than 6 months prior
39 to the filing of the charge unless the person aggrieved thereby was
40 prevented from filing such charge in which event the 6-month
41 period shall be computed from the day he was no longer so
42 prevented.

43 In any such proceeding, the provisions of the Administrative
44 Procedure Act P.L.1968, c.410 (C.52:14B-1 et seq.) shall be
45 applicable. Evidence shall be taken at the hearing and filed with the
46 commission. If, upon all the evidence taken, the commission shall
47 determine that any party charged has engaged or is engaging in any
48 such unfair practice, the commission shall state its findings of fact

1 and conclusions of law and issue and cause to be served on such
2 party an order requiring such party to cease and desist from such
3 unfair practice, and to take such reasonable affirmative action as
4 will effectuate the policies of this act. All cases in which a
5 complaint and notice of hearing on a charge is actually issued by
6 the commission, shall be prosecuted before the commission or its
7 agent, or both, by the representative of the employee organization
8 or party filing the charge or his authorized representative.

9 d. The commission shall at all times have the power and duty,
10 upon the request of any public employer or majority representative,
11 to make a determination as to whether a matter in dispute is within
12 the scope of collective negotiations. The commission shall serve the
13 parties with its findings of fact and conclusions of law. Any
14 determination made by the commission pursuant to this subsection
15 may be appealed to the Appellate Division of the Superior Court.

16 e. The commission shall adopt such rules as may be required to
17 regulate the conduct of representation elections, and to regulate the
18 time of commencement of negotiations and of institution of impasse
19 procedures so that there will be full opportunity for negotiations and
20 the resolution of impasses prior to required budget submission
21 dates.

22 f. The commission shall have the power to apply to the
23 Appellate Division of the Superior Court for an appropriate order
24 enforcing any order of the commission issued under subsection c. or
25 d. hereof, and its findings of fact, if based upon substantial evidence
26 on the record as a whole, shall not, in such action, be set aside or
27 modified; any order for remedial or affirmative action, if reasonably
28 designed to effectuate the purposes of this act, shall be affirmed and
29 enforced in such proceeding.

30 g. The Director of the Division of Local Government Services
31 in the Department of Community Affairs may notify the
32 commission that a municipality deemed a "municipality in need of
33 stabilization and recovery" pursuant to section 4 of P.L. _____,
34 c. (C. _____) (pending before the Legislature as this bill) shall not
35 be subject to the commission's authority to prevent an unfair
36 practice pursuant to subsection a. of this section. Upon such notice,
37 neither the commission, nor any designee, shall have the authority
38 to issue or cause to be served upon such municipality in need of
39 stabilization and recovery any complaint alleging an unfair practice
40 under subsection a. of this section or to hold any hearings with
41 respect thereto. Nothing in this subsection shall be construed to
42 limit the scope of any general or specific powers of the Local
43 Finance Board or the director set forth in P.L. _____, c. (C. _____)
44 (pending before the Legislature as this bill).

45 (cf: P.L.1979, c.477, s.1)

46
47 8. (New section) In a municipality in need of stabilization and
48 recovery, the director may prepare the annual budget or to instruct

1 the municipal governing body to prepare and submit a proposed
2 annual budget. If the municipal governing body is submitting a
3 proposed annual budget, the director shall fix a date for the
4 municipal governing body to submit that budget to the Local
5 Finance Board, and the board may approve the budget, modify it or
6 instruct the director to prepare an alternative budget. If the director
7 prepares the budget, it shall be submitted to the Local Finance
8 Board for its approval. Once a budget is approved by the Local
9 Finance Board, the budget shall be deemed adopted.

10 a. The director shall have the authority to make temporary
11 appropriations necessary for the period prior to the adoption of the
12 budget, and to make emergency temporary appropriations pursuant
13 to N.J.S.40A:4-20 to meet an urgent situation or event which
14 immediately endangers the health, safety, or property of the
15 residents of the municipality, and to make emergency
16 appropriations pursuant to N.J.S.40A:4-46.

17 b. The director shall have the authority to spend money and
18 authorize expenditures, in accordance with the approved budget or
19 any temporary or emergency appropriations.

20

21 9. (New section) The director may delegate to the director's
22 designee any power granted to the director pursuant to P.L. ,
23 c. (C.) (pending before the Legislature as this bill). The
24 designation to a director's designee shall be in writing and filed
25 with the Local Finance Board. Any action of a director's designee
26 taken subsequent to the delegation shall be deemed to have been
27 taken by the director. If any claims are asserted against the
28 director's designee, the director's designee shall, for that purpose
29 only, be considered a State officer within the scope of the "New
30 Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

31

32 10. (New section) In a municipality in need of stabilization and
33 recovery, any initiative approved by the voters of the municipality
34 pursuant to section 17-35 of P.L.1950, c.210 (C.40:69A-184) and
35 any referendum approved pursuant to section 17-36 of P.L.1950,
36 c.210 (C.40:69A-185) shall be advisory only and may be followed,
37 or disregarded, by the Local Finance Board and the director in their
38 discretion. The provisions of this section shall not apply to a
39 referendum approved pursuant to section 11 of P.L. , c. (C.)
40 (pending before the Legislature as this bill).

41

42 11. (New section) a. Notwithstanding the provisions of any law
43 or regulation, including, without limitation, the "Local Bond Law,"
44 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"
45 P.L.1979, c.38 (C.40A:3-1 et seq.), that requires the adoption of an
46 ordinance or resolution to authorize any action of a municipality, a
47 resolution issued by the director shall suffice in lieu of a municipal

1 ordinance or resolution for all purposes, except for bond
2 ordinances, in a municipality in need of stabilization and recovery.

3 b. In the case of bond ordinances in a municipality in need of
4 stabilization and recovery, the director's resolution in lieu of such
5 ordinances shall be published in full in a newspaper circulating in
6 the municipality and a copy of the resolution shall be filed for
7 public inspection with the municipal clerk of the municipality in
8 need of stabilization and recovery. The publication of the director's
9 resolution shall occur not less than 10 days prior to the time and
10 place of a public hearing to be had on the resolution. The resolution
11 shall become effective on the 45th day after the public hearing,
12 unless:

13 (1) the resolution is modified by the director subsequent to the
14 meeting, in which case there shall be a second public hearing on no
15 less than 10 days' notice; or

16 (2) there is filed with the municipal clerk within 45 days of the
17 hearing, a petition requesting a referendum in said municipality
18 signed by either five percent or 10,000 of the registered voters of
19 said municipality, whichever is lesser.

20 If a petition is filed, the resolution pertaining to the bond
21 measures issued by the director shall be submitted to the registered
22 voters of said municipality at the next general or regular municipal
23 election and in the same manner and form as other public questions
24 to be voted upon by voters of a single municipality.

25

26 12. (New section) If any provision of P.L. , c. (C.)
27 (pending before the Legislature as this bill) or its application is held
28 invalid, the invalidity shall not affect other applications of that
29 provision, or other provisions of P.L. , c. (C.) (pending
30 before the Legislature as this bill), which reasonably can be given
31 effect despite the invalidity, and to this end the provisions of P.L. ,
32 c. (C.) (pending before the Legislature as this bill) are
33 severable.

34

35 13. (New section) a. In order to achieve financial stability, a
36 municipality in need of stabilization and recovery, as determined by
37 the commissioner pursuant to subsection a. of section 4 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), may offer
39 and implement an incentive program for retirement or termination
40 of employment after approval of such incentive program by the
41 director. The program shall be limited to full-time employees in
42 any department, office, section, or other organizational component
43 of the municipality in need of stabilization and recovery to achieve
44 financial stability. The incentive program may include one or more
45 of the following:

46 (1) cash payments or the purchase of annuities;

47 (2) employer contributions to an approved employee deferred
48 compensation program to the extent permitted by federal law;

1 (3) payment by the municipality for continuation of health
2 benefits coverage after retirement for not more than five years or
3 until the employee attains the age of eligibility for Medicare,
4 whichever occurs first;

5 (4) payment by the municipality for health benefits coverage
6 after retirement under the "New Jersey State Health Benefits
7 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under
8 group insurance contracts pursuant to N.J.S.40A:10-23, for
9 employees and dependents in accordance with the law and rules
10 governing the State Health Benefits Program or the law governing
11 such group insurance contracts, as the case may be, for employees
12 who fail to meet the service requirement for payment for such
13 coverage after retirement by no more than five years, but who are
14 otherwise eligible for employer payment for health benefits
15 coverage after retirement; or

16 (5) additional service credit for employees who are members of
17 the Public Employees' Retirement System of New Jersey, pursuant
18 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's
19 Retirement System of New Jersey, pursuant to P.L.1944, c.255
20 (C.43:16A-1 et seq.), or a municipal retirement system created
21 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275
22 (C.43:13-22.50 et seq.), as provided in this section.

23 b. No later than six months prior to the date on which a
24 proposed incentive program is to begin, the municipality shall
25 submit detailed information concerning the incentive program to the
26 director, in a form and manner prescribed by the director, which
27 shall include the following:

28 (1) the governmental services affected by the plan adopted by
29 the municipality pursuant to subsection b. of section 4 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill);

31 (2) the departments, offices, sections, and other organizational
32 components of the municipality to be affected, and a list of the
33 employees thereof;

34 (3) the incentives to be offered;

35 (4) the estimated number of employees who will retire or
36 terminate employment under the incentive program;

37 (5) fiscal information sufficient to demonstrate that the
38 incentive program in conjunction with the plan adopted by the
39 municipality pursuant to subsection b. of section 4 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) will result in
41 a reduction for the municipality in the number of employees
42 providing the affected governmental services, including information
43 on the number of employees by which the municipality will reduce
44 employment for a period of at least five years;

45 (6) fiscal information sufficient to demonstrate that, taking into
46 consideration the costs of the incentive program, the plan adopted
47 by the municipality pursuant to subsection b. of section 4 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill) will result in

- 1 a reduction in the cost of providing the affected governmental
2 services for the municipality;
- 3 (7) information on the fiscal stability of the municipality
4 sufficient to demonstrate that the municipality will be able to pay
5 the costs for the incentive program which will result in net savings
6 and shall not necessitate any increase in property taxes for the
7 municipality;
- 8 (8) information sufficient to demonstrate that the municipality
9 will continue to provide the affected governmental services without
10 the number of employees that are expected to take the incentive;
11 and
- 12 (9) any other information which the director may require.
- 13 c. The director may, for good cause, permit a municipality to
14 submit information without complying with the time period for
15 submission of information or which does not conform to the
16 specific informational requirements of this section.
- 17 d. The director shall provide to the Director of the Division of
18 Pensions and Benefits in the Department of the Treasury sufficient
19 information relating to the incentive program so that the Director of
20 the Division of Pensions and Benefits may provide to the director:
- 21 (1) an estimate of the anticipated liability of the affected
22 retirement systems;
- 23 (2) a determination of whether the incentive program is
24 reasonably calculated to produce a reduction in the number of
25 employees of the municipality; and
- 26 (3) taking into consideration the liability for the incentive
27 program, an estimate of the net savings in the employment costs to
28 provide the affected governmental services.
- 29 e. In order to make the calculation required by paragraph (2) of
30 subsection d. of this section, the Director of the Division of
31 Pensions and Benefits in the Department of the Treasury shall
32 submit the proposed incentive program to the actuary of each
33 retirement system which would be affected by the incentive
34 program. Each actuary shall estimate the additional liability to the
35 retirement system for the incentive program, including the liability
36 for the additional service credit and the earlier retirement of
37 employees under the incentive program. Each actuary shall provide
38 the Director of the Division of Pensions and Benefits with an
39 opinion on whether the incentive program is reasonably calculated
40 to produce a reduction in the number of employees of the
41 municipality providing the affected governmental services, and a
42 net savings, taking into consideration the liability for the incentive
43 program, in the employment costs to provide the affected
44 governmental services. The State shall conduct the actuarial work
45 required by this subsection at no charge to the municipality.
- 46 f. If the incentive program includes the provision of additional
47 service credit under State retirement systems for eligible
48 employees, the beginning and ending dates for the incentive

1 program and the time period during which the eligible employees
2 will have to elect to participate in the incentive program shall be
3 subject to approval by the Director of the Division of Pensions and
4 Benefits in the Department of the Treasury.

5 g. If the director determines that the incentive program will
6 result in the municipality continuing to provide the affected
7 governmental services with fewer employees and at a lower cost,
8 and that the incentive program will result in net savings and will not
9 necessitate any increase in local property taxes for the municipality,
10 the director shall approve the incentive program for
11 implementation.

12 h. For employees who are members of the Police and Firemen's
13 Retirement System of New Jersey, pursuant to P.L.1944, c.255
14 (C.43:16A-1 et seq.), an incentive program for retirement may
15 provide additional months of service credit for an employee who
16 has 20 or more years of service credit on the last day for retirement
17 under the incentive program, so that the employee shall have an
18 aggregate amount of service credit under the retirement system of
19 no more than 30 years on the effective date of retirement. In no
20 case shall more than 60 months of additional service credit be
21 provided under the incentive program.

22 i. For employees who are members of the Public Employees'
23 Retirement System of New Jersey, pursuant to P.L.1954, c.84
24 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive
25 program for retirement may provide not more than 60 additional
26 months of service credit for an employee who has 20 or more years
27 of service credit on the last day for retirement under the incentive
28 program.

29 j. An incentive program may require one or more of the
30 following criteria: a minimum number of years of service credit in a
31 retirement system, a minimum number of years of service with the
32 municipality, or a minimum age for eligibility to participate in the
33 program.

34 k. An employee who receives an incentive benefit for
35 retirement or termination of employment under this section shall
36 forfeit any tenure, civil service, or other employment right for
37 continued employment or for return to employment based upon the
38 employment for which the employee receives the incentive benefit.

39 l. When the needs of the municipality require the continuation
40 in service of an employee who elects to retire and receive an
41 incentive benefit under this section, the effective retirement date of
42 the employee may be delayed, with the approval of the governing
43 body of the municipality and the agreement of the employee, until
44 the first day of any month not later than the twelfth month after the
45 last date for retirement under the incentive program. If an
46 employee whose retirement is delayed under this subsection dies
47 before the retirement becomes effective, the retirement shall be
48 effective on the first day of the month after the date of death of the

1 employee, unless the employee's beneficiary for retirement benefits
2 requests in writing to the board of trustees of the retirement system
3 that benefits payable for death in active service be paid on behalf of
4 the employee.

5 m. An employee retiring with an incentive benefit under this
6 section who has not paid the full amount of a loan from the
7 retirement system by the effective date of retirement may repay the
8 loan through deductions from the monthly retirement benefits in the
9 same monthly amount which was deducted from the member's
10 compensation immediately preceding retirement, until the balance
11 of the amount borrowed with interest at the statutory rate is repaid.
12 If the retiree dies before the outstanding balance of the loan and
13 interest is repaid, the remaining balance shall be repaid as provided
14 in the laws governing the retirement system for repayment of loans.

15 n. Notwithstanding the provisions of the laws governing the
16 retirement system, an employee purchasing service credit to qualify
17 for a benefit under this section, for each affected retirement system,
18 purchase a portion of the service credit which the employee is
19 eligible to purchase.

20 o. If the incentive program is approved and implemented, the
21 actuary to the affected retirement system shall determine the full
22 amount of the liability of the retirement system for the incentive
23 program including the liability for the additional service credit and
24 the earlier retirement of employees under the incentive program in
25 accordance with the assumptions used by the retirement system to
26 determine the full liabilities of the system. The municipality shall
27 pay the amount of the liability determined by the actuary to the
28 retirement system in a lump sum or through annual installment
29 payments with regular interest at the rate used by the retirement
30 system to determine liabilities and to estimate investment return for
31 a period approved by the Director of the Division of Pensions and
32 Benefits in the Department of the Treasury which shall not exceed
33 15 years. The municipality shall pay the cost for the actuarial work
34 to determine the full liability of the retirement system if the
35 incentive program is approved and implemented. If the
36 municipality does not make payments for the liability, the cost of
37 the actuarial work, and administrative expenses in a timely manner,
38 the municipality shall be subject to interest and penalties on the
39 payments on the same basis provided for late payment of employer
40 contributions to the retirement system under the laws and rules
41 governing the retirement system.

42 p. The Director of the Division of Pensions and Benefits in the
43 Department of the Treasury shall provide the municipality with
44 information on the estimated liability for the proposed incentive
45 program, and actual liability if the program is approved and
46 implemented. If the program provides additional service credit to
47 employees under the Public Employees' Retirement System of New
48 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the

1 Police and Firemen's Retirement System of New Jersey, pursuant to
2 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the
3 eligible employees of the municipality with information on the
4 benefits they would receive under the incentive program, and other
5 appropriate assistance, to enable employees to decide whether to
6 accept the incentive benefit and retire from the retirement systems if
7 they accept the incentive benefit.

8 q. The powers, duties, and responsibilities related to retirement
9 systems under this section for municipal retirement systems shall be
10 exercised and performed by the governing bodies of the retirement
11 systems.

12 r. Prior to the beginning date of the incentive program,
13 appropriate representatives of the governing body of the
14 municipality which implements an incentive program pursuant to
15 this section shall meet and consult with the majority representative
16 of the bargaining unit or units which include the employees of the
17 municipality who would be eligible for the incentive program.

18 s. For a period of five years after the last date for retirement or
19 termination of employment under an incentive program
20 implemented pursuant to this section, the employment level of the
21 municipality for the provision of governmental services previously
22 performed by employees that participated in the incentive program
23 shall not, without the approval of the director, exceed the
24 employment level specified in the incentive program approved by
25 the director. The director may approve an increase in the
26 employment level to provide the affected governmental services if
27 the director determines that:

28 (1) changes in local conditions such as increased residential or
29 commercial development, increased population, or other changes,
30 have created an increased need or demand for the affected
31 governmental services; and

32 (2) an increase in the employment level for the affected
33 governmental services is warranted and will provide for the delivery
34 of governmental services in an effective and cost efficient manner.
35 The municipality shall submit annual reports to the director for five
36 years after the last date for retirement or termination of employment
37 under an incentive program implemented pursuant to this section, in
38 the form and manner required by the director, concerning the
39 number of employees and the employment costs to provide the
40 affected governmental services.

41 t. If the municipality exceeds the employment levels under
42 subsection s. of this section, it shall be required by the director to
43 reimburse the Division of Pensions and Benefits in the Department
44 of the Treasury for the costs of the actuarial work performed for the
45 municipality pursuant to subsection e. of this section, as determined
46 by the director of that division.

1 14. (New section) The enumeration of any specific power or
2 authority granted to the Local Finance Board or the director
3 pursuant to P.L. , c. (C.) (pending before the Legislature
4 as this bill) shall not be construed to limit or restrict in any way the
5 general authorities granted by P.L. , c. (C.) (pending
6 before the Legislature as this bill) to the Local Finance Board or the
7 director to take actions necessary or appropriate to help stabilize the
8 finances, restructure the debts, or assist with the financial
9 rehabilitation and recovery of the municipality in need of
10 stabilization and recovery.

11
12 15. (New section) P.L. , c. (C.) (pending before the
13 Legislature as this bill) shall be construed liberally to give effect to
14 its intent that severe fiscal distress in municipalities in need of
15 stabilization and recovery shall be addressed and corrected. The
16 authorities granted to the director herein are intended to supplement
17 authority provided in the “Local Government Supervision Act
18 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) and other
19 applicable laws. To the extent any inconsistency exists between the
20 terms of P.L. , c. (C.) (pending before the Legislature as
21 this bill) and other applicable laws, the terms of P.L. , c. (C.)
22 (pending before the Legislature as this bill) shall prevail.

23
24 16. (New section) The director or the director’s designee shall
25 attend the regularly scheduled meetings of the municipal council in
26 a municipality in need of stabilization and recovery. On or before
27 the first day of the sixth year next following the determination that
28 a municipality is in need of stabilization and recovery pursuant to
29 section 4 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), the director shall provide a final report to the Governor
31 and Legislature regarding the municipality in need of stabilization
32 and recovery.

33
34 17. (New section) The State Treasurer, in consultation with the
35 commissioner, shall direct the Director of the Division of Budget
36 and Accounting to transfer appropriations from any State
37 department to any other State department as may be necessary to
38 provide a secured loan, for the exclusive purpose of covering
39 expenses of the municipality during the 2016 calendar year, and for
40 a term not to exceed 180 days, to a municipality for which a
41 recovery plan is required under section 4 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) to be submitted to the
43 director on such terms and conditions that may be required by the
44 commissioner.

45
46 18. (New section) Notwithstanding any law, rule, or regulation
47 to the contrary, the amount of consolidated municipal property tax
48 relief aid and energy tax receipts property tax relief aid paid to a

1 municipality in need of stabilization and recovery shall not be less
2 than the amount certified for the municipality in the Certification of
3 State Aid for Calendar Year 2016 and Fiscal Year 2017 Budgets
4 issued by the Division of Local Government Services in the
5 Department of Community Affairs.

6
7 19. This act shall take effect immediately but shall remain
8 inoperative until the enactment of P.L. , c. (C.) (pending
9 before the Legislature as Senate Bill No.1715 of 2016, as amended).

10
11
12 STATEMENT

13
14 This bill, designated the “Municipal Stabilization and Recovery
15 Act,” requires a municipality deemed in need of stabilization and
16 recovery to adopt a comprehensive recovery plan, and authorizes
17 the State to stabilize such a municipality experiencing severe fiscal
18 distress if it fails to adopt an acceptable recovery plan within 150
19 days.

20 The bill defines a “municipality in need of stabilization and
21 recovery” as a municipality that has experienced a decrease of more
22 than 50 percent in its total assessed property values during the five-
23 year period terminating at the end of the tax year immediately
24 preceding enactment of the bill, and has experienced an increase in
25 outstanding debt exceeding 50 percent during the immediately
26 preceding five-year period, as determined by the Director of the
27 Division of Local Government Services. Under the bill, the director
28 may ascertain whether a municipality should be deemed a
29 “municipality in need of stabilization and recovery,” and if so, shall
30 recommend that the Commissioner of Community Affairs make
31 such a determination.

32 Following that determination, the bill requires the subject
33 municipality to adopt a recovery plan, which would include a
34 proposed balanced budget for the next fiscal year of the
35 municipality. The plan would be submitted to the Commissioner of
36 Community Affairs for review. The commissioner would be
37 required to accept the plan or reject the plan. If the commissioner
38 accepts the plan, the municipality would be monitored to ensure
39 compliance.

40 If the commissioner rejects the plan, or if the municipality fails
41 to submit a plan or adhere to the plan accepted by the
42 commissioner, the bill authorizes the Local Finance Board, to
43 assume, reallocate to, and vest in the director, any of the functions,
44 powers, privileges, and immunities of the governing body of that
45 municipality set forth in any statute, regulation, ordinance,
46 resolution, charter, or contract to which the municipality is a party
47 that are, or may be, substantially related to the fiscal condition or
48 financial rehabilitation and recovery of that municipality.

1 When exercising powers, the bill requires the director, to the
2 extent practicable, to comply with all notice, hearing, and other
3 requirements to which the municipality in need of stabilization and
4 recovery is generally subject. Although the director shall not be
5 deemed a “public body” pursuant to the "Senator Byron M. Baer
6 Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.), the
7 bill provides that the director, to the extent practicable, must
8 comply with its requirements when taking action on behalf of the
9 municipality in need of stabilization and recovery that would
10 otherwise be subject to that act.

11 The bill also authorizes a municipality in need of stabilization
12 and recovery to use early retirement incentives as a mechanism to
13 help stabilize the finances, restructure the debts, or assist the
14 financial rehabilitation and recovery of the municipality in need of
15 stabilization and recovery.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2569

STATE OF NEW JERSEY

DATED: MAY 23, 2016

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2569.

This bill, designated the “Municipal Stabilization and Recovery Act,” requires a municipality deemed in need of stabilization and recovery to adopt a comprehensive recovery plan, and authorizes the State to stabilize such a municipality experiencing severe fiscal distress if it fails to adopt an acceptable recovery plan within 150 days.

The bill defines a “municipality in need of stabilization and recovery” as a municipality that has experienced a decrease of more than 50 percent in its total assessed property values during the five-year period terminating at the end of the tax year immediately preceding enactment of the bill, and has experienced an increase in outstanding debt exceeding 50 percent during the immediately preceding five-year period, as determined by the Director of the Division of Local Government Services. Under the bill, the director may ascertain whether a municipality should be deemed a “municipality in need of stabilization and recovery,” and if so, shall recommend that the Commissioner of Community Affairs make such a determination.

Following that determination, the bill requires the subject municipality to adopt a recovery plan, which would include a proposed balanced budget for the next fiscal year of the municipality. The plan would be submitted to the Commissioner of Community Affairs for review. The commissioner would be required to accept the plan or reject the plan. If the commissioner accepts the plan, the municipality would be monitored to ensure compliance.

If the commissioner rejects the plan, or if the municipality fails to submit a plan or adhere to the plan accepted by the commissioner, the bill authorizes the Local Finance Board, to assume, reallocate to, and vest in the director, any of the functions, powers, privileges, and immunities of the governing body of that municipality set forth in any statute, regulation, ordinance, resolution, charter, or contract to which the municipality is a party that are, or may be, substantially related to the fiscal condition or financial rehabilitation and recovery of that municipality.

When exercising powers, the bill requires the director, to the extent practicable, to comply with all notice, hearing, and other requirements to which the municipality in need of stabilization and recovery is generally subject. Although the director shall not be deemed a “public body” pursuant to the "Senator Byron M. Baer Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.), the bill provides that the director, to the extent practicable, must comply with its requirements when taking action on behalf of the municipality in need of stabilization and recovery that would otherwise be subject to that act.

The bill also authorizes a municipality in need of stabilization and recovery to use early retirement incentives as a mechanism to help stabilize the finances, restructure the debts, or assist the financial rehabilitation and recovery of the municipality in need of stabilization and recovery.

This bill is identical to Senate Bill No. 1711 (2R) which was also released by the committee on this date.

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Governor Christie Signs Pro-Taxpayer Atlantic City Reform Legislation

Friday, May 27, 2016

Tags: [Taxes](#)

Trenton, NJ – After 73 days of partisan obstruction by the State Assembly Speaker on behalf of his public union bosses, Governor Chris Christie signed pro-taxpayer Atlantic City reform bills within one day of their final legislative passage.

The new laws — S-1711/A-2569 (Sweeney, O’Toole, Sarlo/Prieto, McKeon, Mazzeo, Caputo), the Atlantic City “Municipal Stabilization and Recovery Act,” and S-1715/A-2570 (Sweeney, Whelan/Prieto, Mazzeo, Caputo), to help Atlantic City compensate for a decline in property assessments — include all provisions that the governor requested in the beginning of negotiations with legislative leaders.

“These new laws will ultimately accomplish my mission to reform Atlantic City’s overblown municipal government, and in turn protect local and state taxpayers from being perpetually abused by the special political interests who admit to owning this city’s elected officials,” Governor Christie said. “We all agree that Atlantic City’s government has not demonstrated the competence to properly manage the people’s money without state guidance and oversight, and as I’ve said all along they will not be getting any more blank checks from state taxpayers as the legislature had proposed last summer. This legislation means no more business as usual. It embraces my demand that Atlantic City immediately account for every dollar it receives and spends, and triggers a series of strict conditions and rigorous requirements the city must meet immediately.”

Today’s action requires Atlantic City to demonstrate fiscal responsibility immediately and to develop a comprehensive, sustainable recovery plan, including a balanced budget, over the next 150 days. If the Commissioner of the Department of Community Affairs ultimately determines an intervention is necessary, this reform law will, as the Governor has consistently insisted upon, provide his administration all of the requisite tools to effectuate meaningful change in Atlantic City’s finances.

“For Atlantic City officials, the final countdown starts today,” the Governor said. “They now have 150 days to develop and implement fiscally responsible reforms and finally meet the obligations of every other municipal government in our state. They know that if they fail to change their tendencies of wasteful spending and mismanagement, my administration will be empowered to immediately step in and do the job for them.”

The main reform provisions include:

No more grants; no more free money. The Governor is agreeing only to a secured bridge loan for the next six months, under terms and conditions set by the Commissioner of the Department of Community Affairs, the repayment of which must be factored into the recovery plan to be developed by the city;

The preparation of a detailed, five-year recovery plan, which includes a balanced budget for 2017 and identifies the specific actions undertaken by the city government to put its fiscal house in order, beginning immediately;

Atlantic City’s recovery plan must also include:

- o How it will cut its excessive, wasteful spending and increase its revenues;
- o How it will make on time payments in full to the school district;

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- o How it will make on time payments in full to Atlantic County;
- o How it will repay the secured state loan;
- o How it will repay debts owed to the state for pension and health coverage; and
- o How it will make good on all other debts and obligations that are outstanding to bondholders, tax appeal judgment holders, and other creditors.

The Commissioner of the Department of Community Affairs is empowered under this bill to determine whether the city government's proposed recovery plan is likely to achieve financial stability for Atlantic City and if he determines that the plan will fall short of this goal, the state will intervene and manage the city with all of the tools necessary to turn this troubled city around; and

To ensure that Atlantic City's government maintains fiscal discipline as the cloud of this longstanding financial crisis lifts, if the Commissioner approves its recovery plan, he has the authority to determine at any time that state intervention is necessary if Atlantic City fails to strictly comply with its plan or if circumstances indicate that the plan is no longer likely to achieve financial stability.

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