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"New Jersey relinquishes control of Camden," Courier-Post, 1-19-09.

"Corzine signs law legalizing medical marijuana," Asbury Park Press, 1-19-09.

"Camden takeover comes to quiet end," The Philadelphia Inquirer, 1-18-09.

LAW/RWH

[First Reprint]

ASSEMBLY, No. 4375

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 4, 2010

Sponsored by:

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Co-Sponsored by:

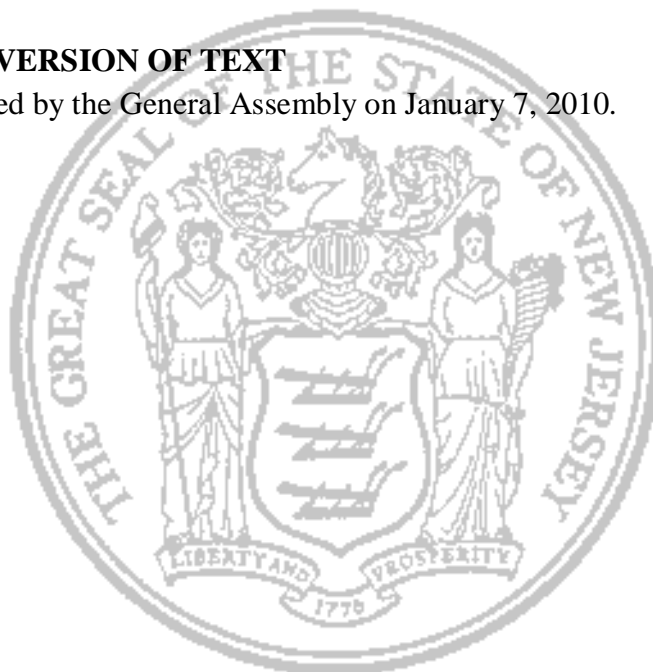
Senators Cunningham and Weinberg

SYNOPSIS

Revises provisions of “Municipal Rehabilitation and Economic Recovery Act” concerning the economic recovery term.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning urban revitalization and amending and
2 supplementing P.L.2002, c.43.

3

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

6

7 1. Section 5 of P.L.2002, c.43 (C.52:27BBB-5) is amended to
8 read as follows:

9 5. Upon receipt of notification by the commissioner pursuant to
10 section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may
11 designate a Superior Court judge who sits within the vicinage of the
12 county in which the qualified municipality is situated or a retired
13 judge who, during his or her tenure as a judge, served within the
14 vicinage of the county in which the qualified municipality is
15 situated as the special arbitrator as prescribed pursuant to P.L.2002,
16 c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term
17 only. The designation shall expire at the commencement of the
18 economic recovery term. The special arbitrator shall, on an
19 expedited basis, oversee the resolution of any impasse brought
20 before the special arbitrator by the chief operating officer pursuant
21 to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43
22 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-
23 16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse
24 resulting from any action or failure to act on the part of the mayor,
25 the governing body or any other officer or appointee of the
26 municipality. The special arbitrator may adopt those procedures
27 necessary to govern the resolution of an impasse and shall use the
28 following criteria in dispute resolution, as appropriate to the
29 particular circumstances:

30 a. The action or failure to act would be adverse to the
31 rehabilitation or economic recovery of the municipality;

32 b. The action in question or failure to act would represent an
33 unsound decision in violation of the fiduciary responsibility of the
34 municipal officials;

35 c. The action or failure to act would be inconsistent with
36 internal financial controls or would violate prudent standards or
37 practices of municipal administration or would violate or
38 compromise State laws, rules or regulations under which the
39 municipality operates; and

40 d. the action or inaction would delay the implementation of
41 P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal
42 of fostering the redevelopment and rehabilitation of qualified
43 municipalities and ensuring the effective delivery of municipal
44 services and professionalization of municipal administration.

45 (cf: P.L.2002, c.43, s.5)

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:

¹Assembly floor amendments adopted January 7, 2010.

1 2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to
2 read as follows:

3 6. a. Upon the appointment of a chief operating officer
4 pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified
5 municipality shall be under rehabilitation and economic recovery.
6 This period shall begin with the assumption of job responsibilities
7 by the chief operating officer pursuant to this section and terminate
8 five years following the end of the term of the chief operating
9 officer. The period corresponding with the term of the chief
10 operating officer shall be referred to hereinafter as the rehabilitation
11 term. The period commencing with the expiration of the term of the
12 chief operating officer and terminating five years thereafter shall be
13 referred to hereinafter as the economic recovery term.

14 b. (1) During the economic recovery term, the mayor shall
15 exercise those powers delegated to the mayor pursuant to the form
16 of government, the charter and the administrative code of the
17 municipality, and those powers delegated to the mayor under
18 general law. In addition, during the economic recovery term, the
19 mayor shall retain the power to veto the minutes of any independent
20 board or authority, including, but not limited to, the housing
21 authority, parking authority, redevelopment authority, planning
22 board and board of adjustment. No action taken at any meeting of
23 any independent board or authority shall have force or effect until
24 10 days, exclusive of Saturdays, Sundays and public holidays, after
25 the copy of the minutes shall have been delivered to the mayor. If,
26 in that 10-day period, the mayor returns the copy of the minutes
27 with a veto of any action taken by the board or authority at the
28 meeting, that action shall be null and void and of no force and
29 effect. Following the completion of the 10-day period, those
30 actions not vetoed shall be considered approved.

31 (2) During the first 18 months of the economic recovery term,
32 the mayor shall have the powers to veto or terminate any
33 employment contract not subject to a collective bargaining
34 agreement, whether or not subject to Title 11A, Civil Service, of the
35 New Jersey Statutes. ¹This shall not apply to employment contracts
36 under extension pursuant to terms under the expired contract.¹

37 (3) The mayor shall cause to be issued a final report on the
38 progress of the municipality toward achieving municipal
39 rehabilitation and economic recovery, as set forth in section 8 of
40 P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery
41 term.

42 (4) The mayor shall authorize the municipal planning board,
43 from time to time, to prepare a program of municipal capital
44 improvement projects projected over a term of at least six years,
45 and amendments thereto. The program may include current and
46 future major projects being, or to be, undertaken with federal, State,
47 county, or other public funds, or under federal, State, or county
48 supervision. The first year of the program shall, upon adoption by

1 the governing body, constitute the capital budget of the
2 municipality as required by N.J.S.40A:4-43 et seq. The program
3 shall classify projects in regard to the urgency and need for
4 realization, and shall recommend a time sequence for their
5 implementation. The program may also contain the estimated cost
6 of each project and indicate probable operating and maintenance
7 costs and probable revenues, if any, as well as existing sources of
8 funds, or the need for additional sources of funds, for the
9 implementation and operation of each project. The program shall,
10 as far as possible, be based on existing information in the
11 possession of the departments and agencies of the municipality and
12 shall take into account public facility needs indicated by the
13 prospective development shown in the master plan of the
14 municipality or as permitted by other municipal land use controls.

15 (5) While the municipality is under rehabilitation and economic
16 recovery, the mayor shall retain the power to make those
17 appointments to municipal authorities, boards or commissions, as
18 the case may be, which is otherwise allocated to the mayor pursuant
19 to law.

20 The mayor may retain staff for the purpose of advising the mayor
21 and aiding in the performance of constituent services during the
22 rehabilitation term.

23 (6) The Director of the Division of Local Government Services
24 in the Department of Community Affairs ¹may continue to provide
25 for oversight and to ²shall annually conduct a compliance ³audit
26 ⁴of the activities of a qualified municipality during the economic
27 recovery term ⁵[, and] ⁶to ensure compliance with P.L.2002, c.43
28 (C.52:27BBB-1 et al.) and other relevant State laws and shall ⁷report the findings to the Local Finance Board and the mayor.

30 (7) ¹[There shall be established during the economic recovery
31 term an annual municipal services impact fee on the tax exempt real
32 property used or owned by not-for-profit entities operating in the
33 municipality. The municipality shall adopt an ordinance that shall
34 govern the collection of this fee. The fee shall be \$100 per full-
35 time equivalent employee working at or from the exempt property
36 and shall be in addition to any payments in lieu of taxes or special
37 assessments paid by the not-for-profit entity. The revenue from the
38 municipal services impact fee shall be dedicated to capital
39 improvements and debt service to finance capital improvements.
40 The municipal services impact fee shall expire at the end of the tax
41 quarter when the municipality is notified that it is no longer eligible
42 for financial assistance pursuant to the "Special Municipal Aid
43 Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.). For the purposes
44 of this paragraph, "full-time equivalent employee" means a
45 computed statistic representing the number of full-time employees
46 that could have been employed if the reported number of hours
47 worked by part-time employees or volunteers had been worked by

1 full-time employees. This statistic is calculated by dividing the sum
2 of the "part-time hours paid" and hours volunteered by the standard
3 number of hours for full-time employees with the particular not-for-
4 profit entity, and then adding the resulting quotient to the actual
5 number of full-time employees working at or from the tax exempt
6 real property.

7 (8)]¹ The financial incentives set forth in sections 54 through 56
8 of P.L.2002, c.43 (C.52:27BBB-53 through 55) shall remain in
9 effect until the municipality is no longer eligible for financial
10 assistance pursuant to the "Special Municipal Aid Act," P.L.1987,
11 c.75 (C.52:27D-118.24 et seq.).

12 c. Upon the assumption of job responsibilities by the chief
13 operating officer, the financial review board created pursuant to
14 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the
15 finances of the municipality shall cease to function and the
16 municipality shall cease to be under supervision pursuant to Article
17 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

18 All outstanding debts or obligations incurred by a qualified
19 municipality or the New Jersey Housing and Mortgage Finance
20 Agency established pursuant to section 4 of the "New Jersey
21 Housing and Mortgage Finance Agency Law of 1983," P.L.1983,
22 c.530 (C.55:14K-4) and secured by a right of first refusal on
23 municipally-owned property as of 10 days following a
24 determination by the commissioner that the municipality fulfills the
25 definition of a qualified municipality pursuant to section 4 of
26 P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency
27 with jurisdiction in a qualified municipality, other than those debts
28 or obligations represented by bonds or other negotiable instruments,
29 are forgiven.

30 Notwithstanding the termination of the financial review board
31 and supervision, all memorandums of understanding entered into by
32 the municipality as a condition of receiving assistance under
33 P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the
34 municipality to implement any government, administrative,
35 operational efficiency or oversight measures necessary for the fiscal
36 recovery of the municipality as recommended by the director and
37 approved by the Local Finance Board shall continue to have full
38 force and effect.

39 During the rehabilitation term, the chief operating officer shall
40 be responsible for entering into any memorandum of understanding
41 on behalf of the qualified municipality that is required as a
42 condition of receiving assistance under P.L.1987, c.75 (C.52:27D-
43 118.24 et seq.), or any other law; provided, however, that those
44 memoranda of understanding shall be consistent with the provisions
45 of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176
46 (C.52:27BBB-2.2 et al.), and the powers of the chief operating
47 officer granted pursuant thereto. Any such memoranda of
48 understanding shall be executed between the chief operating officer

1 and the Director of the Division of Local Government Services in
2 the Department of Community Affairs. Whenever the powers and
3 duties of the chief operating officer have devolved upon the director
4 pursuant to subsection b. of section 7 of P.L.2002, c.43
5 (C.52:27BBB-7), the memorandum of understanding shall be
6 executed between the director, on behalf of the qualified
7 municipality, and the State Treasurer, on behalf of the State.
8 (cf: P.L.2007, c.176, s.2)

9
10 3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to
11 read as follows:

12 7. a. Upon receiving notification by the Commissioner of
13 Community Affairs pursuant to section 4 of P.L.2002, c.43
14 (C.52:27BBB-4), the Governor shall appoint the chief operating
15 officer in consultation with the mayor and the governing body. The
16 chief operating officer shall serve at the pleasure of the Governor.
17 The chief operating officer shall be qualified by training and
18 experience for the position and shall have at least 10 years of
19 experience in the management or supervision of government
20 activities, three years of which may be substituted by an advanced
21 degree in business, law, or public administration.

22 b. Pending the appointment of a chief operating officer or, in
23 the event of the death, resignation, removal or inability of the chief
24 operating officer to discharge the duties of that office, the functions,
25 powers and duties of the chief operating officer shall devolve upon
26 the director, for the time being, until a chief operating officer is
27 appointed or is able to discharge the duties of that office. In the
28 event that the chief operating officer does not serve out the chief
29 operating officer's term of office for any reason, a successor shall
30 be chosen by the Governor.

31 c. (1) The term of the chief operating officer shall terminate
32 five years following the assumption of duties on the part of the
33 initial chief operating officer first appointed pursuant to P.L.2002,
34 c.43 (C.52:27BBB-1 et al.), or 10 years thereafter, except as
35 provided under paragraph (2) of this subsection, if the fourth-year
36 report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8)
37 recommends an extension of that term, provided that the extension
38 is approved by the Commissioner of Community Affairs. The chief
39 operating officer may be hired as a State employee in the
40 unclassified service of Title 11A, Civil Service, of the New Jersey
41 Statutes or may be hired under contract, as provided hereunder.
42 Notwithstanding any other provision of law, no person so appointed
43 shall acquire tenure.

44 If the chief operating officer is hired under contract, the person
45 hired shall meet the qualifications set forth herein, and it shall be
46 clear from the contract that the position is full-time and that the job
47 site shall be at the principal offices of the municipality. If, for any
48 reason, a person engaged under contract is unable to fulfill the job

1 responsibilities of chief operating officer, the selection process shall
2 be recommenced in accordance with the provisions of this section.

3 If the chief operating officer is hired under contract, the contract
4 shall be available for public inspection in the office of the
5 municipal clerk.

6 (2) An extended term of the office of chief operating officer
7 shall terminate early upon the recommendation of the
8 Commissioner of Community Affairs to end the rehabilitation term
9 for a qualified municipality and to commence the economic
10 recovery term.

11 d. Subject to the approval of the State Treasurer, the salary,
12 benefits and costs of the chief operating officer shall be fixed by the
13 board and adjusted from time to time as the board deems
14 appropriate. The salary level and benefits shall be comparable to
15 that of the director of any public authority or agency with
16 jurisdiction in the qualified municipality. The salary, benefits, and
17 costs of the chief operating officer shall be an expense of the State
18 and paid through the Department of the Treasury.

19 (cf: P.L.2007, c.176, s.3)

20

21 4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to
22 read as follows:

23 8. a. At the end of four years following the commencement of
24 duties by the chief operating officer [and at the end of eight years,
25 in the event of an extension of the term of the chief operating
26 officer, as provided in subsection c. of section 7 of P.L.2002, c.43
27 (C.52:27BBB-7) (as amended by section 3 of this bill)], the chief
28 operating officer or his or her successor shall submit a report to the
29 Governor, each member of the State Economic Recovery Board,
30 each member of the Senate and General Assembly, each member of
31 the county board of freeholders in the county in which the qualified
32 municipality is situated, each member of the regional impact
33 council, the mayor, and each member of the governing body of the
34 qualified municipality. The report shall evaluate progress made in
35 rehabilitating the qualified municipality and the status of economic
36 recovery efforts. The report shall include an enumeration of any
37 problems or hurdles encountered in rehabilitation and economic
38 recovery and, where applicable, recommendations for any
39 amendments to State law which would promote and encourage
40 rehabilitation and economic recovery. If the chief operating officer
41 anticipates that the rehabilitation term will be insufficient to achieve
42 rehabilitation goals, the chief operating officer shall include in the
43 report a detailed analysis of the causes for the municipality's
44 inability to reestablish local control and an assessment of the
45 amount of time necessary for the continuation of the period of the
46 rehabilitation term.

47 In addition to the foregoing, the report shall include detailed
48 information as to how those funds appropriated pursuant to

1 P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those
2 expenditures are serving to promote the economic revitalization of
3 the qualified municipality.

4 b. Within 30 days of receipt of **[each]** the report by members
5 of the Legislature, a hearing shall be held by the Senate Community
6 and Urban Affairs Committee and the Assembly Housing and Local
7 Government Committee, or their successors, to provide an
8 opportunity for public comment and discussion.

9 (cf: P.L.2007, c.176, s.4)

10

11 5. Section 19 of P.L.2002, c.43 (C. 52:27BBB-19) is amended
12 to read as follows:

13 19. Notwithstanding the provisions of any other law, rule or
14 regulation to the contrary, an employee of a qualified municipality
15 who is a member of the Public Employees' Retirement System and
16 is otherwise eligible for retirement may, upon the recommendation
17 of the chief operating officer during the rehabilitation term or the
18 mayor during the economic recovery term, with the approval of the
19 director, receive an incentive payment for the termination of the
20 employee's employment with the municipality.

21 As used in this section, "incentive payment" shall mean a lump
22 sum payment of 20 percent of the employee's annual base salary,
23 exclusive of overtime.

24 An employee shall only be eligible for an incentive payment
25 pursuant to this section if that person applies for this termination
26 benefit within 60 days of the appointment of the chief operating
27 officer during the rehabilitation term, or within the first 60 days of
28 the economic recovery term. Payment shall be made not sooner
29 than upon the receipt of the first pension check by the municipal
30 employee.

31 This election to retire on the part of the municipal employee
32 shall be communicated by the member to the retirement system
33 pursuant to Title 43 of the Revised Statutes; however, once the
34 employee has elected to retire, that decision shall be final.

35 (cf: P.L.2002, c.43, s.19)

36

37 6. Section 23 of P.L.2002, c.43 (C.52:27BBB-23) is amended
38 to read as follows:

39 23. a. **[Within]** (1) (a) During the rehabilitation term, within
40 three business days following each meeting of the governing body,
41 a copy of each ordinance and resolution which has been adopted by
42 the governing body shall be forwarded to the chief operating officer
43 or mayor, as the case may be, who shall have 10 days from the
44 receipt thereof to veto the ordinance or resolution, as the case may
45 be. Any veto action by the chief operating officer or mayor shall be
46 submitted to the governing body within 10 days of the veto. Within
47 five business days thereafter, the governing body may override the

1 veto by a two-thirds vote of the fully authorized membership
2 thereof.

3 (b) If, in the opinion of the chief operating officer, the action is
4 contrary to the rehabilitation of economic recovery goals which
5 justified the rehabilitation declaration, the chief operating officer
6 can submit the action to the special arbitrator, who shall allow the
7 action only upon a finding that the action is consistent with the
8 rehabilitation and economic recovery of the qualified municipality.
9 The decision of the special arbitrator shall not be subject to appeal.

10 (2) During the economic recovery term, in addition to the
11 normal procedures for adopting resolutions and ordinances set forth
12 in the form of government of the qualified municipality, within
13 three business days following each meeting of the governing body,
14 a copy of each ordinance and resolution which has been adopted by
15 the governing body shall be forwarded to the Commissioner of
16 Community Affairs, who shall have 10 days from the receipt
17 thereof to veto the ordinance or resolution, as the case may be. Any
18 veto action by the commissioner shall be submitted to the governing
19 body within 10 days of the veto. Within five business days
20 thereafter, the governing body may override the veto by a two-
21 thirds vote of the fully authorized membership thereof. The action
22 by the commissioner regarding an ordinance pursuant to this
23 paragraph shall supersede any action by the mayor on that same
24 ordinance.

25 b. The chief operating officer shall have full access to all
26 municipal records and to municipal information from all officials
27 and employees of the municipality. If the chief operating officer
28 believes that an official or employee of the municipality is not
29 answering the questions of the chief operating officer accurately or
30 completely or is not furnishing information requested by the chief
31 operating officer, the chief operating officer may notify the official
32 or employee in writing to furnish answers to questions or to furnish
33 documents or records, or both. If the official or employee refuses,
34 the chief operating officer may seek a subpoena in the Superior
35 Court, in a summary manner, to compel testimony and furnish
36 records and documents.

37 (cf: P.L.2002, c.43, s.23)

38

39 7. Section 27 of P.L.2002, c.43 (C.52:27BBB-27) is amended to
40 read as follows:

41 27. a. During the rehabilitation term, the chief operating officer
42 shall not increase the municipal portion of the general tax rate over
43 the rate established for the year during which the rehabilitation took
44 effect. During the economic recovery term, the governing body of
45 the qualified municipality may only increase the municipal
46 '[portion of the general]' tax '[rate in an amount sufficient to
47 replace any reduction in State aid to the qualified municipality]
48 levy by three percent per year, notwithstanding the spending

1 limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) and
2 the limitations on increases to the tax levy pursuant to sections 9
3 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-
4 45.47 and C.40A:4-45.3e), except upon application by the mayor of
5 the qualified municipality to the Local Finance Board for
6 authorization¹.

7 b. The chief operating officer shall, in consultation with the
8 mayor, annually prepare a budget pursuant to the provisions of the
9 "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall
10 conform in all respects with the requirements of the "Local Budget
11 Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations
12 on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-
13 45.1 et seq.). The Local Finance Board may grant exceptions to the
14 spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et
15 seq.) upon application by the chief operating officer, if the Local
16 Finance Board finds such exceptions to be necessary for the
17 rehabilitation of the municipality.

18 c. Upon the preparation of the budget ¹during the rehabilitation
19 term¹, the chief operating officer, in consultation with the mayor,
20 shall fix: a date, place and time for the holding of a public hearing
21 upon the budget; the amounts of money necessary to be
22 appropriated for the use of the municipality for the ensuing year;
23 and the various items and purposes for which the same are to be
24 appropriated. The hearing shall be held in accordance with the
25 provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq.;
26 however, the hearing shall be held at least 28 days after the date on
27 which the budget is advertised. Notice of hearing, contents of the
28 notice and the format and purpose of the hearing shall be as
29 provided in that law. As part of the budget request, the chief
30 operating officer may include provision for anticipation of
31 rehabilitation aid if other revenues are insufficient to meet the
32 revenues needed to offset total appropriations.

33 d. Following the hearing or hearings on the budget ¹pursuant to
34 subsection c. of this section¹, the governing body shall vote upon
35 the proposed budget. Failure to adopt the budget shall be
36 communicated to the chief operating officer along with the reasons
37 for each line item that is rejected. If the chief operating officer does
38 not approve those alternatives proposed by the governing body, any
39 disputed line item shall be considered an impasse and subject to the
40 dispute resolution process set forth in section 5 of P.L.2002, c.43
41 (C.52:27BBB-5).

42 e. If the budget proposed by the chief operating officer includes
43 a provision for rehabilitation aid, the chief operating officer shall
44 apply to the director for approval of the amount and shall supply the
45 director with documentation justifying the need. The director shall
46 then recommend an amount to the State Treasurer. The treasurer,
47 after consideration of the recommendation, shall determine the

1 amount of the rehabilitation aid to be requested. ¹During the first
2 year of the economic recovery term, the rehabilitation aid provided
3 shall be the same amount as the amount given in the last year of the
4 rehabilitation term, and shall be reduced by three percent each year
5 until the end of the economic recovery term.]¹

6 f. During the period that the municipality is under rehabilitation
7 and economic recovery, the commissioner shall ensure that those
8 appropriations in the municipal budget necessary for the
9 improvement of internal audit mechanisms and controls are present
10 on an annual basis.

11 (cf: P.L.2002, c.43, s.27)

12

13 8. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended
14 to read as follows:

15 36. a. In order to facilitate the rehabilitation and economic
16 recovery of each qualified municipality, there is created a
17 subsidiary corporation of the New Jersey Economic Development
18 Authority, which shall be known as the State Economic Recovery
19 Board for (insert name of qualified municipality). The board shall
20 operate for the period during which the municipality is under
21 rehabilitation and economic recovery and for a period of two years
22 thereafter, or until its funds have been disbursed, whichever occurs
23 first. Any outstanding debts or obligations which remain at the
24 termination of board operation shall be assumed by the authority
25 and any accounts payable to the board shall be due and payable to
26 the authority.

27 b. The board shall consist of 15 voting members, as follows:
28 the mayor of the qualified municipality; a representative of the
29 municipal governing body selected by the governing body; the chief
30 operating officer; the State Treasurer; the Commissioner of
31 Community Affairs; the chairperson of the authority; a
32 representative of the regional impact council selected by the
33 council; the director of the board of chosen freeholders of the
34 county in which the qualified municipality is situated, as provided
35 hereunder, all of whom shall serve ex officio and may select a
36 designee to serve in their stead; one public member chosen by the
37 Governor, based on the recommendation of the Senate President
38 and one public member chosen by the Governor, based on the
39 recommendation of the Assembly Speaker; and five public members
40 to be appointed by the Governor, to include one representative of
41 organized labor and one representing the business community. Of
42 the public members appointed by the Governor, at least three shall
43 be municipal residents. The board shall include two nonvoting ex
44 officio legislative members to be chosen by the Governor, one of
45 whom shall be selected based on the recommendation of the Senate
46 President and the other upon the recommendation of the Speaker of
47 the General Assembly. These members shall be advisory members,
48 appointed solely for the purpose of developing and facilitating

1 legislation to assist the board in fulfilling its statutory mission, and
2 may not exercise any of the executive powers delegated to the
3 board. In addition, the Senior Community Builder in the State
4 office of the federal Department of Housing and Urban
5 Development shall serve as an ex officio, non-voting member of the
6 board.

7 A majority of the entire authorized voting membership of the
8 board shall constitute a quorum at any meeting thereof.

9 c. Each public member shall serve for a term of five years.
10 Vacancies in the public membership of the board shall be filled in
11 the same manner as the original appointments are made and a
12 member may be eligible for reappointment. Vacancies occurring
13 other than by expiration of a term shall be filled for the unexpired
14 term. Each ex officio member shall serve for the period during
15 which the municipality is under rehabilitation and economic
16 recovery and for a period of two years thereafter.

17 The Governor shall designate the chairperson of the board.

18 d. The board shall be appointed as expeditiously as possible
19 upon the determination by the commissioner that the municipality
20 fulfills the definition of a qualified municipality pursuant to section
21 4 of P.L.2002, c.43 (C.52:27BBB-4) and shall convene not later
22 than 30 days following that determination for its organizational
23 meeting. Thereafter, the board shall meet regularly and on not less
24 than a quarterly basis. At its first organizational meeting, the board
25 shall appoint one of the public members to serve as its designee on
26 the New Jersey Economic Development Authority pursuant to
27 section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002,
28 c.43 (C.34:1B-4).

29 e. The voting authority of the director of the county board of
30 chosen freeholders shall not become effective until the filing with
31 the Secretary of State of an agreement entered into by the chief
32 operating officer, acting on behalf of the municipality, and the
33 county, detailing the financial commitment of the county to the
34 redevelopment of the infrastructure of the municipality which shall
35 include improvements or other economic benefits totalling not less
36 than \$20 million and a proposed construction schedule for the
37 completion thereof.

38 (cf: P.L.2002, c.108, s.7)

39

40 9. Section 44 of P.L.2002, c.43 (C.52:27BBB-43) is amended
41 to read as follows:

42 44. The governing body of each qualified municipality shall
43 convey to the board, for the period of rehabilitation [and economic
44 recovery], its right, title and interest in any real property, acquired
45 through the purchase of any tax sale certificate covering that real
46 property whose rights of redemption have been foreclosed under the
47 In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29

1 et seq.), so long as the liens have previously been offered by the
2 municipality at a public tax lien sale.

3 (cf: P.L.2002, c.43, s.44)

4

5 10. Section 62 of P.L.2002, c.43 (C.52:27BBB-60) is amended
6 to read as follows:

7 62. During the rehabilitation **[term]** and economic recovery
8 terms, the qualified municipality may enter into arrangements with
9 other municipalities, counties, local public authorities, or the State,
10 for the purpose of affording the municipality those benefits which
11 may accrue pursuant to any laws providing for contracted provision
12 of goods or services. Notwithstanding any other provision of law to
13 the contrary all State agencies are authorized to enter into such
14 agreements or arrangements with the qualified municipality during
15 the rehabilitation **[term]** and economic recovery terms as are
16 necessary or useful in furthering the purposes of P.L.2002, c.43
17 (C.52:27BBB-1 et al.).

18 (cf: P.L.2002, c.43, s.62)

19

20 11. Section 63 of P.L.2002, c.43 (C.52:27BBB-61) is amended
21 to read as follows:

22 63. a. All contracts and agreements entered into by the qualified
23 municipality during the rehabilitation term pursuant to P.L.2002,
24 c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the
25 director or chief operating officer may, upon 30 days' notice,
26 terminate the contract or agreement for any reason without payment
27 of penalty or damages. This **[section]** subsection shall not apply to
28 collective bargaining agreements.

29 b. All contracts and agreements entered into by the qualified
30 municipality during the rehabilitation term pursuant to P.L.2002,
31 c.43 (C.52:27BBB-1 et al.) may be terminated by the mayor, upon
32 30 days' notice, for any reason, without payment of penalty or
33 damages, during the economic recovery term. This subsection shall
34 not apply to collective bargaining agreements.

35 (cf: P.L.2002, c.43, s.63)

36

37 12. (New section) a. Notwithstanding the provisions of section
38 67 of P.L.2002, c.43 (C.52:27BBB-63) or any other section of law
39 to the contrary, upon the commencement of the economic recovery
40 term in a qualified municipality pursuant to the provisions of
41 section 6 of P.L.2002, c.43 (C.52:27BBB-6), a school district which
42 is contiguous with that qualified municipality shall become or
43 remain, as applicable, a Type I school district and, except at
44 otherwise provided pursuant to subsection b. of this section, shall be
45 governed by the provisions of Title 18A of the New Jersey Statutes
46 relating to Type I districts.

47 b. The terms of the appointed members of the board of
48 education in office at the time of the commencement of the

1 economic recovery term shall continue to, and cease upon, the
2 appointment of members to the Type I school district board of
3 education by the mayor or other chief executive officer of the
4 qualified municipality. The terms of the newly-appointed members
5 shall be staggered. Any elected members of the board of education
6 in office at the time of the commencement of the economic
7 recovery term shall continue in office until the expiration of their
8 respective terms and the qualification of their respective successors
9 following appointment to the Type I school district board of
10 education by the mayor or other chief elected officer of the
11 qualified municipality.

12 c. At the April school election in the fourth school year
13 following the commencement of the economic recovery term in a
14 qualified municipality, the board of education of the district shall
15 place the question of the classification status of the district as a
16 Type I or Type II district before the voters, which election shall be
17 conducted in accordance with the provisions of Title 19 of the
18 Revised Statutes concerning school elections.

19 If the voters of the district elect to become a Type II district, it
20 shall be governed by the provisions of Title 18A of the New Jersey
21 Statutes relating to Type II districts and the members of the board
22 of education at the time of the election shall remain and continue in
23 office until the expiration of their respective terms and the
24 qualification of their respective successors.

25 If the voters of the district elect to remain a Type I district, it
26 shall be governed in accordance with the provisions of Title 18A of
27 the New Jersey Statutes relating to Type I districts.

28 d. The provisions of section 68 of P.L.2002, c.43
29 (C.52:27BBB-64) shall not be applicable to a school district subject
30 to this section.

31

32 13. This act shall take effect immediately.

ASSEMBLY, No. 4375

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 4, 2010

Sponsored by:

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

SYNOPSIS

Revises provisions of “Municipal Rehabilitation and Economic Recovery Act” concerning the economic recovery term.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning urban revitalization and amending and
2 supplementing P.L.2002, c.43.

3

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

6

7 1. Section 5 of P.L.2002, c.43 (C.52:27BBB-5) is amended to
8 read as follows:

9 5. Upon receipt of notification by the commissioner pursuant to
10 section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may
11 designate a Superior Court judge who sits within the vicinage of the
12 county in which the qualified municipality is situated or a retired
13 judge who, during his or her tenure as a judge, served within the
14 vicinage of the county in which the qualified municipality is
15 situated as the special arbitrator as prescribed pursuant to P.L.2002,
16 c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term
17 only. The designation shall expire at the commencement of the
18 economic recovery term. The special arbitrator shall, on an
19 expedited basis, oversee the resolution of any impasse brought
20 before the special arbitrator by the chief operating officer pursuant
21 to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43
22 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-
23 16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse
24 resulting from any action or failure to act on the part of the mayor,
25 the governing body or any other officer or appointee of the
26 municipality. The special arbitrator may adopt those procedures
27 necessary to govern the resolution of an impasse and shall use the
28 following criteria in dispute resolution, as appropriate to the
29 particular circumstances:

30 a. The action or failure to act would be adverse to the
31 rehabilitation or economic recovery of the municipality;

32 b. The action in question or failure to act would represent an
33 unsound decision in violation of the fiduciary responsibility of the
34 municipal officials;

35 c. The action or failure to act would be inconsistent with
36 internal financial controls or would violate prudent standards or
37 practices of municipal administration or would violate or
38 compromise State laws, rules or regulations under which the
39 municipality operates; and

40 d. the action or inaction would delay the implementation of
41 P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal
42 of fostering the redevelopment and rehabilitation of qualified
43 municipalities and ensuring the effective delivery of municipal
44 services and professionalization of municipal administration.

45 (cf: P.L.2002, c.43, s.5)

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 2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to
2 read as follows:

3 6. a. Upon the appointment of a chief operating officer
4 pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified
5 municipality shall be under rehabilitation and economic recovery.
6 This period shall begin with the assumption of job responsibilities
7 by the chief operating officer pursuant to this section and terminate
8 five years following the end of the term of the chief operating
9 officer. The period corresponding with the term of the chief
10 operating officer shall be referred to hereinafter as the rehabilitation
11 term. The period commencing with the expiration of the term of the
12 chief operating officer and terminating five years thereafter shall be
13 referred to hereinafter as the economic recovery term.

14 b. (1) During the economic recovery term, the mayor shall
15 exercise those powers delegated to the mayor pursuant to the form
16 of government, the charter and the administrative code of the
17 municipality, and those powers delegated to the mayor under
18 general law. In addition, during the economic recovery term, the
19 mayor shall retain the power to veto the minutes of any independent
20 board or authority, including, but not limited to, the housing
21 authority, parking authority, redevelopment authority, planning
22 board and board of adjustment. No action taken at any meeting of
23 any independent board or authority shall have force or effect until
24 10 days, exclusive of Saturdays, Sundays and public holidays, after
25 the copy of the minutes shall have been delivered to the mayor. If,
26 in that 10-day period, the mayor returns the copy of the minutes
27 with a veto of any action taken by the board or authority at the
28 meeting, that action shall be null and void and of no force and
29 effect. Following the completion of the 10-day period, those
30 actions not vetoed shall be considered approved.

31 (2) During the first 18 months of the economic recovery term,
32 the mayor shall have the powers to veto or terminate any
33 employment contract not subject to a collective bargaining
34 agreement, whether or not subject to Title 11A, Civil Service, of the
35 New Jersey Statutes.

36 (3) The mayor shall cause to be issued a final report on the
37 progress of the municipality toward achieving municipal
38 rehabilitation and economic recovery, as set forth in section 8 of
39 P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery
40 term.

41 (4) The mayor shall authorize the municipal planning board,
42 from time to time, to prepare a program of municipal capital
43 improvement projects projected over a term of at least six years,
44 and amendments thereto. The program may include current and
45 future major projects being, or to be, undertaken with federal, State,
46 county, or other public funds, or under federal, State, or county
47 supervision. The first year of the program shall, upon adoption by
48 the governing body, constitute the capital budget of the

1 municipality as required by N.J.S.40A:4-43 et seq. The program
2 shall classify projects in regard to the urgency and need for
3 realization, and shall recommend a time sequence for their
4 implementation. The program may also contain the estimated cost
5 of each project and indicate probable operating and maintenance
6 costs and probable revenues, if any, as well as existing sources of
7 funds, or the need for additional sources of funds, for the
8 implementation and operation of each project. The program shall,
9 as far as possible, be based on existing information in the
10 possession of the departments and agencies of the municipality and
11 shall take into account public facility needs indicated by the
12 prospective development shown in the master plan of the
13 municipality or as permitted by other municipal land use controls.

14 (5) While the municipality is under rehabilitation and economic
15 recovery, the mayor shall retain the power to make those
16 appointments to municipal authorities, boards or commissions, as
17 the case may be, which is otherwise allocated to the mayor pursuant
18 to law.

19 The mayor may retain staff for the purpose of advising the mayor
20 and aiding in the performance of constituent services during the
21 rehabilitation term.

22 (6) The Director of the Division of Local Government Services
23 in the Department of Community Affairs may continue to provide
24 for oversight and to audit the activities of a qualified municipality
25 during the economic recovery term, and to report the findings to the
26 Local Finance Board and the mayor.

27 (7) There shall be established during the economic recovery
28 term an annual municipal services impact fee on the tax exempt real
29 property used or owned by not-for-profit entities operating in the
30 municipality. The municipality shall adopt an ordinance that shall
31 govern the collection of this fee. The fee shall be \$100 per full-
32 time equivalent employee working at or from the exempt property
33 and shall be in addition to any payments in lieu of taxes or special
34 assessments paid by the not-for-profit entity. The revenue from the
35 municipal services impact fee shall be dedicated to capital
36 improvements and debt service to finance capital improvements.
37 The municipal services impact fee shall expire at the end of the tax
38 quarter when the municipality is notified that it is no longer eligible
39 for financial assistance pursuant to the "Special Municipal Aid
40 Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.). For the purposes
41 of this paragraph, "full-time equivalent employee" means a
42 computed statistic representing the number of full-time employees
43 that could have been employed if the reported number of hours
44 worked by part-time employees or volunteers had been worked by
45 full-time employees. This statistic is calculated by dividing the sum
46 of the "part-time hours paid" and hours volunteered by the standard
47 number of hours for full-time employees with the particular not-for-
48 profit entity, and then adding the resulting quotient to the actual

1 number of full-time employees working at or from the tax exempt
2 real property.

3 (8) The financial incentives set forth in sections 54 through 56
4 of P.L.2002, c.43 (C.52:27BBB-54 through 56) shall remain in
5 effect until the municipality is no longer eligible for financial
6 assistance pursuant to the "Special Municipal Aid Act," P.L.1987,
7 c.75 (C.52:27D-118.24 et seq.).

8 c. Upon the assumption of job responsibilities by the chief
9 operating officer, the financial review board created pursuant to
10 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the
11 finances of the municipality shall cease to function and the
12 municipality shall cease to be under supervision pursuant to Article
13 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

14 All outstanding debts or obligations incurred by a qualified
15 municipality or the New Jersey Housing and Mortgage Finance
16 Agency established pursuant to section 4 of the "New Jersey
17 Housing and Mortgage Finance Agency Law of 1983," P.L.1983,
18 c.530 (C.55:14K-4) and secured by a right of first refusal on
19 municipally-owned property as of 10 days following a
20 determination by the commissioner that the municipality fulfills the
21 definition of a qualified municipality pursuant to section 4 of
22 P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency
23 with jurisdiction in a qualified municipality, other than those debts
24 or obligations represented by bonds or other negotiable instruments,
25 are forgiven.

26 Notwithstanding the termination of the financial review board
27 and supervision, all memorandums of understanding entered into by
28 the municipality as a condition of receiving assistance under
29 P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the
30 municipality to implement any government, administrative,
31 operational efficiency or oversight measures necessary for the fiscal
32 recovery of the municipality as recommended by the director and
33 approved by the Local Finance Board shall continue to have full
34 force and effect.

35 During the rehabilitation term, the chief operating officer shall
36 be responsible for entering into any memorandum of understanding
37 on behalf of the qualified municipality that is required as a
38 condition of receiving assistance under P.L.1987, c.75 (C.52:27D-
39 118.24 et seq.), or any other law; provided, however, that those
40 memoranda of understanding shall be consistent with the provisions
41 of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176
42 (C.52:27BBB-2.2 et al.), and the powers of the chief operating
43 officer granted pursuant thereto. Any such memoranda of
44 understanding shall be executed between the chief operating officer
45 and the Director of the Division of Local Government Services in
46 the Department of Community Affairs. Whenever the powers and
47 duties of the chief operating officer have devolved upon the director
48 pursuant to subsection b. of section 7 of P.L.2002, c.43

1 (C.52:27BBB-7), the memorandum of understanding shall be
2 executed between the director, on behalf of the qualified
3 municipality, and the State Treasurer, on behalf of the State.
4 (cf: P.L.2007, c.176, s.2)

5

6 3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to
7 read as follows:

8 7. a. Upon receiving notification by the Commissioner of
9 Community Affairs pursuant to section 4 of P.L.2002, c.43
10 (C.52:27BBB-4), the Governor shall appoint the chief operating
11 officer in consultation with the mayor and the governing body. The
12 chief operating officer shall serve at the pleasure of the Governor.
13 The chief operating officer shall be qualified by training and
14 experience for the position and shall have at least 10 years of
15 experience in the management or supervision of government
16 activities, three years of which may be substituted by an advanced
17 degree in business, law, or public administration.

18 b. Pending the appointment of a chief operating officer or, in
19 the event of the death, resignation, removal or inability of the chief
20 operating officer to discharge the duties of that office, the functions,
21 powers and duties of the chief operating officer shall devolve upon
22 the director, for the time being, until a chief operating officer is
23 appointed or is able to discharge the duties of that office. In the
24 event that the chief operating officer does not serve out the chief
25 operating officer's term of office for any reason, a successor shall
26 be chosen by the Governor.

27 c. (1) The term of the chief operating officer shall terminate
28 five years following the assumption of duties on the part of the
29 initial chief operating officer first appointed pursuant to P.L.2002,
30 c.43 (C.52:27BBB-1 et al.), or 10 years thereafter, except as
31 provided under paragraph (2) of this subsection, if the fourth-year
32 report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8)
33 recommends an extension of that term, provided that the extension
34 is approved by the Commissioner of Community Affairs. The chief
35 operating officer may be hired as a State employee in the
36 unclassified service of Title 11A, Civil Service, of the New Jersey
37 Statutes or may be hired under contract, as provided hereunder.
38 Notwithstanding any other provision of law, no person so appointed
39 shall acquire tenure.

40 If the chief operating officer is hired under contract, the person
41 hired shall meet the qualifications set forth herein, and it shall be
42 clear from the contract that the position is full-time and that the job
43 site shall be at the principal offices of the municipality. If, for any
44 reason, a person engaged under contract is unable to fulfill the job
45 responsibilities of chief operating officer, the selection process shall
46 be recommenced in accordance with the provisions of this section.

1 If the chief operating officer is hired under contract, the contract
2 shall be available for public inspection in the office of the
3 municipal clerk.

4 (2) An extended term of the office of chief operating officer
5 shall terminate early upon the recommendation of the
6 Commissioner of Community Affairs to end the rehabilitation term
7 for a qualified municipality and to commence the economic
8 recovery term.

9 d. Subject to the approval of the State Treasurer, the salary,
10 benefits and costs of the chief operating officer shall be fixed by the
11 board and adjusted from time to time as the board deems
12 appropriate. The salary level and benefits shall be comparable to
13 that of the director of any public authority or agency with
14 jurisdiction in the qualified municipality. The salary, benefits, and
15 costs of the chief operating officer shall be an expense of the State
16 and paid through the Department of the Treasury.

17 (cf: P.L.2007, c.176, s.3)

18

19 4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to
20 read as follows:

21 8. a. At the end of four years following the commencement of
22 duties by the chief operating officer [and at the end of eight years,
23 in the event of an extension of the term of the chief operating
24 officer, as provided in subsection c. of section 7 of P.L.2002, c.43
25 (C.52:27BBB-7) (as amended by section 3 of this bill)], the chief
26 operating officer or his or her successor shall submit a report to the
27 Governor, each member of the State Economic Recovery Board,
28 each member of the Senate and General Assembly, each member of
29 the county board of freeholders in the county in which the qualified
30 municipality is situated, each member of the regional impact
31 council, the mayor, and each member of the governing body of the
32 qualified municipality. The report shall evaluate progress made in
33 rehabilitating the qualified municipality and the status of economic
34 recovery efforts. The report shall include an enumeration of any
35 problems or hurdles encountered in rehabilitation and economic
36 recovery and, where applicable, recommendations for any
37 amendments to State law which would promote and encourage
38 rehabilitation and economic recovery. If the chief operating officer
39 anticipates that the rehabilitation term will be insufficient to achieve
40 rehabilitation goals, the chief operating officer shall include in the
41 report a detailed analysis of the causes for the municipality's
42 inability to reestablish local control and an assessment of the
43 amount of time necessary for the continuation of the period of the
44 rehabilitation term.

45 In addition to the foregoing, the report shall include detailed
46 information as to how those funds appropriated pursuant to
47 P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those

1 expenditures are serving to promote the economic revitalization of
2 the qualified municipality.

3 b. Within 30 days of receipt of **[each]** the report by members
4 of the Legislature, a hearing shall be held by the Senate Community
5 and Urban Affairs Committee and the Assembly Housing and Local
6 Government Committee, or their successors, to provide an
7 opportunity for public comment and discussion.

8 (cf: P.L.2007, c.176, s.4)

9

10 5. Section 19 of P.L.2002, c.43 (C. 52:27BBB-19) is amended
11 to read as follows:

12 19. Notwithstanding the provisions of any other law, rule or
13 regulation to the contrary, an employee of a qualified municipality
14 who is a member of the Public Employees' Retirement System and
15 is otherwise eligible for retirement may, upon the recommendation
16 of the chief operating officer during the rehabilitation term or the
17 mayor during the economic recovery term, with the approval of the
18 director, receive an incentive payment for the termination of the
19 employee's employment with the municipality.

20 As used in this section, "incentive payment" shall mean a lump
21 sum payment of 20 percent of the employee's annual base salary,
22 exclusive of overtime.

23 An employee shall only be eligible for an incentive payment
24 pursuant to this section if that person applies for this termination
25 benefit within 60 days of the appointment of the chief operating
26 officer during the rehabilitation term, or within the first 60 days of
27 the economic recovery term. Payment shall be made not sooner
28 than upon the receipt of the first pension check by the municipal
29 employee.

30 This election to retire on the part of the municipal employee
31 shall be communicated by the member to the retirement system
32 pursuant to Title 43 of the Revised Statutes; however, once the
33 employee has elected to retire, that decision shall be final.

34 (cf: P.L.2002, c.43, s.19)

35

36 6. Section 23 of P.L.2002, c.43 (C.52:27BBB-23) is amended
37 to read as follows:

38 23. a. **[Within]** (1) (a) During the rehabilitation term, within
39 three business days following each meeting of the governing body,
40 a copy of each ordinance and resolution which has been adopted by
41 the governing body shall be forwarded to the chief operating officer
42 or mayor, as the case may be, who shall have 10 days from the
43 receipt thereof to veto the ordinance or resolution, as the case may
44 be. Any veto action by the chief operating officer or mayor shall be
45 submitted to the governing body within 10 days of the veto. Within
46 five business days thereafter, the governing body may override the
47 veto by a two-thirds vote of the fully authorized membership
48 thereof.

1 (b) If, in the opinion of the chief operating officer, the action is
2 contrary to the rehabilitation of economic recovery goals which
3 justified the rehabilitation declaration, the chief operating officer
4 can submit the action to the special arbitrator, who shall allow the
5 action only upon a finding that the action is consistent with the
6 rehabilitation and economic recovery of the qualified municipality.
7 The decision of the special arbitrator shall not be subject to appeal.

8 (2) During the economic recovery term, in addition to the
9 normal procedures for adopting resolutions and ordinances set forth
10 in the form of government of the qualified municipality, within
11 three business days following each meeting of the governing body,
12 a copy of each ordinance and resolution which has been adopted by
13 the governing body shall be forwarded to the Commissioner of
14 Community Affairs, who shall have 10 days from the receipt
15 thereof to veto the ordinance or resolution, as the case may be. Any
16 veto action by the commissioner shall be submitted to the governing
17 body within 10 days of the veto. Within five business days
18 thereafter, the governing body may override the veto by a two-
19 thirds vote of the fully authorized membership thereof. The action
20 by the commissioner regarding an ordinance pursuant to this
21 paragraph shall supersede any action by the mayor on that same
22 ordinance.

23 b. The chief operating officer shall have full access to all
24 municipal records and to municipal information from all officials
25 and employees of the municipality. If the chief operating officer
26 believes that an official or employee of the municipality is not
27 answering the questions of the chief operating officer accurately or
28 completely or is not furnishing information requested by the chief
29 operating officer, the chief operating officer may notify the official
30 or employee in writing to furnish answers to questions or to furnish
31 documents or records, or both. If the official or employee refuses,
32 the chief operating officer may seek a subpoena in the Superior
33 Court, in a summary manner, to compel testimony and furnish
34 records and documents.

35 (cf: P.L.2002, c.43, s.23)

36
37 7. Section 27 of P.L.2002, c.43 (C.52:27BBB-27) is amended
38 to read as follows:

39 27. a. During the rehabilitation term, the chief operating officer
40 shall not increase the municipal portion of the general tax rate over
41 the rate established for the year during which the rehabilitation took
42 effect. During the economic recovery term, the governing body of
43 the qualified municipality may only increase the municipal portion
44 of the general tax rate in an amount sufficient to replace any
45 reduction in State aid to the qualified municipality.

46 b. The chief operating officer shall, in consultation with the
47 mayor, annually prepare a budget pursuant to the provisions of the
48 "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall

1 conform in all respects with the requirements of the "Local Budget
2 Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations
3 on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-
4 45.1 et seq.). The Local Finance Board may grant exceptions to the
5 spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et
6 seq.) upon application by the chief operating officer, if the Local
7 Finance Board finds such exceptions to be necessary for the
8 rehabilitation of the municipality.

9 c. Upon the preparation of the budget, the chief operating
10 officer, in consultation with the mayor, shall fix: a date, place and
11 time for the holding of a public hearing upon the budget; the
12 amounts of money necessary to be appropriated for the use of the
13 municipality for the ensuing year; and the various items and
14 purposes for which the same are to be appropriated. The hearing
15 shall be held in accordance with the provisions of the "Local
16 Budget Law," N.J.S.40A:4-1 et seq.; however, the hearing shall be
17 held at least 28 days after the date on which the budget is
18 advertised. Notice of hearing, contents of the notice and the format
19 and purpose of the hearing shall be as provided in that law. As part
20 of the budget request, the chief operating officer may include
21 provision for anticipation of rehabilitation aid if other revenues are
22 insufficient to meet the revenues needed to offset total
23 appropriations.

24 d. Following the hearing or hearings on the budget, the
25 governing body shall vote upon the proposed budget. Failure to
26 adopt the budget shall be communicated to the chief operating
27 officer along with the reasons for each line item that is rejected. If
28 the chief operating officer does not approve those alternatives
29 proposed by the governing body, any disputed line item shall be
30 considered an impasse and subject to the dispute resolution process
31 set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

32 e. If the budget proposed by the chief operating officer
33 includes a provision for rehabilitation aid, the chief operating
34 officer shall apply to the director for approval of the amount and
35 shall supply the director with documentation justifying the need.
36 The director shall then recommend an amount to the State
37 Treasurer. The treasurer, after consideration of the
38 recommendation, shall determine the amount of the rehabilitation
39 aid to be requested. During the first year of the economic recovery
40 term, the rehabilitation aid provided shall be the same amount as the
41 amount given in the last year of the rehabilitation term, and shall be
42 reduced by three percent each year until the end of the economic
43 recovery term.

44 f. During the period that the municipality is under
45 rehabilitation and economic recovery, the commissioner shall
46 ensure that those appropriations in the municipal budget necessary

1 for the improvement of internal audit mechanisms and controls are
2 present on an annual basis.

3 (cf: P.L.2002, c.43, s.27)

4

5 8. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended
6 to read as follows:

7 36. a. In order to facilitate the rehabilitation and economic
8 recovery of each qualified municipality, there is created a
9 subsidiary corporation of the New Jersey Economic Development
10 Authority, which shall be known as the State Economic Recovery
11 Board for (insert name of qualified municipality). The board shall
12 operate for the period during which the municipality is under
13 rehabilitation and economic recovery and for a period of two years
14 thereafter, or until its funds have been disbursed, whichever occurs
15 first. Any outstanding debts or obligations which remain at the
16 termination of board operation shall be assumed by the authority
17 and any accounts payable to the board shall be due and payable to
18 the authority.

19 b. The board shall consist of 15 voting members, as follows:
20 the mayor of the qualified municipality; a representative of the
21 municipal governing body selected by the governing body; the chief
22 operating officer; the State Treasurer; the Commissioner of
23 Community Affairs; the chairperson of the authority; a
24 representative of the regional impact council selected by the
25 council; the director of the board of chosen freeholders of the
26 county in which the qualified municipality is situated, as provided
27 hereunder, all of whom shall serve ex officio and may select a
28 designee to serve in their stead; one public member chosen by the
29 Governor, based on the recommendation of the Senate President
30 and one public member chosen by the Governor, based on the
31 recommendation of the Assembly Speaker; and five public members
32 to be appointed by the Governor, to include one representative of
33 organized labor and one representing the business community. Of
34 the public members appointed by the Governor, at least three shall
35 be municipal residents. The board shall include two nonvoting ex
36 officio legislative members to be chosen by the Governor, one of
37 whom shall be selected based on the recommendation of the Senate
38 President and the other upon the recommendation of the Speaker of
39 the General Assembly. These members shall be advisory members,
40 appointed solely for the purpose of developing and facilitating
41 legislation to assist the board in fulfilling its statutory mission, and
42 may not exercise any of the executive powers delegated to the
43 board. In addition, the Senior Community Builder in the State
44 office of the federal Department of Housing and Urban
45 Development shall serve as an ex officio, non-voting member of the
46 board.

47 A majority of the entire authorized voting membership of the
48 board shall constitute a quorum at any meeting thereof.

1 c. Each public member shall serve for a term of five years.
2 Vacancies in the public membership of the board shall be filled in
3 the same manner as the original appointments are made and a
4 member may be eligible for reappointment. Vacancies occurring
5 other than by expiration of a term shall be filled for the unexpired
6 term. Each ex officio member shall serve for the period during
7 which the municipality is under rehabilitation and economic
8 recovery and for a period of two years thereafter.

9 The Governor shall designate the chairperson of the board.

10 d. The board shall be appointed as expeditiously as possible
11 upon the determination by the commissioner that the municipality
12 fulfills the definition of a qualified municipality pursuant to section
13 4 of P.L.2002, c.43 (C.52:27BBB-4) and shall convene not later
14 than 30 days following that determination for its organizational
15 meeting. Thereafter, the board shall meet regularly and on not less
16 than a quarterly basis. At its first organizational meeting, the board
17 shall appoint one of the public members to serve as its designee on
18 the New Jersey Economic Development Authority pursuant to
19 section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002,
20 c.43 (C.34:1B-4).

21 e. The voting authority of the director of the county board of
22 chosen freeholders shall not become effective until the filing with
23 the Secretary of State of an agreement entered into by the chief
24 operating officer, acting on behalf of the municipality, and the
25 county, detailing the financial commitment of the county to the
26 redevelopment of the infrastructure of the municipality which shall
27 include improvements or other economic benefits totalling not less
28 than \$20 million and a proposed construction schedule for the
29 completion thereof.

30 (cf: P.L.2002, c.108, s.7)

31
32 9. Section 44 of P.L.2002, c.43 (C.52:27BBB-43) is amended
33 to read as follows:

34 44. The governing body of each qualified municipality shall
35 convey to the board, for the period of rehabilitation [and economic
36 recovery], its right, title and interest in any real property, acquired
37 through the purchase of any tax sale certificate covering that real
38 property whose rights of redemption have been foreclosed under the
39 In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29
40 et seq.), so long as the liens have previously been offered by the
41 municipality at a public tax lien sale.

42 (cf: P.L.2002, c.43, s.44)

43
44 10. Section 62 of P.L.2002, c.43 (C.52:27BBB-60) is amended
45 to read as follows:

46 62. During the rehabilitation [term] and economic recovery
47 terms, the qualified municipality may enter into arrangements with
48 other municipalities, counties, local public authorities, or the State,

1 for the purpose of affording the municipality those benefits which
2 may accrue pursuant to any laws providing for contracted provision
3 of goods or services. Notwithstanding any other provision of law to
4 the contrary all State agencies are authorized to enter into such
5 agreements or arrangements with the qualified municipality during
6 the rehabilitation **[term]** and economic recovery terms as are
7 necessary or useful in furthering the purposes of P.L.2002, c.43
8 (C.52:27BBB-1 et al.).
9 (cf: P.L.2002, c.43, s.62)

10
11 11. Section 63 of P.L.2002, c.43 (C.52:27BBB-61) is amended
12 to read as follows:

13 63. a. All contracts and agreements entered into by the qualified
14 municipality during the rehabilitation term pursuant to P.L.2002,
15 c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the
16 director or chief operating officer may, upon 30 days' notice,
17 terminate the contract or agreement for any reason without payment
18 of penalty or damages. This **[section]** subsection shall not apply to
19 collective bargaining agreements.

20 b. All contracts and agreements entered into by the qualified
21 municipality during the rehabilitation term pursuant to P.L.2002,
22 c.43 (C.52:27BBB-1 et al.) may be terminated by the mayor, upon
23 30 days' notice, for any reason, without payment of penalty or
24 damages, during the economic recovery term. This subsection shall
25 not apply to collective bargaining agreements.

26 (cf: P.L.2002, c.43, s.63)

27
28 12. (New section) a. Notwithstanding the provisions of section
29 67 of P.L.2002, c.43 (C.52:27BBB-63) or any other section of law
30 to the contrary, upon the commencement of the economic recovery
31 term in a qualified municipality pursuant to the provisions of
32 section 6 of P.L.2002, c.43 (C.52:27BBB-6), a school district which
33 is contiguous with that qualified municipality shall become or
34 remain, as applicable, a Type I school district and, except at
35 otherwise provided pursuant to subsection b. of this section, shall be
36 governed by the provisions of Title 18A of the New Jersey Statutes
37 relating to Type I districts.

38 b. The terms of the appointed members of the board of
39 education in office at the time of the commencement of the
40 economic recovery term shall continue to, and cease upon, the
41 appointment of members to the Type I school district board of
42 education by the mayor or other chief executive officer of the
43 qualified municipality. The terms of the newly-appointed members
44 shall be staggered. Any elected members of the board of education
45 in office at the time of the commencement of the economic
46 recovery term shall continue in office until the expiration of their
47 respective terms and the qualification of their respective successors
48 following appointment to the Type I school district board of

1 education by the mayor or other chief elected officer of the
2 qualified municipality.

3 c. At the April school election in the fourth school year
4 following the commencement of the economic recovery term in a
5 qualified municipality, the board of education of the district shall
6 place the question of the classification status of the district as a
7 Type I or Type II district before the voters, which election shall be
8 conducted in accordance with the provisions of Title 19 of the
9 Revised Statutes concerning school elections.

10 If the voters of the district elect to become a Type II district, it
11 shall be governed by the provisions of Title 18A of the New Jersey
12 Statutes relating to Type II districts and the members of the board
13 of education at the time of the election shall remain and continue in
14 office until the expiration of their respective terms and the
15 qualification of their respective successors.

16 If the voters of the district elect to remain a Type I district, it
17 shall be governed in accordance with the provisions of Title 18A of
18 the New Jersey Statutes relating to Type I districts.

19 d. The provisions of section 68 of P.L.2002, c.43
20 (C.52:27BBB-64) shall not be applicable to a school district subject
21 to this section.

22

23 13. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill provides specific requirements for the economic
29 recovery term (the period of time that follows the rehabilitation
30 term and oversight by a chief operating officer), set forth in the
31 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
32 c.43 (C.52:27BBB-1 et al.). Under the bill the mayor of the
33 municipality, during an economic recovery term, is provided with
34 an expanded range of powers, including all powers granted to the
35 chief operating officer during the rehabilitation term, such as the
36 powers to review and invalidate or veto all contracts, or provisions
37 therein, and to abolish positions in the municipality that are not
38 under the direct supervision of the municipal governing body at any
39 time, but specifically excluding the chief operating officer's special
40 review powers with regard to planning and zoning under section 22
41 of P.L.2002, c.43 (C.52:27BBB-22). The mayor could, however,
42 exercise any review and veto powers granted under the
43 municipality's form of government. The mayor would retain the
44 special power to veto the actions of every municipal board and
45 utility for an additional 10-year period beyond the end of the
46 economic recovery term.

47 The mayor would be responsible for causing a final report to be
48 issued on the progress of the municipality toward achieving

1 municipal rehabilitation and economic recovery, as set forth in
2 section 29 of P.L.2002, c.43 (C.52:27BBB-29), at the end of the
3 economic recovery term.

4 The mayor would also be authorized to require the planning
5 board, from time to time, to prepare a program of municipal capital
6 improvement projects projected over a term of at least six years,
7 and amendments thereto.

8 The Director of Local Government Services in the Department of
9 Community Affairs may continue provide for oversight or audit of
10 the activities of a municipality during its economic recovery term,
11 and report the findings to the Local Finance Board and the mayor.

12 During the economic recovery term the Commissioner of
13 Community Affairs would step into the shoes of the chief operating
14 officer with regard to the review of resolutions and ordinances by
15 the governing body of a qualified municipality. A veto by the
16 commissioner could be overridden by a two-thirds vote of the
17 governing body. In the case of a municipality operating under the
18 mayor-council form of government under the Faulkner Act, the
19 governing body would be the city council.

20 During the economic recovery term there would be imposed an
21 annual municipal service impact fee on non-profit organizations
22 operating in the municipality, equal to \$100 per full-time equivalent
23 employee working at or from the tax exempt property. The impact
24 fee would be in addition to any payments in lieu of taxes or special
25 assessments paid by non-profit organizations. The revenue from
26 this municipal service impact fee would be dedicated to capital
27 improvements and debt service to finance capital improvements.
28 The municipal service impact fee would expire at the end of the tax
29 quarter when the municipality is notified that it is no longer eligible
30 for financial assistance pursuant to the "Special Municipal Aid
31 Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

32 The financial incentives set forth in sections 18 through 20 of
33 P.L.2002, c.43 (C.52:27BBB-18 through 52:27BBB-20) would
34 remain in effect until the municipality is no longer eligible for
35 financial assistance pursuant to the "Special Municipal Aid Act,"
36 P.L.1987, c.75 (C.52:27D-118.24 et seq.).

37 During the first year of the economic recovery term, the
38 rehabilitation aid provided pursuant to section 27 of P.L.2002, c.43
39 (C.52:27BBB-27) shall be the same amount as the amount given in
40 the last year of the rehabilitation term, and shall be reduced by three
41 percent each year until the end of the economic recovery term.

42 The bill also provides that upon the commencement of the
43 economic recovery term in a qualified municipality, a school
44 district which is contiguous with that qualified municipality will, as
45 applicable, become or remain a Type I school district. The terms of
46 the appointed members of the board of education in office at the
47 time of the commencement of the economic recovery term will
48 cease upon the appointment of members to the Type I board by the

1 mayor or other chief executive officer of the qualified municipality.
2 Any elected members of the board of education in office at the time
3 of the commencement of the economic recovery term will continue
4 in office until the expiration of their respective terms and the
5 qualification of their successors who will be appointed to the Type I
6 board by the mayor or other chief executive officer of the
7 municipality.

8 The bill provides that at the April school election in the fourth
9 school year following the commencement of the economic recovery
10 term in a qualified municipality, the board of education of the
11 district will place the question of the classification status of the
12 district as a Type I or Type II district before the voters. Depending
13 upon the choice made by the voters, the board of education will
14 then either remain as a Type I district or transition to a Type II
15 district in accordance with existing law.

16 The bill clarifies current law that the designation of a special
17 arbitrator expires at the commencement of the economic recovery
18 term.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4375

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably on Assembly Bill No. 4375.

The bill provides specific requirements for the economic recovery term (the period of time that follows the rehabilitation term and oversight by a chief operating officer), set forth in the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). Under the bill, the mayor of the municipality, during an economic recovery term, is provided with an expanded range of powers, including all powers granted to the chief operating officer during the rehabilitation term, such as the powers to review and invalidate or veto all contracts, or provisions therein, and to abolish positions in the municipality that are not under the direct supervision of the municipal governing body at any time, but specifically excluding the chief operating officer's special review powers with regard to planning and zoning under section 22 of P.L.2002, c.43 (C.52:27BBB-22). The mayor could, however, exercise any review and veto powers granted under the municipality's form of government.

The mayor will be responsible for causing a final report to be issued on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 29 of P.L.2002, c.43 (C.52:27BBB-29), at the end of the economic recovery term.

The bill authorizes the mayor to require the planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto.

The Director of Local Government Services in the Department of Community Affairs may continue to provide for oversight or audit of the activities of a municipality during its economic recovery term, and report the findings to the Local Finance Board and the mayor.

During the economic recovery term the Commissioner of Community Affairs will step into the shoes of the chief operating officer with regard to the review of resolutions and ordinances by the governing body of a qualified municipality. A veto by the commissioner can be overridden by a two-thirds vote of the governing body. In the case of a municipality operating under the mayor-council

form of government under the Faulkner Act, the governing body will be the city council.

During the economic recovery term the bill imposes an annual municipal service impact fee on non-profit organizations operating in the municipality, equal to \$100 per full-time equivalent employee working at or from the tax exempt property. The impact fee will be in addition to any payments in lieu of taxes or special assessments paid by non-profit organizations. The bill dedicates the revenue from this municipal service impact fee to capital improvements and debt service to finance capital improvements. The municipal service impact fee will expire at the end of the tax quarter when the municipality is notified that it is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

Under this bill, the financial incentives set forth in sections 18 through 20 of P.L.2002, c.43 (C.52:27BBB-18-20) remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

The bill specifies that during the first year of the economic recovery period, the rehabilitation aid provided pursuant to section 27 of P.L.2002, c.43 (C.52:27BBB-27) shall be the same amount as the amount given in the last year of the rehabilitation term, and shall be reduced by three percent each year until the end of the economic recovery term.

The bill also provides that upon the commencement of the economic recovery term in a qualified municipality, a school district which is contiguous with that qualified municipality will, as applicable, become or remain a Type I school district. The terms of the appointed members of the board of education in office at the time of the commencement of the economic recovery term will cease upon the appointment of members to the Type I board by the mayor or other chief executive officer of the qualified municipality. Any elected members of the board of education in office at the time of the commencement of the economic recovery term will continue in office until the expiration of their respective terms and the qualification of their successors who will be appointed to the Type I board by the mayor or other chief executive officer of the municipality.

The bill provides that at the April school election in the fourth school year following the commencement of the economic recovery term in a qualified municipality, the board of education of the district will place the question of the classification status of the district as a Type I or Type II district before the voters. Depending upon the choice made by the voters, the board of education will then either remain as a Type I district or transition to a Type II district in accordance with existing law.

The bill clarifies current law that the designation of a special arbitrator expires at the commencement of the economic recovery term. The bill also requires arbitrators who are deciding interest arbitration disputes between the qualified municipality and its police officers or firefighters to take into consideration, during the economic recovery term as well as the rehabilitation term, the fact that the municipality is operating under the “Municipal Rehabilitation and Economic Recovery Act.”

FISCAL IMPACT:

This bill establishes, during the economic recovery term, a municipal services impact fee on the tax exempt real property used or owned by not-for-profit entities operating in the municipality. It is understood that “tax exempt real property” used or operated by a “not-for-profit entity” includes properties of State government, local government and school board institutions and authorities. The bill sets the fee at \$100 per full-time equivalent employee working at or from the exempt property. The revenue from the municipal services impact fee would be dedicated to funding capital improvements and paying debt issued to finance capital improvements. The fee would expire at the end of the tax quarter in which the municipality is notified that it is no longer eligible for financial assistance through the Special Municipal Aid program.

The Office of Legislative Services is unable to determine the total amount of municipal revenue generated by the municipal services impact fee because it does not have information on the total number of full-time equivalent employees working at or from exempt properties owned by non-profit entities operating in the City of Camden, the only municipality affected by the provisions of the bill.

Enactment of this bill would result in increased costs to the State, county government, and local school districts because those entities would be required to pay the municipal services impact fee established by this bill.

STATEMENT TO
ASSEMBLY, No. 4375

with Assembly Floor Amendments
(Proposed by Assemblyman ROBERTS)

ADOPTED: JANUARY 7, 2010

These floor amendments would implement a restriction on increasing the tax levy for municipal purposes in a qualified municipality during its economic recovery term to three percent per year. They also limit the power of the mayor to veto or terminate certain employment contracts during the first 18 months of the economic recovery term so that the power would not apply to employment contracts under extension pursuant to terms under the expired contract. They also require the Director of the Division of Local Government Services in the Department of Community Affairs to continue to annually perform compliance audits of the activities of the municipality during the economic recovery term to ensure compliance with the "Municipal Rehabilitation and Economic Recovery Act" and other relevant State laws. Finally, these amendments also remove language that would have imposed an annual municipal services impact fee on tax exempt real property during the economic recovery period.

SENATE, No. 3166

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 7, 2010

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Revises provisions of “Municipal Rehabilitation and Economic Recovery Act” concerning the economic recovery term.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

S3166 CUNNINGHAM

2

1 AN ACT concerning urban revitalization and amending and
2 supplementing P.L.2002, c.43.

3

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

6

7 1. Section 5 of P.L.2002, c.43 (C.52:27BBB-5) is amended to
8 read as follows:

9 5. Upon receipt of notification by the commissioner pursuant to
10 section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may
11 designate a Superior Court judge who sits within the vicinage of the
12 county in which the qualified municipality is situated or a retired
13 judge who, during his or her tenure as a judge, served within the
14 vicinage of the county in which the qualified municipality is
15 situated as the special arbitrator as prescribed pursuant to P.L.2002,
16 c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term
17 only. The designation shall expire at the commencement of the
18 economic recovery term. The special arbitrator shall, on an
19 expedited basis, oversee the resolution of any impasse brought
20 before the special arbitrator by the chief operating officer pursuant
21 to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43
22 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-
23 16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse
24 resulting from any action or failure to act on the part of the mayor,
25 the governing body or any other officer or appointee of the
26 municipality. The special arbitrator may adopt those procedures
27 necessary to govern the resolution of an impasse and shall use the
28 following criteria in dispute resolution, as appropriate to the
29 particular circumstances:

30 a. The action or failure to act would be adverse to the
31 rehabilitation or economic recovery of the municipality;

32 b. The action in question or failure to act would represent an
33 unsound decision in violation of the fiduciary responsibility of the
34 municipal officials;

35 c. The action or failure to act would be inconsistent with
36 internal financial controls or would violate prudent standards or
37 practices of municipal administration or would violate or
38 compromise State laws, rules or regulations under which the
39 municipality operates; and

40 d. the action or inaction would delay the implementation of
41 P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal
42 of fostering the redevelopment and rehabilitation of qualified
43 municipalities and ensuring the effective delivery of municipal
44 services and professionalization of municipal administration.

45 (cf: P.L.2002, c.43, s.5)

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 2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to
2 read as follows:

3 6. a. Upon the appointment of a chief operating officer
4 pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified
5 municipality shall be under rehabilitation and economic recovery.
6 This period shall begin with the assumption of job responsibilities
7 by the chief operating officer pursuant to this section and terminate
8 five years following the end of the term of the chief operating
9 officer. The period corresponding with the term of the chief
10 operating officer shall be referred to hereinafter as the rehabilitation
11 term. The period commencing with the expiration of the term of the
12 chief operating officer and terminating five years thereafter shall be
13 referred to hereinafter as the economic recovery term.

14 b. (1) During the economic recovery term, the mayor shall
15 exercise those powers delegated to the mayor pursuant to the form
16 of government, the charter and the administrative code of the
17 municipality, and those powers delegated to the mayor under
18 general law. In addition, during the economic recovery term, the
19 mayor shall retain the power to veto the minutes of any independent
20 board or authority, including, but not limited to, the housing
21 authority, parking authority, redevelopment authority, planning
22 board and board of adjustment. No action taken at any meeting of
23 any independent board or authority shall have force or effect until
24 10 days, exclusive of Saturdays, Sundays and public holidays, after
25 the copy of the minutes shall have been delivered to the mayor. If,
26 in that 10-day period, the mayor returns the copy of the minutes
27 with a veto of any action taken by the board or authority at the
28 meeting, that action shall be null and void and of no force and
29 effect. Following the completion of the 10-day period, those
30 actions not vetoed shall be considered approved.

31 (2) During the first 18 months of the economic recovery term,
32 the mayor shall have the powers to veto or terminate any
33 employment contract not subject to a collective bargaining
34 agreement, whether or not subject to Title 11A, Civil Service, of the
35 New Jersey Statutes. This shall not apply to employment contracts
36 under extension pursuant to terms under the expired contract.

37 (3) The mayor shall cause to be issued a final report on the
38 progress of the municipality toward achieving municipal
39 rehabilitation and economic recovery, as set forth in section 8 of
40 P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery
41 term.

42 (4) The mayor shall authorize the municipal planning board,
43 from time to time, to prepare a program of municipal capital
44 improvement projects projected over a term of at least six years,
45 and amendments thereto. The program may include current and
46 future major projects being, or to be, undertaken with federal, State,
47 county, or other public funds, or under federal, State, or county
48 supervision. The first year of the program shall, upon adoption by

1 the governing body, constitute the capital budget of the
2 municipality as required by N.J.S.40A:4-43 et seq. The program
3 shall classify projects in regard to the urgency and need for
4 realization, and shall recommend a time sequence for their
5 implementation. The program may also contain the estimated cost
6 of each project and indicate probable operating and maintenance
7 costs and probable revenues, if any, as well as existing sources of
8 funds, or the need for additional sources of funds, for the
9 implementation and operation of each project. The program shall,
10 as far as possible, be based on existing information in the
11 possession of the departments and agencies of the municipality and
12 shall take into account public facility needs indicated by the
13 prospective development shown in the master plan of the
14 municipality or as permitted by other municipal land use controls.

15 (5) While the municipality is under rehabilitation and economic
16 recovery, the mayor shall retain the power to make those
17 appointments to municipal authorities, boards or commissions, as
18 the case may be, which is otherwise allocated to the mayor pursuant
19 to law.

20 The mayor may retain staff for the purpose of advising the mayor
21 and aiding in the performance of constituent services during the
22 rehabilitation term.

23 (6) The Director of the Division of Local Government Services
24 in the Department of Community Affairs shall annually conduct a
25 compliance audit of the activities of a qualified municipality during
26 the economic recovery term to ensure compliance with P.L.2002,
27 c.43 (C.52:27BBB-1 et al.) and other relevant State laws and shall
28 report the findings to the Local Finance Board and the mayor.

29 (7) The financial incentives set forth in sections 54 through 56
30 of P.L.2002, c.43 (C.52:27BBB-53 through 55) shall remain in
31 effect until the municipality is no longer eligible for financial
32 assistance pursuant to the "Special Municipal Aid Act," P.L.1987,
33 c.75 (C.52:27D-118.24 et seq.).

34 c. Upon the assumption of job responsibilities by the chief
35 operating officer, the financial review board created pursuant to
36 section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the
37 finances of the municipality shall cease to function and the
38 municipality shall cease to be under supervision pursuant to Article
39 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

40 All outstanding debts or obligations incurred by a qualified
41 municipality or the New Jersey Housing and Mortgage Finance
42 Agency established pursuant to section 4 of the "New Jersey
43 Housing and Mortgage Finance Agency Law of 1983," P.L.1983,
44 c.530 (C.55:14K-4) and secured by a right of first refusal on
45 municipally-owned property as of 10 days following a
46 determination by the commissioner that the municipality fulfills the
47 definition of a qualified municipality pursuant to section 4 of
48 P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency

1 with jurisdiction in a qualified municipality, other than those debts
2 or obligations represented by bonds or other negotiable instruments,
3 are forgiven.

4 Notwithstanding the termination of the financial review board
5 and supervision, all memorandums of understanding entered into by
6 the municipality as a condition of receiving assistance under
7 P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the
8 municipality to implement any government, administrative,
9 operational efficiency or oversight measures necessary for the fiscal
10 recovery of the municipality as recommended by the director and
11 approved by the Local Finance Board shall continue to have full
12 force and effect.

13 During the rehabilitation term, the chief operating officer shall
14 be responsible for entering into any memorandum of understanding
15 on behalf of the qualified municipality that is required as a
16 condition of receiving assistance under P.L.1987, c.75 (C.52:27D-
17 118.24 et seq.), or any other law; provided, however, that those
18 memoranda of understanding shall be consistent with the provisions
19 of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176
20 (C.52:27BBB-2.2 et al.), and the powers of the chief operating
21 officer granted pursuant thereto. Any such memoranda of
22 understanding shall be executed between the chief operating officer
23 and the Director of the Division of Local Government Services in
24 the Department of Community Affairs. Whenever the powers and
25 duties of the chief operating officer have devolved upon the director
26 pursuant to subsection b. of section 7 of P.L.2002, c.43
27 (C.52:27BBB-7), the memorandum of understanding shall be
28 executed between the director, on behalf of the qualified
29 municipality, and the State Treasurer, on behalf of the State.

30 (cf: P.L.2007, c.176, s.2)

31

32 3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to
33 read as follows:

34 7. a. Upon receiving notification by the Commissioner of
35 Community Affairs pursuant to section 4 of P.L.2002, c.43
36 (C.52:27BBB-4), the Governor shall appoint the chief operating
37 officer in consultation with the mayor and the governing body. The
38 chief operating officer shall serve at the pleasure of the Governor.
39 The chief operating officer shall be qualified by training and
40 experience for the position and shall have at least 10 years of
41 experience in the management or supervision of government
42 activities, three years of which may be substituted by an advanced
43 degree in business, law, or public administration.

44 b. Pending the appointment of a chief operating officer or, in
45 the event of the death, resignation, removal or inability of the chief
46 operating officer to discharge the duties of that office, the functions,
47 powers and duties of the chief operating officer shall devolve upon
48 the director, for the time being, until a chief operating officer is

1 appointed or is able to discharge the duties of that office. In the
2 event that the chief operating officer does not serve out the chief
3 operating officer's term of office for any reason, a successor shall
4 be chosen by the Governor.

5 c. (1) The term of the chief operating officer shall terminate
6 five years following the assumption of duties on the part of the
7 initial chief operating officer first appointed pursuant to P.L.2002,
8 c.43 (C.52:27BBB-1 et al.), or 10 years thereafter, except as
9 provided under paragraph (2) of this subsection, if the fourth-year
10 report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8)
11 recommends an extension of that term, provided that the extension
12 is approved by the Commissioner of Community Affairs. The chief
13 operating officer may be hired as a State employee in the
14 unclassified service of Title 11A, Civil Service, of the New Jersey
15 Statutes or may be hired under contract, as provided hereunder.
16 Notwithstanding any other provision of law, no person so appointed
17 shall acquire tenure.

18 If the chief operating officer is hired under contract, the person
19 hired shall meet the qualifications set forth herein, and it shall be
20 clear from the contract that the position is full-time and that the job
21 site shall be at the principal offices of the municipality. If, for any
22 reason, a person engaged under contract is unable to fulfill the job
23 responsibilities of chief operating officer, the selection process shall
24 be recommenced in accordance with the provisions of this section.

25 If the chief operating officer is hired under contract, the contract
26 shall be available for public inspection in the office of the
27 municipal clerk.

28 (2) An extended term of the office of chief operating officer
29 shall terminate early upon the recommendation of the
30 Commissioner of Community Affairs to end the rehabilitation term
31 for a qualified municipality and to commence the economic
32 recovery term.

33 d. Subject to the approval of the State Treasurer, the salary,
34 benefits and costs of the chief operating officer shall be fixed by the
35 board and adjusted from time to time as the board deems
36 appropriate. The salary level and benefits shall be comparable to
37 that of the director of any public authority or agency with
38 jurisdiction in the qualified municipality. The salary, benefits, and
39 costs of the chief operating officer shall be an expense of the State
40 and paid through the Department of the Treasury.

41 (cf: P.L.2007, c.176, s.3)

42

43 4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to
44 read as follows:

45 8. a. At the end of four years following the commencement of
46 duties by the chief operating officer [and at the end of eight years,
47 in the event of an extension of the term of the chief operating
48 officer, as provided in subsection c. of section 7 of P.L.2002, c.43

1 (C.52:27BBB-7) (as amended by section 3 of this bill)], the chief
2 operating officer or his or her successor shall submit a report to the
3 Governor, each member of the State Economic Recovery Board,
4 each member of the Senate and General Assembly, each member of
5 the county board of freeholders in the county in which the qualified
6 municipality is situated, each member of the regional impact
7 council, the mayor, and each member of the governing body of the
8 qualified municipality. The report shall evaluate progress made in
9 rehabilitating the qualified municipality and the status of economic
10 recovery efforts. The report shall include an enumeration of any
11 problems or hurdles encountered in rehabilitation and economic
12 recovery and, where applicable, recommendations for any
13 amendments to State law which would promote and encourage
14 rehabilitation and economic recovery. If the chief operating officer
15 anticipates that the rehabilitation term will be insufficient to achieve
16 rehabilitation goals, the chief operating officer shall include in the
17 report a detailed analysis of the causes for the municipality's
18 inability to reestablish local control and an assessment of the
19 amount of time necessary for the continuation of the period of the
20 rehabilitation term.

21 In addition to the foregoing, the report shall include detailed
22 information as to how those funds appropriated pursuant to
23 P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those
24 expenditures are serving to promote the economic revitalization of
25 the qualified municipality.

26 b. Within 30 days of receipt of [each] the report by members
27 of the Legislature, a hearing shall be held by the Senate Community
28 and Urban Affairs Committee and the Assembly Housing and Local
29 Government Committee, or their successors, to provide an
30 opportunity for public comment and discussion.

31 (cf: P.L.2007, c.176, s.4)

32

33 5. Section 19 of P.L.2002, c.43 (C. 52:27BBB-19) is amended
34 to read as follows:

35 19. Notwithstanding the provisions of any other law, rule or
36 regulation to the contrary, an employee of a qualified municipality
37 who is a member of the Public Employees' Retirement System and
38 is otherwise eligible for retirement may, upon the recommendation
39 of the chief operating officer during the rehabilitation term or the
40 mayor during the economic recovery term, with the approval of the
41 director, receive an incentive payment for the termination of the
42 employee's employment with the municipality.

43 As used in this section, "incentive payment" shall mean a lump
44 sum payment of 20 percent of the employee's annual base salary,
45 exclusive of overtime.

46 An employee shall only be eligible for an incentive payment
47 pursuant to this section if that person applies for this termination
48 benefit within 60 days of the appointment of the chief operating

1 officer during the rehabilitation term, or within the first 60 days of
2 the economic recovery term. Payment shall be made not sooner
3 than upon the receipt of the first pension check by the municipal
4 employee.

5 This election to retire on the part of the municipal employee
6 shall be communicated by the member to the retirement system
7 pursuant to Title 43 of the Revised Statutes; however, once the
8 employee has elected to retire, that decision shall be final.

9 (cf: P.L.2002, c.43, s.19)

10

11 6. Section 23 of P.L.2002, c.43 (C.52:27BBB-23) is amended
12 to read as follows:

13 23. a. **【Within】** (1) (a) During the rehabilitation term, within
14 three business days following each meeting of the governing body,
15 a copy of each ordinance and resolution which has been adopted by
16 the governing body shall be forwarded to the chief operating officer
17 or mayor, as the case may be, who shall have 10 days from the
18 receipt thereof to veto the ordinance or resolution, as the case may
19 be. Any veto action by the chief operating officer or mayor shall be
20 submitted to the governing body within 10 days of the veto. Within
21 five business days thereafter, the governing body may override the
22 veto by a two-thirds vote of the fully authorized membership
23 thereof.

24 (b) If, in the opinion of the chief operating officer, the action is
25 contrary to the rehabilitation of economic recovery goals which
26 justified the rehabilitation declaration, the chief operating officer
27 can submit the action to the special arbitrator, who shall allow the
28 action only upon a finding that the action is consistent with the
29 rehabilitation and economic recovery of the qualified municipality.
30 The decision of the special arbitrator shall not be subject to appeal.

31 (2) During the economic recovery term, in addition to the
32 normal procedures for adopting resolutions and ordinances set forth
33 in the form of government of the qualified municipality, within
34 three business days following each meeting of the governing body,
35 a copy of each ordinance and resolution which has been adopted by
36 the governing body shall be forwarded to the Commissioner of
37 Community Affairs, who shall have 10 days from the receipt
38 thereof to veto the ordinance or resolution, as the case may be. Any
39 veto action by the commissioner shall be submitted to the governing
40 body within 10 days of the veto. Within five business days
41 thereafter, the governing body may override the veto by a two-
42 thirds vote of the fully authorized membership thereof. The action
43 by the commissioner regarding an ordinance pursuant to this
44 paragraph shall supersede any action by the mayor on that same
45 ordinance.

46 b. The chief operating officer shall have full access to all
47 municipal records and to municipal information from all officials
48 and employees of the municipality. If the chief operating officer

1 believes that an official or employee of the municipality is not
2 answering the questions of the chief operating officer accurately or
3 completely or is not furnishing information requested by the chief
4 operating officer, the chief operating officer may notify the official
5 or employee in writing to furnish answers to questions or to furnish
6 documents or records, or both. If the official or employee refuses,
7 the chief operating officer may seek a subpoena in the Superior
8 Court, in a summary manner, to compel testimony and furnish
9 records and documents.
10 (cf: P.L.2002, c.43, s.23)

11
12 7. Section 27 of P.L.2002, c.43 (C.52:27BBB-27) is amended
13 to read as follows:

14 27. a. During the rehabilitation term, the chief operating officer
15 shall not increase the municipal portion of the general tax rate over
16 the rate established for the year during which the rehabilitation took
17 effect. During the economic recovery term, the governing body of
18 the qualified municipality may only increase the municipal tax levy
19 by three percent per year, notwithstanding the spending limitations
20 set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) and the
21 limitations on increases to the tax levy pursuant to sections 9
22 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-
23 45.47 and C.40A:4-45.3e), except upon application by the mayor of
24 the qualified municipality to the Local Finance Board for
25 authorization.

26 b. The chief operating officer shall, in consultation with the
27 mayor, annually prepare a budget pursuant to the provisions of the
28 "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall
29 conform in all respects with the requirements of the "Local Budget
30 Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations
31 on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-
32 45.1 et seq.). The Local Finance Board may grant exceptions to the
33 spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et
34 seq.) upon application by the chief operating officer, if the Local
35 Finance Board finds such exceptions to be necessary for the
36 rehabilitation of the municipality.

37 c. Upon the preparation of the budget during the rehabilitation
38 term, the chief operating officer, in consultation with the mayor,
39 shall fix: a date, place and time for the holding of a public hearing
40 upon the budget; the amounts of money necessary to be
41 appropriated for the use of the municipality for the ensuing year;
42 and the various items and purposes for which the same are to be
43 appropriated. The hearing shall be held in accordance with the
44 provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq. ;
45 however, the hearing shall be held at least 28 days after the date on
46 which the budget is advertised. Notice of hearing, contents of the
47 notice and the format and purpose of the hearing shall be as
48 provided in that law. As part of the budget request, the chief

1 operating officer may include provision for anticipation of
2 rehabilitation aid if other revenues are insufficient to meet the
3 revenues needed to offset total appropriations.

4 d. Following the hearing or hearings on the budget during the
5 rehabilitation term, the governing body shall vote upon the
6 proposed budget. Failure to adopt the budget shall be
7 communicated to the chief operating officer along with the reasons
8 for each line item that is rejected. If the chief operating officer does
9 not approve those alternatives proposed by the governing body, any
10 disputed line item shall be considered an impasse and subject to the
11 dispute resolution process set forth in section 5 of P.L.2002, c.43
12 (C.52:27BBB-5).

13 e. If the budget proposed by the chief operating officer
14 includes a provision for rehabilitation aid, the chief operating
15 officer shall apply to the director for approval of the amount and
16 shall supply the director with documentation justifying the need.
17 The director shall then recommend an amount to the State
18 Treasurer. The treasurer, after consideration of the
19 recommendation, shall determine the amount of the rehabilitation
20 aid to be requested.

21 f. During the period that the municipality is under
22 rehabilitation and economic recovery, the commissioner shall
23 ensure that those appropriations in the municipal budget necessary
24 for the improvement of internal audit mechanisms and controls are
25 present on an annual basis.
26 (cf: P.L.2002, c.43, s.27)

27
28 8. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended
29 to read as follows:

30 36. a. In order to facilitate the rehabilitation and economic
31 recovery of each qualified municipality, there is created a
32 subsidiary corporation of the New Jersey Economic Development
33 Authority, which shall be known as the State Economic Recovery
34 Board for (insert name of qualified municipality). The board shall
35 operate for the period during which the municipality is under
36 rehabilitation and economic recovery **[and for a period of two years**
37 **thereafter]**, or until its funds have been disbursed, whichever occurs
38 first. Any outstanding debts or obligations which remain at the
39 termination of board operation shall be assumed by the authority
40 and any accounts payable to the board shall be due and payable to
41 the authority.

42 b. The board shall consist of 15 voting members, as follows:
43 the mayor of the qualified municipality; a representative of the
44 municipal governing body selected by the governing body; the chief
45 operating officer; the State Treasurer; the Commissioner of
46 Community Affairs; the chairperson of the authority; a
47 representative of the regional impact council selected by the
48 council; the director of the board of chosen freeholders of the

1 county in which the qualified municipality is situated, as provided
2 hereunder, all of whom shall serve ex officio and may select a
3 designee to serve in their stead; one public member chosen by the
4 Governor, based on the recommendation of the Senate President
5 and one public member chosen by the Governor, based on the
6 recommendation of the Assembly Speaker; and five public members
7 to be appointed by the Governor, to include one representative of
8 organized labor and one representing the business community. Of
9 the public members appointed by the Governor, at least three shall
10 be municipal residents. The board shall include two nonvoting ex
11 officio legislative members to be chosen by the Governor, one of
12 whom shall be selected based on the recommendation of the Senate
13 President and the other upon the recommendation of the Speaker of
14 the General Assembly. These members shall be advisory members,
15 appointed solely for the purpose of developing and facilitating
16 legislation to assist the board in fulfilling its statutory mission, and
17 may not exercise any of the executive powers delegated to the
18 board. In addition, the Senior Community Builder in the State
19 office of the federal Department of Housing and Urban
20 Development shall serve as an ex officio, non-voting member of the
21 board.

22 A majority of the entire authorized voting membership of the
23 board shall constitute a quorum at any meeting thereof.

24 c. Each public member shall serve for a term of five years.
25 Vacancies in the public membership of the board shall be filled in
26 the same manner as the original appointments are made and a
27 member may be eligible for reappointment. Vacancies occurring
28 other than by expiration of a term shall be filled for the unexpired
29 term. Each ex officio member shall serve for the period during
30 which the municipality is under rehabilitation and economic
31 recovery and for a period of two years thereafter.

32 The Governor shall designate the chairperson of the board.

33 d. The board shall be appointed as expeditiously as possible
34 upon the determination by the commissioner that the municipality
35 fulfills the definition of a qualified municipality pursuant to section
36 4 of P.L.2002, c.43 (C.52:27BBB-4) and shall convene not later
37 than 30 days following that determination for its organizational
38 meeting. Thereafter, the board shall meet regularly and on not less
39 than a quarterly basis. At its first organizational meeting, the board
40 shall appoint one of the public members to serve as its designee on
41 the New Jersey Economic Development Authority pursuant to
42 section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002,
43 c.43 (C.34:1B-4).

44 e. The voting authority of the director of the county board of
45 chosen freeholders shall not become effective until the filing with
46 the Secretary of State of an agreement entered into by the chief
47 operating officer, acting on behalf of the municipality, and the
48 county, detailing the financial commitment of the county to the

1 redevelopment of the infrastructure of the municipality which shall
2 include improvements or other economic benefits totalling not less
3 than \$20 million and a proposed construction schedule for the
4 completion thereof.

5 (cf: P.L.2002, c.108, s.7)

6

7 9. Section 44 of P.L.2002, c.43 (C.52:27BBB-43) is amended
8 to read as follows:

9 44. The governing body of each qualified municipality shall
10 convey to the board, for the period of rehabilitation [and economic
11 recovery], its right, title and interest in any real property, acquired
12 through the purchase of any tax sale certificate covering that real
13 property whose rights of redemption have been foreclosed under the
14 In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29
15 et seq.), so long as the liens have previously been offered by the
16 municipality at a public tax lien sale.

17 (cf: P.L.2002, c.43, s.44)

18

19 10. Section 62 of P.L.2002, c.43 (C.52:27BBB-60) is amended
20 to read as follows:

21 62. During the rehabilitation [term] and economic recovery
22 terms, the qualified municipality may enter into arrangements with
23 other municipalities, counties, local public authorities, or the State,
24 for the purpose of affording the municipality those benefits which
25 may accrue pursuant to any laws providing for contracted provision
26 of goods or services. Notwithstanding any other provision of law to
27 the contrary all State agencies are authorized to enter into such
28 agreements or arrangements with the qualified municipality during
29 the rehabilitation [term] and economic recovery terms as are
30 necessary or useful in furthering the purposes of P.L.2002, c.43
31 (C.52:27BBB-1 et al.).

32 (cf: P.L.2002, c.43, s.62)

33

34 11. Section 63 of P.L.2002, c.43 (C.52:27BBB-61) is amended
35 to read as follows:

36 63. a. All contracts and agreements entered into by the qualified
37 municipality during the rehabilitation term pursuant to P.L.2002,
38 c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the
39 director or chief operating officer may, upon 30 days' notice,
40 terminate the contract or agreement for any reason without payment
41 of penalty or damages. This [section] subsection shall not apply to
42 collective bargaining agreements.

43 b. All contracts and agreements entered into by the qualified
44 municipality during the rehabilitation term pursuant to P.L.2002,
45 c.43 (C.52:27BBB-1 et al.) may be terminated by the mayor, upon
46 30 days' notice, for any reason, without payment of penalty or

1 damages, during the economic recovery term. This subsection shall
2 not apply to collective bargaining agreements.

3 (cf: P.L.2002, c.43, s.63)

4

5 12. (New section) a. Notwithstanding the provisions of section
6 67 of P.L.2002, c.43 (C.52:27BBB-63) or any other section of law
7 to the contrary, upon the commencement of the economic recovery
8 term in a qualified municipality pursuant to the provisions of
9 section 6 of P.L.2002, c.43 (C.52:27BBB-6), a school district which
10 is contiguous with that qualified municipality shall become or
11 remain, as applicable, a Type I school district and, except at
12 otherwise provided pursuant to subsection b. of this section, shall be
13 governed by the provisions of Title 18A of the New Jersey Statutes
14 relating to Type I districts.

15 b. The terms of the appointed members of the board of
16 education in office at the time of the commencement of the
17 economic recovery term shall continue to, and cease upon, the
18 appointment of members to the Type I school district board of
19 education by the mayor or other chief executive officer of the
20 qualified municipality. The terms of the newly-appointed members
21 shall be staggered. Any elected members of the board of education
22 in office at the time of the commencement of the economic
23 recovery term shall continue in office until the expiration of their
24 respective terms and the qualification of their respective successors
25 following appointment to the Type I school district board of
26 education by the mayor or other chief elected officer of the
27 qualified municipality.

28 c. At the April school election in the fourth school year
29 following the commencement of the economic recovery term in a
30 qualified municipality, the board of education of the district shall
31 place the question of the classification status of the district as a
32 Type I or Type II district before the voters, which election shall be
33 conducted in accordance with the provisions of Title 19 of the
34 Revised Statutes concerning school elections.

35 If the voters of the district elect to become a Type II district, it
36 shall be governed by the provisions of Title 18A of the New Jersey
37 Statutes relating to Type II districts and the members of the board
38 of education at the time of the election shall remain and continue in
39 office until the expiration of their respective terms and the
40 qualification of their respective successors.

41 If the voters of the district elect to remain a Type I district, it
42 shall be governed in accordance with the provisions of Title 18A of
43 the New Jersey Statutes relating to Type I districts.

44 d. The provisions of section 68 of P.L.2002, c.43
45 (C.52:27BBB-64) shall not be applicable to a school district subject
46 to this section.

47

48 13. This act shall take effect immediately.

STATEMENT

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The bill provides specific requirements for the economic recovery term (the period of time that follows the rehabilitation term and oversight by a chief operating officer), set forth in the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). Under the bill, the mayor of the municipality, during an economic recovery term, is provided with an expanded range of powers, including all powers granted to the chief operating officer during the rehabilitation term, such as the powers to review and invalidate or veto all contracts, or provisions therein (except for employment contracts under extension pursuant to terms under the expired contract), and to abolish positions in the municipality that are not under the direct supervision of the municipal governing body at any time, but specifically excluding the chief operating officer's special review powers with regard to planning and zoning under section 22 of P.L.2002, c.43 (C.52:27BBB-22). The mayor could, however, exercise any review and veto powers granted under the municipality's form of government.

The mayor will be responsible for causing a final report to be issued on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 29 of P.L.2002, c.43 (C.52:27BBB-29), at the end of the economic recovery term.

The bill authorizes the mayor to require the planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto.

The Director of Local Government Services in the Department of Community Affairs is required to annually perform compliance audits of the activities of the municipality during the economic recovery term to ensure compliance with the "Municipal Rehabilitation and Economic Recovery Act" and other relevant State laws and report those findings to the Local Finance Board and mayor.

During the economic recovery term the Commissioner of Community Affairs will assume the duties of the chief operating officer with regard to the review of resolutions and ordinances by the governing body of a qualified municipality. A veto by the commissioner can be overridden by a two-thirds vote of the governing body. In the case of a municipality operating under the mayor-council form of government under the Faulkner Act, the governing body will be the city council.

Under this bill, the financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-53 through 52:27BBB-55) remain in effect until the municipality is no longer eligible for

1 financial assistance pursuant to the "Special Municipal Aid Act,"
2 P.L.1987, c.75 (C.52:27D-118.24 et seq.).

3 The bill restricts the governing body of a qualified municipality
4 from increasing its tax levy for municipal purposes during the
5 economic recovery term by more than three percent per year, unless
6 the mayor seeks authorization from the Local Finance Board.

7 The bill also provides that upon the commencement of the
8 economic recovery term in a qualified municipality, a school
9 district which is contiguous with that qualified municipality will, as
10 applicable, become or remain a Type I school district. The terms of
11 the appointed members of the board of education in office at the
12 time of the commencement of the economic recovery term will
13 cease upon the appointment of members to the Type I board by the
14 mayor or other chief executive officer of the qualified municipality.
15 Any elected members of the board of education in office at the time
16 of the commencement of the economic recovery term will continue
17 in office until the expiration of their respective terms and the
18 qualification of their successors who will be appointed to the Type I
19 board by the mayor or other chief executive officer of the
20 municipality.

21 The bill provides that at the April school election in the fourth
22 school year following the commencement of the economic recovery
23 term in a qualified municipality, the board of education of the
24 district will place the question of the classification status of the
25 district as a Type I or Type II district before the voters. Depending
26 upon the choice made by the voters, the board of education will
27 then either remain as a Type I district or transition to a Type II
28 district in accordance with existing law.

29 The bill clarifies current law that the designation of a special
30 arbitrator expires at the commencement of the economic recovery
31 term. The bill also requires arbitrators who are deciding interest
32 arbitration disputes between the qualified municipality and its
33 police officers or firefighters to take into consideration, during the
34 economic recovery term as well as the rehabilitation term, the fact
35 that the municipality is operating under the "Municipal
36 Rehabilitation and Economic Recovery Act."

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3166

STATE OF NEW JERSEY

DATED: JANUARY 7, 2010

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3166.

The bill provides specific requirements for the economic recovery term (the period of time that follows the rehabilitation term and oversight by a chief operating officer), set forth in the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.). Under the bill, the mayor of the municipality, during an economic recovery term, is provided with an expanded range of powers, including all powers granted to the chief operating officer during the rehabilitation term, such as the powers to review and invalidate or veto all contracts, or provisions therein, and to abolish positions in the municipality that are not under the direct supervision of the municipal governing body at any time, but specifically excluding the chief operating officer's special review powers with regard to planning and zoning under section 22 of P.L.2002, c.43 (C.52:27BBB-22). The mayor could, however, exercise any review and veto powers granted under the municipality's form of government.

The mayor will be responsible for causing a final report to be issued on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 29 of P.L.2002, c.43 (C.52:27BBB-29), at the end of the economic recovery term.

The bill authorizes the mayor to require the planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto.

The Director of Local Government Services in the Department of Community Affairs is required to annually perform compliance audits of the activities of the municipality during the economic recovery term to ensure compliance with the "Municipal Rehabilitation and Economic Recovery Act" and other relevant State laws and report those findings to the Local Finance Board and mayor.

During the economic recovery term the Commissioner of Community Affairs will assume the duties of the chief operating officer with regard to the review of resolutions and ordinances by the governing body of a qualified municipality. A veto by the commissioner can be overridden by a two-thirds vote of the governing

body. In the case of a municipality operating under the mayor-council form of government under the Faulkner Act, the governing body will be the city council.

Under this bill, the financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-54 to 56) remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

The bill restricts the governing body of a qualified municipality from increasing its tax levy for municipal purposes during the economic recovery term by more than three percent per year, unless the mayor seeks authorization from the Local Finance Board.

The bill also provides that upon the commencement of the economic recovery term in a qualified municipality, a school district which is contiguous with that qualified municipality will, as applicable, become or remain a Type I school district. The terms of the appointed members of the board of education in office at the time of the commencement of the economic recovery term will cease upon the appointment of members to the Type I board by the mayor or other chief executive officer of the qualified municipality. Any elected members of the board of education in office at the time of the commencement of the economic recovery term will continue in office until the expiration of their respective terms and the qualification of their successors who will be appointed to the Type I board by the mayor or other chief executive officer of the municipality.

The bill provides that at the April school election in the fourth school year following the commencement of the economic recovery term in a qualified municipality, the board of education of the district will place the question of the classification status of the district as a Type I or Type II district before the voters. Depending upon the choice made by the voters, the board of education will then either remain as a Type I district or transition to a Type II district in accordance with existing law.

The bill clarifies current law that the designation of a special arbitrator expires at the commencement of the economic recovery term. The bill also requires arbitrators who are deciding interest arbitration disputes between the qualified municipality and its police officers or firefighters to take into consideration, during the economic recovery term as well as the rehabilitation term, the fact that the municipality is operating under the "Municipal Rehabilitation and Economic Recovery Act."

FISCAL IMPACT:

The continuation of the financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-54 to 56) remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75

(C.52:27D-118.24 et seq.). These financial incentives may have a State cost but it is not known if or when the possible continuation of these incentives would apply.

These financial incentives include: (1) the Open for Business Program Rebate for businesses that relocate or expand in a qualified municipality (Camden is the only qualified municipality) equal to up to 75% of its total corporation business tax liability in proportion to the taxpayer's first acquisition of business relocation or business expansion property in the qualified municipality to business facilities in existence on that date outside of the qualified municipality, in New Jersey; (2) the refundable tax credit for a business within a qualified municipality (Camden is the only qualified municipality) that is not receiving a benefit under the "New Jersey Urban Enterprise Zones Act," equal to \$2,500 for each new full-time position at that location in year one after beginning business and \$1,250 for each new full-time position at that location in year two at that location; and (3) the annual New Jersey gross income tax credit of up to \$5,000 for certain new principal residence owners.