



# State Programs for Municipal Financial Recovery An Overview

October 2011

**Public Financial Management**

Two Logan Square  
Suite 1600, 18<sup>th</sup> & Arch Streets  
Philadelphia, PA  
19103-2770

215 567 6100  
[www.pfm.com](http://www.pfm.com)



## **Introduction**

This document provides an overview of Municipal Financial Recovery Programs (MFRP) from a set of nine states comparable to Pennsylvania (comparable states are those that have similar diversity of local government). The information comes from Public Financial Management's work with distressed local governments in the comparable states and from supplemental research. The paper is intended to provide background for policymakers and others who seek general information about recovery programs in different states.

The MFRPs are discussed and categorized based on their adoption of one or more of four general approaches: Monitoring, Assistance, Oversight, and Control. Some states blend these approaches based on the severity of the financial crisis, while others will take a municipality through a series of steps from Monitoring to Control.

The first part of this overview provides examples of the four general approaches, and the second part provides examples of states that blend or scale their programs for municipal financial recovery. An overview of municipal bankruptcy is provided and finally, Pennsylvania's Early Intervention Program, Act 47 and the Intergovernmental Authorities in Pittsburgh and Philadelphia are briefly described and compared to programs in the other states.

## **Monitoring**

In Georgia, the Department of Community Affairs (DCA) reviews local government budgets and other financial management decisions on an annual basis.<sup>1</sup> Local governments whose financial statements do not comply with generally accepted accounting principles are required by DCA to submit audited financial reports to the State Auditor. State agencies are prohibited from transmitting grant funds to a local government that fails to submit an audit within the previous five year period. The state prohibits municipalities from filing for Chapter 9 bankruptcy and does not provide financial assistance to distressed municipalities. If a local jurisdiction faces insurmountable financial problems, the law directs that the municipality be dissolved and its assets and related liabilities will be transferred to the County.<sup>2</sup>

## **Assistance**

In Ohio, the State Auditor's Office monitors local governments by providing them with ratio indicators to benchmark financial performance and identify fiscal distress.<sup>3</sup> State law distinguishes between three levels of distress.

- *Fiscal Caution*: The least severe level of oversight is intended to identify conditions and weaknesses that could lead to more serious financial problems if not addressed. The watch status is triggered by the State Auditor based on

---

<sup>1</sup> Georgia Code § 36-80-1

<sup>2</sup> Georgia Code § 36-68-1

<sup>3</sup> Chapter 118 of the Ohio Revised Code.



problems reported in the audit (or the inability to produce one) or a deficit of at least two percent of revenue.

- *Fiscal watch:* Under the Local Fiscal Emergencies Act,<sup>4</sup> the Governor can request that a municipality be considered for fiscal watch status by the State Auditor. Any of the following factors may trigger a watch declaration: current year expenditures exceed available revenues by one-twelfth, operating deficit exceeds one-twelfth of the General Fund budget, or forecast expenditures will exceed forecast general fund revenue by one-twelfth. The State provides technical support to cities under fiscal watch at its own cost. There are currently three cities under fiscal watch, the largest of which is Lorain (population of 68,000, comparable to the City of Lancaster, Pennsylvania). Eleven cities, including Youngstown, have graduated from watch status since 1996.
- *Fiscal emergency:* If revenues exceed expenses by at least one-sixth of prior year revenues, a fiscal emergency is declared and the State Auditor will convene a Financial Planning and Supervision Commission to develop a multi-year financial plan to resolve the municipality's fiscal distress. The Commission will make recommendations to improve the local government's accounting and financial reporting, and the governing body will submit a plan to the Commission on how it will implement the changes. To date, 24 municipalities are under the supervision of a Financial Planning and Supervision Commission. Mansfield (population of 49,000) is the largest city under fiscal emergency. Thirty-five municipalities have graduated from emergency status.

## **Oversight**

In Florida, the Local Government Financial Emergencies Act provided for the creation of a municipal Financial Emergency Oversight Board.<sup>5</sup> The board is triggered when the local government fails to meet any of the following conditions: pay debts, transfer taxes withheld on the income of employees, make payroll, or proves unable to resolve operating deficits. The Governor appoints all members of the Board. Once constituted, the Board has broad authority over municipal fiscal affairs including budgetary and debt approval, and the power to review operations and management. In addition, the Board can limit the financial impact of collective bargaining agreements (similar to Pennsylvania's Act 47).<sup>6</sup> As a last resort and with the approval of the board, the local government may file for Chapter 9 bankruptcy.

For example, an Oversight Board was established for the City of Miami. The Board was authorized to remain in existence for three years after the City produced two successive years of balanced operations and proved that it did not meet any of the conditions of being in a financial emergency. The Oversight Board had a substantial amount of control

---

<sup>4</sup> Significant changes to the Local Fiscal Emergencies Act are pending in the legislature that would move the state's approach to the control end of the spectrum.

<sup>5</sup> Florida Statutes Chapter 218 §5

<sup>6</sup> The state oversight is also applicable to school districts.



over the City's budget, including the power to prohibit the City from spending any funds which were not authorized by the Oversight Board, except if needed to pay debt service. However, the Board had limited control over collective bargaining agreements. While it could disapprove of agreements that were inconsistent with multi-year financial plan, the Board could not nullify a non-compliant labor agreement.

### **Control**

In Massachusetts, the state Department of Revenue offers municipalities a no cost Financial Management Review.<sup>7</sup> A review is initiated at the request of the mayor or council. The department provides an analysis of and recommendations for improving financial practices and procedures, management policies and general operations to ensure the local government is compliant with state law, and is operating efficiently.

During the 1980s and 1990s the legislature developed specific municipal control strategies for financially distressed municipalities. In September of 1991, the legislature passed special legislation that placed the City of Chelsea under receivership. The state-appointed receiver exercised extensive control over the City's finances and operations. Under receivership the City adopted a new city charter that gave policy and legislative authority to an 11-member City Council led by a City Manager. The first City Manager was appointed in 1995, and the City exited control.

More recently, the legislature established the City of Springfield Finance Control Board.<sup>8</sup> The City of Springfield has a population of 153,060, which is slightly larger than the City of Allentown, Pennsylvania. The Board took authority from the Mayor and Council over the government in exchange for State backing of new debt issued on behalf of the City. The Board consisted of five members. Three were appointees of the Commonwealth's Secretary of Administration and Finance; two were designated by Springfield's Mayor and City Council President. The Board's mission was to initiate and assure the implementation of appropriate measures to secure the financial stability of the city. The Board's powers included the ability to:

- Replace binding arbitration with voluntary mediation for future labor contracts;
- Appoint, remove, supervise and control all city employees and set the terms and conditions of employment held by other employees or officers of the city;
- Institute budget guidelines and procedures for all departments;
- Review and approve or disapprove all proposed contracts for goods and services;
- Raise or reduce any fee, rate, or charge, for any city service, license, permit or other activity;
- Reorganize, consolidate or abolish departments, commissions, boards, offices or functions of the city, and to establish such new departments, commissions, boards, offices or functions as it deems necessary.

The Springfield Finance Control Board was dissolved on June 30, 2009, approximately five years after it took over the municipality. During that time, the City underwent a

---

<sup>7</sup> <http://www.mass.gov/forlocalofficials>

<sup>8</sup> Commonwealth of Massachusetts, Chapter 169 of the Acts of 2004



broad financial and operational restructuring. The city moved from a \$41 million deficit in Fiscal Year 2005 to a reserve fund balance of nearly \$40 million at the close of Fiscal Year 2009.<sup>9</sup>

### **Blended Approaches**

In the last thirty years, blended control and oversight boards have been employed in many jurisdictions throughout the country to support local governments and their component agencies when they have faced financial difficulty. The specific circumstances leading to oversight or control have varied, along with the structures developed to deal with these financial issues. However, the issues that the creating authorities – generally governors and state legislatures – sought to address were similar.

#### *North Carolina*

In North Carolina, the State and Local Government Finance Division under the Department of the Treasury collects data on the financial condition of each municipality in the state. The legislature established the Local Government Commission under the Department of the Treasury to address municipal fiscal distress.<sup>10</sup> The Commission is composed of nine members, including the State Treasurer, State Auditor, Secretaries of State and Revenue, three appointments by the Governor, one member appointed by the State Senate and one by the State House. One of the Governor's appointments represents the municipal government and one represents the government of the County in which the municipality is located. Once the Commission is constituted, local governments must receive approval from the Commission for all borrowing and submit annual financial reports. If a local government fails to make any payment on its debts the Commission can investigate the municipality's finances.

If needed, the Commission can negotiate with creditors to work out a plan for the municipality to repay its debts. In addition, if a municipality cannot meet its debt obligations the Commission may order the local government to raise taxes or other revenues in adequate amounts to make the necessary debt service payments. At this stage, the Commission may review and approve a municipality's annual budget, and the State Treasurer will benchmark the municipality's finances to set its future budgetary goals. Based on the research findings, no municipality has recently entered this program.

#### *New York*

New York State does not have a law that applies to all fiscally-distressed local governments because the State has preferred to develop an individual solution for each municipality or county. Typically, the legislature will pass a special act that grants unique powers to a borrowing authority to alleviate the fiscal distress, coupled with an oversight control board mechanism. The board generally has the power to approve or disapprove budgets and financial plans, debt issuance, and impose a wage and/or hiring

---

<sup>9</sup> See, [http://www.mass.gov/?pageID=mg2utilities&L=1&sid=massgov2&U=sfcb\\_for\\_redirect](http://www.mass.gov/?pageID=mg2utilities&L=1&sid=massgov2&U=sfcb_for_redirect).

<sup>10</sup> North Carolina General Statutes §159-3



freeze. The implementation of these powers is typically left to the board's discretion and implementation has varied widely in different cases.

For example, the City of Buffalo Fiscal Stability Authority (BFSA) was granted immediate control powers over the finances of the City on July 3, 2003. The powers included but were not limited to approval of the financial plan of the city and its covered organizations; development of modifications to the financial plan if necessary; and issuing orders to officials to take any action necessary to implement the financial plan. In addition, the BFSA had the power to impose a wage and/or hiring freeze and approve collective bargaining agreements. The BFSA was granted the authority to exempt any group of employees from the wage freeze if the group agreed to a deferment of the increased salary or wages, which is deemed by the Board to be an acceptable contribution to alleviating the City's fiscal crisis.<sup>11</sup>

For Nassau County, the state legislature created the Nassau County Interim Finance Authority (NIFA). The NIFA has the power to monitor and oversee the County's finances and to issue its bonds and notes for various County purposes, including the restructuring of a portion of the County's outstanding debt. However, the authority has limited powers over collective bargaining agreements. In March of 2011, the NIFA invoked a portion of its authorizing statute allowing for increased powers and mandated a wage freeze applicable to all employees<sup>12</sup> because of its estimate of the likelihood that the County would have significant operating deficit at the end of FY2011.<sup>13</sup>

### *Connecticut*

In Connecticut, similar to New York, the state legislature passes special legislation to deal with local government fiscal distress. Generally, the legislature will install a Financial Review Board that has powers to approve annual municipal budgets, alter taxes and fees to pay off deficits, and approve debt issuance. The Board may also issue debt on behalf of a municipality. The power to affect collective bargaining agreements has varied from a broad authority, which positions the Board as the arbitration panel that specifies the terms of an agreement, to a limited authority which allows the Board to review agreements to ensure compliance with the financial plan.

The City of Waterbury has had several control periods, the most recent from 2001 to 2007. The City's Financial Planning and Assistance Board was composed of seven members: State Treasurer, Secretary of Policy and Management, the local mayor, and four members appointed by the Governor that included an expert in municipal finance, a union representative, a local resident, and a local business owner. The Board was charged with a specific goal of balancing the local budget for five consecutive years. It had broad financial authority along with the power to reverse a decision of the Mayor or Council if the decision threatened the economic viability of the City. In addition, the Board could reject new and renewed collective bargaining agreements, request that the

---

<sup>11</sup> The wage freeze provisions in the BFSA Act have been challenged without success by all City and School District unions in state and federal courts.

<sup>12</sup> See, 2010 Annual Report at [http://www.nifa.state.ny.us/annual\\_reports.html](http://www.nifa.state.ny.us/annual_reports.html).

<sup>13</sup> The County has since filed a law suit against the NIFA to block its action.



bargaining unit reopen existing contracts to revise the terms, and serve as the arbitration panel if new contract terms could not be agreed upon.<sup>14</sup>

The City of Bridgeport Financial Review Board was composed of eleven members: the Secretary of Policy and Management, the local mayor, two appointees by the Governor, two appointees by the mayor, two by the House and Senate, and two appointed by the State Treasurer. This Board's powers were primarily financial. It could approve, reject or modify annual budgets, set the terms for debt issuance, and adjust the local tax rates. However, the Board had no direct authority over government operations or management. In addition, the Board's powers over collective bargaining labor agreements were limited to an impact analysis of the agreement to ensure compliance with the multi-year financial plan. The Board was constituted in 1988 and dissolved in 1995.

### *Illinois*

In Illinois, local governments with population less than 25,000 may file for Chapter 9 Bankruptcy upon the approval of the Financial Planning and Supervision Commission.<sup>15</sup> The Commission is triggered by a petition from the local government. The Governor may direct the establishment of a Commission to determine whether the municipality is in a fiscal emergency. The Commission is comprised of 11 members, including the Governor; State Treasurer and Comptroller; Directors of Revenue, Office Management and Budget, and Commerce; the executive of the affected local government; and three others with knowledge of public finance, budgeting and management appointed by the Governor.<sup>16</sup> The local government must adopt a multiyear financial plan that will stabilize its finances.<sup>17</sup> The Commission has broad authority to make financial changes to a municipality's budgeting, financing and debt issuance. The Commission has no power over labor agreements. The Commission may recommend that a municipality seek bankruptcy relief under Chapter 9 as an option of last resort. In 2009, the Village of Washington Park, population of 5,300, filed for Chapter 9 bankruptcy protection.

Larger municipalities are subject to the Financially Distressed City Law (FDCL) of 1990. In order to receive assistance under the FDCL a city must request that Department of Revenue certify that it is in the highest five percent of the aggregate of the rate per cent of all taxes levied upon all taxable property and in the lowest five percent in terms of per capita tax yield.<sup>18</sup> Once a determination is made, an authority is established for the local government. The purpose of the Authority is to provide a secure financial basis for and to furnish assistance to the financially distressed city. The authority will ensure that the city can provide basic municipal services and meet its obligations to its creditors and the holders of its notes and bonds. To achieve those goals, the Authority has a broad array of powers to correct the city's financial situation. However, the authority has limited control over labor contracts. East St. Louis is the only city in the program.<sup>19</sup>

---

<sup>14</sup> <http://www.cga.ct.gov/2005/rpt/2005-R-0486.htm>

<sup>15</sup> 50ILCS § 320

<sup>16</sup> 50 ILCS 320/5(b)(3)

<sup>17</sup> 50 ILCS 320/8(a)

<sup>18</sup> 65 ILCS 5/8-12-4

<sup>19</sup> See, [http://articles.chicagotribune.com/2010-09-21/business/ct-biz-0921-chicago-law-20100921\\_1\\_bankruptcy-cases-municipal-bankruptcy-debts](http://articles.chicagotribune.com/2010-09-21/business/ct-biz-0921-chicago-law-20100921_1_bankruptcy-cases-municipal-bankruptcy-debts)





## *Indiana*

In Indiana, the legislature established the Distressed Unit Appeal Board (DUAB)<sup>20</sup> to receive petitions from political subdivisions that were expected to have calendar year reductions in property tax collections of at least five percent as a result of statewide property tax caps approved in 2008. The Board consists of nine members, including the State Director of the Office of Management and Budget, the Commissioners of Local Government and Revenue, the State Examiner, and three members appointed by the Governor, and one by the Speaker of the House. The Governor's appointees include one member from each of the Indiana Association of Cities and Towns, Counties and School Superintendents. The Board had the power to grant a municipality's request to temporarily increase millage rates above the State established caps, reorder debt payments, and conduct financial audits. A petition by a municipality to the DUAB for relief from the property tax caps must include a multi-year financial plan for relieving their fiscal distress, and the local government can appeal the DUAB's determination to the Indiana Board of Tax Review.<sup>21</sup>

Since the property tax caps were added to the state constitution in 2010, 2011 was the last year the DUAB could grant millage relief. The City of Gary and related agencies supported by property tax millage are the only local governments to have successfully petitioned the DUAB for relief.

## *Michigan*

In Michigan, Act 4 of 2011 created a new system for State oversight of municipal finances. The process begins with a preliminary review that may be requested by the municipality, a creditor that has not been paid in over six months, a petition by five percent of the electors, or the employee pension fund. The State Treasurer will convene a team to conduct the preliminary review. If a finding of "probable financial stress" is made, the Governor will appoint a review team.<sup>22</sup> The review team will have the power to audit a municipality's financial records and sign a "consent agreement" with a local government that "provides for remedial measures considered necessary to address the local financial problem".<sup>23</sup> If a finding is made that the the local government is severely financially distressed, then the State Treasurer may require a multiyear operational and financial recovery plan, and the hiring of a consultant to assist the local government with implementing the plan.<sup>24</sup>

The Governor may declare "financial emergency" for a municipality if the local government does not adopt the consent agreement and recovery plan, materially breeches the agreement or the municipality's financial condition is so severe that such action is warranted. A declaration of financial emergency places the local government under the

---

<sup>20</sup> I.C. 6-1.1-20.3

<sup>21</sup> Significant changes to the powers of the DUAB are pending in the legislature that would grant the DUAB strong control of the municipality's operations and labor agreements.

<sup>22</sup> Mich. Comp. Laws 141.1512

<sup>23</sup> Mich. Comp. Laws 141.1513

<sup>24</sup> Mich. Comp. Laws 141.1514a(11)





receivership of the state.<sup>25</sup> Under receivership, an Emergency Manager (EM) is appointed by the Governor who has broad powers to rectify the local government's financial emergency. In summary, the powers granted to the EM include the authority to amend, revise, approve or disapprove the municipal budget; reject, modify or terminate collective bargaining agreements, assume and exercise the authority of the local pension board; authorize borrowing; sell assets; recommend consolidation with a neighboring government or disincorporation; and exercise the full authority of the local government.<sup>26</sup>

Before 2011, the State used Public Act 72 of 1990 to appoint Emergency Financial Managers (EFMs). The position had some of the same powers as those granted by Act 4 of 2011, including the authority to take control of the local budgeting process and to make plans to pay outstanding obligations. However, the EFMs could not terminate union contracts.

The City of Flint is the first municipality to be reviewed under the process established by Act 4 of 2011. Other municipalities, such as the City of Pontiac, entered State oversight under the older system. The EFMs appointed under the older system continue to serve with the powers granted under the older system.

### *New Jersey*

In New Jersey, the Department of Community Affairs (DCA) administers the Distressed Cities program. The program provides additional state aid and fiscal oversight through the development of a multi-year financial recovery plan. In 2002, persistent fiscal distress in the City of Camden led to the passage of the Municipal Rehabilitation and Economic Recovery Act.<sup>27</sup> Under the Act, the Commissioner of DCA declares that the local government is in severe fiscal distress and the municipality will enter a "rehabilitation term".<sup>28</sup> During the rehabilitation term the Chief Operating Officer (COO) appointed by the Governor assumes the powers of the local government.<sup>29</sup> The COO is granted a five year term and is given broad authority over municipal finances and budgets. In addition, the Recovery Act created the State Economic Recovery Board. The Board was granted \$175 million to invest in projects in Camden that would spur economic revitalization to grow the city's revenues.

In January of 2010, the City Camden was released from state oversight and the State is phasing down the annual amount of "transitional aid" provided to the City. However, the City's budget is still reviewed annually by the DCA, and in October 2011 the State announced a reduction in financial aid for the City.

### **Municipal Bankruptcy**

Over the past year, some fiscally distressed municipal governments have publicly discussed filing for bankruptcy protection under Chapter 9 of the U.S. Bankruptcy Code.

---

<sup>25</sup> Mich. Comp. Laws 141.1515(4)

<sup>26</sup> Mich. Comp. Laws 141.1519

<sup>27</sup> N.J.S.A. 52:27BBB-1

<sup>28</sup> N.J.S.A. 52:27BBB-6

<sup>29</sup> N.J.S.A. 52:27BBB-9



Some local governments will contemplate bankruptcy as a last resort, and others may consider it as a means to seek relief from labor contracts, debts and other obligations perceived as onerous. In recent decades municipal bankruptcy has only rarely been used by a full-service<sup>30</sup> local government. In most cases, municipalities have taken the difficult measures required to maintain fiscal solvency, avoid bankruptcy, and preserve bondholders' credit standing with the help of state assistance and oversight as discussed above. Furthermore, bankruptcy filings have generally been avoided because of the significant political, legislative, and expense hurdles and severe strain on access to capital markets.

To file for bankruptcy, a municipality must be insolvent, have a desire to implement a plan to adjust its debts, negotiate in good faith with creditors and fail to obtain an agreement or negotiation with creditors is deemed impractical.<sup>31</sup> Under the 1994 amendments, a local government must be specifically authorized by its State to file for protection. As of 2010 26 states, including Pennsylvania, permitted municipal bankruptcy under Chapter 9 of the federal code. In Pennsylvania, a municipality must be designated distressed under Act 47 prior to a bankruptcy filing.

The advantages of filing for bankruptcy include protection from any actions by creditors, as well as the time and opportunity to raise revenue, renegotiate contracts and rework debt agreements. The law also provides the municipality with access to an expert financial arbiter that will help the local government develop a plan for fiscal solvency.<sup>32</sup> However, a municipality cannot be forced to liquidate assets to satisfy creditors, and a judge is prohibited from interfering with the day-to-day business of the municipality.<sup>33</sup> In Pennsylvania, like other states, that state constitution may provide protections for employee pension benefits.<sup>34</sup>

In California the state government does not provide any formal oversight for financially distressed local governments. In 2008, the Vallejo City Council voted in favor of filing for Chapter 9 bankruptcy protection. The City's expenditures for labor, pensions, and debts had exceeded its revenues for multiple years, and the general economic decline made matters worse. The City was not the first local government in California to file for bankruptcy; Orange County entered bankruptcy in 1994. The legal battles over the bankruptcy filing have cost Vallejo nearly \$10 million as it negotiated with creditor, unions and others for more favorable debt and labor agreements.<sup>35</sup> In August 2011 the US Bankruptcy Court approved the City's debt restructuring plan, allowing it to exit bankruptcy.<sup>36</sup>

---

<sup>30</sup> A full-service local government provides offering a wide range of service to residents including but not limited to police, fire, emergency medical services, parks and recreational opportunities, libraries and waste disposal to name a few.

<sup>31</sup> 11 U.S.C. §109(c).

<sup>32</sup> 11 U.S.C. § 941

<sup>33</sup> 11 USC § 904

<sup>34</sup> PA. Const., art. 1 § 12

<sup>35</sup> See, <http://www.bloomberg.com/news/2010-12-14/vallejo-s-california-bankruptcy-failure-scares-cities-into-cost-cutting.html>

<sup>36</sup> As this paper focuses on state assistance to local governments, it is recommended that readers interested in learning more about municipal bankruptcy consult additional sources for more detail on this issue.



## **Pennsylvania**

Pennsylvania has three types of municipal financial recovery programs, the Early Intervention Program (EIP), Act 47 and Intergovernmental Authorities. In comparison to other states, the EIP takes a monitoring and planning approach to municipal financial distress, seeking to address problems before they become severe. The program is not automatically triggered; local governments must apply for grant assistance under the program to hire an independent financial and management consultant to quantify the multi-year financial situation, suggest short-term corrective actions, and prepare a three-to-five year plan with longer-term corrective actions. The Commonwealth's Department of Community and Economic Development (DCED) evaluates EIP applications based on a municipality's financial and economic condition; in most cases the DCED funds a significant portion of program costs. Since it was established, scores of cities, counties and other local governments have participated in the program.

In comparison to programs in other states, Act 47 is a blend of an assistance and oversight approach. Act 47 does not provide for a state takeover of the local government. The legislative intent of the program is to “enact procedures and provide powers and guidelines to ensure fiscal integrity of municipalities while leaving principal responsibility for conducting the governmental affairs of a municipality...to the charge of its elected officials”.<sup>37</sup> A determination of municipal fiscal distress is triggered when the local government meets any of the following criteria: operating deficit over a three year period, default in debt payments, missed payroll for 30 days, failure to forward taxes withheld on income of employees or transfer employer contributions for Social Security, failure to make its minimum obligation pension payment, or reached the legal limit in levying real estate tax due deteriorating economic conditions. Various interest groups tethered to the municipality have standing to request a determination of fiscal distress,<sup>38</sup> but in most cases the request is in the form of a petition to DCED from the local government itself.

If DCED reviews the petition and determines that a municipality is financially distressed, a Coordinator is appointed by DCED. The Act 47 Plan Coordinator develops a multi-year financial and management plan for the local government, which is subject to approval by the municipality's governing body. If the plan is rejected by the governing body, the local government must create its own plan, also subject to DCED review. If the plan is accepted by the governing body, the Coordinator will implement the plan but does not have the power to order financial or operational change. If a municipality fails to adopt or implement a recovery plan it may lose access to state grants and loans,<sup>39</sup> and if a recovery plan is adopted and implemented the municipality may receive priority standing for state grants and loans.<sup>40</sup> In addition, the Coordinator's plan may set the parameters for future collective bargaining labor agreements.

In addition under Senate Bill 1151 – Printers Number 1605, Cities of the Third Class may, if the local government rejects an Act 47 Recovery Plan, be subject to a declaration

---

<sup>37</sup> 53 P.S. § 11701.102

<sup>38</sup> 53 P.S. § 11701.202

<sup>39</sup> 53 P.S. § 11701.264

<sup>40</sup> 53 P.S. § 11701.282



by the Governor of a fiscal emergency. A declaration of fiscal emergency places the city under receivership of the state. The full authority of the local elected and appointed officials over the city is given to the Governor or the appointed receiver. The Governor or appointed receiver is given broad powers over the city's budget, contracts, labor agreements, debts and physical assets.

The Intergovernmental Authorities established for Philadelphia and Pittsburgh are oversight boards, but they have relatively limited authority compared to the models used in other states. For Philadelphia, the Pennsylvania Intergovernmental Cooperation Authority (PICA) is composed of seven members, five voting and two non-voting.<sup>41</sup> The Governor appoints one member and the State House and Senate each get two appointees. The other two members are the Commonwealth's Budget Secretary and Director of Finance for the City of Philadelphia. At its inception in 1991, PICA was authorized to issue bonds and provide the proceeds to the city upon approval of the City's five year financial plan, which is updated every year. While this debt issuance power has lapsed, PICA must continue to approve annual five year plans until all of the debt is repaid. PICA does not have the authority to nullify a non-compliant labor agreement.

The Pittsburgh Intergovernmental Cooperation Authority (ICA) is similar to PICA.<sup>42</sup> The composition of the board is the same as PICA. The ICA approves the City's annual budget and five year financial plan, any issuance of debt, and may make recommendations to the City and the State on issues related to the City's fiscal affairs. The ICA does not have the authority to nullify a non-compliant labor agreement.

## **Conclusion**

While this paper has considered different state approaches to assisting local governments facing financial distress, many other factors not discussed in detail are relevant to municipal financial health. Varying requirements for the provision of local services, collective bargaining and retirement funding arrangements, state levels of aid to local government, revenue sharing structures, replacement of property tax revenue lost to non-profits, and overall tax policy will strongly affect local financial viability. Readers exploring the structures summarized here in more detail should also take these other factors into account.

---

<sup>41</sup> 53 P.S. § 12720.101

<sup>42</sup> Act 11 of 2004



## Summary Matrix - Municipal Financial Recovery Programs

	Connecticut	Florida	Georgia	Illinois	Indiana	Massachusetts	Michigan	New Jersey
Approve or reject budget	X	X		X		X	X	X
Require the Municipality to adopt a multi-year plan to address distress		X			X	X	X	
Approve debt issued by the Municipality	X			X	X	X	X	X
Issue debt on behalf of the distressed municipality	X			X		X	X	X
Increase taxes or service charges	X				X	X	X	X
Hire or remove employees or approve related Municipality decisions	X					X	X	
Set the terms and conditions for future labor contracts	X	X				X		
Nullify, reform or open existing labor contracts								
Unilaterally approve or reject labor contracts	X					X	X	
Make purchasing and procurement decisions on behalf of the Municipality		X				X	X	
Provide direct state assistance (low or no interest loans, grants)								X
Authorizing legislation	Special Legislation	By Statute	By Statute	By Statute	By Statute	Special Legislation	By Statute	By Statute
Municipalities allowed to file for bankruptcy?	X	X		Yes-population less than 25,000				
	New York	North Carolina	Ohio	Pennsylvania Act 47	Pennsylvania ICA	Municipal Bankruptcy		Pennsylvania SB 1151
Approve or reject budget	X	X			X			X
Require the Municipality to adopt a multi-year plan to address distress	X	X	X	X		X		X
Approve debt issued by the Municipality	X	X			X			X
Issue debt on behalf of the distressed municipality	X	X			X			
Increase taxes or service charges		X						X
Hire or remove employees or approve related Municipality decisions								
Set the terms and conditions for future labor contracts	X			X				X
Nullify, reform or open existing labor contracts						X		X
Unilaterally approve or reject labor contracts								X
Make purchasing and procurement decisions on behalf of the Municipality	X							X
Provide direct state assistance (low or no interest loans, grants)	X			X				
Authorizing legislation	Special Legislation	By Statute	By Statute	By Statute	Special Legislation	Chapter 9 - Federal Bankruptcy Code		
Municipalities allowed to file for bankruptcy?	X	X	X	X (Prohibited for Third Class Cities)				Third Class Cities are prohibited
<b>Please note:</b>								
<i>This chart is provided only as a quick reference to give the reader a sense for the varying tools available to State-created oversight bodies.</i>								
<i>In some states the range of tools varies based on the severity of the municipality's financial distress. In other states the legislature creates a unique oversight body for each municipality.</i>								
<i>PFM can provide additional information on the limits, conditions and historical exercise of these powers upon request.</i>								