

Office of Legislative Services  
Memorandum



Local Government Section  
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DATE: February 25, 2016

SUBJECT: Effects of no State intervention legislation on Atlantic City

You have requested information regarding what would happen to Atlantic City if no legislation was enacted to provide for additional State intervention or a PILOT from the casino taxpayers. The concern is that when Atlantic City runs out of operating cash, it will be unable to pay its public safety and other employee salaries, and possibly unable to remit property tax payments to the county and school district on schedule. Since Atlantic City is already under State supervision, the Local Finance Board and the Division of Local Government Services in the Department of Community Affairs have sufficient authority over the city's finances to prevent a financial catastrophe. First, let's review the current situation in Atlantic City:

Atlantic City has been under State supervision, pursuant to the "Local Government Supervision Act (1947)," since 2010. An "Emergency Manager" was appointed under the Governor's Executive Order No. 171 to issue a report containing recommendations for the rehabilitation of Atlantic City. That report was issued and there is no longer an Emergency Manager. Atlantic City is receiving Transitional Aid, which is subject to a Memorandum of Understanding between the Director of the Division of Local Government Services and city officials that allows the State to compel certain financial actions by the governing body of the city.

The State has three basic interests in providing financial support to Atlantic City:

- Reassure municipal employees, particularly public safety employees, that they will continue to receive their salaries and benefits;
- Reassure residents of AC that basic services will continue to be provided;
- Reassure municipal bondholders that principal and interest will be paid so as not to spook the Statewide municipal bond market and drive up interest rates.

In the normal course, a municipality functions as the tax collector for the county and other taxing districts, and then is responsible for turning over property tax receipts to the county and school district according to a statutory schedule. When a municipality does not have the funds on hand, it borrows, through tax anticipation notes, in order to make the required payments to the county and other taxing districts. Atlantic City's financial problem may greatly affect the county and

school district if its credit rating is so low (currently, according to Standard and Poor's, CCC-) that it cannot borrow to make the payments to the county and other taxing districts when due.

At the point when Atlantic City cannot borrow, short-term, to pay its essential operating expenses and payments due to the county and other taxing districts, it is hard to envision the State refusing to exercise its powers under the "Local Government Supervision Act (1947)" to take control of the finances of the city. A likely short-term solution would be for the State to loan Atlantic City the necessary funds at low or zero interest pursuant to longstanding budget language. See the Fiscal Year 2016 Appropriations Handbook, page B-29, second paragraph (below), permitting transfers between State departments in order to provide municipalities with emergency loans for up to 180 days, but allowing for loan extensions. The first paragraph allows the use of State Aid to secure both bond anticipation notes and tax anticipation notes (short-term municipal borrowing instruments). Under chapter 3 of Title 40A, State Aid can be used to secure bonded indebtedness. When State Aid is used to guarantee note or bond payments, the municipality obtains a low interest rate since the credit of the State is essentially backing those bonds or notes. It is also possible that any such loan under paragraph 2 of the budget language could be forgiven by the State in the future.

#### Language ---- State Aid -- Property Tax Relief Fund

Notwithstanding the provisions of any law or regulation to the contrary, whenever funds appropriated as State Aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to section 11 of P.L.2003, c.15 (C.40A:2--8.1) and any tax anticipation notes issued pursuant to N.J.S.40A:4--64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

The State Treasurer, in consultation with the Commissioner of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer appropriations from any State department to any other State department as may be necessary **to provide a loan for a term not to exceed 180 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes.** Extension of the term of the loan shall be conditioned on the

municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

The Local Finance Board and the Division of Local Government Services have many tools under the "Local Government Supervision Act (1947)" to help stabilize the finances of Atlantic City. Of course, the "elephants in the room," being the tax refunds owed by Atlantic City to the casinos and the corresponding loss of casino ratables to the city's property tax base, will likely render the State's financial supervision efforts insufficient to fully address Atlantic City's financial situation without the provision of increased long-term financial aid to the city and school district.

Can the State appoint a Chief Operating Officer under N.J.S.A.52:27BBB-1 et seq. (MRERA – Camden law)?

The MRERA law, permitting State oversight and control of a municipality through appointment of a chief operating officer, has three requirements before it can be invoked. MRERA currently cannot be applied to Atlantic City. The city meets the second requirement (see definition below), but does not meet the first requirement of supervision by a financial review board, or the third requirement, that State aid or other State revenues fund at least 55 percent of the municipal budget. Atlantic City depended on State Aid for approximately seven percent of its total annual budget for its 2014 local budget year; \$19,260,714/\$251,517,410 (State aid in 2014 to Atlantic City divided by Total General Appropriations for 2014 reported on Sheet 30 of the 2015 adopted city budget). N.J.S.A.52:27BBB-3 defines a "qualified municipality" as follows:

"Qualified municipality" means a municipality: (1) that has been **subject to the supervision of a financial review board** pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) **which, according to its most recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.**

Bankruptcy Option:

Appended to this memo are some federal bankruptcy basics on municipal bankruptcy copied from: <http://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-9-bankruptcy-basics>

Essentially, the question is how Atlantic City would benefit from filing for bankruptcy. The bankruptcy law provides an automatic stay of action for the city and allows it to cram-down or discharge unsecured debts. If not for the city's losses on property tax appeal cases, Atlantic City would not have dire financial problems requiring consideration of federal bankruptcy protection.

In a federal municipal bankruptcy proceeding, the federal court has less authority over a municipal bankruptcy case than over a personal or corporate bankruptcy case due to operation of the federal Constitution's Supremacy Clause.

It is not clear to me that the Borgata's tax appeal debt is dischargeable or even subject to a cram-down under federal bankruptcy law. If Borgata's tax court judgment is treated as a general unsecured debt, then it could be subject to the same provisions as are applicable to other unsecured debtors. However, since N.J.S.A.54:4-69.2 (below) permits a taxpayer to apply any refund due after a tax appeal as a credit against future taxes, if Borgata elects to proceed under this statute, which it has appeared to do with regard to the February 2016 quarterly payment, then the property tax refund may be considered a property tax prepayment, as is implicitly permitted under subsection a. of N.J.S.A.54:4-67 (see below - allows municipalities to fix a discount rate for property tax prepayments), rather than an unsecured pre-bankruptcy petition debt owed by the city.

If the Borgata property tax refund can be characterized as a property tax prepayment for future tax quarters, then it is unlikely that the bankruptcy code's automatic stay of action would apply to prevent Borgata from claiming the credit against its quarterly property tax liability during the pendency of the bankruptcy case. This means that Borgata could not be compelled to make its quarterly property tax payments until its prepayment credit, being the amount of the property tax refund, is exhausted. Since the prepayment credit amount is a substantial amount, it may be many years before the credit is exhausted and the city starts receiving actual quarterly tax payments again. See information about 11 U.S.C. § 922(d) in the Appendix. At the very least, this matter would be litigated before the bankruptcy judge.

54:4-69.2. Credit, against taxes due or to become due, for refund on reduction of assessment

**If any taxpayer shall have paid the taxes upon any assessment of property under the provisions of chapter four of Title 54 of the Revised Statutes and shall, upon appeal, have obtained a judgment of the county board of taxation granting a reduction in the said assessment from which neither the taxpayer nor the municipality shall have duly appealed, or shall have obtained a judgment of the State Board of Tax Appeals granting a reduction in such assessment or confirming a reduction granted by the county board or any part thereof, such taxpayer may claim and the collector of taxes of the municipality shall allow a credit, in an amount equal to the appropriate refund incident to such reduction of said assessment, against any taxes then**

**due or to become due on such property;** provided, such property is at that time assessed against the same owner as it was at the time the appealed assessment was made. If said assessment shall be further litigated the taxes found to be due as a result of such litigation, either by way of increase or reduction, shall be adjusted in like manner.

54:4-67 Discount for prepayment; interest for delinquency; exceptions.

54:4-67. a. (1) **The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent.** The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. No such discount shall apply to the purchaser of a total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5). . . .

### Examples of State's power under the "Local Government Supervision Act (1947)"

Under the current statutory supervision powers, the Local Finance Board can adopt a plan of liquidation for the city's current debt:

#### 52:27BB-61. Liquidation of debt

The board may, under this section, authorize or direct a municipality subject to this act to liquidate or refinance its current debt pursuant to a plan.

Liquidations under this section shall be in accordance with a plan of liquidation adopted by the board. A plan so adopted and approved shall be binding upon the municipality and annual appropriations as required by the plan shall be mandatory. A plan shall not be amended except with the prior written consent of the board.

Whenever a municipality is operating under an approved plan of liquidation, the supervision of the board shall continue for the duration of the liquidation plan, notwithstanding the operation of the termination provisions in section 91 (C.52:27BB-91).

The Local Finance Board can require the financial officer of the city to issue special reports and hold hearings on the financial affairs of the city:

#### 52:27BB-66. Additional powers of the board

For the purpose of this article the board shall have, in addition to its other powers, authority to

(1) Promulgate rules and regulations for the interpretation and administration of this article.

(2) Require, and prescribe the form of, special reports to be made by a financial officer or governing body pertaining to the financial affairs of municipalities.

(3) Hold hearings.

Although the Local Finance Board cannot dissolve existing collective bargaining/negotiations agreements, it can make agreements that come up during the term of supervision subject to approval by the Director of the Division of Local Government Services:

52:27BB-66.1. Collective bargaining agreements; review and approval; arbitration awards; exclusion; appointment or dismissal of managers; authority of director

The board may provide that all collective bargaining agreements entered into during the time the municipality is subject to the provisions of this act shall be subject to the review and approval of the director. However, in any instance where negotiations on a collective bargaining agreement have reached an impasse and the matter has been submitted to an arbitrator pursuant to law, any arbitration award shall be binding without the approval of the director. In any arbitration proceeding the director shall furnish the arbitrator with a statement of the financial condition and capacity of the municipality.

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

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

The Local Finance Board cannot require the appointment of a fiscal control officer for Atlantic City under the supervision act, but it can probably require the appointment under its Memorandum of Understanding as a condition of Transitional Aid:

52:27BB-80. Fiscal control officer

The board may recommend to the local governing body that a fiscal control officer be appointed. If the board recommends the appointment of an officer, it shall submit to the governing body the

names of not less than three persons who are found by the board to be qualified to perform the duties of officer for that municipality. The governing body shall, thereupon, appoint as officer one of the persons so named.

The officer shall receive compensation for his services to be paid out of the funds of the municipality in an amount fixed by the governing body and approved by the board. He shall give bond for the faithful performance of his duties in an amount fixed by the governing body and approved by the board. An officer shall continue his employment until his services are terminated by the governing body, with the approval of the board.

The Local Finance Board can instruct the Director of the Division of Local Government Services to exercise the financial control function over the city's budget and finances:

52:27BB-85. Director may act as controller

If the board finds that sound fiscal conditions will be promoted by the exercise of a control function in the municipality and that the function is not, or cannot be, maintained in a practical manner by regular local officers, the board may instruct the director to perform the control function.

Other powers are set forth in the statutes collected in the Appendix to this memo.

This memo collects a lot of information in one place, but is not an exhaustive analysis of Atlantic City's financial future. There are many variables and information to which we don't have access. Please review these materials and we will address any questions that you have upon your return to your office.

## APPENDIX

Selected Bankruptcy Provisions from : <http://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-9-bankruptcy-basics>

### ELIGIBILITY

Only a "municipality" may file for relief under chapter 9. 11 U.S.C. § 109(c). The term "municipality" is defined in the Bankruptcy Code as a "political subdivision or public agency or instrumentality of a State." 11 U.S.C. § 101(40). The definition is broad enough to include cities, counties, townships, school districts, and public improvement districts. It also includes revenue-producing bodies that provide services which are paid for by users rather than by general taxes, such as bridge authorities, highway authorities, and gas authorities.

Section 109(c) of the Bankruptcy Codes sets forth four additional eligibility requirements for chapter 9:

1. the municipality must be specifically authorized to be a debtor by state law or by a governmental officer or organization empowered by State law to authorize the municipality to be a debtor;
2. the municipality must be insolvent, as defined in 11 U.S.C. § 101(32)(C);
3. the municipality must desire to effect a plan to adjust its debts; and
4. the municipality must either:
  - o obtain the agreement of creditors holding at least a majority in amount of the claims of each class that the debtor intends to impair under a plan in a case under chapter 9;



- o negotiate in good faith with creditors and fail to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that the debtor intends to impair under a plan;
- o be unable to negotiate with creditors because such negotiation is impracticable; or
- o reasonably believe that a creditor may attempt to obtain a preference.

#### AUTOMATIC STAY

The automatic stay of section 362 of the Bankruptcy Code is applicable in chapter 9 cases. 11 U.S.C. §§ 362(a), 901(a). The stay operates to stop all collection actions against the debtor and its property upon the filing of the petition. Additional automatic stay provisions are applicable in chapter 9 that prohibit actions against officers and inhabitants of the debtor if the action seeks to enforce a claim against the debtor. 11 U.S.C. § 922(a). Thus, the stay prohibits a creditor from bringing a mandamus action against an officer of a municipality on account of a prepetition debt. It also prohibits a creditor from bringing an action against an inhabitant of the debtor to enforce a lien on or arising out of taxes or assessments owed to the debtor.

Section 922(d) of title 11 limits the applicability of the stay. Under that section, a chapter 9 petition does not operate to stay application of pledged special revenues to payment of indebtedness secured by such revenues. Thus, an indenture trustee or other paying agent may apply pledged funds to payments coming due or distribute the pledged funds to bondholders without violating the automatic stay.

## The State's Financial Control Powers under the Local Budget Law:

### 40A:4-10 Adoption of budget; copies; public inspection.

40A:4-10. No budget or amendment thereof shall be adopted unless the director shall have previously certified his approval thereof. Final adoption shall be by resolution adopted by a majority of the full membership of the governing body, and may be by title where the procedures required by N.J.S.40A:4-8 and N.J.S.40A:4-9 or section 12 of P.L.1995, c.259 (C.40A:4-6.1), as applicable, have been followed.

The budget shall be adopted in the case of a county not later than February 25, and in the case of a municipality not later than March 20 of the calendar fiscal year or September 20 of the State fiscal year, except that the governing body may adopt the budget at any time within 10 days after the director shall have certified his approval thereof and returned the same, if such certification shall be later than the date of the advertised hearing.

If, in the case of a municipality which operates on the State fiscal year, the governing body fails to adopt the budget within the permitted time, the chief financial officer of the local unit shall so notify the director the next working day after the expiration of the permitted time.

Copies of the budget, as adopted, in such form and in such quantity as determined by the Local Finance Board, shall be transmitted to the director, and made available in print for public inspection at the local library, within three days after adoption.

Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the local unit.

The adopted budget shall be provided for public inspection on the local unit's website, if one exists, or, if one does not exist, the budget shall be provided for public inspection on the website of the Department of Community Affairs, and made available online and in print as required by this section in a "user-friendly" summary format using plain language. In addition to the current year adopted budget, the local unit's adopted budgets of the immediately preceding three budget years also shall be provided for public inspection on the local unit's website, if one exists, or, if one does not exist, those budgets also shall be provided for public inspection on the website of the Department of Community Affairs. Any adopted budget posted online pursuant to this section shall remain posted online for the duration of the local budget year. The Local Finance Board shall promulgate a "user-friendly," plain language summary format for use by local units for this purpose pursuant to section 39 of P.L.2007, c.63 (C.40A:5-48).

### 40A:4-83. Regulations by the local government board and director

The local government board and the director may make such rules and regulations as may be necessary to carry out the provisions of this chapter. The director may hold hearings and make such investigations as may be appropriate to the exercise of his powers in accordance with law.

### 40A:4-84. Orders of director binding

A final order of the director shall be binding upon the governing body and shall be complied with. The Superior Court may enforce the order in an action instituted by the director.

If a governing body fails or refuses to comply with a final order of the director, the members of a governing body who willfully fail or refuse to comply shall each be subject to a

personal penalty of \$25.00 for each day after the date fixed for final action that failure or refusal to comply continues. The amount of the penalty may be recovered by the director in the name of the State as a personal debt of the member of the governing body, and shall be paid, upon receipt, into the State Treasury.

40A:4-86. Correction of revenue item

The director may correct an item of revenue appearing in any adopted budget if any law requires such correction or makes such correction advisable. If such correction shall require that the local purpose levy of the local unit shall be adjusted, the director shall order the correction or adjustment of the local tax levy accordingly, unless the tax rate for the year shall have been struck and shall certify such adjustment to the county board of taxation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962.

The State's Financial Control Powers under the Local Fiscal Affairs Law:

40A:5-8. Audit by director

If any local unit does not carry out the provisions of this chapter by reason of the failure of the governing body thereof to institute and complete such audit within the time provided herein, the director may, by his employees and agents or by auditors employed for that purpose, conduct an audit of the books of such local unit and such audit shall be taken to be the statutory audit of the local unit and shall be paid for by the local unit on bill rendered therefor.

For the services of the said director, or his employees or agents, or the pay of the auditors employed by him, whether permanent employees of the division or not, there shall be paid to him by the local unit for deposit in the State treasury, a per diem allowance not to exceed \$75.00 for each person for work done in connection with the audit or examination of the accounts. Said amount, if not paid when billed, shall be recoverable in an action at law.

40A:5-14.2 - 40A:5-14.10 - These statutes were enacted in 2008 to address the potential sale by Atlantic City of high value assets (Bader Field) and require State approval to avoid the problem of using the proceeds as a one-shot budget balancer that leaves a hole in the city's budget in subsequent years.

40A:5-42. Purchase and retirement of outstanding bonds; procedure; duties of Local Finance Board

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body, may at any time appropriate and apply any unappropriated funds to the purchase and retirement of any of its then outstanding bonds, notes or other obligations. The purchase price may be the face value, or may be below or above the face value of such bonds, notes or other obligations. Any such proposed purchase shall be subject to the following provisions:

a. Before adoption of the resolution, the governing body shall cause satisfactory proof to be filed with the bureau that such funds then are, or within a reasonable time will be, available.

b. Before contracting to purchase any bonds, notes or other obligations at a price above their face value, the governing body shall submit such resolution to the said bureau for approval by the Local Finance Board. Before taking definite action, the said Local Finance Board may require the submission of additional information and may require that the governing body of the local unit shall call for public tenders of bonds, notes or other obligations on such notice and subject to such rules as the board may prescribe. On receipt of such tenders, the governing body shall report them to the said Local Finance Board together with a further proposed resolution for approval by that board.

In approving or disapproving any proposed purchase of bonds, notes or other obligations, the said Local Finance Board shall find and determine whether such appropriation of available funds is in the interest of the local unit, having regard for (1) the prospective need of funds for other purposes, (2) reasonableness of the price proposed to be paid, (3) any saving of interest to result from retirement of the bonds, notes or other obligations at the price proposed to be paid, (4) the equality and reasonableness of the debt service on obligations which will remain outstanding, and (5) fairness to the holders of other obligations.

After purchase of any bonds, notes or other obligations, satisfactory proof of cancellation of the bonds, notes or other obligations and of any coupons thereto annexed shall forthwith be filed with the bureau by the chief financial officer of the local unit.

Any local unit, by resolution adopted by vote of at least two-thirds of the full membership of the governing body may at any time appropriate to and pay into any sinking fund maintained by such local unit any unappropriated funds; provided, a certified copy of such resolution shall be submitted to the Local Finance Board and the Local Finance Board, by resolution, shall determine that it is satisfied by proof submitted to it that such funds then are, or within a reasonable time will be, available, and shall consent to such appropriation.

L.1960, c. 169, s. 1, eff. Jan. 1, 1962. Amended by L.1977, c. 396, s. 7, eff. Feb. 23, 1978.

### State Supervisory Powers Under the Local Government Ethics Law:

40A:9-22.4. Local Finance Board to have jurisdiction

4. The Local Finance Board in the Division of Local Government Services in the Department of Community Affairs shall have jurisdiction to govern and guide the conduct of local government officers or employees regarding violations of the provisions of this act who are not otherwise regulated by a county or municipal code of ethics promulgated by a county or municipal ethics board in accordance with the provisions of this act. Local government officers or employees serving a local government agency created by more than one county or municipality and officers or employees of county colleges established pursuant to N.J.S.18A:64A-1 et seq. shall be under the jurisdiction of the board. The board in interpreting and applying the provisions of this act shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officers and employees have a right to private interests of a personal, financial and economic nature; and that standards of conduct shall distinguish between those conflicts of interest which are

legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and free society.

#### 40A:9-22.7. Powers of Local Finance Board

With respect to its responsibilities for the implementation of the provisions of this act, the Local Finance Board shall have the following powers:

- a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of this act;
- b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- c. To hear and determine any appeal of a decision made by a county or municipal ethics board;
- d. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;
- e. To render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of this act;
- f. To enforce the provisions of this act and to impose penalties for the violation thereof as are authorized by this act; and
- g. To adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and to do other things as are necessary to implement the purposes of this act.

#### Director's Power to Discipline the Municipal Clerk; Finance Officer; Tax Collector; and Public Works Manager:

##### 40A:9-133.5. Revocation, suspension

Any registered municipal clerk certificate may be revoked or suspended by the director for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to the duties of the municipal clerk, or other good cause. The governing body or chief executive officer of any municipality may request a review by the director of the practices of a registered municipal clerk. No certificate shall be revoked or suspended except upon a proper hearing before the director or his designee after due notice. If the registered municipal clerk certificate shall be revoked, such person shall be removed from office by the director, his office shall be declared vacant, and he shall not be eligible to hold that office, nor may he make application for recertification, for a period of five years from the date of the revocation.

##### 40A:9-140.12. Revocation, suspension of municipal finance officer certificate

Any municipal finance officer certificate may be revoked or suspended by the director for dishonest practices or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to municipal finances or other good cause. The governing body together with the appropriate chief executive officer of any

municipality may request a review by the director of the behavior or practices of a certified municipal finance officer. The director may also initiate a review of the behavior or practices of a certified municipal finance officer if he finds it advisable to do so through the normal exercise of his statutory duties and responsibilities. No certificate shall be revoked or suspended except under a proper hearing before the director or his designee after due notice. If the municipal finance officer certificate of a person serving as a chief financial officer or municipal finance officer shall be revoked, such person shall be removed from his office or position by the director, the office or position shall be declared vacant, and the person shall not be eligible to hold that office or position or to make application for recertification for a period of five years from the date of revocation.

40A:9-145.5. Revocation, suspension of certificate

Any tax collector certificate may be revoked or suspended by the director for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to the collection of taxes, or inefficiency, or inability to properly fulfill the duties and functions of tax collector in compliance with laws and regulations pertaining thereto or other good cause. The governing body or chief executive officer of any municipality may request a review by the director of the behavior or practices of a certified tax collector. No certificate shall be revoked or suspended except upon a proper hearing before the director or his designee after due notice. If the tax collector certificate of a person serving as tax collector shall be revoked, such person shall be removed from office by the director, his office shall be declared vacant, and such person shall not be eligible to hold that office, nor may he make application for recertification, for a period of five years from the date of such revocation.

40A:9-154.6f. Revocation, suspension of certificate

6. a. Any public works manager certificate may be revoked or suspended by the director for dishonest practices or failure, neglect or refusal to comply with the Constitution of the State of New Jersey or the laws relating to local management of public works, or other just cause. Request may be made to the director by any governing body of any municipality for a review of the behavior or practices of a certified public works manager when the governing body may feel his certificate should be revoked. No certificate shall be revoked or suspended except upon a proper hearing before the director or his designee, after 14 days' notice to the certified public works manager. If the certificate of a person serving as a certified public works manager in any municipality shall be revoked by the director, that person shall not be entitled to any benefits pursuant to this act, nor may he make application for re-certification for a period of five years from the date of the revocation.

b. A complaint against a certified public works manager shall be filed with the municipal clerk and the director and a certified copy thereof shall be served upon the person so charged, with notice of a hearing date before the director or his designee, which shall be not less than 30 days or more than 60 days from the date of service of the complaint. The hearing date may on application be extended by the director for good cause shown.

c. The person so charged and the complainant shall have the right to be represented by counsel, the power to subpoena witnesses and documentary evidence, and such discovery as may be necessary to prepare the appeal.

redevelopment area determination shall authorize the municipality to exercise the power of eminent domain to acquire property in the delineated area.

(d) A copy of the notice shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, and the last publication shall be not less than ten days prior to the date set for the hearing. A copy of the notice shall be mailed at least ten days prior to the date set for the hearing to the last owner, if any, of each parcel of property within the area according to the assessment records of the municipality. A notice shall also be sent to all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in any such parcel. The assessor of the municipality shall make a notation upon the records when requested to do so by any person claiming to have an interest in any parcel of property in the municipality. The notice shall be published and mailed by the municipal clerk, or by such clerk or official as the planning board shall otherwise designate. Failure to mail any such notice shall not invalidate the investigation or determination thereon.

(4) At the hearing, which may be adjourned from time to time, the planning board shall hear all persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area. All objections to such a determination and evidence in support of those objections, given orally or in writing, shall be received and considered and made part of the public record.

(5) (a) After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area.

(b) After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area.

(c) Upon the adoption of a resolution, the clerk of the municipality shall, forthwith, transmit a copy of the resolution to the Commissioner of Community Affairs for review. If the area in need of redevelopment is not situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, the determination shall not take effect without first receiving the review and the approval of the commissioner. If the commissioner does not issue an approval or disapproval within 30 calendar days of transmittal by the clerk, the determination shall be deemed to be approved. If the area in need of redevelopment is situated in an area in which development or redevelopment is to be encouraged pursuant to any State law or regulation promulgated pursuant thereto, then the determination shall take effect after the clerk has transmitted a copy of the resolution to the commissioner. The determination, if supported by substantial evidence and, if required, approved by the commissioner, shall be binding and conclusive upon all persons affected by the determination.

...

Municipal Bankruptcy Prerequisites: [Note – Municipal Finance Commission is the Local Finance Board]

52:27-40. Filing of petition by political subdivision; approval of commission

Any county, municipality, school district or other political subdivision of this State, hereinafter in this article referred to as "political subdivision," shall have power to file a petition or petitions with any United States court or court in bankruptcy under an act of the Congress of the United States entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July first, one thousand eight hundred and ninety-eight, and acts amendatory thereof and supplementary thereto, as the same may be amended from time to time, hereinafter in this article referred to as the "municipal bankruptcy act," for the purpose of effecting a plan of readjustment of its debts or for the composition of its debts, which adjustment and composition are hereinafter interchangeably referred to as readjustment. Such petition or petitions shall not be so filed unless the approval of the municipal finance commission, which is hereby constituted a commission for the purposes of this article, be first had and obtained.

Amended by L.1938, c. 243, p. 551, s. 1.

52:27-41. Ordinance or resolution of governing body to authorize filing of petition

The filing of such petition shall be authorized only by ordinance of the governing body of the political subdivision adopted by the affirmative vote of not less than two-thirds of all the members elected to such governing body, except that in the case of a county or of a school district governed by the provisions of chapter 7 of the title Education (s. 18:7-1 et seq.), such filing shall be authorized by resolution of the governing body adopted by the affirmative vote of not less than two-thirds of all the members elected to such governing body. For the purposes of this article the board of education of a school district governed by the provisions of said chapter 7 shall be deemed to be the "governing body" of such school district.

52:27-42. Approval by commission of readjustment plan necessary

No plan of readjustment filed with or in the proceedings upon any such petition shall be approved by the court or put into temporary effect or finally confirmed without the approval of the commission. No political subdivision shall so file any such plan which shall not have been approved by the commission nor shall any political subdivision accept any such plan as thereafter changed or modified without express authority from the commission to do so.

Amended by L.1938, c. 243, p. 551, s. 2.

"Local Government Supervision Act (1947)." – General Provisions:

52:27BB-6. Division to supervise local government

The division shall exercise State regulatory and supervisory powers over local government, assist local government in the solution of its problems, and plan and guide needed readjustments for effective local self-government.

52:27BB-8. Powers and duties of the director

The director, in addition to powers and duties specifically granted shall have the following general powers and duties: To

- (1) Administer the work of the division.



- (2) Keep and preserve all papers and records pertaining to the division.
- (3) Receive and preserve as public records all papers, reports and other documents required to be filed with the division.
- (4) Prescribe the organization of the division and the duties of his subordinates and assistants.
- (5) Administer State laws, pertaining to local government, which are included within the jurisdiction of the division.
- (6) Recommend to the board reasonable rules and regulations for the interpretation and administration of the laws administered by the division.
- (7) Invoke any legal, equitable or special remedy for the enforcement of orders and the provisions of law administered by the division.
- (8) Offer advice, consultation and instruction to local officials in improved methods of local administration.

52:27BB-9. Delegation of authority

All powers, duties and functions vested in the director, including the making of inspections, examinations, audits and investigations and the conducting of hearings, may be delegated to, and exercised by, his duly authorized deputies, agents, appointees or employees of the division; but any such exercise of power, duty or function shall be at his direction and under his supervision, and he shall be responsible for all official acts.

52:27BB-16. Compulsory process

The director or the board, as the case may be, may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts or other documents, in any hearing, investigation or other proceeding. A subpoena may be served by any person duly authorized or by registered mail.

52:27BB-18. Issuance of orders; compliance

The director may issue instructions and orders to a sinking fund commission of a political subdivision or governing body, as the case may be, requiring compliance with the requirements of law and the regulations of the board. Each order shall state a date giving reasonable time for compliance.

The local governing body and other local officers concerned shall comply with the instructions and orders. At the request of the local governing body the board shall grant a public hearing upon the matter in question. If the hearing is requested, the director shall not proceed to enforce the order until the hearing has been held and final determination is made.

52:27BB-19. Enforcement of orders

Orders of the director may be enforced by a proceeding in lieu of prerogative writ or by an action for injunctive relief in appropriate cases, or by an action to compel the specific performance by the officers or governing bodies of political subdivisions of the orders of the director or of the duties imposed by law.

52:27BB-23. Duty of local officers

It shall be the duty of the governing body and officers of a political subdivision of the State to co-operate with the director and the board toward giving effect to the purposes of this act, and the powers and duties of the division.

52:27BB-24. Authority of director as to budget; reduction in rate of interest; powers of county board of taxation

The director may inquire into any item of budget or certification of requirements and may order any item required by law to be raised by taxation for municipal, county or school purposes which has been omitted in whole or in part from any budget to be included in the budget or the tax ordinance or resolution or tax levy, or he may inquire into any item of the budget and if wrongly stated in such budget, may order said item to be corrected and properly stated in the budget before its adoption, or to have the error corrected and adjusted in the tax ordinance or resolution or in the tax levy. All such orders shall constitute a mandatory obligation upon the governing body of any municipality, county or school district or the sinking fund commission or the county board of taxation, as the case may be.

Where any county or other municipality has agreed or shall agree with the holders of fifty per centum (50%) in amount of any evidence of indebtedness of any such county or other municipality to accept a reduced rate of interest thereon, or postpone any amortization requirement concerning any such evidence of indebtedness, the county board of taxation may reduce to such extent the item or items so certified by the director. Upon application to such county board of taxation by any county or other municipality for such reduction or reductions, such county board shall within thirty days fix a date for the hearing of such application, of which hearing public notice shall be given by the county board of taxation, and at the time and place so fixed any party in interest may be heard. Upon being satisfied of the sufficiency of such application the county board of taxation may correct and reduce the item or items within the limits fixed by this section.

52:27BB-30. Installations of accounting systems

The director may make installations of uniform accounting systems prescribed by the board at the request of the governing body of a municipality or county, and may make installations on his own motion with or without the consent of the governing body if local officers or a governing body fail or refuse to comply with the regulations of the board as to accounting systems or methods. The cost of installation shall be paid by the municipality or county.

52:27BB-36. Audits by department

Whenever the director finds that the financial affairs of a municipality or county require special supervision, he may require that the regular audits of such municipality or county be made only by the auditing staff of the division. In such cases the director may make such investigations and analyses in addition to the standard requirements for audits, as the financial affairs of the municipality may warrant. Reasonable notice of the decision of the director to make the regular audit in a municipality or county shall be given to the governing body.

52:27BB-46. Inspection of local administration

The director may at any time during regular business hours make inspections and examinations of the financial administration of a county or municipality. Inspection and examination may extend to the use of the uniform accounting system; accounting methods; the collection, custody and disbursement procedure; a selective audit of particular funds and accounts; and to any other matter or practice subject to regulation by the board, or regulated by any State law which is administered by the division.

Reports of inspection and examination shall be certified to the local governing body together with instructions for the correction of procedures or practices found not to be in accordance with the requirements of law or of the regulations of the board. Instructions of the director shall fix a date for compliance by the local governing body. On or before the date for compliance the local governing body shall give effect to the instructions and shall so certify to the director.

52:27BB-47. Inquiring into financial affairs

The director may make a special investigation of a county or municipality, if, upon examination of the reports of audit and recommendations of an accountant, there appear to be errors, inaccuracies or omissions in the report of audit or recommendations, or evidence of illegal financial practices; or if the director has reason to believe that irregularities in the conduct of the financial affairs have occurred.

52:27BB-48. Special investigation; enforcement of orders

The director may issue such orders as he may find appropriate to correct errors, inaccuracies or omissions in the report of audit or recommendations, illegal financial practices, or irregularities in the conduct of financial affairs, disclosed at an investigation made in accordance with section forty-seven of this act. Orders may be enforced in accordance with sections fifty and fifty-two of this act.

52:27BB-49. Powers of inquiry

In any inspection, audit, inquiry, examination or other investigation authorized by this act, the director may hold hearings and exercise the powers of investigation granted by law.

52:27BB-50. Issuance of orders; compliance

The director may issue instructions and orders requiring compliance with the requirements of this article and the regulations of the board. Instructions and orders may be based upon the audit report and recommendations of accountants or of the director; a special investigation; an inspection and examination; reports filed with the division; failure or refusal to file documents or make reports; or any other evidence of illegal financial practice or procedures in the political subdivision.

An order shall be issued and may be enforced in the manner provided for other orders of the director.

52:27BB-51. Duty of local officers

An officer of a municipality or county who is charged with duties pertaining to fiscal administration shall keep accounts and in other respects perform his duties in accordance with

the regulations promulgated by the board. An officer who wilfully violates this section shall be guilty of a misdemeanor. Upon conviction he shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), or imprisoned not less than ten days nor more than one year, or both; and shall in addition forfeit his office.

52:27BB-52. Enforcement of orders; penalties

A local officer or member of a local governing body who, after the date fixed for compliance, fails or refuses to obey an order of the director, under the provisions of this article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, and in addition shall forfeit his office.

"Local Government Supervision Act (1947)" – Municipalities in Unsound Financial Condition:

52:27BB-54. Purpose of article

The purpose of this article is to make provision for the imposition of special restraints upon municipalities in, or in danger of falling into, unsound financial condition and in this way to forestall serious defaults upon local obligations and demoralized finances that burden local taxpayers and destroy the efficiency of local services.

52:27BB-55. Application of article

The provisions of this article and sections 20 and 21 of this amendatory and supplementary act shall take effect in a municipality when any of the following conditions exists:

(1) A default exists in the payment of bonded obligations or notes for which no funds or insufficient funds are on hand and segregated in a special trust fund.

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

(3) An appropriation for "cash deficit of preceding year" in an amount in excess of 4% of the total amount of taxes levied upon real and personal property for all purposes in such preceding year, is required to be included in the next regular budget and was required to be included in the budget for the year just closed; provided, however, in establishing the excess, if any, over the 4% there shall first be deducted from such appropriation the amount, if any, that was caused by the failure to receive miscellaneous anticipated revenue from franchise and gross receipts taxes.

(4) Less than 70% of the total amount of taxes levied for all purposes upon real and personal property in the taxing district, in the year just closed and in the year next preceding that year, respectively, were collected during the year of levy.

(5) The appropriation required to be included in the next regular budget for the liquidation of all bonded obligations or notes exceeds 25% of the total of appropriations for operating purposes (except dedicated revenue appropriations) in the budget for the year just ended.

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

52:27BB-57. Limitation on debt and other financial liabilities

The board may require that obligations, bonded or otherwise, shall not be issued or authorized by the municipality, including school districts or any special districts except as expressly authorized by the director.

The board may require that the municipality and its special districts shall not borrow any moneys, make any purchase, enter into any arrangements or contracts requiring the expenditure of any revenues or engaging the credit of the municipality in any way or undertake any financial liabilities or indebtedness whatsoever unless expressly authorized by the director. The board shall limit those purchases and contracts requiring authorization of the director to those exceeding \$4,500.00, unless the board shall find good and sufficient cause for requiring otherwise. In any case, the board shall inform the municipal governing body, by resolution, of the types and amounts of the purchases and contracts which shall require authorization.

52:27BB-58. Limitation upon appropriations and expenditures

The board may require that any or all expenditures and appropriations of a municipality subject to this article and sections 20 and 21 of this amendatory and supplementary act be expressly authorized by the director.

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

52:27BB-60. Compliance with requirements of law

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

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

52:27BB-61. Liquidation of debt

The board may, under this section, authorize or direct a municipality subject to this act to liquidate or refinance its current debt pursuant to a plan.

Liquidations under this section shall be in accordance with a plan of liquidation adopted by the board. A plan so adopted and approved shall be binding upon the municipality and annual appropriations as required by the plan shall be mandatory. A plan shall not be amended except with the prior written consent of the board.

Whenever a municipality is operating under an approved plan of liquidation, the supervision of the board shall continue for the duration of the liquidation plan, notwithstanding the operation of the termination provisions in section 91 (C. 52:27BB-91).

52:27BB-62. Analysis of financial conditions

The director may at any time, and shall if the governing body so requests, make a special analysis of the financial conditions of a municipality subject to this article. The analysis shall extend to all factors and circumstances contributing to the financial conditions of the municipality and shall if possible, recommend definite steps to be taken to correct such conditions.

52:27BB-66. Additional powers of the board

For the purpose of this article the board shall have, in addition to its other powers, authority to

- (1) Promulgate rules and regulations for the interpretation and administration of this article.
- (2) Require, and prescribe the form of, special reports to be made by a financial officer or governing body pertaining to the financial affairs of municipalities.
- (3) Hold hearings.

52:27BB-66.1. Collective bargaining agreements; review and approval; arbitration awards; exclusion; appointment or dismissal of managers; authority of director

The board may provide that all collective bargaining agreements entered into during the time the municipality is subject to the provisions of this act shall be subject to the review and approval of the director. However, in any instance where negotiations on a collective bargaining agreement have reached an impasse and the matter has been submitted to an arbitrator pursuant to law, any arbitration award shall be binding without the approval of the director. In any arbitration proceeding the director shall furnish the arbitrator with a statement of the financial condition and capacity of the municipality.

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

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

52:27BB-67. Additional powers of the director

For the purposes of this article, the director shall have, in addition to his other powers, authority to issue and enforce orders as authorized by law for other orders issued by him.

52:27BB-68. Construction

This article shall be construed liberally to give effect to its intent that unsound financial conditions in municipalities shall be forestalled and corrected.

52:27BB-73. Supervision of revenue administration

If the board finds that tax assets are not being realized upon because of weak or inadequate revenue administration, it may have the director supervise and control the methods and procedures used for the assessment, collection, and enforcement of taxes upon real and personal property; and the administration of licenses and other miscellaneous revenues.

The board shall determine the specific changes in revenue administration that are necessary in the municipality. The measures determined by the board as necessary may be enforced by order of the board in the same manner as authorized for other orders of the board. But the concurrence of the Director of the Division of Taxation in the State Department of the Treasury shall be a condition precedent to the enforcement by the board of such orders as fall within the scope of the said director's supervisory powers.

52:27BB-80. Fiscal control officer

The board may recommend to the local governing body that a fiscal control officer be appointed. If the board recommends the appointment of an officer, it shall submit to the governing body the names of not less than three persons who are found by the board to be qualified to perform the duties of officer for that municipality. The governing body shall, thereupon, appoint as officer one of the persons so named.

The officer shall receive compensation for his services to be paid out of the funds of the municipality in an amount fixed by the governing body and approved by the board. He shall give bond for the faithful performance of his duties in an amount fixed by the governing body and approved by the board. An officer shall continue his employment until his services are terminated by the governing body, with the approval of the board.

52:27BB-81. Fiscal control officer; powers and duties

An officer shall have such of the powers and duties of the director in sections 57 and 58 and 82 to 87 inclusive, of this act, as are specifically assigned to him by the board. An officer shall exercise his powers and perform his duties under the general supervision of the director.

52:27BB-82. Administration of assets and liabilities

If the board finds the unsound financial conditions in the municipality are due in whole or in part to failure to liquidate old liabilities, excluding those covered by section 61 (C. 52:27BB-61), it may authorize the director to liquidate any or all of the municipality's liabilities which are due and unpaid for more than 2 years and all of its unrealized assets which have been outstanding for 2 years, computed in the case of taxes and assessments from December 1 of the year of levy or assessment, other intangible property from the date of accrual, and tangible property from the date of acquisition of title. The several officers of the municipality shall thereafter, immediately upon request by the director, certify to him all assets and liabilities of the municipality which have been placed under his administration pursuant to this section and

shall at the same time deliver to him all evidence and records of the existence and legality of such assets and liabilities as may be in their possession or control.

The director shall exercise in the name of the municipality, all powers pertaining to the enforcement of obligations that are vested by law in the municipality. But the director shall have a no power to accept less than the full amount in satisfaction of the obligations, nor to agree to the transfer of title of property to the municipality in lieu thereof without the prior approval of the governing body. The director shall forthwith pay all moneys coming into his hands to the treasurer.

52:27BB-84. Study of cooperative agreements

The director when so instructed by the board shall fully investigate and determine the possibilities of maintaining the services of the municipality at lower cost through the use of contractual agreements with other municipalities or with the county. He shall report his conclusions to the governing body and to the board. When so designated by the board, he shall act as the agent of the municipality in the negotiation of agreements with other jurisdictions.

52:27BB-85. Director may act as controller

If the board finds that sound fiscal conditions will be promoted by the exercise of a control function in the municipality and that the function is not, or cannot be, maintained in a practical manner by regular local officers, the board may instruct the director to perform the control function.

52:27BB-86. Procedure of control

The board may prescribe the procedure to be followed in each municipality in which the director is authorized and directed to exercise the control function. The board shall prescribe a procedure that so far as possible will restrict expenditures and commitments for expenditures to actual cash available and will safeguard the payment of commitments and regular expenses.

52:27BB-87. Preparation of budgets

The director shall fix a date for the municipal governing body to submit its proposed annual budget to the board. The board may approve the budget, modify it or instruct the director to prepare an alternative budget to be submitted to the board for its approval. Once a budget is approved by the board, it shall be deemed adopted.

Nothing in this act shall limit the power of the chief administrative officer of the municipality and the municipal governing body pursuant to law in consultation with the director to determine within funds available in its annual budget the purposes for which expenditures are to be made by the municipality and the amounts of those expenditures, subject to law and the general requirements imposed by the board on the financial affairs of the municipality.

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

If the board finds that the appropriation of the amounts required for "deferred charges and statutory expenditures" other than debt service, cannot be made without a probable increase in the cash deficit, the board may authorize by written order an appropriation of less than the full amount required for "deferred charges and statutory expenditures" but not less than the greatest



amount that the board finds possible without an anticipated increase in the cash deficit. If a liquidation fund has been created in the municipality, in accordance with section 83 of this act, the board may authorize the appropriation to be made to the liquidation fund in lieu of that for "deferred charges and statutory expenditures."

This section shall not be construed to authorize the appropriation of less than the full amount required for the payment of debt service, for a judgment, or for any other item for which the municipality is obligated by contract to appropriate a specific sum.

52:27BB-88. Fiscal control officer agent of board

The fiscal control officer appointed pursuant to section 80 shall perform as the agent of the director such duties with respect to the fiscal affairs of the municipality as the director in the exercise of his powers, may require.

52:27BB-89. General duties of board

The board shall exercise its powers, shall offer guidance and assistance, and shall in every other respect promote the rehabilitation of the financial affairs of the municipality.

52:27BB-90. Delegation of powers to director

The powers and duties vested by this act in the board may be exercised by the director under the supervision of the board when so authorized by resolution of the board.

L.1947, c. 151, p. 677, s. 90. Amended by L.1981, c. 211, s. 18, eff. July 20, 1981.

52:27BB-95.1. Reimbursement of state by municipality for reasonable value of services

Subject to the inclusion in the annual State appropriations act of an amount of anticipated revenues from that source, the State shall be reimbursed by the municipality for the reasonable value of services which it provided to the municipality pursuant to this act.

"Municipal Rehabilitation and Economic Recovery Act": [NOT APPLICABLE TO ATLANTIC CITY]

52:27BBB-1 Short title.

1. This act shall be known and may be cited as the "Municipal Rehabilitation and Economic Recovery Act."

L.2002,c.43,s.1.

52:27BBB-3 Definitions relative to municipal rehabilitation and economic recovery.

3. As used in this act:

... "Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) which, according to its most

recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

Transitional Aid to Localities Program: [Note – preceding statutes for other discretionary aid programs have been superseded by this program. 52:27D-118.30a allows for the creation of a financial review board for certain municipalities, including municipalities subject to supervision under the "Local Government Supervision Act (1947)." 52:27D-118.38 allowed the Local Finance Board to issue remedial orders with respect to municipalities that received aid under the "Supplemental Municipal Property Tax Relief Act." These concepts were rolled into the memorandum of understanding (MOU) process used in the Transitional Aid to Localities program.]

52:27D-118.42a State oversight of municipalities in the Transitional Aid to Localities program.

1. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall determine conditions, requirements, orders, and oversight for the receipt of any amount of grants, loans, or any combination thereof, provided to any municipality through the Transitional Aid to Localities program or any successor discretionary aid programs for municipalities in fiscal distress. Conditions, requirements, or orders deemed necessary by the director may include, but not be limited to, the implementation of government, administrative, and operational efficiency and oversight measures necessary for the fiscal recovery of the municipality, including but not limited to requiring approval by the director of personnel actions, professional services and related contracts, payment in lieu of tax agreements, acceptance of grants from State, federal or other organizations, and the creation of new or expanded public services.

b. An additional amount not to exceed one percent of the amount appropriated in any State Fiscal Year beginning on or after July 1, 2012 for the Transitional Aid to Localities program or any successor discretionary aid programs for municipalities in fiscal distress shall be appropriated for administrative costs of that program, and for administrative costs associated with the oversight of any municipalities under State supervision pursuant to Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.), subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.