



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 1151

PRINTERS NO. 1665

PRIME SPONSOR: Piccola

COST / (SAVINGS)

| FUND | FY 2011/12 | FY 2012/13 |
|--|-----------------------|-----------------------|
| Municipalities Financial Recovery Revolving Aid Fund | \$500,000 | \$500,000 |
| City of Harrisburg Funds | \$575,000 - \$775,000 | \$575,000 - \$775,000 |

SUMMARY: Allows for the Governor to declare a “fiscal emergency” in a third class city to ensure vital and necessary services for its citizens and provides the city for one final opportunity to adopt a financial recovery plan before placing that city into receivership.

ANALYSIS: This legislation would give the Governor the authority to declare a fiscal emergency in a distressed city that is unwilling to accept or adopt a solvency plan, is insolvent, or projected to be insolvent in 180 days or cannot ensure provision of vital and necessary services for its citizens. Once the governor declares the fiscal emergency, he may direct the Secretary of the Department of Community and Economic Development to file a petition in Commonwealth Court to appoint the individual named in the petition as a receiver for the distressed city.

A fiscal emergency requires the Secretary of the Department of Community and Economic Development to develop an emergency action plan within 10 days of the governor’s declaration. During the emergency, the governor is empowered to ensure that services continue and that the city pays for these services. Within eight days of the declaration of fiscal emergency, the governing body and chief executive officer must convene a public meeting to negotiate a consent agreement that incorporates a plan for long-term financial stability. The consent agreement may not include provisions for an increase in the rate of an earned income tax on commuters and must be reached within 20 days of the declaration of fiscal emergency.

During this time, the city is prohibited from filing a municipal debt adjustment under The Bankruptcy Code until after July 1st, 2012. The receiver would be allowed to file a municipal debt adjustment under The Bankruptcy Code if the Secretary of the Department of Community and Economic Development authorizes it after July 1st, 2012.

If it reaches a consent agreement, the governing body must enact an ordinance within seven days of the agreement's approval by the secretary. The secretary has three days to approve or disapprove the consent agreement. If approved, the governing body has seven days to enact the consent agreement via an ordinance.

If the city fails to adopt a consent agreement via ordinance, the Governor shall notify the court when the distressed city has failed to adopt an ordinance. The Commonwealth Court shall then conduct a hearing on the petition within 15 days of the notice. The court has 60 days following the filing of the petition to issue an order. The court order directs the receiver to develop a recovery plan and submit it to the court, the city and the secretary.

The receiver must present the recovery plan to the court within 30 days and, in turn, the court must conduct a plan confirmation hearing within 30 days and must confirm it within 60 days unless it finds clear and convincing evidence that the plan is inadequate. Court confirmation of the plan imposes on the elected and appointed officials or an authority a mandatory duty to follow the recovery plan.

A municipal financial recovery committee comprised of the mayor, the council president, one member appointed by the county commissioners and a member appointed by the governor is formed and must meet with the receiver at least twice a month to discuss the recovery plan.

Receivership terminates within two years but the secretary may file for extensions and the court may grant them if it finds that further implementation of the recovery plan is necessary.

FISCAL IMPACT: Utilizing estimates from the Department of Community and Economic Development, placing the City of Harrisburg in receivership would cost between \$2,150,000 and \$2,550,000 over the first 12 months of implementation. At this point it is estimated that the costs to the Commonwealth would be around \$1 million with the City absorbing the remaining \$1,150,000 to \$1,550,000. It is anticipated that half of the costs would be incurred in FY 2011-12 and the other half in FY 2012-13. These costs include litigation, monetization of assets, collective bargaining negotiation and arbitration, and forensic auditing. It is important to note that in the amendment; only the receiver's compensation and reimbursement for actual and necessary expenses shall be paid by the Commonwealth.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: October 18, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.