

## AMENDMENTS TO HOUSE BILL NO. 1773

Sponsor: REPRESENTATIVE ROSS

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1 Amend Bill, page 27, line 25, by inserting after "203(c)"  
2 and (g)

3 Amend Bill, page 27, line 26, by striking out " is" and  
4 inserting  
5 are

6 Amend Bill, page 28, by inserting between lines 5 and 6  
7 (g) Appeal.--A determination by the secretary under this  
8 [act] section is appealable pursuant to [Title 2 of the  
9 Pennsylvania Consolidated Statutes (relating to administrative  
10 law and procedure)] 2 Pa.C.S. Ch. 7 Subch. A (relating to  
11 judicial review of Commonwealth agency action).

12 Amend Bill, page 37, line 6, by striking out "15.1" and  
13 inserting  
14 16

15 Amend Bill, page 38, line 8, by striking out "16" and  
16 inserting  
17 17

18 Amend Bill, page 38, lines 26 through 30; page 39, lines 1  
19 through 5, by striking out all of said lines on said pages

20 Amend Bill, page 39, lines 6 through 12, by striking out  
21 "amended by adding a" in line 6 and all of lines 7 through 12  
22 and inserting

23 repealed:

24 [Section 253. Termination of status.

25 (a) Determination by secretary.--Following a duly advertised  
26 public hearing with notices given as provided in section 203,  
27 the secretary may issue a determination that the conditions

1 which led to the earlier determination of municipal financial  
2 distress are no longer present. The determination shall rescind  
3 the status of municipal financial distress and shall include a  
4 statement of facts as part of the final order.

5 (b) Determination upon petition by a municipality.--A  
6 financially distressed municipality may petition the secretary  
7 to make a determination that the conditions which led to the  
8 earlier determination of municipal financial distress are no  
9 longer present. Upon receiving the petition, the secretary may  
10 issue a determination to rescind following a duly advertised  
11 public hearing with notices given as provided in section 203.

12 (c) Factors to consider.--In determining whether the  
13 conditions which led to the earlier determination of municipal  
14 financial distress are no longer present, the secretary shall  
15 consider that:

16 (1) Monthly reports submitted by the coordinator to the  
17 department under section 247(a)(3) indicate that termination  
18 of the status of municipal financial distress is appropriate.

19 (2) Accrued deficits in the municipality have been  
20 eliminated.

21 (3) Obligations issued to finance all or part of the  
22 municipality's deficit have been retired.

23 (4) The municipality has operated, for a period of at  
24 least one year, under a positive current operating fund  
25 balance or equity, as evidenced by the municipality's audited  
26 financial statements prepared in accordance with generally  
27 accepted accounting principles.]

28 Amend Bill, page 39, line 17, by striking out "Five-year  
29 limitation" and inserting  
30 Limitation of status

31 Amend Bill, page 40, line 2, by striking out "253" and  
32 inserting

33 255.1

34 Amend Bill, page 40, line 14, by inserting after "rescinded"  
35 or has been continued in accordance with section 710.1

36 Amend Bill, page 40, line 15, by inserting after "a"  
37 final

38 Amend Bill, page 40, line 16, by inserting after "date" where  
39 it occurs the first time

40 no more than

41 Amend Bill, page 40, line 17, by inserting after

1 "receivership."

2 Section 255 shall not apply to a termination of status  
3 under this paragraph.

4 Amend Bill, page 40, line 19, by striking out "In" and  
5 inserting

6 Not later than 180 days after the beginning of

7 Amend Bill, page 40, line 20, by striking out "(b)" and  
8 inserting

9 (b) (1)

10 Amend Bill, page 40, line 25, by striking out "253." and  
11 inserting

12 255.1. A report containing a recommendation under this  
13 paragraph shall address each of the factors set forth in  
14 section 255.1(c).

15 Amend Bill, page 40, lines 28 through 30; page 41, lines 1  
16 through 6, by striking out "as specified in section 261 exist  
17 and the" in line 28, all of lines 29 and 30 on page 40 and all  
18 of lines 1 through 6 on page 41 and inserting

19 are such that the secretary should request a  
20 determination of a fiscal emergency in accordance with  
21 Chapter 6.

22 Amend Bill, page 41, line 7, by striking out "(5)" and  
23 inserting

24 (4)

25 Amend Bill, page 43, by inserting between lines 5 and 6

26 Section 255.1. Termination of status.

27 (a) Public hearing.--Within 30 days of the date for the  
28 filing of a final report containing a finding as provided in  
29 section 255(a)(1) the secretary shall conduct a public hearing,  
30 advertised with notices given as provided in section 203.

31 (b) Determination.--Within 90 days of the conclusion of the  
32 public hearing, the secretary shall issue an administrative  
33 determination of whether the termination of status is  
34 appropriate and reasons for the determination. The determination  
35 shall include findings addressing each of the factors in  
36 subsection (c) and shall consider information provided in the  
37 report of the coordinator and any additional information

1 received during the public hearing.

2 (c) Factors to consider.--If the secretary concludes that  
3 substantial evidence supports an affirmative determination for  
4 each of the following factors, the determination shall be that  
5 distressed status will be rescinded. The secretary shall  
6 consider whether:

7 (1) Operational deficits of the municipality have been  
8 eliminated and the financial condition of the municipality,  
9 as evidenced by audited financial statements prepared in  
10 accordance with generally accepted accounting principles and  
11 projections of future revenues and expenditures, demonstrates  
12 a reasonable probability of future balanced budgets absent  
13 participation in this act.

14 (2) Obligations issued to finance the municipality's  
15 debt have been retired, reduced or reissued in a manner that  
16 has adequately refinanced outstanding principle and interest  
17 and has permitted timely debt service and reasonable  
18 probability of continued timely debt service absent  
19 participation in the act.

20 (3) The municipality has negotiated and resolved all  
21 claims or judgments that would have placed the municipality  
22 in imminent jeopardy of financial default.

23 (4) The reasonably projected revenues of the  
24 municipality are sufficient to fund ongoing necessary  
25 expenditures, including pension obligations and the  
26 continuation or negotiation of collective bargaining  
27 agreements and the provision of municipal services.  
28 Projections of revenues shall include any anticipated tax or  
29 fee increases to fund ongoing expenditures for the first five  
30 years after a termination of distressed status.

31 (d) Appeal.--A labor organization that is a party to a  
32 collective bargaining agreement with a financially distressed  
33 municipality and any other party withstanding under section 202  
34 may appeal the determination of the secretary pursuant to 2  
35 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of  
36 Commonwealth agency action).

37 (e) Suspension of subsequent proceedings.--The coordinator  
38 and secretary shall not take any action under sections 256 and  
39 257 until a final decision is issued for any appeal under  
40 subsection (d) or (f). The duration of distressed status of the  
41 municipality shall be extended subject to subsequent action in  
42 accordance with section 257.

43 (f) Action of the secretary preserved.--Except as otherwise  
44 provided in chapters 6 and 7, the secretary may, following a  
45 duly advertised public hearing with notices given as provided in  
46 section 203, at any time issue a determination as provided in  
47 this section upon written recommendation of the coordinator  
48 setting forth a discussion of each of the factors specified in  
49 subsection (c). The determination may be appealed in accordance  
50 with subsection (d).

1 Amend Bill, page 44, lines 13 and 14, by striking out  
2 "declare a fiscal emergency and initiate proceedings under  
3 Chapter 7" and inserting  
4 make a determination of a fiscal emergency in accordance  
5 with Chapter 6

6 Amend Bill, page 44, lines 24 and 25, by striking out "  
7 filing a final report containing a finding as provided in  
8 section 255(a)(1)" and inserting

9 a determination or final decision requiring termination  
10 of status as provided in section 255.1

11 Amend Bill, page 45, lines 2 through 10, by striking out  
12 "authorize an" in line 2 and all of lines 3 through 10 and  
13 inserting

14 request a determination of a fiscal emergency in  
15 accordance with Chapter 6.

16 Amend Bill, page 45, line 15, by striking out "253" and  
17 inserting

18 255.1

19 Amend Bill, page 45, lines 16 and 17, by striking out  
20 "petition the Governor to initiate proceedings under Chapter 7"  
21 and inserting

22 request a determination of a fiscal emergency in  
23 accordance with Chapter 6

24 Amend Bill, page 45, lines 20 through 30, by striking out ",  
25 upon a written" in line 20 and all of lines 21 through 30 and  
26 inserting

27 terminate the distressed status of the municipality.

28 Amend Bill, page 46, line 2, by inserting after "amended"  
29 and the section is amended by adding a subsection

30 Amend Bill, page 46, line 5, by inserting a bracket before  
31 "Authorization.--In"

32 Amend Bill, page 46, line 6, by inserting after "a"

1 ] General authorization.--A

2 Amend Bill, page 46, line 9, by inserting after "seq.)"

3 , if at least one of the following conditions is present

4 Amend Bill, page 46, by inserting between lines 14 and 15

5 (a.1) Filing after determination of distress.--The

6 municipality's authorization under subsection (a) shall continue

7 after the issuance of a declaration of distress under section

8 203, so long as the municipality is not in a state of fiscal

9 emergency pursuant to a declaration under section 602. A

10 municipality that is in a state of fiscal emergency shall not be

11 authorized under subsection (a) to apply to the department to

12 file a municipal debt adjustment.

13 Amend Bill, page 47, lines 13 through 15, by striking out "

14 COLLECTIVE" in line 13, all of line 14 and "MUNICIPALITIES AND"

15 in line 15

16 Amend Bill, page 48, line 2, by striking out "service" and

17 inserting

18 services

19 Amend Bill, page 52, lines 15 through 19, by striking out

20 "that a receiver" in line 15, all of lines 16 through 18 and

21 "emergency" in line 19 and inserting

22 request a determination of a fiscal emergency in

23 accordance with Chapter 6

24 Amend Bill, page 52, line 21, by striking out "253" and

25 inserting

26 255.1

27 Amend Bill, page 83, line 13, by inserting a bracket before

28 "or" where it occurs the second time

29 Amend Bill, page 83, line 13, by inserting after "or" where

30 it occurs the second time

31 ] and

32 Amend Bill, page 83, line 15, by inserting a bracket before

33 "and" where it occurs the second time

1 Amend Bill, page 83, line 15, by inserting after "and" where  
2 it occurs the second time

3 ] or

4 Amend Bill, page 83, line 16, by inserting a bracket before  
5 "(i)"

6 Amend Bill, page 83, line 16, by inserting a bracket after  
7 "(i)"

8 Amend Bill, page 83, line 16, by inserting after "implement"  
9 : (i)

10 Amend Bill, page 83, line 19, by inserting a bracket before  
11 "has"

12 Amend Bill, page 83, line 19, by inserting a bracket after  
13 "implement"

14 Amend Bill, page 86, line 11, by inserting a bracket before  
15 the comma after "authority"

16 Amend Bill, page 86, line 12, by inserting a bracket after  
17 "jurisdiction"

18 Amend Bill, page 88, line 29, by inserting a bracket before  
19 the comma after "authority"

20 Amend Bill, page 88, line 30, by inserting a bracket after  
21 "jurisdiction"

22 Amend Bill, page 90, line 20, by inserting after "agreement"

23 , provided, however, that the provisions of section 252 shall  
24 apply to any consent agreement adopted in accordance with this  
25 subchapter

26 Amend Bill, page 92, lines 25 and 26, by striking out "or as  
27 provided in Subchapter C.1 of Chapter 2"

28 Amend Bill, page 93, lines 12 and 13, by striking out "or as

1 provided in Subchapter C.1 of Chapter 2"

2 Amend Bill, page 93, line 30; page 94, line 1, by striking  
3 out "or a notification by the secretary" in line 30 on page 93  
4 and "as provided in Subchapter C.1 of Chapter 2" in line 1 on  
5 page 94

6 Amend Bill, page 94, lines 19 and 20, by striking out "or  
7 Subchapter C.1 of Chapter 2"

8 Amend Bill, page 97, line 9, by inserting a bracket before  
9 the comma after "authority"

10 Amend Bill, page 97, line 10, by inserting a bracket after  
11 "jurisdiction"

12 Amend Bill, page 98, line 28, by inserting after "plan"  
13 , provided, however, that the provisions of section 252 shall  
14 apply to any recovery plan adopted in accordance with this  
15 chapter

16 Amend Bill, page 101, line 20, by inserting a bracket before  
17 the comma after "authority"

18 Amend Bill, page 101, line 21, by inserting a bracket after  
19 "jurisdiction"

20 Amend Bill, page 103, line 27, by striking out "253" and  
21 inserting

22 255.1

23 Amend Bill, page 104, lines 18 and 19, by striking out ",  
24 SUBJECT TO FURTHER PROCEEDINGS IN ACCORDANCE WITH CHAPTER 2,  
25 SUBCHAPTER C.1"