

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1921 Session of 2011

INTRODUCED BY GERGELY, GIBBONS, CALTAGIRONE, CARROLL, DALEY,  
DAVIS, DONATUCCI, HALUSKA, MUNDY, MYERS, PRESTON, READSHAW,  
STABACK AND WAGNER, OCTOBER 24, 2011

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 24, 2011

AN ACT

1 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An  
2 act empowering the Department of Community Affairs to declare  
3 certain municipalities as financially distressed; providing  
4 for the restructuring of debt of financially distressed  
5 municipalities; limiting the ability of financially  
6 distressed municipalities to obtain government funding;  
7 authorizing municipalities to participate in Federal debt  
8 adjustment actions and bankruptcy actions under certain  
9 circumstances; and providing for consolidation or merger of  
10 contiguous municipalities to relieve financial distress," in  
11 municipal financial distress, further providing for  
12 collective bargaining and for status termination.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 252 of the act of July 10, 1987 (P.L.246,  
16 No.47), known as the Municipalities Financial Recovery Act, is  
17 amended to read:

18 Section 252. [Plan not affected by certain] Relation of plan to  
19 collective bargaining agreements or [settlements]  
20 awards.

21 (a) Existing contracts.--A contract, a collective bargaining  
22 agreement or an interest arbitration award in existence prior to

1 the approval by a municipality's governing body of a  
2 coordinator's plan under this subchapter shall remain effective  
3 after approval of the plan until the contract or agreement is  
4 succeeded by a subsequent contract or collective bargaining  
5 agreement or by an interest arbitration award establishing the  
6 terms of a subsequent contract or collective bargaining  
7 agreement.

8 (b) Subsequent contracts.--

9 (1) After the approval by a municipality's governing  
10 body of a coordinator's plan under this subchapter, except as  
11 set forth in paragraph (2), the following shall apply:

12 (i) The municipality shall only execute a contract,  
13 collective bargaining agreement or interest arbitration  
14 award that is consistent with the goals of the plan.

15 (ii) A contract, collective bargaining agreement or  
16 arbitration [settlement] award executed or issued after  
17 the adoption of a plan [shall not in any manner violate,  
18 expand or diminish its] may deviate from the provisions  
19 of the plan as long as the contract, agreement or award  
20 reflects consideration of the plan and is consistent with  
21 the goals of the plan.

22 (2) The municipality may execute a contract, collective  
23 bargaining agreement or interest arbitration award which is  
24 not consistent with the goals of the plan if the coordinator  
25 approves a proposed revision to the plan which demonstrates  
26 that revenues sufficient to pay the costs of the contract,  
27 collective bargaining agreement or interest arbitration award  
28 will be available to the municipality for such purposes in  
29 the fiscal years affected by the plan.

30 (c) Interest arbitration awards.--

1       (1) An arbitrator shall consider the goals of an adopted  
2       plan when issuing an interest arbitration award. The  
3       arbitrator may deviate from the plan's provisions so long as  
4       the award reflects consideration of the plan and is otherwise  
5       consistent with the goals of the plan.

6       (2) In deciding whether to adjust wages, benefits or  
7       working conditions in a manner that deviates from an adopted  
8       plan's provisions, an arbitrator shall consider, in addition  
9       to any standard or factor required under applicable law, all  
10      of the following:

11           (i) the provisions of the plan; and

12           (ii) the ability of the municipality to pay or to  
13           obtain funds to pay the cost of the wage, benefit or  
14           working condition adjustment.

15      (3) An interest arbitration award issued after the  
16      adoption of a plan shall:

17           (i) Be in writing.

18           (ii) State the justification of the municipality's  
19           financial ability to pay or obtain funds to pay the cost  
20           of any wage, benefit or working condition adjustment.

21           (iii) Be transmitted to each party to the dispute.

22      Section 2. Section 253 of the act, amended June 30, 1992  
23      (P.L.336, No.69), is amended to read:

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 and  
27      consideration of the factors described in subsection (c), the  
28      secretary may issue a determination that the conditions which  
29      led to the earlier determination of municipal financial distress  
30      are no longer present. [The determination shall rescind the

1 status of municipal financial distress and shall include a  
2 statement of facts as part of the final order.]

3 (b) Determination upon petition [by a municipality].--

4 (1) A financially distressed municipality, a labor  
5 organization that is a party to a collective bargaining  
6 agreement with a financially distressed municipality or any  
7 other party with standing under section 202 may petition the  
8 secretary to make a determination that the conditions which  
9 led to the earlier determination of municipal financial  
10 distress are no longer present or have improved such that the  
11 status of municipal financial distress should be rescinded.

12 [Upon receiving the petition, the secretary may issue a  
13 determination to rescind following a duly advertised public  
14 hearing with notices given as provided in section 203.]

15 (2) Within ten days after receiving a petition under  
16 paragraph (1), the secretary shall schedule a public hearing  
17 within the county where the distressed municipality is  
18 located. The date for the hearing shall be at least two weeks  
19 but not more than 30 days following the receipt of the  
20 petition. The secretary shall cause notice of the hearing to  
21 be published at least once in a newspaper with general  
22 circulation in the municipality and shall provide written  
23 notice by certified mail, return receipt requested, to the  
24 petitioner, the clerk or secretary of the municipality, the  
25 chief executive of the municipality and the municipality's  
26 solicitor. In all other respects, the hearing shall be  
27 subject to 65 Pa.C.S. Ch.7 (relating to open meetings).

28 (3) After receiving a petition under paragraph (1) but  
29 before the public hearing scheduled under paragraph (2), the  
30 secretary and the petitioner or petitioners shall investigate

1 the financial affairs of the municipality. The results of the  
2 investigations or any study previously conducted by the  
3 department under section 121 shall be placed into the record  
4 at the public hearing.

5 (c) Factors to consider.--In determining whether the  
6 conditions which led to the earlier determination of municipal  
7 financial distress are no longer present or have improved such  
8 that the status of municipal distress should be rescinded, the  
9 secretary shall consider [that] each of the following criteria:

10 (1) Monthly reports submitted by the coordinator to the  
11 department under section 247(a)(3) indicate that [termination  
12 of the status of] the financial condition of the municipality  
13 has improved significantly since the declaration of municipal  
14 financial distress [is appropriate].

15 (2) Accrued deficits in the municipality have been  
16 eliminated or significantly reduced since the declaration of  
17 municipal financial distress.

18 (3) Obligations issued to finance all or part of the  
19 municipality's deficit have been retired or significantly  
20 reduced since the declaration of municipal financial  
21 distress.

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

27 (d) Determination.--Within 30 days after the hearing, the  
28 secretary shall issue a determination of whether the  
29 municipality remains financially distressed under subsection (c)  
30 and reasons for the determination. If any of the criteria listed

1 in subsection (c) are present and constitute a reasonable  
2 indication of municipal financial recovery, then the secretary  
3 shall rescind the status of municipal financial distress and the  
4 secretary's determination shall include a statement of facts as  
5 part of the final order.

6 (e) Appeal.--A determination by the secretary under this act  
7 is appealable under 2 Pa.C.S. Ch. 7 Subch. A (relating to  
8 judicial review of Commonwealth agency action).

9 Section 3. This act shall take effect in 60 days.