Municipal Fiscal Distress - Act 47 and Municipal Bankruptcy

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Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony this morning on the Municipalities Financial Recovery Act, Act 47 of 1987.

The Pennsylvania Department of Community and Economic Development (DCED), is responsible for the administration of the Municipalities Financial Recovery Act (MFRA), Act 47 of 1987, and has a responsibility to assist Pennsylvania municipalities that are experiencing severe financial problems in order to provide for the health, safety and welfare of their citizens; meet debt and other financial obligations when due; restore financial viability; and maintain managerial stability and continuity. DCED likewise has a responsibility under the Act to monitor the fiscal condition of all local governments and provide technical assistance to those experiencing certain symptoms of distress.

As Secretary Walker noted, DCED, to date, has declared 26 municipalities as distressed. Of these six have emerged from the program though eleven of the municipalities have been in the program for ten years or more.

DCED has found that municipalities dealt with under the Act generally experience some degree of economic/tax base decline, demographic changes and managerial deficiencies/mismanagement. Following DCED intervention, a triage process is undertaken to first stabilize the municipality, then address those issues within the purview of local officials and finally to develop and implement intergovernmental, community and economic development strategies that will achieve long term recovery.

Certain strategies have emerged as key steps in the recovery process.

- Address the immediate financial crisis by providing emergency/long term loans and/or assisting with market based financing to address critical creditor issues.
- Develop, institute and/or strengthen sound fiscal management policies and effective municipal management procedures.
- Implement cost containment measures addressing personnel costs, operational costs and capital projects. Utilize the provisions of Section 252 to establish parameters on collective bargaining agreements/arbitration awards occurring after plan adoption.
- Identify and implement revenue enhancement measures to maximize current revenues. Recognizing tax competitiveness issues, utilize new revenue sources only as a last resort including the use of the extraordinary taxing authority provided by Act 47. Clearly state that such taxing authority, if used, is transitional revenue and will be phased out as longer term changes occur that correct structural imbalances.
- Develop partnerships with county government and adjacent municipalities to build capacity and identify opportunities for service consolidation that will improve service delivery.
- Develop and implement community and economic development strategies designed to strengthen the tax base over the long term. Build public-public and public-private partnerships necessary to implement these strategies.

Act 47 has been successful in stabilizing the deteriorated fiscal conditions that led to distress in designated municipalities. Through extensive technical assistance resources provided by the Coordinator and DCED along with the grant and loan provisions of the Act, municipalities have been able to restore fiscal stability and adequately provide for the health, safety and welfare of their residents. The Act has resulted in strengthened financial management systems, credit enhancement and fiscal credibility in the marketplace, more effective management structures and in a number of instances service efficiencies through intergovernmental cooperation.

Act 47 was written respecting Pennsylvania's constitutional provisions dealing with state government's relationship with local government; i.e. the state does not usurp day to day governance responsibilities of local government. Although the Department has not made everyone happy, DCED treats a municipality fairly and provides ample opportunity for input from local officials in the process. The Act is based on municipal self-determination and DCED has respected that principle. This limitation, however, has made it more difficult to effect change, especially the pace of that change as it can often be difficult for local officials to implement recovery plans at the speed that ideally should occur. This in part, can be attributed to limited capacity and to the difficulty local officials have with making difficult political decisions that are financially necessary.

The Act provides short term solutions that can stabilize the municipality; however, it does not address the core issues that limit the ability to achieve cost containment especially with personnel costs and of limited revenues that cannot keep pace with increased costs for services. The more a municipality's distress is attributable to economic decline, the more difficult the recovery process is. It is evident that the solutions to fiscal distress lie both within and beyond municipal boundaries and require actions from both within and outside the realm of local government. In its twenty-four year history, Act 47 has successfully stabilized fiscal conditions and addressed most of the issues that have been within the control of the municipality. The Act has struggled; however, to provide long term solutions necessary to achieve ultimate recovery. The impact of national economic trends and even broader global trends has had a definite impact on municipal fiscal health. An economic slump and the decline in the steel industry in the mid to late 1980s, due in large part to global competitiveness issues resulted in the enactment of Act 47 and an initial surge of distressed municipalities. Nine municipalities were designated distressed in the first five years of the Act. As the broader economy improved, marginal municipalities were able to maintain fiscal stability during the mid and late 1990s. Only one municipality was designated as distressed in the nine-year period from January 1993 to the end of 2001. The post 9-11 downturn resulted in an increase in fiscal stress and in turn an increase in Act 47 municipalities with four municipalities receiving designations from 2002 – 2004. The current economic downturn has resulted in four additional municipalities being designated distressed over the last four years and the potential exists for other marginal municipalities, especially several of our 3rd class cities to be so designated.

Prior reviews and our experience with the Act have identified the following issues that both exacerbate a municipality's distress condition and impede its recovery process.

- *Municipalities fall into two categories of distress: managerial distress, which is a result of inadequate, poor or corrupt management practices, and economic or structural distress, which is a result of severe erosion of the tax base. Act 47 has had success in addressing managerial distress but has struggled to address structural distress.*

- *There is no limit to the amount of time a municipality can be in the Act 47 program, and the Commonwealth's authority to address the factors of distress in a given municipality are the same in year ten of the program as in year one. The ability to implement broader based solutions such as intergovernmental initiatives and boundary change necessitate a willing partner. Various legislative impediments have made this difficult. Without incentives to level*

the playing field, it is highly unlikely that adjacent municipalities would be willing to consolidate with their distressed neighbor. This has been borne out in two unsuccessful boundary change initiatives in Mercer and Cambria Counties.

- *Municipal officials are often unwilling to implement tough recovery plan recommendations. Although there are sanctions in the Act they can have a negative impact on the municipality and potentially threaten health and safety issues. There is no practicable "stick" in Act 47 to force compliance with difficult recovery plan provisions especially in the personnel and service delivery areas.*

- *Personnel related costs are typically the largest cost element of a distressed municipality's budget, oftentimes representing 70% or more. Although the Act has language to limit future collective bargaining contracts/arbitration awards entered into after the adoption of a recovery plan it has often been difficult to implement these provisions. Recovery plans can be thwarted by poor labor negotiations on the part of the municipality, unwillingness of labor unions to reach contract agreements, adverse arbitration decisions and protracted litigation to resolve inconsistent arbitration awards. In one instance, Scranton, it took 3 ½ years to obtain two arbitration decisions. When handed down the awards were not in conformance with the plan and were appealed first to County Court of Common Pleas and then to Commonwealth Court. It took another 3 years to reach resolution via Commonwealth Court's January 2009 decision. That decision though favorable to the Act was appealed to the Supreme Court and a decision is still pending. The City has experienced ongoing deficits and fiscal problems due to the extensive time involved with this process. They have been dealt with thru one time fixes, however, until the litigation is resolved a long term solution will not occur.*

- *Pennsylvania's local government structure and current tax system makes recovery very difficult for those communities that have suffered fundamental economic decline. A community is a usually a region of multiple municipalities. Human and regional economic boundaries are not reflected by municipal boundary lines, but our tax system is. As economic activity moves from a core community to a growing suburb, taxes leave but service needs remain and, in fact, often multiply as the population of the core community becomes increasingly older, dependent, poor and violent. Service needs rise as the tax base exits. Assessed value of property typically declines thus placing added pressure on the real estate tax. If sufficient revenues are not available to meet increased service needs infrastructure deteriorates and public safety is threatened resulting in a downward spiral. This trend has been especially true in the Mon Valley, Beaver Valley, Shenango Valley and parts of Cambria County.*

- *The archaic real estate assessment system under which local governments operate and the high percent of tax-exempt property that exists in many of our core municipalities further compound fiscal stress. Many of our cities and core communities have tax-exempt property that represents 30-40 per-cent or more of their assessment base. For many Act 47 municipalities non-profits that operate within their borders are in service industries of education and medicine that are growing. Thus, in some Act 47 municipalities their tax-exempt property list has grown over the past 2 decades. Tax exempt properties comprise 35% of the assessment base in Pittsburgh and 41% in Johnstown. Municipalities are forced to rely on an ever shrinking tax base for more and more revenue creating an increasing downward spiral.*

- *Act 47 municipalities typically have significant legacy liabilities that involve unfunded pension obligations; debt burdens that exceed sound financial management policies; high workers compensation costs; and post retirement benefit liabilities, especially health care benefits that are only now being quantified and appearing on financial records as a result of GASB 45. Pension fund ratios in a number of our cities are at or less than 60% a significant cause of concern. Based on recently released 2011 actuarial reports the aggregate fund ratio for*

Pittsburgh's 3 plans was 35% prior to PERC's recent acceptance of a dedicated revenue source as an asset which increased their fund ratio to 62%; Scranton's aggregate fund ratio was 42% and Johnstown's aggregate fund ratio was 54% and were all classified by the Public Employee Retirement Commission as either severely or moderately distressed. Likewise, debt service obligations as a per-cent of revenues in these municipalities often well exceeds the 10% GFOA threshold. In Pittsburgh's case it devotes almost 20% of is revenues to debt service. Very few municipalities have established a funding mechanism to address post retirement health care benefits. Municipalities fund them on a pay as you go basis, though the liabilities can be significant. In Scranton's case the annual cost of health care for retirees equals the cost for current employees. These obligations were often incurred in order to provide certain benefits at a point in time with the result being to push the liabilities off to future generations.

- *Effective local leadership is often missing and local management capacity is typically limited. Without leadership, vision and effective management, the extensive technical and financial resources provided under the Act can go for naught. The lack of leadership may be due to the size of the municipality and it calls into question the viability of some municipalities for the long term.*
- *Municipal distress is often exacerbated by regional economic/demographic factors. Act 47 does not have the tools to effectively address regional factors of distress.*
- *Distressed municipalities often are served by distressed or fiscally weak school districts. In some instances they are even coterminous. How can we make the municipal government attractive for new residents when the education system is struggling? Clairton, Duquesne and Chester are examples where the school districts have operated under PA Department of Education oversight and a Board of Control. School districts and municipalities share the same tax base yet there is no requirement for and seldom do they work together toward consistent fiscal policies. Without a quality school system the ability to retain residents and attract new residents is greatly diminished.*

Recognizing the fiscal stress many municipalities faced following the post 9-11 economic downturn, DCED established the Early Intervention Program (EIP). As part of the Commonwealth's economic stimulus program in 2004, the EIP was established to assist Pennsylvania local governments in addressing financial management and fiscal difficulties in a timely and planned manner in order to avert a fiscal crisis that would have an adverse impact on health, safety and welfare of their residents. The EIP is a pre-emptive step for counties and municipalities who realize their financial situation is deteriorating and want to take steps to avoid Act 47. It provides for an analysis of their historic and current fiscal position and a three to five year financial plan with accompanying recommendations that if implemented will maintain fiscal stability. To date 11 counties, 27 cities, 14 boroughs and 5 townships have participated in the program. Only 4 have ultimately entered Act 47 while the rest have been able to successfully avoid a worsening of their financial situation thru the EIP remedies.

Although identified as issues that exacerbate the fiscal condition of Act 47 municipalities, the 10 issues identified previously, likewise, are significant factors in the overall decline in fiscal health of municipalities across the state. Their level of impact may vary, however, the inability to adequately address these issues will lead to the further deterioration of municipal fiscal health.

Two independent reviews of municipal finance support these findings. The Pennsylvania Economy League (PEL) issued a 2007 report titled "**Structuring Healthy Communities**". Their analysis of financial data from 1970 – 2003 shows that fiscal distress often is inevitable under existing state

laws that govern municipalities. Current legislation and municipal codes leave the Commonwealth's cities, boroughs, and townships with revenue streams that are largely inelastic, capped, and out of sync with budget needs. The best fiscal management and economic and community development programs are not enough to turn the tide within municipal boundaries. Over 30 years of trend data shows a growing problem with the fiscal health of the state's municipalities.

PEL's detailed analysis of data dispels a commonly held belief that some communities – those that are currently fiscally sound and growing in population – are somehow immune from municipal fiscal distress. Instead, their analysis shows an alarming trend over more than 30 years: the overall fiscal condition of our communities becoming less healthy. Even many communities that remain relatively healthy today have seen a decline in fiscal health between 1970 and 2003.

PEL's analysis of fiscal data shows a clear path of the five stages that municipalities follow on a path toward fiscal distress:

1. ***Prosperity with low taxes***. New development increases the revenue base, with limited demand for services. Infrastructure is new and paid for by developers. In this stage, revenues are increasing faster than the rate of inflation and faster than the cost of services.

2. ***Increasing demand for services and gradually rising tax rates and service fees***. The pace of new development has slowed, yet citizens demand more services. Infrastructure costs increase due to maintenance needs and continued growth. Tax rates and fees are increasing, but the tax base remains strong. The rate of revenue growth is starting to slow.

3. ***Tax Base Plateaus with Reductions in non-core services***. Tax base increases are minimal, yet demand for and cost of services continues to grow. Taxes increase in response while non-core services are reduced. Pressure begins for residents to leave, especially for those with the resources to do so.

4. ***Reductions in core services***. There is a mismatch between revenues and expenditures that results in a tax structure that is non-competitive with some neighboring municipalities. Core services such as public safety and infrastructure maintenance are reduced. The number of occupied households plateaus or begins to decline and municipal revenues also begin to decline.

5. ***Loss of tax base and distress.*** There is a noticeable decline in the number of occupied households as residents begin to "vote with their feet." The municipality is fiscally distressed, with declining revenues and a declining property tax base.

PEL's study further looked at demographic trends in the Commonwealth. Their analysis found over 1,000 municipalities lost population between 1990 and 2000. The US Census projects the size of the state's workforce – those people age 18-64 – will grow less than 1% by 2020; by comparison, the size of the nation's workforce is projected to grow 11.4 percent. The percent of people in Pennsylvania over 65 years of age is expected to rise from 15.5 percent in 2000 to almost 19 percent in 2020. Further, migration within Pennsylvania of a slowly growing population is seriously affecting the fiscal distress of older and more urban communities.
Predictably these demographics will only exacerbate Pennsylvania's unfavorable economic trends. Most pertinent to the sustainability of local government is the effect of a workforce that is predicted not to grow— and a body of retirees that certainly will— or the need to provide and pay for local services which are supported mainly by local taxes based largely on earned income (not retirement

income) and real estate (on everybody's list for reduction). Thus, pressure will fall on fewer and fewer individuals to support municipal budgets.

A second study titled "**The Enormous Problem of Municipal Distress**" completed by Dr. George Dougherty of the University of Pittsburgh's Graduate School of Public and International Affairs in cooperation with Pittsburgh Today reviewed the fiscal health of municipalities in the Pittsburgh Region and was released in 2009. Using data from DCED's Survey of Financial Condition over a six year period from 2000 to 2005, the study found that 58.5 percent of municipalities in the ten county Pittsburgh Region experienced two or more annual deficits. A full 80.2% of local governments experienced at least one deficit during the period, with only 101 of 509 (19.8 percent) able to avoid deficits during the period. This is an astounding finding and represents widespread financial problems beyond expectations. Governments that run regular deficits, commonly defined as two or more annual deficits in a 5-6 year period, show significant signs of fiscal distress.

Dr. Dougherty went on to state that structural deficits occur when expenditure growth is greater than revenue growth over at least a five-year period, an unsustainable trend. One would expect struggling municipalities to increase revenues and/or reduce expenditures in response to poor financial performance, but there are substantial impediments to doing so. On the revenue side, elected officials face state imposed limits on tax rates, strong opposition by citizens to increased tax burdens, and a competitive disadvantage if rates are raised higher than surrounding municipalities. The ability to make expenditure cuts is limited by statutory requirements to provide specific services, labor contracts, and citizen demand for services. There is an expectation that someone will police our neighborhoods, respond to fires, and maintain our roads.

The study further found that 49 percent of municipalities in the southwest region experienced at least one structural deficit from 2000 to 2005. This means that expenditures grew at a faster pace than revenues. A closer look at the data shows that 29 percent of local governments faced severe structural deficits where expenditure growth was more than 3 percent larger than revenue growth. Municipalities in the severe category will quickly run out of rainy day funds and face increasing annual deficits. The short term solution is to rollover the deficit from one year to the next creating a compounding effect that will ultimately build to the point of fiscal collapse.

Both independent studies corroborate the data and experience of DCED in monitoring municipal fiscal health. The data makes a compelling argument that it is critical to act sooner rather than later as momentum of decline is increasing and will almost certainly further accelerate given current national economic conditions that are beginning to ripple thru Pennsylvania. The fiscal impact of these trends on the state would be devastating. Discretionary services such as parks and recreation are first to be cut. These cuts would impact on quality of life considerations. Infrastructure replacement and maintenance would be cut next, ultimately resulting in an adverse impact on health and safety. Core services such as police, fire and public works would then be reduced or eliminated. In many instances, this would result in a transfer of responsibility to the state, especially for police protection, thus placing increased pressure on the State Police. Municipalities would likewise have insufficient resources to meet debt obligations resulting in defaults and ultimately the potential for bankruptcy. Such actions would adversely impact not only the affected municipality but could ripple thru the adjacent municipalities, school district and county and greatly impact future borrowing opportunities for all.

Until 2009 no municipality had filed for Chapter 9 Municipal Bankruptcy since the Act's passage. The Westfall Township filing in 2009 was a unique situation and demonstrates how the Act 47 and Chapter 9 processes work together. In the fall of 2008 the Township came to the Department to request our consideration of a Chapter 9 filing due to a federal judgment dating to the 1990s that had grown to more than $20 million. The Township's annual budget was just slightly more than $1

million. Over the next 5 months, extensive discussions occurred between DCED, Township officials and their legal counsel to discuss Act 47, alternatives to municipal bankruptcy and possible compromise with the developer. Aside from the judgment, the Township's fiscal position was stable and they were able to meet service demands without difficulty. The Department encouraged and the Township pursued a last ditch effort to reach a settlement that was unsuccessful.

On April, 10, 2009, Westfall Township (Township), confronting the imminent jeopardy of a judgment creditor compelling the Township to satisfy a significant judgment, filed a Voluntary Chapter 9 Bankruptcy Petition in the US Bankruptcy Court for the Middle District of Pennsylvania. Pursuant to Act 47, a municipality which files a municipal debt adjustment action under federal law is deemed to be a financially distressed municipality. On April 14, 2009, upon receipt and review of the Township's Bankruptcy Petition, DCED issued an order designating the Township a distressed municipality.

Under the Act 47 provisions dealing with municipal bankruptcy, the Coordinator is required to formulate an Act 47 recovery plan in cooperation with the Bankruptcy Court. DCED and the Coordinator, in partnership with Township officials formulated a recovery plan concurrently with the formulation of a federal plan for the adjustment of the Township's debts. On November 5, 2009, the Township enacted an ordinance adopting the Coordinator's Recovery Plan. It then incorporated the Act 47 plan as an attachment to its Chapter 9 which was filed with the Bankruptcy Court. The plans provided for a reduction in the obligation to the developer from more than $20 million to $6 million payable over a 20 year period. The Township implemented a special real estate tax as part of its 2010 budget to amortize this debt obligation. On March 2, 2010, the Bankruptcy Court issued an order confirming both the Plan for Adjustment of Debts for Westfall Township and the Recovery Plan. The Bankruptcy Court's Confirmation Order was the first ever issued by a federal bankruptcy court for a Pennsylvania municipality.

The Department remains engaged with the Township providing technical assistance and monitoring their progress. The Township's Act 47 status will be evaluated next year and if they make continued progress with the implementation of their recovery plan, their exit from the Act is probable.

Although our experience with Westfall Township was a positive one, the circumstances were very unique compared to those being experienced in other municipalities across the state where the discussion of bankruptcy has occurred. In situations were debt obligations are more significant with more parties involved and where municipal operations are more complex and unstable, the issues related to bankruptcy also become more complex and the outcome uncertain. For instance, it's unknown how municipal bankruptcy will impact current collective bargaining agreements, current pension plans and obligations and the status of outstanding debt. Chapter 9 experiences nationwide are limited, however, legal expenses will be significant and the time to go thru the process will be lengthy as has been the case in Vallejo California.

There are a number of legislative and policy remedies that would greatly assist municipalities in dealing with the fiscal stress and challenges they currently face. These remedies would remove certain impediments to change, address conflicts between statutes, provide greater flexibility to address the unique characteristics of Pennsylvania municipalities and strengthen the fiscal health of municipalities across the state.

Proposed Recommendations:

1. Provide local officials with greater options for "right-sizing" of municipal services. Use multi-municipal, regional or county structures that are appropriate for the character and fiscal

resources of the community. Eliminate impediments to shared service arrangements such as issues dealing with municipal code inconsistencies, pensions, collective bargaining/labor relations and civil service system.

2. Provide for the development of viability standards for municipalities that are unable to meet certain basic requirements to function. Provide for shared services districts and county involvement in situations where a distressed municipality is determined to be non-viable. Although research has found that a disincorporation procedure has multiple procedural problems, it is important that the municipalities adjacent to the non-viable municipality and the county are engaged in the development of a governance solution that will provide for health and safety considerations. Consider a proposal by the State Planning Board that was contained in SB 1357 from the last session that would create a statewide boundary commission to address this issue.

3. Deal proactively with the need for merger/consolidation of non-viable Act 47 municipalities. Without the ability to "level the playing field" – address infrastructure and operational differences - between distressed and non-distressed municipalities boundary change will not occur. Encourage merger/consolidation of municipalities through incentives to viable municipalities for merger/consolidation. Establish a priority funding policy thru Executive Order across state agencies for boundary change efforts. The targeting of economic and community development program funds and resources by state agencies for locally initiated boundary change efforts is critical if the process has a chance of being successful.

4. Provide for a Fiscal Recovery Board for municipalities that have been in Act 47 for a period of 5 years after a Coordinator's plan has been adopted. Recovery plans should provide for key objectives to be accomplished in the initial 5 years with a hearing convened by DCED at the end of 5 years to ascertain whether the objectives have been met. If not, the Secretary would have the authority to appoint and empower a fiscal recovery board with authority to further implement recovery plan recommendations during the second and if necessary, third five-year recovery plan periods. The Board would be established via a required agreement between the municipality and the Board. Municipal officials are often unwilling to implement tough recovery plan recommendations. The Commonwealth's sole power to discipline such a municipality currently is to invoke sanctions – withhold Commonwealth grants, entitlements or payments, in cases where the municipality has failed to implement an adopted recovery plan. There has been a general reluctance to exercise this power because it is widely seen as exacerbating the municipality's fundamental financial problem. There is, therefore, no practicable "stick" in Act 47 to encourage or force compliance with the recovery plan. A fiscal recovery board would address this problem. The functions of such a board should include direction over the management of municipal affairs, in consultation with the Coordinator, during the second and third five-year recovery plan periods. The ultimate threat of a fiscal recovery board assuming management authority in the municipality may be sufficient impetus for the governing body to act before a fiscal recovery board is invoked. Municipal officials would likely prefer to work hard to get out of Act 47 then be constrained by a fiscal recovery board. The Secretary of DCED could waive the requirement for a fiscal recovery board in those circumstances where the Coordinator and DCED deem the imposition of fiscal recovery board to be counter-productive. The fiscal recovery board provision is designed to be a "when all else fails" measure in which the municipality likely would not otherwise emerge from distress.

5. Provide for greater regional involvement in the recovery process, including tax base sharing programs, incentives for shared service arrangements and multi-municipal community and economic development planning and program implementation. Although tax revenue sharing is currently authorized under the Municipalities Planning Code in instances where municipalities have adopted joint zoning, there is no specific authorization for tax base sharing such as exists in other states like Minnesota. The Waterfront development in Homestead, West Homestead and Munhall in Allegheny County is an example of tax revenue sharing that was done under the Intergovernmental Cooperation Act. A sustainable funding source that provides incentives for collaborative approaches to service delivery is critical to address many of the initial costs as well and to provide the momentum for municipalities to implement cooperative programs.

6. Address the tax exempt issue. Typically tax exempt properties represent a very high proportion of their tax base in fiscally stressed municipalities. Hospitals, educational institutions, cultural and civic facilities, libraries, churches and other non-profit entities are valuable resources though they also place service needs on the municipality without providing corresponding tax revenue. As the assessed value of taxable property declines, this issue is only further magnified. Efforts to negotiate PILOT payments have been largely unsuccessful subsequent to the Purely Public Charities Act. Consider options such as the Public Utility Realty Tax (PURTA) approach that is used for public utilities or a payroll tax alternative.

7. Address the equity of the collective bargaining/arbitration process and provide the ability for expedited resolution to collective bargaining/arbitration issues that limit the ability of the municipality to achieve the cost containment measures necessary for fiscal stability. Labor costs represent the largest portion of a municipal budget, and necessitate appropriate cost containment measures. Amend either Act 111 or Act 47 to provide a maximum time period for arbitrations and require the arbitration panel to render their award no later than 6 months from the commencement of the arbitration process. Provide authorization for an Act 47 municipality to immediately petition the Court of Common Pleas for relief if time frames are not met.

8. Develop community leadership and capacity building to provide for better planning, decision making and allocation of resources that will result in long term viability. Institute "community leadership and capacity building" training in order to involve all sectors of the community to address leadership/capacity issues. Governmental, educational, non-profit, business, social service and social/ethnic organizations in the community should all participate in this process. Work with the local school district to strengthen a civics component in their curriculum to instill a "sense of community" in students.

9. A vibrant middle class is a critical element to successful recovery. Economic and community development strategies should focus on strengthening the middle class thru job creation, affordable housing opportunities and a quality educational system..

10. Address legacy costs especially in the pension, health care and workers compensation areas. Most fiscally stressed municipalities have significant unfunded pension liabilities. As municipal employment levels decline, the municipality receives a lesser amount of state pension assistance that places an added strain on municipal budgets. The impact of post retirement health care liabilities is an emerging issue that places further fiscal stress on municipalities. GASB 45 now requires the determination of this liability; however, there is no funding mechanism to address these costs.

Establish a statewide municipal pension plan and require all municipalities (or all Act 47 municipalities) to participate. Remove pension benefits from the bargaining process and freeze them for current employees. Provide authorization for defined contribution plans for new hires.

Strengthen workers compensation procedures, eliminate the so called "double dipping" that can occur between WC and the Heart and Lung Act for public safety employees.

Provide authorization for Trust Funds for OPEB benefits. Establish a funding formula - Minimum Obligation – that is funded on an annual basis.

Act 47 requires a significant commitment in both human and financial resources on the part of the Commonwealth. It is in the best interest of all to identify and address fiscal problems in municipalities that may be trending towards distress as early as possible while they are still manageable. Early intervention can address fiscal problems before they reach a crisis and avoid a condition that could adversely impact on the health, safety and welfare of residents as well as save the Commonwealth and municipalities valuable resources over the long term. Implementation of the above action items is critical to reversing the downward fiscal spiral that will face many Pennsylvania municipalities in the years ahead.

Act 47 Questions

What resources are available to assist municipalities under Act 47?

Are there extraordinary authorities that an Act 47 municipality has access to?

Are the resources available adequate?

What strategies are employed as part of a recovery plan?

Have some municipalities become reliant on the higher earned income tax?

How does Act 47 impact existing and future labor contracts?

Why don't you have Act 47 municipalities merge with adjacent municipalities?

How does municipal bankruptcy work and is it an option for a distressed municipality?

What actions can be taken when a municipality doesn't adopt or implement its recovery plan?

What are some of the obstacles to moving a municipality to the point where the rescission of a distress determination is appropriate?

What are long term solutions for non-viable municipalities?