

Title 52.  
Subtitle 3.  
Chapter  
27BBBB.(New)  
Municipal  
Stabilization and  
Recovery.  
§§1-5, 8-19 -  
C.52:27BBBB-1  
to  
52:27BBBB-17  
§20 - Note

P.L.2016, CHAPTER 4, *approved May 27, 2016*  
Senate, No. 1711 (*Third Reprint*)

1 AN ACT concerning certain municipalities confronted by severe  
2 fiscal distress <sup>1</sup>**[and]** <sup>1</sup> supplementing Title 52 of the Revised  
3 Statutes <sup>1</sup> <sup>1</sup> and amending P.L.1977, c.85 <sup>1</sup>**[and]** <sup>2</sup>**[,<sup>1</sup>]** and<sup>2</sup>  
4 P.L.1974, c.123 <sup>2</sup>**[<sup>1</sup>, and P.L.1999, c.59<sup>1</sup>]**<sup>2</sup>.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) This act shall be known and may be cited as  
10 the “Municipal Stabilization and Recovery Act.”

11  
12 2. (New section) The Legislature finds and declares that:

13 a. The short and long-term fiscal stability of local government  
14 units is essential to the interests of the citizens of this State to assure  
15 the efficient and effective provision of necessary governmental  
16 services vital to public health, safety, and welfare, including the fiscal  
17 health of our State’s municipalities.

18 b. In certain extreme cases, local governments that experience  
19 severe fiscal distress become incapable of addressing the  
20 circumstances that led to that extraordinary distress or of  
21 developing a comprehensive plan for financial rehabilitation and  
22 recovery.

23 c. It is necessary and appropriate for the State to take action to  
24 assist local governments experiencing severe budget imbalances  
25 and other conditions of severe fiscal distress or emergency by  
26 requiring prudent fiscal management and operational efficiencies in  
27 the provision of public services.

28 d. As the State entity primarily responsible for the financial  
29 integrity and stability of all local government units, the Local Finance  
30 Board should be authorized, under certain limited circumstances, to

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SBA committee amendments adopted March 10, 2016.

<sup>2</sup>Assembly AJU committee amendments adopted May 23, 2016.

<sup>3</sup>Assembly floor amendments adopted May 26, 2016.

1 develop a comprehensive rehabilitation plan for local governments that  
2 are experiencing severe fiscal distress, and to act on behalf of local  
3 government units to remedy the distress.

4

5 3. (New section) As used in <sup>2</sup>**[this act]** P.L. , c. (C. )  
6 (pending before the Legislature as this bill)<sup>2</sup>:

7 “Commissioner” means the Commissioner of Community  
8 Affairs.

9 “Director” means the Director of the Division of Local  
10 Government Services in the Department of Community Affairs.

11 “Director’s designee” means one or more individuals designated  
12 by the director, as the director deems appropriate, to act in the  
13 director’s stead or exercise one or more of the authorities granted to  
14 the director by the Local Finance Board pursuant to the terms of  
15 <sup>2</sup>**[this Act]** P.L. , c. (C. ) (pending before the Legislature  
16 as this bill)<sup>2</sup>.

17 “Fiscal distress” means a fiscal condition based on a  
18 municipality’s tax rate, cash deficit, insufficient percentage of tax  
19 collections, insufficient collection of other revenues, over-  
20 anticipation of the revenues of prior years, non-liquidation of  
21 interfund transfers, reliance on emergency authorizations, continual  
22 rollover of tax anticipation notes, inefficiencies in the provision of  
23 municipal services such that associated costs substantially exceed  
24 costs for similar services in other municipalities, or other factors  
25 indicating a constrained ability to meet the municipality’s  
26 budgetary requirements.

27 “Governing body” means the municipal council, committee,  
28 board, or other entity having control of the finances of a  
29 municipality, and shall include the mayor.

30 “Local Finance Board” means the Local Finance Board in the  
31 Division of Local Government Services in the Department of  
32 Community Affairs.

33 “Municipality in need of stabilization and recovery” means a  
34 municipality that: (1) has experienced a decrease of more than 50  
35 percent in its total assessed <sup>2</sup>non-equalized<sup>2</sup> property values during  
36 the <sup>2</sup>**[immediately preceding]<sup>2</sup>** five-year period <sup>2</sup>terminating at the  
37 end of the tax year immediately preceding the enactment of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill)<sup>2</sup> , as  
39 determined by the director <sup>2</sup>**[**, and, upon the recommendation of the  
40 director finding that the municipality is experiencing fiscal distress,  
41 the commissioner determines the municipality should appropriately  
42 be subject to the provisions of P.L. , c. (C. ) (pending before  
43 the Legislature as this bill)<sup>2</sup> ; and (2) has experienced an increase  
44 in outstanding debt exceeding 50 percent during the immediately  
45 preceding five-year period, as determined by the director, and upon  
46 the recommendation of the director finding that the municipality is  
47 experiencing fiscal distress, the commissioner determines the

1 municipality should appropriately be subject to the provisions of  
 2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3  
 4 4. (New section) <sup>2</sup>a.<sup>2</sup> The director may ascertain whether a  
 5 municipality should be deemed a municipality in need of  
 6 stabilization and recovery. If the director ascertains that a  
 7 municipality should be deemed a municipality in need of  
 8 stabilization and recovery, the director shall recommend that the  
 9 commissioner make that determination. Within <sup>2</sup>[14] <sup>7</sup> days of  
 10 receipt of the director's recommendation, the commissioner shall  
 11 make the final determination of whether to deem the municipality a  
 12 municipality in need of stabilization and recovery and subject to the  
 13 provisions of P.L. , c. (C. ) (pending before the Legislature  
 14 as this bill). The commissioner shall notify the Governor, the State  
 15 Treasurer, and the director when a determination has been made and  
 16 a municipality is subject to the provisions of P.L. , c. (C. )  
 17 (pending before the Legislature as this bill). The director shall then  
 18 notify the municipal clerk, or other appropriate municipal official of  
 19 the municipality, in writing, of the determination. A municipality  
 20 in need of stabilization and recovery shall be subject to the  
 21 provisions of P.L. , c. (C. ) (pending before the Legislature  
 22 as this bill) <sup>2</sup>[for a period of five consecutive years] until the end of  
 23 the recovery plan adopted pursuant to subsection b. of this section  
 24 and approved by the commissioner pursuant to subsection c. of this  
 25 section, or until first day of the 61<sup>st</sup> month next following the date  
 26 on which the municipality becomes subject to the requirements and  
 27 provisions of sections 5 through <sup>3</sup>[12] <sup>11</sup> , <sup>3</sup>[and] <sup>3</sup> 14  
 28 <sup>3</sup>[through] <sup>3</sup> 16 <sup>3</sup>, and 17<sup>3</sup> of P.L. , c. (C. ) (pending before  
 29 the Legislature as this bill), as applicable.

30 b. Not later than 150 days next following the commissioner's  
 31 final determination that a municipality is in need of stabilization  
 32 and recovery, the governing body of the municipality in need of  
 33 stabilization and recovery shall prepare and adopt a resolution  
 34 containing a five-year recovery plan, commencing on the first day  
 35 of the first fiscal year of the municipality next following the  
 36 enactment of P.L. , c. (C. ) (pending before the Legislature  
 37 as this bill), that is sufficient to effectuate the financial stability of  
 38 the municipality. The recovery plan shall establish processes and  
 39 identify specific actions undertaken by the municipality following  
 40 the determination that it is a municipality in need of stabilization  
 41 and recovery pursuant to subsection a. of this section, and actions to  
 42 be undertaken by the municipality if the recovery plan is approved  
 43 pursuant to subsection c. of this section. The recovery plan shall  
 44 include a proposed balanced budget for the first fiscal year of the  
 45 municipality next following the enactment of P.L. , c. (C. )  
 46 (pending before the Legislature as this bill), which shall be  
 47 consistent with the "Local Budget Law," N.J.S.40A:4-1 et seq.,  
 48 except as otherwise stated in this subsection. There shall be no  
 49 requirement for the proposed balanced budget to identify amounts

1 outstanding, including accrued interest, on any obligation to the  
2 State of New Jersey<sup>3</sup>, including any office, department, division,  
3 bureau, board, commission, or agency of the State,<sup>3</sup> for deferred  
4 pension and health benefit payments for the first fiscal year of the  
5 municipality prior to the enactment of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill). For the purposes of the  
7 proposed budget prepared pursuant to this subsection, the  
8 municipality in need of stabilization and recovery is not required to  
9 appropriate the total amount necessary for the extinguishment of all  
10 outstanding property tax appeal debt. For the purposes of the  
11 proposed budget prepared pursuant to this subsection, the  
12 municipality in need of stabilization and recovery shall identify and  
13 account for the loss in revenue from any anticipated set-offs arising  
14 from all such property tax appeal debt or identify and appropriate  
15 for any amounts owed in the <sup>3</sup>**[2017]** first<sup>3</sup> fiscal year of the  
16 municipality <sup>3</sup>next following the enactment of P.L. , c. (C. )  
17 (pending before the Legislature as this bill)<sup>3</sup> for the continued  
18 repayment of debts related to all property tax appeals settled by the  
19 municipality. To effectuate financial stability, in addition to the  
20 proposed balanced budget, the recovery plan shall include detailed  
21 processes to:

22 (1) achieve sustainable net reductions in the municipality's  
23 general appropriations to be commensurate with revenues  
24 anticipated in the proposed budget;

25 (2) ensure that the municipality remits to the county in which it  
26 is located the full amount of all property taxes or payments in lieu  
27 of property taxes owed by law to the county on the dates on which  
28 the payments are due;

29 (3) ensure that the municipality remits to the school district  
30 servicing the municipality the full amount of all property taxes or  
31 payments in lieu of property taxes owed by law to the school  
32 district on the dates the payments are due;

33 (4) schedule for the repayment of debts, including any accrued  
34 interest, as of the date of the commissioner's determination  
35 pursuant to subsection a. of this section, including, without  
36 limitation, any money owed to the State of New Jersey<sup>3</sup>, including  
37 any office, department, division, bureau, board, commission, or  
38 agency of the State,<sup>3</sup> for deferred pension and health benefits  
39 payments;

40 (5) account for future payments on bonded debt and unbonded  
41 debt, including, without limitation, any general obligation bonds,  
42 refunding bonds, pension refunding bonds, tax appeal bonds, and  
43 unbonded tax appeal settlements, obligations, liens, or judgments  
44 known to the municipality as of the date of the commissioner's  
45 determination pursuant to subsection a. of this section;

46 (6) account for future payments on any off balance sheet  
47 liabilities of the municipality known to the municipality as of the

1 date of the commissioner's determination pursuant to subsection a.  
 2 of this section:

3 (7) ensure the repayment of the loan in accordance with section  
 4 <sup>3</sup>[17] 18<sup>3</sup> of P.L. , c. (C. ) (pending before the Legislature as  
 5 this bill), including accrued interest; and

6 (8) increase the municipality's revenues, including, without  
 7 limitation, through the establishment of long-term economic and  
 8 land use development strategies.

9 c. The recovery plan shall be submitted by the governing body  
 10 to the commissioner. The commissioner, within five business days  
 11 next following the day of receipt of the plan, shall determine, in the  
 12 commissioner's sole and exclusive discretion, whether the recovery  
 13 plan is likely or is not likely to achieve financial stability for the  
 14 municipality. If the commissioner determines that the recovery  
 15 plan is likely to achieve financial stability for the municipality, the  
 16 plan shall be effective and the provisions of sections 5 through  
 17 <sup>3</sup>[12] 11<sup>3</sup> , <sup>3</sup>[and]<sup>3</sup> 14 <sup>3</sup>[through] , <sup>3</sup> 16 <sup>3</sup> , and 17<sup>3</sup> of P.L. ,  
 18 c. (C. ) (pending before the Legislature as this bill) shall  
 19 not be applicable with respect to the municipality in need of  
 20 stabilization and recovery. If the commissioner determines that the  
 21 recovery plan is likely to achieve financial stability for the  
 22 municipality, the plan shall be implemented beginning on the first  
 23 day of the first fiscal year of the municipality next following the  
 24 enactment of P.L. , c. (C. ) (pending before the  
 25 Legislature as this bill) and the municipality in need of stabilization  
 26 and recovery shall strictly comply with the recovery plan. If the  
 27 commissioner determines that the plan is not likely to achieve  
 28 financial stability for the municipality, <sup>3</sup>[or]<sup>3</sup> if the municipality  
 29 fails to submit a plan, <sup>3</sup>if the commissioner determines that the  
 30 municipality is not strictly complying with a recovery plan  
 31 approved by the commissioner pursuant to this subsection, or if the  
 32 commissioner determines that a recovery plan approved by the  
 33 commissioner pursuant to this subsection is no longer likely to  
 34 achieve financial stability,<sup>3</sup> the municipality shall be immediately  
 35 subject to the requirements and provisions of sections 5 through  
 36 <sup>3</sup>[12] 11<sup>3</sup> , <sup>3</sup>[and]<sup>3</sup> 14 <sup>3</sup>[through] , <sup>3</sup> 16 <sup>3</sup> , and 17<sup>3</sup> of P.L. ,  
 37 c. (C. ) (pending before the Legislature as this bill) for as  
 38 the long as the municipality is deemed a municipality in need of  
 39 stabilization and recovery<sup>2</sup>.

40  
 41 5. (New section) a. (1) Notwithstanding the provisions of any  
 42 law, rule, or regulation to the contrary, <sup>2</sup>[upon the determination by  
 43 the commissioner that a municipality is in need of stabilization and  
 44 recovery, and at any time during the succeeding five years,] if the  
 45 municipality in need of stabilization and recovery fails to submit a  
 46 plan, if the commissioner has determined pursuant to subsection c.  
 47 of section 4 of P.L. , c. (C. ) (pending before the Legislature as  
 48 this bill) that the recovery plan is not likely to achieve financial

1 stability for the municipality in need of stabilization and recovery,  
2 if the commissioner determines that the municipality is not strictly  
3 complying with a recovery plan approved by the commissioner  
4 pursuant to subsection c. of section 4 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill), or if the commissioner  
6 determines that a recovery plan approved by the commissioner  
7 pursuant to subsection c. of section 4 of P.L. , c. (C. )  
8 (pending before the Legislature as this bill) is no longer likely to  
9 achieve financial stability,<sup>2</sup> the Local Finance Board may, in its  
10 exclusive discretion <sup>2</sup>at any time during which the municipality is  
11 deemed a municipality in need of stabilization and recovery<sup>2</sup> ,  
12 assume and reallocate to, and vest exclusively in the director any of  
13 the functions, powers, privileges, and immunities of the governing  
14 body of that municipality set forth in any statute, regulation,  
15 ordinance, resolution, charter, or contract to which the municipality  
16 is a party that are, or may be, substantially related to the fiscal  
17 condition or financial rehabilitation and recovery of that  
18 municipality. The duration of the transfer of the functions, powers,  
19 privileges, and immunities of the governing body shall not exceed  
20 <sup>2</sup>[five consecutive years] the duration of the time the municipality  
21 is deemed a municipality in need of stabilization and recovery<sup>2</sup>.

22 (2) In the event the Local Finance Board assumes and  
23 reallocates to the director any function, power, privilege, or  
24 immunity of the governing body of a municipality in need of  
25 stabilization and recovery set forth in a contract to which that  
26 municipality is a party, the municipality shall remain the party to  
27 the contract and neither the Local Finance Board nor the director  
28 shall assume any contractual obligations or liability arising out of  
29 that contract or be subject to any claim for breach of that contract or  
30 any other claim related to that contract. Any actions or steps taken  
31 by the director under P.L. , c. (C. ) (pending before the  
32 Legislature as this bill) shall be deemed to be by, and on behalf of,  
33 the municipality in need of stabilization.

34 (3) The authorities granted to the director by the Local Finance  
35 Board pursuant to this section shall extend to any and all actions  
36 that, in the exclusive discretion of the director, may help stabilize  
37 the finances, restructure the debts, or assist in the financial  
38 rehabilitation and recovery of the municipality in need of  
39 stabilization and recovery. Notwithstanding the provisions of any  
40 law, rule, regulation, or contract to the contrary, the director shall  
41 have the authority to take any steps to stabilize the finances,  
42 restructure the debts, or assist in the financial rehabilitation and  
43 recovery of the municipality in need of stabilization and recovery,  
44 including, but not limited to:

45 (a) implementing governmental, administrative, and operational  
46 efficiency and oversight measures;

47 (b) dissolving, terminating, transferring, abolishing, or  
48 otherwise disposing of any municipal authority, board, commission,  
49 or department, or any function thereof; provided, however, that no

1 such action shall be taken until adequate provision has been made  
2 for the payment of the creditors or obligees of the entity to be  
3 impacted unless otherwise permitted by law. This shall include the  
4 power to take any steps required of the governing body under  
5 applicable laws, including but not limited to the “municipal and  
6 county utilities authorities law,” P.L.1957, c.183 (C.40:14B-1 et  
7 seq.), the “Local Authorities Fiscal Control Law,” P.L.1983, c.313  
8 (C.40A:5A-1 et seq.) the “Water Infrastructure Protection Act,”  
9 P.L.2015, c.18 (C.58:30-1 et seq.), the “Local Redevelopment and  
10 Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et seq.), and the  
11 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).  
12 To the extent that the Local Finance Board or the director exercise  
13 any powers under the “Local Authorities Fiscal Control Law,”  
14 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal  
15 authority or municipal public utility in the municipality in need of  
16 stabilization and recovery;

17 (c) vetoing the minutes of the governing body of the  
18 municipality in need of stabilization and recovery, any board,  
19 commission, or department of the municipality in need of  
20 stabilization and recovery, and any independent board or authority  
21 in the municipality in need of stabilization and recovery, including,  
22 but not limited to, the housing authority, parking authority,  
23 redevelopment authority, planning board, and zoning board of  
24 adjustment. A true copy of the minutes of every meeting of the  
25 governing body and any board, commission, department, or  
26 independent board, or authority shall be delivered forthwith, by and  
27 under the certification of the secretary thereof, to the director. No  
28 action taken at the meeting shall have force or effect until 15  
29 business days after a copy of the minutes have been so delivered to  
30 the director, unless during this 15-day period the director shall  
31 approve in writing the minutes or any part thereof, in which case  
32 the action shall become effective upon approval. If, within that 15-  
33 day period, the director returns a copy of the minutes with a veto of  
34 any action taken by the governing body, board, commission,  
35 department, or independent board or authority, or any member  
36 thereof at the meeting, the action shall be null and void and of no  
37 effect. The director may approve all or part of the action taken at a  
38 meeting;

39 (d) controlling litigation and the municipality’s legal affairs,  
40 including, but not limited to, suing in the municipality’s corporate  
41 name; prosecuting, defending, and resolving litigation, arbitration,  
42 disputes, and controversies; and retaining and directing municipal  
43 corporation counsel and other special counsel as the director may  
44 deem appropriate;

45 (e) selling, conveying, leasing, monetizing, or otherwise  
46 disposing of any interest in any municipally-owned assets,  
47 including but not limited to, any water, sewer, wastewater, and  
48 storm water infrastructure, equipment or facilities, services, and in  
49 any real property, including any improvements thereon; provided

1 that the director shall not sell, convey, lease, monetize, or otherwise  
2 dispose of any municipally-owned water asset <sup>1</sup>pursuant to an  
3 agreement with a private entity<sup>1</sup> until one-year after the effective  
4 date of P.L. , c. (C. ) (pending before the Legislature as this  
5 bill) to allow the municipality in need of stabilization and recovery  
6 to maximize the value of that asset;

7 (f) amending or terminating any existing contracts or  
8 agreements, which shall not include bonds, notes, indentures, or  
9 other similar financing instruments and documents to which the  
10 municipality is a party, in accordance with the terms thereof; or  
11 unilaterally amending or terminating any contracts or agreements  
12 which shall not include bonds, notes, indentures, or other similar  
13 financing instruments and documents to which the municipality is a  
14 party, provided that the director determines that the unilateral  
15 termination or amendment is reasonable and directly related to  
16 stabilizing the finances or assisting with the fiscal rehabilitation and  
17 recovery of the municipality in need of stabilization and recovery;

18 (g) unilaterally modifying, amending, or terminating any  
19 collective negotiations agreements, except those related to school  
20 districts, to which the municipality is a party, or unilaterally  
21 modifying, amending, or terminating the terms and conditions of  
22 employment during the term of any applicable collective  
23 negotiations agreement, or both, provided that the director  
24 determines that the modifications, amendments, or terminations are  
25 reasonable and directly related to stabilizing the finances or  
26 assisting with the fiscal rehabilitation and recovery of the  
27 municipality in need of stabilization and recovery;

28 (h) acting as the sole agent in collective negotiations on behalf  
29 of the municipality in need of stabilization and recovery;

30 (i) with respect to any expired collective negotiations  
31 agreement to which the municipality in need of stabilization and  
32 recovery is a party, unilaterally modifying wages, hours, or any  
33 other terms and conditions of employment;

34 (j) unilaterally abolishing any non-elected positions in the  
35 municipality in need of stabilization and recovery at any time. All  
36 of the functions, powers, and duties of abolished positions shall be  
37 exercised or delegated by the director; provided, however, that the  
38 provisions of Title 11A, Civil Service, shall not apply to any  
39 employment action under this paragraph;

40 (k) unilaterally appointing, transferring, or removing employees  
41 of the municipality in need of stabilization and recovery, including,  
42 but not limited to, department heads and division heads, as the case  
43 may be, but excluding appointed officials who have obtained tenure  
44 in office; provided, however, that the provisions of Title 11A, Civil  
45 Service, shall not apply to any employment action under this  
46 paragraph;

47 (l) acting as the appropriate authority, including, without  
48 limitation, the appointing authority, for purposes of Title 40A of the  
49 New Jersey Statutes;



- 1 (m) entering into any agreement with the county in which the  
2 municipality in need of stabilization and recovery is located, any of  
3 the other municipalities located in that county, or any  
4 instrumentality of the State to share or consolidate municipal  
5 services pursuant to any law applicable to consolidation or sharing  
6 of services, including, without limitation, the “Uniform Shared  
7 Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et al.)  
8 and P.L.2015, c.279 (C.40A:14-90.1 et al.);
- 9 (n) procuring any goods, services, commodities, information  
10 technology, software, hardware, or other items on behalf of the  
11 municipality in need of stabilization and recovery, in accordance  
12 with either the “Local Public Contracts Law,” P.L.1971, c.198  
13 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at  
14 the discretion of the director;
- 15 (o) retaining any professionals on behalf of the municipality in  
16 need of stabilization and recovery, and directing the work of  
17 professionals or any professionals previously retained by the  
18 municipality in need of stabilization and recovery, in accordance  
19 with either the “Local Public Contracts Law,” P.L.1971, c.198  
20 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at  
21 the discretion of the director;
- 22 (p) retaining bond counsel, adopting bond ordinances to the  
23 extent necessary, making appropriate bond applications, and taking  
24 any other steps necessary to restructure and adjust debt, on behalf of  
25 the municipality in need of stabilization and recovery;
- 26 (q) exercising on behalf of the municipality in need of  
27 stabilization and recovery any authority granted to a municipality  
28 pursuant to the “Local Redevelopment and Housing Law,”  
29 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it  
30 necessary or appropriate to help stabilize the finances, restructure  
31 the debts, or assist with the financial rehabilitation and recovery of  
32 the municipality in need of stabilization and recovery;
- 33 (r) exercising on behalf of the municipality in need of  
34 stabilization and recovery any authority granted to a municipality  
35 pursuant to the “Redevelopment Area Bond Financing Law,”  
36 P.L.2001, c.310 (C. 40A:12A-64 et seq.) when the director deems it  
37 necessary or appropriate to help stabilize the finances, restructure  
38 the debts, or assist with the financial rehabilitation and recovery of  
39 the municipality in need of stabilization and recovery;
- 40 (s) exercising on behalf of the municipality in need of  
41 stabilization and recovery any authority granted to a municipality  
42 pursuant to the “Long Term Tax Exemption Law,” P. L.1991, c.431  
43 (C.40A:20-1 et seq.) when the director deems it necessary or  
44 appropriate to help stabilize the finances, restructure the debts, or  
45 assist the financial rehabilitation and recovery of the municipality in  
46 need of stabilization and recovery;
- 47 (t) authorizing and filing, on behalf of the municipality in need  
48 of stabilization and recovery, subject only to the written approval of  
49 the majority of the members of the legislative Joint Budget

1 Oversight Committee, a petition and other pleadings and papers  
2 with any United States court or federal bankruptcy court for the  
3 purpose of effecting a plan of readjustment or composition of debts  
4 as set forth in R.S.52:27-40 et seq., and taking any other and further  
5 actions necessary or appropriate in connection with any case or  
6 proceeding; and

7 (u) negotiating and executing any contracts, agreements, or  
8 other documents on behalf of the municipality in need of  
9 stabilization and recovery as may be necessary or appropriate to  
10 effectuate any of the actions or steps specifically identified in P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill) or that  
12 may otherwise, as the director deems necessary or appropriate, help  
13 stabilize the finances, restructure the debts, or assist with the  
14 financial rehabilitation and recovery of the municipality in need of  
15 stabilization and recovery.

16 (4) Subject to subsection b. of section 11 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill), the Local Finance  
18 Board may authorize the director to take any action authorized to be  
19 taken under the "Local Bond Law," N.J.S.40A:2-1 et seq., and the  
20 "Municipal Qualified Bond Act," P.L.1976, c.38 (C.40A:3-1 et  
21 seq.) by a governing body of a local unit.

22 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and  
23 regulations promulgated thereunder, shall in no way infringe on the  
24 authority of the Local Finance Board or the director set forth in this  
25 section or any actions taken by the director pursuant to this section.

26 (6) Any function, power, privilege, or immunity of the  
27 municipal governing body that is not assumed by the Local Finance  
28 Board and reallocated to and vested exclusively in the director  
29 pursuant to this section shall remain allocated to and vested in that  
30 governing body unless and until such time as the function, power,  
31 privilege, immunity, or duty may be allocated to and vested  
32 exclusively in the Local Finance Board or the director pursuant to  
33 this section. The Local Finance Board or the director may exercise  
34 any power implied or incidental to a power that has been  
35 specifically allocated.

36 b. (1) Notwithstanding the provisions of any law, rule, or  
37 regulation to the contrary, including any requirements set forth in  
38 <sup>1</sup>【chapter 49 of Title 40 of the Revised Statutes (C.40:49-1 et seq.)】  
39 R.S.40:49-1 et seq.<sup>1</sup>, the "Senator Byron M. Baer Open Public  
40 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or <sup>1</sup>【section 2 of  
41 P.L.1935, c.193 (C.52:27-41)】 R.S.52:27-41<sup>1</sup>, the director shall  
42 have the exclusive authority to pass, adopt, repeal, or amend any  
43 ordinance or resolution of the municipality in need of stabilization  
44 and recovery, modify any meeting agenda of the governing body of  
45 the municipality in need of stabilization and recovery, and  
46 negotiate, enter into, amend, or terminate any contract or  
47 agreement, on behalf of the municipality in need of stabilization  
48 and recovery, provided that the director deems the action necessary  
49 or appropriate to help stabilize the finances, restructure the debts, or

1 assist with the financial rehabilitation and recovery of the  
2 municipality in need of stabilization and recovery.

3 (2) When exercising powers under this section, the director  
4 shall, to the extent practicable, comply with all notice, hearing, and  
5 other requirements to which the municipality in need of  
6 stabilization and recovery is generally subject, but in no instance  
7 shall the director be deemed a “public body” pursuant to the  
8 "Senator Byron M. Baer Open Public Meetings Act,” P.L.1975,  
9 c.231 (C.10:4-6 et seq.).

10 (3) The director may issue to the appropriate elected and  
11 appointed officials and employees, agents, and contractors of a  
12 municipality in need of stabilization and recovery the orders that the  
13 director deems appropriate to stabilize the finances, restructure the  
14 debts, or assist the financial rehabilitation and recovery of the  
15 municipality in need of stabilization and recovery pursuant to the  
16 authority granted by the Local Finance Board pursuant to this  
17 section. Any order by the director shall be binding on the  
18 appropriate elected and appointed officials and employees, agents,  
19 and contractors of a municipality in need of stabilization and  
20 recovery and may be enforced as other orders of the director are  
21 enforced under general law.

22

23 6. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to  
24 read as follows:

25 3. a. (1) Negotiations between a public fire or police  
26 department and an exclusive representative concerning the terms  
27 and conditions of employment shall begin at least 120 days prior to  
28 the day on which their collective negotiation agreement is to expire.  
29 The parties shall meet at least three times during that 120-day  
30 period. The first of those three meetings shall take place no later  
31 than the 90th day prior to the day on which their collective  
32 negotiation agreement is to expire. By mutual consent, the parties  
33 may agree to extend the period during which the second and third  
34 meetings are required to take place beyond the day on which their  
35 collective negotiation agreement is to expire. A violation of this  
36 paragraph shall constitute an unfair practice and the violator shall  
37 be subject to the penalties prescribed by the commission pursuant to  
38 rule and regulation.

39 Prior to the expiration of their collective negotiation agreement,  
40 either party may file an unfair practice charge with the commission  
41 alleging that the other party is refusing to negotiate in good faith.  
42 The charge shall be filed in the manner, form and time specified by  
43 the commission in rule and regulation. If the charge is sustained,  
44 the commission shall order that the respondent be assessed for all  
45 legal and administrative costs associated with the filing and  
46 resolution of the charge; if the charge is dismissed, the commission  
47 shall order that the charging party be assessed for all legal and  
48 administrative costs associated with the filing and resolution of the

1 charge. The filing and resolution of the unfair practice charge shall  
2 not delay or impair the impasse resolution process.

3 (2) Whenever those negotiations concerning the terms and  
4 conditions of employment shall reach an impasse, the commission,  
5 through the Division of Public Employment Relations shall, upon  
6 the request of either party, or upon its own motion take such steps,  
7 including the assignment of a mediator, as it may deem expedient to  
8 effect a voluntary resolution of the impasse.

9 b. (1) In the event of a failure to resolve the impasse by  
10 mediation, the Division of Public Employment Relations, at the  
11 request of either party, shall invoke factfinding with  
12 recommendation for settlement of all issues in dispute unless the  
13 parties reach a voluntary settlement prior to the issuance of the  
14 factfinder's report and recommended terms of settlement.  
15 Factfindings shall be limited to those issues that are within the  
16 required scope of negotiations unless the parties to the factfinding  
17 agree to factfinding on permissive subjects of negotiation.

18 (2) Notwithstanding the provisions of paragraph (2) of  
19 subsection a. of this section or paragraph (1) of this subsection,  
20 either party may petition the commission for arbitration on or after  
21 the date on which their collective negotiation agreement expires.  
22 The petition shall be filed in a manner and form prescribed by the  
23 commission. The party filing the petition shall notify the other  
24 party of its action. The notice shall be given in a manner and form  
25 prescribed by the commission.

26 Any mediation or factfinding invoked pursuant to paragraph (2)  
27 of subsection a. of this section or paragraph (1) of subsection b. of  
28 this section shall terminate immediately upon the filing of a petition  
29 for arbitration.

30 (3) Upon the filing of a petition for arbitration pursuant to  
31 paragraph (2) of this subsection, an arbitrator selected pursuant to  
32 paragraph (1) of subsection e. of this section shall conduct an initial  
33 meeting as a mediation session to effect a voluntary resolution of  
34 the impasse.

35 c. (Deleted by amendment, P.L.2010, c.105)

36 d. The resolution of issues in dispute shall be binding  
37 arbitration under which the award on the unsettled issues is  
38 determined by conventional arbitration. The arbitrator shall  
39 determine whether the total net annual economic changes for each  
40 year of the agreement are reasonable under the nine statutory  
41 criteria set forth in subsection g. of this section and shall adhere to  
42 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-  
43 16.7). The non-petitioning party, within five days of receipt of the  
44 petition, shall separately notify the commission in writing of all  
45 issues in dispute. The filing of the written response shall not delay,  
46 in any manner, the interest arbitration process.

47 e. (1) The commission shall take measures to assure the  
48 impartial selection of an arbitrator or arbitrators from its special  
49 panel of arbitrators. On the first business day following receipt of

1 an interest arbitration petition, the commission shall, independent of  
2 and without any participation by either of the parties, randomly  
3 select an arbitrator from its special panel of arbitrators. The  
4 selection by the commission shall be final and shall not be subject  
5 to review or appeal.

6 (2) Applicants for initial appointment to the commission's  
7 special panel of arbitrators shall be chosen based on their  
8 professional qualifications, knowledge, and experience, in  
9 accordance with the criteria and rules adopted by the commission.  
10 Such rules shall include relevant knowledge of local government  
11 operations and budgeting. Appointment to the commission's special  
12 panel of arbitrators shall be for a three-year term, with  
13 reappointment contingent upon a screening process similar to that  
14 used for determining initial appointments. Arbitrators currently  
15 serving on the panel shall demonstrate to the commission their  
16 professional qualification, knowledge and experience, in accordance  
17 with the criteria and rules adopted by the commission, within one  
18 year of the effective date of this act. Any arbitrator who does not  
19 satisfactorily demonstrate such to the commission within the  
20 specified time shall be disqualified.

21 (3) Arbitrators serving on the commission's special panel shall  
22 be guided by and subject to the objectives and principles set forth in  
23 the "Code of Professional Responsibility for Arbitrators of Labor-  
24 Management Disputers [Disputes]" of the National Academy of  
25 Arbitrators, the American Arbitration Association, and the Federal  
26 Mediation and Conciliation Service.

27 (4) Arbitrators shall be required to complete annual training  
28 offered by the State Ethics Commission. Any arbitrator failing to  
29 satisfactorily complete the annual training shall be immediately  
30 removed from the special panel.

31 The commission may suspend, remove, or otherwise discipline  
32 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),  
33 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.  
34 An arbitrator who fails to render an award within the time  
35 requirements set forth in this section shall be fined \$ 1,000 for each  
36 day that the award is late.

37 f. (1) At a time prescribed by the commission, the parties shall  
38 submit to the arbitrator their final offers on each economic and non-  
39 economic issue in dispute. The offers submitted pursuant to this  
40 section shall be used by the arbitrator for the purposes of  
41 determining an award pursuant to subsection d. of this section.

42 (2) In the event of a dispute, the commission shall have the  
43 power to decide which issues are economic issues. Economic  
44 issues include those items which have a direct relation to employee  
45 income including wages, salaries, hours in relation to earnings, and  
46 other forms of compensation such as paid vacation, paid holidays,  
47 health and medical insurance, and other economic benefits to  
48 employees.

1 (3) Throughout formal arbitration proceedings the chosen  
2 arbitrator may mediate or assist the parties in reaching a mutually  
3 agreeable settlement.

4 All parties to arbitration shall present, at the formal hearing  
5 before the issuance of the award, written estimates of the financial  
6 impact of their last offer on the taxpayers of the local unit to the  
7 arbitrator with the submission of their last offer.

8 (4) Arbitration shall be limited to those subjects that are within  
9 the required scope of collective negotiations, except that the parties  
10 may agree to submit to arbitration one or more permissive subjects  
11 of negotiation.

12 (5) The decision of an arbitrator or panel of arbitrators shall  
13 include an opinion and an award, and shall be rendered within 90  
14 calendar days of the commission's assignment of that arbitrator.

15 Each arbitrator's decision shall be accompanied by a written  
16 report explaining how each of the statutory criteria played into the  
17 arbitrator's determination of the final award. The report shall  
18 certify that the arbitrator took the statutory limitations imposed on  
19 the local levy cap into account in making the award.

20 Any arbitrator violating the provisions of this paragraph may be  
21 subject to the commission's powers under paragraph (3) of  
22 subsection e. of this section. The decision shall be final and binding  
23 upon the parties and shall be irreversible, except:

24 (a) Within 14 calendar days of receiving an award, an aggrieved  
25 party may file notice of an appeal of an award to the commission on  
26 the grounds that the arbitrator failed to apply the criteria specified  
27 in subsection g. of this section or violated the standards set forth in  
28 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form  
29 and manner prescribed by the commission. In deciding an appeal,  
30 the commission, pursuant to rule and regulation and upon petition,  
31 may afford the parties the opportunity to present oral arguments.  
32 The commission may affirm, modify, correct or vacate the award or  
33 may, at its discretion, remand the award to the same arbitrator or to  
34 another arbitrator, selected by lot, for reconsideration. The  
35 commission's decision shall be rendered no later than 60 calendar  
36 days after the filing of the appeal with the commission.

37 Arbitration appeal decisions shall be accompanied by a written  
38 report explaining how each of the statutory criteria played into their  
39 determination of the final award. The report shall certify that in  
40 deciding the appeal, the commission took the local levy cap into  
41 account in making the award.

42 An aggrieved party may appeal a decision of the commission to  
43 the Appellate Division of the Superior Court.

44 (b) An arbitrator's award shall be implemented immediately.

45 (6) The parties shall share equally the costs of arbitration  
46 subject to a fee schedule approved by the commission. The fee  
47 schedule shall provide that the cost of services provided by the  
48 arbitrator shall not exceed \$ 1,000 per day. The total cost of  
49 services of an arbitrator shall not exceed \$ 10,000. If the parties

1 cancel an arbitration proceeding without good cause, the arbitrator  
2 may impose a fee of not more than \$ 500. The parties shall share  
3 equally in paying that fee if the request to cancel or adjourn is a  
4 joint request. Otherwise, the party causing such cancellation shall  
5 be responsible for payment of the entire fee.

6 g. The arbitrator shall decide the dispute based on a reasonable  
7 determination of the issues, giving due weight to those factors listed  
8 below that are judged relevant for the resolution of the specific  
9 dispute. In the award, the arbitrator or panel of arbitrators shall  
10 indicate which of the factors are deemed relevant, satisfactorily  
11 explain why the others are not relevant, and provide an analysis of  
12 the evidence on each relevant factor; provided, however, that in  
13 every interest arbitration proceeding, the parties shall introduce  
14 evidence regarding the factor set forth in paragraph (6) of this  
15 subsection and the arbitrator shall analyze and consider the factor  
16 set forth in paragraph (6) of this subsection in any award:

17 (1) The interests and welfare of the public. Among the items  
18 the arbitrator or panel of arbitrators shall assess when considering  
19 this factor are the limitations imposed upon the employer by  
20 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

21 (2) Comparison of the wages, salaries, hours, and conditions of  
22 employment of the employees involved in the arbitration  
23 proceedings with the wages, hours, and conditions of employment  
24 of other employees performing the same or similar services and  
25 with other employees generally:

26 (a) In private employment in general; provided, however, each  
27 party shall have the right to submit additional evidence for the  
28 arbitrator's consideration.

29 (b) In public employment in general; provided, however, each  
30 party shall have the right to submit additional evidence for the  
31 arbitrator's consideration.

32 (c) In public employment in the same or similar comparable  
33 jurisdictions, as determined in accordance with section 5 of  
34 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each  
35 party shall have the right to submit additional evidence concerning  
36 the comparability of jurisdictions for the arbitrator's consideration.

37 (3) The overall compensation presently received by the  
38 employees, inclusive of direct wages, salary, vacations, holidays,  
39 excused leaves, insurance and pensions, medical and hospitalization  
40 benefits, and all other economic benefits received.

41 (4) Stipulations of the parties.

42 (5) The lawful authority of the employer. Among the items the  
43 arbitrator or panel of arbitrators shall assess when considering this  
44 factor are the limitations imposed upon the employer by P.L.1976,  
45 c.68 (C.40A:4-45.1 et seq.).

46 (6) The financial impact on the governing unit, its residents, the  
47 limitations imposed upon the local unit's property tax levy pursuant  
48 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.  
49 When considering this factor in a dispute in which the public

1 employer is a county or a municipality, the arbitrator or panel of  
2 arbitrators shall take into account, to the extent that evidence is  
3 introduced, how the award will affect the municipal or county  
4 purposes element, as the case may be, of the local property tax; a  
5 comparison of the percentage of the municipal purposes element or,  
6 in the case of a county, the county purposes element, required to  
7 fund the employees' contract in the preceding local budget year with  
8 that required under the award for the current local budget year; the  
9 impact of the award for each income sector of the property  
10 taxpayers of the local unit; the impact of the award on the ability of  
11 the governing body to (a) maintain existing local programs and  
12 services, (b) expand existing local programs and services for which  
13 public moneys have been designated by the governing body in a  
14 proposed local budget, or (c) initiate any new programs and services  
15 for which public moneys have been designated by the governing  
16 body in a proposed local budget.

17 (7) The cost of living.

18 (8) The continuity and stability of employment including  
19 seniority rights and such other factors not confined to the foregoing  
20 which are ordinarily or traditionally considered in the determination  
21 of wages, hours, and conditions of employment through collective  
22 negotiations and collective bargaining between the parties in the  
23 public service and in private employment.

24 (9) Statutory restrictions imposed on the employer. Among the  
25 items the arbitrator or panel of arbitrators shall assess when  
26 considering this factor are the limitations imposed upon the  
27 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

28 h. A mediator, factfinder, or arbitrator while functioning in a  
29 mediatory capacity shall not be required to disclose any files,  
30 records, reports, documents, or other papers classified as  
31 confidential received or prepared by him or to testify with regard to  
32 mediation, conducted by him under this act on behalf of any party  
33 to any cause pending in any type of proceeding under this act.  
34 Nothing contained herein shall exempt such an individual from  
35 disclosing information relating to the commission of a crime.

36 i. The Director of the Division of Local Government Services  
37 in the Department of Community Affairs may notify the  
38 commission, through the Division of Public Employment Relations,  
39 that a municipality deemed a "municipality in need of stabilization  
40 and recovery" pursuant to section 4 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill) will not participate in  
42 any impasse procedures authorized by this section. Upon such  
43 notice, any pending impasse procedures authorized by this section  
44 shall immediately cease, and any pending petition for arbitration  
45 shall be vacated. Nothing in this subsection shall be construed to  
46 limit the scope of any general or specific powers of the Local  
47 Finance Board or the director set forth in P.L. , c. (C. )  
48 (pending before the Legislature as this bill).



1       j. The Local Finance Board may provide that any arbitration  
2 award, including but not limited to an interest arbitration award,  
3 involving a municipality deemed a “municipality in need of  
4 stabilization and recovery” pursuant to section 4 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill) shall be subject to the  
6 review and approval of the Director of the Division of Local  
7 Government Services in the Department of Community Affairs,  
8 including those on a collective negotiations agreement where the  
9 matter has been submitted to an arbitrator pursuant to law, and no  
10 such award shall be binding without the approval of the director.  
11 Nothing in this subsection shall be construed to limit the scope of  
12 any general or specific powers of the Local Finance Board or the  
13 director set forth in P.L. , c. (C. ) (pending before the  
14 Legislature as this bill).  
15 (cf: P.L.2014, c.11, s.1)

16  
17       7. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to  
18 read as follows:

19       a. Public employers, their representatives or agents are  
20 prohibited from:

21       (1) Interfering with, restraining or coercing employees in the  
22 exercise of the rights guaranteed to them by this act.

23       (2) Dominating or interfering with the formation, existence or  
24 administration of any employee organization.

25       (3) Discriminating in regard to hire or tenure of employment or  
26 any term or condition of employment to encourage or discourage  
27 employees in the exercise of the rights guaranteed to them by this  
28 act.

29       (4) Discharging or otherwise discriminating against any  
30 employee because he has signed or filed an affidavit, petition or  
31 complaint or given any information or testimony under this act.

32       (5) Refusing to negotiate in good faith with a majority  
33 representative of employees in an appropriate unit concerning terms  
34 and conditions of employment of employees in that unit, or refusing  
35 to process grievances presented by the majority representative.

36       (6) Refusing to reduce a negotiated agreement to writing and to  
37 sign such agreement.

38       (7) Violating any of the rules and regulations established by the  
39 commission.

40       b. Employee organizations, their representatives or agents are  
41 prohibited from:

42       (1) Interfering with, restraining or coercing employees in the  
43 exercise of the rights guaranteed to them by this act.

44       (2) Interfering with, restraining or coercing a public employer in  
45 the selection of his representative for the purposes of negotiations  
46 or the adjustment of grievances.

47       (3) Refusing to negotiate in good faith with a public employer,  
48 if they are the majority representative of employees in an

1 appropriate unit concerning terms and conditions of employment of  
2 employees in that unit.

3 (4) Refusing to reduce a negotiated agreement to writing and to  
4 sign such agreement.

5 (5) Violating any of the rules and regulations established by the  
6 commission.

7 c. The commission shall have exclusive power as hereinafter  
8 provided to prevent anyone from engaging in any unfair practice  
9 listed in subsections a. and b. above. Whenever it is charged that  
10 anyone has engaged or is engaging in any such unfair practice, the  
11 commission, or any designated agent thereof, shall have authority to  
12 issue and cause to be served upon such party a complaint stating the  
13 specific unfair practice charged and including a notice of hearing  
14 containing the date and place of hearing before the commission or  
15 any designated agent thereof; provided that no complaint shall issue  
16 based upon any unfair practice occurring more than 6 months prior  
17 to the filing of the charge unless the person aggrieved thereby was  
18 prevented from filing such charge in which event the 6-month  
19 period shall be computed from the day he was no longer so  
20 prevented.

21 In any such proceeding, the provisions of the Administrative  
22 Procedure Act P.L.1968, c. 410 (C. 52:14B-1 et seq.) shall be  
23 applicable. Evidence shall be taken at the hearing and filed with the  
24 commission. If, upon all the evidence taken, the commission shall  
25 determine that any party charged has engaged or is engaging in any  
26 such unfair practice, the commission shall state its findings of fact  
27 and conclusions of law and issue and cause to be served on such  
28 party an order requiring such party to cease and desist from such  
29 unfair practice, and to take such reasonable affirmative action as  
30 will effectuate the policies of this act. All cases in which a  
31 complaint and notice of hearing on a charge is actually issued by  
32 the commission, shall be prosecuted before the commission or its  
33 agent, or both, by the representative of the employee organization  
34 or party filing the charge or his authorized representative.

35 d. The commission shall at all times have the power and duty,  
36 upon the request of any public employer or majority representative,  
37 to make a determination as to whether a matter in dispute is within  
38 the scope of collective negotiations. The commission shall serve the  
39 parties with its findings of fact and conclusions of law. Any  
40 determination made by the commission pursuant to this subsection  
41 may be appealed to the Appellate Division of the Superior Court.

42 e. The commission shall adopt such rules as may be required to  
43 regulate the conduct of representation elections, and to regulate the  
44 time of commencement of negotiations and of institution of impasse  
45 procedures so that there will be full opportunity for negotiations and  
46 the resolution of impasses prior to required budget submission  
47 dates.

48 f. The commission shall have the power to apply to the  
49 Appellate Division of the Superior Court for an appropriate order

1 enforcing any order of the commission issued under subsection c. or  
2 d. hereof, and its findings of fact, if based upon substantial evidence  
3 on the record as a whole, shall not, in such action, be set aside or  
4 modified; any order for remedial or affirmative action, if reasonably  
5 designed to effectuate the purposes of this act, shall be affirmed and  
6 enforced in such proceeding.

7 g. The Director of the Division of Local Government Services  
8 in the Department of Community Affairs may notify the  
9 commission that a municipality deemed a “municipality in need of  
10 stabilization and recovery” pursuant to section 4 of P.L. \_\_\_\_\_,  
11 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) shall not  
12 be subject to the commission’s authority to prevent an unfair  
13 practice pursuant to subsection a. of this section. Upon such notice,  
14 neither the commission, nor any designee, shall have the authority  
15 to issue or cause to be served upon such municipality in need of  
16 stabilization and recovery any complaint alleging an unfair practice  
17 under subsection a. of this section or to hold any hearings with  
18 respect thereto. Nothing in this subsection shall be construed to  
19 limit the scope of any general or specific powers of the Local  
20 Finance Board or the Director set forth in P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
21 (pending before the Legislature as this bill).

22 (cf: P.L.1979, c.477, s.1)

23

24 8. (New section) In a municipality in need of stabilization and  
25 recovery, the director may prepare the annual budget or to instruct  
26 the municipal governing body to prepare and submit a proposed  
27 annual budget. If the municipal governing body is submitting a  
28 proposed annual budget, the director shall fix a date for the  
29 municipal governing body to submit that budget to the Local  
30 Finance Board, and the board may approve the budget, modify it or  
31 instruct the director to prepare an alternative budget. If the director  
32 prepares the budget, it shall be submitted to the Local Finance  
33 Board for its approval. Once a budget is approved by the Local  
34 Finance Board, the budget shall be deemed adopted.

35 a. The director shall have the authority to make temporary  
36 appropriations necessary for the period prior to the adoption of the  
37 budget, and to make emergency temporary appropriations pursuant  
38 to N.J.S.40A:4-20 to meet an urgent situation or event which  
39 immediately endangers the health, safety, or property of the  
40 residents of the municipality, and to make emergency  
41 appropriations pursuant to N.J.S.40A:4-46.

42 b. The director shall have the authority to spend money and  
43 authorize expenditures, in accordance with the approved budget or  
44 any temporary or emergency appropriations.

45

46 9. (New section) The director may delegate to the director’s  
47 designee any power granted to the Director pursuant to P.L. \_\_\_\_\_,  
48 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill). The  
49 designation to a director’s designee shall be in writing and filed

1 with the Local Finance Board. Any action of a director's designee  
2 taken subsequent to the delegation shall be deemed to have been  
3 taken by the Director. If any claims are asserted against the  
4 director's designee, the director's designee shall, for that purpose  
5 only, be considered a State officer within the scope of the "New  
6 Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

7  
8 10. (New section) In a municipality in need of stabilization and  
9 recovery, any initiative approved by the voters of the municipality  
10 pursuant to section 17-35 of P.L.1950, c.210 (C.40:69A-184) and  
11 any referendum approved pursuant to section 17-36 of P.L.1950,  
12 c.210 (C.40:69A-185) shall be advisory only and may be followed,  
13 or disregarded, by the Local Finance Board and the director in their  
14 discretion. The provisions of this section shall not apply to a  
15 referendum approved pursuant to section 11 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill).

17  
18 11. (New section) a. Notwithstanding the provisions of any law  
19 or regulation, including, without limitation, the "Local Bond Law,"  
20 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"  
21 P.L.1979, c.38 (C. 40A:3-1 et seq.), that requires the adoption of an  
22 ordinance or resolution to authorize any action of a municipality, a  
23 resolution issued by the director shall suffice in lieu of a municipal  
24 ordinance or resolution for all purposes, except for bond  
25 ordinances, in a municipality in need of stabilization and recovery.

26 b. In the case of bond ordinances in a municipality in need of  
27 stabilization and recovery, the director's resolution in lieu of such  
28 ordinances shall be published in full in a newspaper circulating in  
29 the municipality and a copy of the resolution shall be filed for  
30 public inspection with the municipal clerk of the municipality in  
31 need of stabilization and recovery. The publication of the director's  
32 resolution shall occur not less than 10 days prior to the time and  
33 place of a public hearing to be had on the resolution. The resolution  
34 shall become effective on the 45th day after the public hearing,  
35 unless:

36 (1) the resolution is modified by the director subsequent to the  
37 meeting, in which case there shall be a second public hearing on no  
38 less than 10 days' notice; or

39 (2) there is filed with the municipal clerk within 45 days of the  
40 hearing, a petition requesting a referendum in said municipality  
41 signed by either five percent or 10,000 of the registered voters of  
42 said municipality, whichever is lesser.

43 If a petition is filed, the resolution pertaining to the bond  
44 measures issued by the director shall be submitted to the registered  
45 voters of said municipality at the next general or regular municipal  
46 election and in the same manner and form as other public questions  
47 to be voted upon by voters of a single municipality.

1 12. (New section) If any provision of P.L. , c. (C. )  
 2 (pending before the Legislature as this bill) or its application is held  
 3 invalid, the invalidity shall not affect other applications of that  
 4 provision, or other provisions of P.L. , c. (C. ) (pending  
 5 before the Legislature as this bill), which reasonably can be given  
 6 effect despite the invalidity, and to this end the provisions of P.L. ,  
 7 c. (C. ) (pending before the Legislature as this bill) are  
 8 severable.

9  
 10 <sup>2</sup>13. Section 1 of P.L.1999, c.59 (C.43:8C-1) is amended to  
 11 read as follows:

12 1. As used in this act, unless the context indicates otherwise:

13 "Chief executive officer" means the mayor of a municipality, the  
 14 elected county executive of a county, the director of the board of  
 15 chosen freeholders in a county that does not have an elected county  
 16 executive, and the chairman or other presiding officer of any other  
 17 governing body.

18 "Consolidated municipality" or "municipal consolidation" means  
 19 the resultant municipal entity created after approval and adoption of  
 20 a public question in favor of consolidation pursuant to the  
 21 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et  
 22 seq.) , or a municipality in need of stabilization and recovery, as  
 23 defined by section 2 of P.L. , c. (C. ) (pending before the  
 24 Legislature as this bill), for the exclusive purposes of section 2 of  
 25 P.L.1999, c.59 (C.438C-2).

26 "Director" means the Director of the Division of Local  
 27 Government Services in the Department of Community Affairs.

28 "Governing body" means the board, commission, council or  
 29 other body having the control of the finances of a local unit; and in  
 30 those local units in which a chief executive officer is authorized by  
 31 law to participate in such control through powers of  
 32 recommendation, approval or veto, the term includes such executive  
 33 officer to the extent of such participation.

34 "Interlocal services contract" means a contract between two or  
 35 more local units for the joint provision of governmental services  
 36 pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-  
 37 1 et seq.).

38 "Joint services contract" means a contract between two or more  
 39 local units to form a joint meeting for the joint provision of  
 40 governmental services pursuant to the "Consolidated Municipal  
 41 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.).

42 "Local unit" means a municipality, consolidated municipality,  
 43 county, authority as defined in section 3 of P.L.1983, c.313  
 44 (C.40A:5A-3), joint meeting or fire district.

45 (cf: P.L.1999,c.59,s.1)]<sup>2</sup>

46  
 47 <sup>2</sup>13. (New section) a. In order to achieve financial stability, a  
 48 municipality in need of stabilization and recovery, as determined by  
 49 the commissioner pursuant to subsection a. of section 4 of P.L. ,

1 c. (C. ) (pending before the Legislature as this bill), may offer  
2 and implement an incentive program for retirement or termination  
3 of employment after approval of such incentive program by the  
4 director. The program shall be limited to full-time employees in  
5 any department, office, section, or other organizational component  
6 of the municipality in need of stabilization and recovery to achieve  
7 financial stability. The incentive program may include one or more  
8 of the following:

- 9 (1) cash payments or the purchase of annuities;  
10 (2) employer contributions to an approved employee deferred  
11 compensation program to the extent permitted by federal law;  
12 (3) payment by the municipality for continuation of health  
13 benefits coverage after retirement for not more than five years or  
14 until the employee attains the age of eligibility for Medicare,  
15 whichever occurs first;  
16 (4) payment by the municipality for health benefits coverage  
17 after retirement under the "New Jersey State Health Benefits  
18 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under  
19 group insurance contracts pursuant to N.J.S.40A:10-23, for  
20 employees and dependents in accordance with the law and rules  
21 governing the State Health Benefits Program or the law governing  
22 such group insurance contracts, as the case may be, for employees  
23 who fail to meet the service requirement for payment for such  
24 coverage after retirement by no more than five years, but who are  
25 otherwise eligible for employer payment for health benefits  
26 coverage after retirement; or  
27 (5) additional service credit for employees who are members of  
28 the Public Employees' Retirement System of New Jersey, pursuant  
29 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's  
30 Retirement System of New Jersey, pursuant to P.L.1944, c.255  
31 (C.43:16A-1 et seq.), or a municipal retirement system created  
32 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275  
33 (C.43:13-22.50 et seq.), as provided in this section.

34 b. No later than six months prior to the date on which a  
35 proposed incentive program is to begin, the municipality shall  
36 submit detailed information concerning the incentive program to the  
37 director, in a form and manner prescribed by the director, which  
38 shall include the following:

- 39 (1) the governmental services affected by the plan adopted by  
40 the municipality pursuant to subsection b. of section 4 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill);  
42 (2) the departments, offices, sections, and other organizational  
43 components of the municipality to be affected, and a list of the  
44 employees thereof;  
45 (3) the incentives to be offered;  
46 (4) the estimated number of employees who will retire or  
47 terminate employment under the incentive program;  
48 (5) fiscal information sufficient to demonstrate that the  
49 incentive program in conjunction with the plan adopted by the

1 municipality pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
2 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) will result in  
3 a reduction for the municipality in the number of employees  
4 providing the affected governmental services, including information  
5 on the number of employees by which the municipality will reduce  
6 employment for a period of at least five years;  
7 (6) fiscal information sufficient to demonstrate that, taking into  
8 consideration the costs of the incentive program, the plan adopted  
9 by the municipality pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
10 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) will result in  
11 a reduction in the cost of providing the affected governmental  
12 services for the municipality;  
13 (7) information on the fiscal stability of the municipality  
14 sufficient to demonstrate that the municipality will be able to pay  
15 the costs for the incentive program which will result in net savings  
16 and shall not necessitate any increase in property taxes for the  
17 municipality;  
18 (8) information sufficient to demonstrate that the municipality  
19 will continue to provide the affected governmental services without  
20 the number of employees that are expected to take the incentive;  
21 and  
22 (9) any other information which the director may require.  
23 c. The director may, for good cause, permit a municipality to  
24 submit information without complying with the time period for  
25 submission of information or which does not conform to the  
26 specific informational requirements of this section.  
27 d. The director shall provide to the Director of the Division of  
28 Pensions and Benefits in the Department of the Treasury sufficient  
29 information relating to the incentive program so that the Director of  
30 the Division of Pensions and Benefits may provide to the director:  
31 (1) an estimate of the anticipated liability of the affected  
32 retirement systems;  
33 (2) a determination of whether the incentive program is  
34 reasonably calculated to produce a reduction in the number of  
35 employees of the municipality; and  
36 (3) taking into consideration the liability for the incentive  
37 program, an estimate of the net savings in the employment costs to  
38 provide the affected governmental services.  
39 e. In order to make the calculation required by paragraph (2) of  
40 subsection d. of this section, the Director of the Division of  
41 Pensions and Benefits in the Department of the Treasury shall  
42 submit the proposed incentive program to the actuary of each  
43 retirement system which would be affected by the incentive  
44 program. Each actuary shall estimate the additional liability to the  
45 retirement system for the incentive program, including the liability  
46 for the additional service credit and the earlier retirement of  
47 employees under the incentive program. Each actuary shall provide  
48 the Director of the Division of Pensions and Benefits with an  
49 opinion on whether the incentive program is reasonably calculated

1 to produce a reduction in the number of employees of the  
2 municipality providing the affected governmental services, and a  
3 net savings, taking into consideration the liability for the incentive  
4 program, in the employment costs to provide the affected  
5 governmental services. The State shall conduct the actuarial work  
6 required by this subsection at no charge to the municipality.

7 f. If the incentive program includes the provision of additional  
8 service credit under State retirement systems for eligible  
9 employees, the beginning and ending dates for the incentive  
10 program and the time period during which the eligible employees  
11 will have to elect to participate in the incentive program shall be  
12 subject to approval by the Director of the Division of Pensions and  
13 Benefits in the Department of the Treasury.

14 g. If the director determines that the incentive program will  
15 result in the municipality continuing to provide the affected  
16 governmental services with fewer employees and at a lower cost,  
17 and that the incentive program will result in net savings and will not  
18 necessitate any increase in local property taxes for the municipality,  
19 the director shall approve the incentive program for  
20 implementation.

21 h. For employees who are members of the Police and Firemen's  
22 Retirement System of New Jersey, pursuant to P.L.1944, c.255  
23 (C.43:16A-1 et seq.), an incentive program for retirement may  
24 provide additional months of service credit for an employee who  
25 has 20 or more years of service credit on the last day for retirement  
26 under the incentive program, so that the employee shall have an  
27 aggregate amount of service credit under the retirement system of  
28 no more than 30 years on the effective date of retirement. In no  
29 case shall more than 60 months of additional service credit be  
30 provided under the incentive program.

31 i. For employees who are members of the Public Employees'  
32 Retirement System of New Jersey, pursuant to P.L.1954, c.84  
33 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive  
34 program for retirement may provide not more than 60 additional  
35 months of service credit for an employee who has 20 or more years  
36 of service credit on the last day for retirement under the incentive  
37 program.

38 j. An incentive program may require one or more of the  
39 following criteria: a minimum number of years of service credit in a  
40 retirement system, a minimum number of years of service with the  
41 municipality, or a minimum age for eligibility to participate in the  
42 program.

43 k. An employee who receives an incentive benefit for  
44 retirement or termination of employment under this section shall  
45 forfeit any tenure, civil service, or other employment right for  
46 continued employment or for return to employment based upon the  
47 employment for which the employee receives the incentive benefit.

48 l. When the needs of the municipality require the continuation  
49 in service of an employee who elects to retire and receive an



1 incentive benefit under this section, the effective retirement date of  
2 the employee may be delayed, with the approval of the governing  
3 body of the municipality and the agreement of the employee, until  
4 the first day of any month not later than the twelfth month after the  
5 last date for retirement under the incentive program. If an  
6 employee whose retirement is delayed under this subsection dies  
7 before the retirement becomes effective, the retirement shall be  
8 effective on the first day of the month after the date of death of the  
9 employee, unless the employee's beneficiary for retirement benefits  
10 requests in writing to the board of trustees of the retirement system  
11 that benefits payable for death in active service be paid on behalf of  
12 the employee.

13 m. An employee retiring with an incentive benefit under this  
14 section who has not paid the full amount of a loan from the  
15 retirement system by the effective date of retirement may repay the  
16 loan through deductions from the monthly retirement benefits in the  
17 same monthly amount which was deducted from the member's  
18 compensation immediately preceding retirement, until the balance  
19 of the amount borrowed with interest at the statutory rate is repaid.  
20 If the retiree dies before the outstanding balance of the loan and  
21 interest is repaid, the remaining balance shall be repaid as provided  
22 in the laws governing the retirement system for repayment of loans.

23 n. Notwithstanding the provisions of the laws governing the  
24 retirement system, an employee purchasing service credit to qualify  
25 for a benefit under this section <sup>3</sup>may<sup>3</sup>, for each affected retirement  
26 system, purchase a portion of the service credit which the employee  
27 is eligible to purchase.

28 o. If the incentive program is approved and implemented, the  
29 actuary to the affected retirement system shall determine the full  
30 amount of the liability of the retirement system for the incentive  
31 program including the liability for the additional service credit and  
32 the earlier retirement of employees under the incentive program in  
33 accordance with the assumptions used by the retirement system to  
34 determine the full liabilities of the system. The municipality shall  
35 pay the amount of the liability determined by the actuary to the  
36 retirement system in a lump sum or through annual installment  
37 payments with regular interest at the rate used by the retirement  
38 system to determine liabilities and to estimate investment return for  
39 a period approved by the Director of the Division of Pensions and  
40 Benefits in the Department of the Treasury which shall not exceed  
41 15 years. The municipality shall pay the cost for the actuarial work  
42 to determine the full liability of the retirement system if the  
43 incentive program is approved and implemented. If the  
44 municipality does not make payments for the liability, the cost of  
45 the actuarial work, and administrative expenses in a timely manner,  
46 the municipality shall be subject to interest and penalties on the  
47 payments on the same basis provided for late payment of employer  
48 contributions to the retirement system under the laws and rules  
49 governing the retirement system.

1       p. The Director of the Division of Pensions and Benefits in the  
2 Department of the Treasury shall provide the municipality with  
3 information on the estimated liability for the proposed incentive  
4 program, and actual liability if the program is approved and  
5 implemented. If the program provides additional service credit to  
6 employees under the Public Employees' Retirement System of New  
7 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the  
8 Police and Firemen's Retirement System of New Jersey, pursuant to  
9 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the  
10 eligible employees of the municipality with information on the  
11 benefits they would receive under the incentive program, and other  
12 appropriate assistance, to enable employees to decide whether to  
13 accept the incentive benefit and retire from the retirement systems if  
14 they accept the incentive benefit.

15       q. The powers, duties, and responsibilities related to retirement  
16 systems under this section for municipal retirement systems shall be  
17 exercised and performed by the governing bodies of the retirement  
18 systems.

19       r. Prior to the beginning date of the incentive program,  
20 appropriate representatives of the governing body of the  
21 municipality which implements an incentive program pursuant to  
22 this section shall meet and consult with the majority representative  
23 of the bargaining unit or units which include the employees of the  
24 municipality who would be eligible for the incentive program.

25       s. For a period of five years after the last date for retirement or  
26 termination of employment under an incentive program  
27 implemented pursuant to this section, the employment level of the  
28 municipality for the provision of governmental services previously  
29 performed by employees that participated in the incentive program  
30 shall not, without the approval of the director, exceed the  
31 employment level specified in the incentive program approved by  
32 the director. The director may approve an increase in the  
33 employment level to provide the affected governmental services if  
34 the director determines that:

35       (1) changes in local conditions such as increased residential or  
36 commercial development, increased population, or other changes,  
37 have created an increased need or demand for the affected  
38 governmental services; and

39       (2) an increase in the employment level for the affected  
40 governmental services is warranted and will provide for the delivery  
41 of governmental services in an effective and cost efficient manner.  
42 The municipality shall submit annual reports to the director for five  
43 years after the last date for retirement or termination of employment  
44 under an incentive program implemented pursuant to this section, in  
45 the form and manner required by the director, concerning the  
46 number of employees and the employment costs to provide the  
47 affected governmental services.

48       t. If the municipality exceeds the employment levels under  
49 subsection s. of this section, it shall be required by the director to

1 reimburse the Division of Pensions and Benefits in the Department  
 2 of the Treasury for the costs of the actuarial work performed for the  
 3 municipality pursuant to subsection e. of this section, as determined  
 4 by the director of that division.<sup>2</sup>

5  
 6 14. (New section) The enumeration of any specific power or  
 7 authority granted to the Local Finance Board or the director  
 8 pursuant to P.L. , c. (C. ) (pending before the Legislature  
 9 as this bill) shall not be construed to limit or restrict in any way the  
 10 general authorities granted by P.L. , c. (C. ) (pending  
 11 before the Legislature as this bill) to the Local Finance Board or the  
 12 director to take actions necessary or appropriate to help stabilize the  
 13 finances, restructure the debts, or assist with the financial  
 14 rehabilitation and recovery of the municipality in need of  
 15 stabilization and recovery.

16  
 17 15. (New section) P.L. , c. (C. ) (pending before the  
 18 Legislature as this bill) shall be construed liberally to give effect to  
 19 its intent that severe fiscal distress in municipalities in need of  
 20 stabilization and recovery shall be addressed and corrected. <sup>3</sup>【The  
 21 authorities granted to the director herein are intended to supplement  
 22 authority provided in the “Local Government Supervision Act  
 23 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) and other  
 24 applicable laws. To the extent any inconsistency exists between the  
 25 terms of P.L. , c. (C. ) (pending before the Legislature as  
 26 this bill) and other applicable laws, the terms of P.L. , c. (C. )  
 27 (pending before the Legislature as this bill) shall prevail.】<sup>3</sup>

28  
 29 <sup>3</sup>16. (New section) The authorities granted to the director in  
 30 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 31 are intended to supplement authority provided in the “Local  
 32 Government Supervision Act (1947),” P.L.1947, c.151 (C.52:27BB-  
 33 1 et seq.) and other applicable laws. To the extent any  
 34 inconsistency exists between the terms of P.L. , c. (C. )  
 35 (pending before the Legislature as this bill) and other applicable  
 36 laws, the terms of P.L. , c. (C. ) (pending before the  
 37 Legislature as this bill) shall prevail.<sup>3</sup>

38  
 39 <sup>3</sup>【16.】 <sup>3</sup>17. (New section) The director or the director’s  
 40 designee shall attend the regularly scheduled meetings of the  
 41 municipal council in a municipality in need of stabilization and  
 42 recovery. On or before the first day of the sixth year next following  
 43 the determination that a municipality is in need of stabilization and  
 44 recovery pursuant to section 4 of P.L. , c. (C. ) (pending  
 45 before the Legislature as this bill), the director shall provide a final  
 46 report to the Governor and Legislature regarding the municipality in  
 47 need of stabilization and recovery.

1       <sup>3</sup>~~17.~~ <sup>18.</sup> (New section) The State Treasurer, in consultation  
2 with the commissioner, shall direct the Director of the Division of  
3 Budget and Accounting to transfer appropriations from any State  
4 department to any other State department as may be necessary to  
5 provide a secured loan, for the exclusive purpose of covering  
6 expenses of the municipality during the 2016 calendar year, and for  
7 a term not to exceed 180 days, to a municipality for which a  
8 recovery plan is required under section 4 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) to be submitted to the  
10 director on such terms and conditions that may be required by the  
11 commissioner.<sup>2</sup>

12  
13       <sup>3</sup>~~18.~~ <sup>19.</sup> (New section) Notwithstanding any law, rule, or  
14 regulation to the contrary, the amount of consolidated municipal  
15 property tax relief aid and energy tax receipts property tax relief aid  
16 paid to a municipality in need of stabilization and recovery shall not  
17 be less than the amount certified for the municipality in the  
18 Certification of State Aid for Calendar Year 2016 and Fiscal Year  
19 2017 Budgets issued by the Division of Local Government Services  
20 in the Department of Community Affairs.<sup>2</sup>

21  
22       <sup>2</sup>~~17.~~ <sup>3</sup>~~19.~~ <sup>20.</sup> This act shall take effect immediately <sup>2</sup>but  
23 shall remain inoperative until the enactment of P.L. , c. (C. )  
24 (pending before the Legislature as Senate Bill No.1715 of 2016, as  
25 amended).<sup>2</sup>

26

27

28

29       The “Municipal Stabilization and Recovery Act.”