LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5590
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 20, 2021

SUMMARY

Synopsis: Extends period of municipal stabilization and recovery, with certain modifications, under "Municipal Stabilization and Recovery Act."

Type of Impact: Multi-year increase in State costs.
Multi-year impact on municipal costs.

Agencies Affected: Departments of Community Affairs; Department of the Treasury, and the City of Atlantic City

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost Increase		Indeterminate	
Local Cost Impact		Indeterminate	

- The Office of Legislative Services (OLS) concludes that the State will incur additional costs over a multi-year period related to its oversight functions under the Municipal Stabilization and Recovery Act because the bill extends the monitoring period from five years to nine years.

- Provisions of the bill restoring civil service protections to municipal employees and removing the suspension of certain elements of the New Jersey Employer-Employee Relations Act would have an indeterminate effect on municipal finances. The impact of these portions of the bill will be determined by future State and municipal actions.

- The repeal of a statutory provision authorizing Atlantic City to offer an early retirement incentive (ERI) program will have no fiscal impact because no such program has been implemented.

BILL DESCRIPTION

The bill amends the Municipal Stabilization and Recovery Act (P.L.2016, c.4) to extend to nine years the length of the period of State monitoring to which a municipality determined by the Commissioner of Community Affairs to be in need of stabilization and recovery is to be subject.

The Act authorizes the Local Finance Board, through the Director of the Division of Local Government Services, to exercise municipal powers and functions that are, or may be, substantially related to the fiscal condition or financial rehabilitation of a municipality in need of stabilization and recovery. Most notably, the director may dissolve local departments and agencies; dispose of municipally-owned assets; amend or terminate existing contracts (excluding financial instruments); hire, terminate, and transfer personnel; enter into shared services agreements; and modify the terms of collective negotiations agreements to which the municipality is a party. The Local Finance Board may empower the director to retain professional staff and bond counsel, and exercise municipal redevelopment powers.

The bill also provides that certain provisions of law pertaining to unfair labor practices and impasse procedures and arbitration awards enacted as part of the Act shall not be applicable after the original five-year period of stabilization and recovery required under that law. The bill also restores civil service protections removed by the Act.

Finally, the bill repeals a section of the Act, which permits a municipality in need of stabilization and recovery to use early retirement incentives as a mechanism to stabilize its finances, restructure its debts, or assist its financial rehabilitation and recovery.

The only municipality under State control pursuant to the Act is the City of Atlantic City. On June 6, 2016, the Commissioner of Community Affairs determined that the City of Atlantic City constituted a municipality in need of stabilization and recovery. This commissioner's determination was based on a review of the city's property tax ratable base and outstanding debt portfolio. Atlantic City's proposed recovery plan was rejected by the commissioner on November 1, 2016. On November 9, 2016, the Local Finance Board adopted a resolution granting the Director of the Division of Local Government Services broad authority to manage Atlantic City's municipal affairs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

When considered in its entirety, the OLS estimates that enactment of the bill will result in an indeterminate increase in State costs and have an indeterminate impact on local costs. The repeal of a provision of the Act authorizing Atlantic City to offer an early retirement incentive (ERI) program will have no fiscal impact because no such program has been implemented.

State Oversight Costs

To the extent that the State incurs any ongoing expenses related to the exercise of its authority over Atlantic City's municipal governmental functions, these costs will continue for the remainder of the State monitoring period under the Act. Because these costs will be incurred over a longer period of time, the State will experience an increase in expenditures. The State may also incur additional one-time costs associated with the exercise of its oversight functions. Any increase in State costs will be temporally limited as the bill provides that the State may exercise its discretionary powers under the Act for up to an additional four years. A municipality in need of stabilization and recovery is subject to the terms of the Act until the first day of the 61st month

following its adoption (December 1, 2021). This bill lengthens the State monitoring period for an additional four years, until December 1, 2025.

Provisions Regarding Civil Service and Collective Negotiations

As noted above, these provisions of the bill may result in an indeterminate net impact on local costs, to be determined by future State and local actions.

The Act suspends municipal participation in any impasse procedures established by the New Jersey Employer-Employee Relations Act and exempts a municipality in need of stabilization and recovery from the Public Employment Relations Commission's authority to prevent unfair practices. The Local Finance Board may require that any interest arbitration award be subject to review and approval of the director and that no such award is binding without the director's approval. The Act also permits the director to terminate and transfer personnel without regard to the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

The bill provides that certain provisions of the New Jersey Employer-Employee Relations Act suspended by P.L.2016 c.4 would now apply to a municipality in need of stabilization recovery on the first day of the sixth year next following the determination that a municipality is need of stabilization and recovery (January 1, 2022). The bill also provides that the provisions of Title 11A, Civil Service, of the New Jersey Statutes, will apply to employment actions taken by the director pursuant to the Act.

The restoration of these provisions may result in an indeterminate increase in local costs. Atlantic City may incur additional costs related to legal and administrative proceedings to resolve complaints of unfair labor practices and to engage in negotiations with collective bargaining units representing police and fire employees through the interest arbitration process. The OLS cannot determine whether any interest arbitration award issued by an arbitrator would result in an increase in municipal costs than may be otherwise incurred through the regular collective bargaining process. Insofar as the restoration of protections provided to municipal employees under the State's civil service laws results in additional administrative or legal proceedings that would not otherwise occur under current law, Atlantic City may experience an increase in expenditures.

Although the bill allows Atlantic City to utilize the New Jersey Employer-Employee Relations Act, the director continues to act as the sole agent in collective negotiations on behalf of the municipality. The extension of the State monitoring period under the bill also continues the director's authority to unilaterally modify, amend, or terminate collective negotiations agreements, except those related to the Atlantic City School District, provided that any of these actions are directly related to stabilizing the finances or assisting with the city's fiscal rehabilitation and recovery. Accordingly, the extension of State oversight authorized by the bill may limit the fiscal impact of these provisions.

Retirement Incentive Program

As noted above, the repeal of a provision of the Act authorizing Atlantic City to offer an early retirement incentive (ERI) program will have no fiscal impact because no such program has been implemented.

The bill repeals a provision of P.L.2016, c.4 authorizing Atlantic City to offer and implement an ERI after the approval of an incentive program by the director. The bill also eliminates a provision of law requiring the State to offer an early retirement incentive program to public safety department employees in a municipality in need of stabilization and recovery prior to subjecting those employees to a layoff plan (see P.L.2017, c.232). Under the Act, a municipality in need of stabilization and recovery may offer and implement an ERI in order to achieve financial stability and reduce its employee head count. Any liability to a pension system affected by an ERI must be repaid by the municipality, without interest, over a maximum term of ten years. The repeal of

these provisions would have no fiscal impact because the City of Atlantic City has not implemented any retirement incentive programs.

Information available through Atlantic City's Five-Year Recovery Plan, prepared in 2016, indicates that the city evaluated the potential fiscal impact of an ERI offered to employees who were members of the Police and Firemen's Retirement System (PFRS). Atlantic City did not further advance the ERI proposal because the projected costs of the enhanced pension benefits offered through the ERI were greater than the estimated salary savings that would accrue to the city. The Five-Year Recovery Plan did not include any detailed information regarding the total cost of an ERI for PFRS employees and did not count any potential ERI savings towards the Atlantic City's projected budget deficit. The Five-Year Recovery Plan was rejected by the Commissioner of Community Affairs and an ERI has not been implemented.

In 2017, the PFRS actuary prepared an analysis of the potential additional pension liabilities that would be incurred due to the implementation of an ERI by Atlantic City, effective July 1, 2017. Under the proposed ERI, PFRS members with 20 or more years of service credit, but less than 25 years of service credit as July 1, 2017 would have been eligible to receive up to 60 months of pension service credit. In no event would a member's total service credit exceed 25 years. Based on those parameters, 84 PFRS members were identified as eligible to participate in the proposed ERI.

The proposed ERI presented an additional liability to PFRS comprised of two components: (1) acceleration of benefit payments due to members leaving PFRS earlier than anticipated by the valuation assumptions at that time; and (2) the benefit enhancement of providing additional service to reach 25 years of service credit as of July 1, 2017. The estimated total pension liabilities ranged from $23.8 million to $47.4 million, depending the length of time required for the city to repay the additional liabilities to the pension system. The analysis did not estimate the additional employer costs associated with retiree health benefits or terminal leave payments, nor did it provide any analysis regarding the salary replacement in connection with the hiring of new employees to replace PFRS members who opted to retire under the ERI.

Section:	*Revenue, Finance, and Appropriations*
Analyst:	*Scott A. Brodsky* *Principal Fiscal Analyst*
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).