

P.L. 2021, CHAPTER 124, *approved June 24, 2021*
Assembly, No. 5590 (*First Reprint*)

1 **AN ACT** concerning certain municipalities confronted by severe
2 fiscal distress and amending and repealing various parts of the
3 statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 4 of P.L.2016, c.4 (C.52:27BBBB-4) is amended to
9 read as follows:

10 4. a. The director may ascertain whether a municipality should
11 be deemed a municipality in need of stabilization and recovery. If
12 the director ascertains that a municipality should be deemed a
13 municipality in need of stabilization and recovery, the director shall
14 recommend that the commissioner make that determination. Within
15 7 days of receipt of the director's recommendation, the
16 commissioner shall make the final determination of whether to
17 deem the municipality a municipality in need of stabilization and
18 recovery and subject to the provisions of P.L.2016, c.4
19 (C.52:27BBBB-1 et al.). The commissioner shall notify the
20 Governor, the State Treasurer, and the director when a
21 determination has been made and a municipality is subject to the
22 provisions of P.L.2016, c.4 (C.52:27BBBB-1 et al.). The director
23 shall then notify the municipal clerk, or other appropriate municipal
24 official of the municipality, in writing, of the determination. A
25 municipality in need of stabilization and recovery shall be subject to
26 the provisions of P.L.2016, c.4 (C.52:27BBBB-1 et al.) until the
27 end of the recovery plan adopted pursuant to subsection b. of this
28 section and approved by the commissioner pursuant to subsection c.
29 of this section, or until the first day of the **[61st]** 109th month next
30 following the date on which the municipality becomes subject to the
31 requirements and provisions of sections 5 through 11, 14, 16, and
32 17 of P.L.2016, c.4 (C.52:27BBBB-5 et al.), as applicable.

33 b. Not later than 150 days next following the commissioner's
34 final determination that a municipality is in need of stabilization
35 and recovery, the governing body of the municipality in need of
36 stabilization and recovery shall prepare and adopt a resolution
37 containing a **[five-year]** nine-year recovery plan, commencing on
38 the first day of the first fiscal year of the municipality next
39 following the enactment of P.L.2016, c.4 (C.52:27BBBB-1 et al.),
40 that is sufficient to effectuate the financial stability of the
41 municipality. The recovery plan shall establish processes and

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:

¹Senate SCU committee amendments adopted June 10, 2021.

1 identify specific actions undertaken by the municipality following
2 the determination that it is a municipality in need of stabilization
3 and recovery pursuant to subsection a. of this section, and actions to
4 be undertaken by the municipality if the recovery plan is approved
5 pursuant to subsection c. of this section. The recovery plan shall
6 include a proposed balanced budget for the first fiscal year of the
7 municipality next following the enactment of P.L.2016, c.4
8 (C.52:27BBBB-1 et al.), which shall be consistent with the "Local
9 Budget Law," N.J.S.40A:4-1 et seq., except as otherwise stated in
10 this subsection. There shall be no requirement for the proposed
11 balanced budget to identify amounts outstanding, including accrued
12 interest, on any obligation to the State of New Jersey, including any
13 office, department, division, bureau, board, commission, or agency
14 of the State, for deferred pension and health benefit payments for
15 the first fiscal year of the municipality prior to the enactment of
16 P.L.2016, c.4 (C.52:27BBBB-1 et al.). For the purposes of the
17 proposed budget prepared pursuant to this subsection, the
18 municipality in need of stabilization and recovery is not required to
19 appropriate the total amount necessary for the extinguishment of all
20 outstanding property tax appeal debt. For the purposes of the
21 proposed budget prepared pursuant to this subsection, the
22 municipality in need of stabilization and recovery shall identify and
23 account for the loss in revenue from any anticipated set-offs arising
24 from all such property tax appeal debt or identify and appropriate
25 for any amounts owed in the first fiscal year of the municipality
26 next following the enactment of P.L.2016, c.4 (C.52:27BBBB-
27 1 et al.) for the continued repayment of debts related to all property
28 tax appeals settled by the municipality. To effectuate financial
29 stability, in addition to the proposed balanced budget, the recovery
30 plan shall include detailed processes to:

31 (1) achieve sustainable net reductions in the municipality's
32 general appropriations to be commensurate with revenues
33 anticipated in the proposed budget;

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

38 (3) ensure that the municipality remits to the school district
39 serving the municipality the full amount of all property taxes or
40 payments in lieu of property taxes owed by law to the school
41 district on the dates the payments are due;

42 (4) schedule for the repayment of debts, including any accrued
43 interest, as of the date of the commissioner's determination pursuant
44 to subsection a. of this section, including, without limitation, any
45 money owed to the State of New Jersey, including any office,
46 department, division, bureau, board, commission, or agency of the
47 State, for deferred pension and health benefits payments;

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

7 (6) account for future payments on any off balance sheet
8 liabilities of the municipality known to the municipality as of the
9 date of the commissioner's determination pursuant to subsection a.
10 of this section;

11 (7) ensure the repayment of the loan in accordance with section
12 18 of P.L.2016, c.4 (C.52:27BBBB-16), including accrued interest;
13 and

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

17 c. The recovery plan shall be submitted by the governing body
18 to the commissioner. The commissioner, within five business days
19 next following the day of receipt of the plan, shall determine, in the
20 commissioner's sole and exclusive discretion, whether the recovery
21 plan is likely or is not likely to achieve financial stability for the
22 municipality. If the commissioner determines that the recovery
23 plan is likely to achieve financial stability for the municipality, the
24 plan shall be effective and the provisions of sections 5 through 11,
25 14, 16, and 17 of P.L.2016, c.4 (C.52:27BBBB-5 through
26 C.52:27BBBB-9, C.52:27BBBB-12, C.52:27BBBB-14, and
27 C.52:27BBBB-15) shall not be applicable with respect to the
28 municipality in need of stabilization and recovery. If the
29 commissioner determines that the recovery plan is likely to achieve
30 financial stability for the municipality, the plan shall be
31 implemented beginning on the first day of the first fiscal year of the
32 municipality next following the enactment of P.L.2016, c.4
33 (C.52:27BBBB-1 et al.) and the municipality in need of
34 stabilization and recovery shall strictly comply with the recovery
35 plan. If the commissioner determines that the plan is not likely to
36 achieve financial stability for the municipality, if the municipality
37 fails to submit a plan, if the commissioner determines that the
38 municipality is not strictly complying with a recovery plan
39 approved by the commissioner pursuant to this subsection, or if the
40 commissioner determines that a recovery plan approved by the
41 commissioner pursuant to this subsection is no longer likely to
42 achieve financial stability, the municipality shall be immediately
43 subject to the requirements and provisions of sections 5 through 11,
44 14, 16, and 17 of P.L.2016, c.4 (C.52:27BBBB-5 et al.) for as long
45 as the municipality is deemed a municipality in need of stabilization
46 and recovery.

47 (cf: P.L.2016, c.4, s.4)

1 2. Section 5 of P.L.2016, c.4 (C.52:27BBBB-5) is amended to
2 read as follows:

3 5. a. (1) Notwithstanding the provisions of any law, rule, or
4 regulation to the contrary, if the municipality in need of stabilization
5 and recovery fails to submit a plan, if the commissioner has
6 determined pursuant to subsection c. of section 4 of P.L.2016, c.4
7 (C.52:27BBBB-4) that the recovery plan is not likely to achieve
8 financial stability for the municipality in need of stabilization and
9 recovery, if the commissioner determines that the municipality is not
10 strictly complying with a recovery plan approved by the commissioner
11 pursuant to subsection c. of section 4 of P.L.2016, c.4 (C.52:27BBBB-
12 4), or if the commissioner determines that a recovery plan approved by
13 the commissioner pursuant to subsection c. of section 4 of P.L.2016,
14 c.4 (C.52:27BBBB-4) is no longer likely to achieve financial stability,
15 the Local Finance Board may, in its exclusive discretion at any time
16 during which the municipality is deemed a municipality in need of
17 stabilization and recovery, assume and reallocate to, and vest
18 exclusively in the director any of the functions, powers, privileges, and
19 immunities of the governing body of that municipality set forth in any
20 statute, regulation, ordinance, resolution, charter, or contract to which
21 the municipality is a party that are, or may be, substantially related to
22 the fiscal condition or financial rehabilitation and recovery of that
23 municipality. The duration of the transfer of the functions, powers,
24 privileges, and immunities of the governing body shall not exceed the
25 duration of the time the municipality is deemed a municipality in need
26 of stabilization and recovery.

27 (2) In the event the Local Finance Board assumes and reallocates
28 to the director any function, power, privilege, or immunity of the
29 governing body of a municipality in need of stabilization and recovery
30 set forth in a contract to which that municipality is a party, the
31 municipality shall remain the party to the contract and neither the
32 Local Finance Board nor the director shall assume any contractual
33 obligations or liability arising out of that contract or be subject to any
34 claim for breach of that contract or any other claim related to that
35 contract. Any actions or steps taken by the director under P.L.2016,
36 c.4 (C.52:27BBBB-1 et al.) shall be deemed to be by, and on behalf of,
37 the municipality in need of stabilization.

38 (3) The authorities granted to the director by the Local Finance
39 Board pursuant to this section shall extend to any and all actions that,
40 in the exclusive discretion of the director, may help stabilize the
41 finances, restructure the debts, or assist in the financial rehabilitation
42 and recovery of the municipality in need of stabilization and recovery.
43 Notwithstanding the provisions of any other law, rule, regulation, or
44 contract to the contrary, except for the provisions of Title 11A, Civil
45 Service ¹as may be applicable to actions taken after the effective date
46 of P.L. , c. (C.) (pending before the Legislature as this bill)¹,
47 the director shall have the authority to take any steps to stabilize the
48 finances, restructure the debts, or assist in the financial rehabilitation

- 1 and recovery of the municipality in need of stabilization and recovery,
2 including, but not limited to:
- 3 (a) implementing governmental, administrative, and operational
4 efficiency and oversight measures;
- 5 (b) dissolving, terminating, transferring, abolishing, or otherwise
6 disposing of any municipal authority, board, commission, or
7 department, or any function thereof; provided, however, that no such
8 action shall be taken until adequate provision has been made for the
9 payment of the creditors or obligees of the entity to be impacted unless
10 otherwise permitted by law. This shall include the power to take any
11 steps required of the governing body under applicable laws, including
12 but not limited to the "municipal and county utilities authorities law,"
13 P.L.1957, c.183 (C.40:14B-1 et seq.), the "Local Authorities Fiscal
14 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), the "Water
15 Infrastructure Protection Act," P.L.2015, c.18 (C.58:30-1 et seq.), the
16 "Local Redevelopment and Housing Law," P.L.1992, c.79
17 (C.40A:12A-1 et seq.), and the "Municipal Land Use Law," P.L.1975,
18 c.291 (C.40:55D-1 et seq.). To the extent that the Local Finance
19 Board or the director exercise any powers under the "Local Authorities
20 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) with
21 respect to any municipal authority or municipal public utility in the
22 municipality in need of stabilization and recovery;
- 23 (c) vetoing the minutes of the governing body of the municipality
24 in need of stabilization and recovery, any board, commission, or
25 department of the municipality in need of stabilization and recovery,
26 and any independent board or authority in the municipality in need of
27 stabilization and recovery, including, but not limited to, the housing
28 authority, parking authority, redevelopment authority, planning board,
29 and zoning board of adjustment. A true copy of the minutes of every
30 meeting of the governing body and any board, commission,
31 department, or independent board, or authority shall be delivered
32 forthwith, by and under the certification of the secretary thereof, to the
33 director. No action taken at the meeting shall have force or effect until
34 15 business days after a copy of the minutes have been so delivered to
35 the director, unless during this 15-day period the director shall approve
36 in writing the minutes or any part thereof, in which case the action
37 shall become effective upon approval. If, within that 15-day period,
38 the director returns a copy of the minutes with a veto of any action
39 taken by the governing body, board, commission, department, or
40 independent board or authority, or any member thereof at the meeting,
41 the action shall be null and void and of no effect. The director may
42 approve all or part of the action taken at a meeting;
- 43 (d) controlling litigation and the municipality's legal affairs,
44 including, but not limited to, suing in the municipality's corporate
45 name; prosecuting, defending, and resolving litigation, arbitration,
46 disputes, and controversies; and retaining and directing municipal
47 corporation counsel and other special counsel as the director may
48 deem appropriate;

1 (e) selling, conveying, leasing, monetizing, or otherwise disposing
2 of any interest in any municipally-owned assets, including but not
3 limited to, any water, sewer, wastewater, and storm water
4 infrastructure, equipment or facilities, services, and in any real
5 property, including any improvements thereon; provided that the
6 director shall not sell, convey, lease, monetize, or otherwise dispose of
7 any municipally-owned water asset pursuant to an agreement with a
8 private entity until one year after the effective date of P.L.2016, c.4
9 (C.52:27BBBB-1 et al.) to allow the municipality in need of
10 stabilization and recovery to maximize the value of that asset;

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

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

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

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

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

44 (k) unilaterally appointing, transferring, or removing employees of
45 the municipality in need of stabilization and recovery, including, but
46 not limited to, department heads and division heads, as the case may
47 be, but excluding appointed officials who have obtained tenure in
48 office; **【**provided, however, that the provisions of Title 11A, Civil

1 Service, shall not apply to any employment action under this
2 paragraph, and that the director shall not remove employees from a
3 public safety department unless the employees of the department have
4 been offered a retirement incentive plan, in writing, pursuant to section
5 13 of P.L.2016, c.4 (C.52:27BBB-11);**】**

6 (l) acting as the appropriate authority, including, without
7 limitation, the appointing authority, for purposes of Title 40A of the
8 New Jersey Statutes;

9 (m) entering into any agreement with the county in which the
10 municipality in need of stabilization and recovery is located, any of the
11 other municipalities located in that county, or any instrumentality of
12 the State to share or consolidate municipal services pursuant to any
13 law applicable to consolidation or sharing of services, including,
14 without limitation, the "Uniform Shared Services and Consolidation
15 Act," P.L.2007, c.63 (C.40A:65-1 et al.) and P.L.2015, c.279
16 (C.40A:14-90.1 et al.);

17 (n) procuring any goods, services, commodities, information
18 technology, software, hardware, or other items on behalf of the
19 municipality in need of stabilization and recovery, in accordance with
20 either the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1
21 et seq.), or procurement laws applicable to the State, at the discretion
22 of the director;

23 (o) retaining any professionals on behalf of the municipality in
24 need of stabilization and recovery, and directing the work of
25 professionals or any professionals previously retained by the
26 municipality in need of stabilization and recovery, in accordance with
27 either the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1
28 et seq.) or procurement laws applicable to the State, at the discretion of
29 the director;

30 (p) retaining bond counsel, adopting bond ordinances to the extent
31 necessary, making appropriate bond applications, and taking any other
32 steps necessary to restructure and adjust debt, on behalf of the
33 municipality in need of stabilization and recovery;

34 (q) exercising on behalf of the municipality in need of
35 stabilization and recovery any authority granted to a municipality
36 pursuant to the "Local Redevelopment and Housing Law," P.L.1992,
37 c.79 (C.40A:12A-1 et al.) when the director deems it necessary or
38 appropriate to help stabilize the finances, restructure the debts, or
39 assist with the financial rehabilitation and recovery of the municipality
40 in need of stabilization and recovery;

41 (r) exercising on behalf of the municipality in need of stabilization
42 and recovery any authority granted to a municipality pursuant to the
43 "Redevelopment Area Bond Financing Law," P.L.2001, c.310
44 (C.40A:12A-64 et seq.) when the director deems it necessary or
45 appropriate to help stabilize the finances, restructure the debts, or
46 assist with the financial rehabilitation and recovery of the municipality
47 in need of stabilization and recovery;

1 (s) exercising on behalf of the municipality in need of stabilization
2 and recovery any authority granted to a municipality pursuant to the
3 "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et
4 seq.) when the director deems it necessary or appropriate to help
5 stabilize the finances, restructure the debts, or assist the financial
6 rehabilitation and recovery of the municipality in need of stabilization
7 and recovery;

8 (t) authorizing and filing, on behalf of the municipality in need of
9 stabilization and recovery, subject only to the written approval of the
10 majority of the members of the legislative Joint Budget Oversight
11 Committee, a petition and other pleadings and papers with any United
12 States court or federal bankruptcy court for the purpose of effecting a
13 plan of readjustment or composition of debts as set forth in R.S.52:27-
14 40 et seq., and taking any other and further actions necessary or
15 appropriate in connection with any case or proceeding; and

16 (u) negotiating and executing any contracts, agreements, or other
17 documents on behalf of the municipality in need of stabilization and
18 recovery as may be necessary or appropriate to effectuate any of the
19 actions or steps specifically identified in P.L.2016, c.4
20 (C.52:27BBBB-1 et al.) or that may otherwise, as the director deems
21 necessary or appropriate, help stabilize the finances, restructure the
22 debts, or assist with the financial rehabilitation and recovery of the
23 municipality in need of stabilization and recovery.

24 (4) Subject to subsection b. of section 11 of P.L.2016, c.4
25 (C.52:27BBBB-9), the Local Finance Board may authorize the director
26 to take any action authorized to be taken under the "Local Bond Law,"
27 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"
28 P.L.1976, c.38 (C.40A:3-1 et seq.) by a governing body of a local unit.

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

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

42 b. (1) Notwithstanding the provisions of any law, rule, or
43 regulation to the contrary, including any requirements set forth in
44 R.S.40:49-1 et seq., the "Senator Byron M. Baer Open Public
45 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or R.S.52:27-41,
46 the director shall have the exclusive authority to pass, adopt, repeal, or
47 amend any ordinance or resolution of the municipality in need of
48 stabilization and recovery, modify any meeting agenda of the

governing body of the municipality in need of stabilization and recovery, and negotiate, enter into, amend, or terminate any contract or agreement, on behalf of the municipality in need of stabilization and recovery, provided that the director deems the action necessary or appropriate to help stabilize the finances, restructure the debts, or assist with the financial rehabilitation and recovery of the municipality in need of stabilization and recovery.

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

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

(cf: P.L.2017, c.232, s.1)

3. Section 17 of P.L.2016, c.4 (C.52:27BBBB-15) is amended to read as follows:

17. The director or the director's designee shall attend the regularly scheduled meetings of the municipal council in a municipality in need of stabilization and recovery. On or before the first day of the **【sixth】** tenth year next following the determination that a municipality is in need of stabilization and recovery pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4), the director shall provide a final report to the Governor and Legislature regarding the municipality in need of stabilization and recovery.

(cf: P.L.2016, c.4, s.17)

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

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

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

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

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

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

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

11 (6) Refusing to reduce a negotiated agreement to writing and to
12 sign such agreement.

13 (7) Violating any of the rules and regulations established by the
14 commission.

15 b. Employee organizations, their representatives or agents are
16 prohibited from:

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

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

22 (3) Refusing to negotiate in good faith with a public employer, if
23 they are the majority representative of employees in an appropriate
24 unit concerning terms and conditions of employment of employees in
25 that unit.

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

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

30 c. The commission shall have exclusive power as hereinafter
31 provided to prevent anyone from engaging in any unfair practice listed
32 in subsections a. and b. above. Whenever it is charged that anyone has
33 engaged or is engaging in any such unfair practice, the commission, or
34 any designated agent thereof, shall have authority to issue and cause to
35 be served upon such party a complaint stating the specific unfair
36 practice charged and including a notice of hearing containing the date
37 and place of hearing before the commission or any designated agent
38 thereof; provided that no complaint shall issue based upon any unfair
39 practice occurring more than 6 months prior to the filing of the charge
40 unless the person aggrieved thereby was prevented from filing such
41 charge in which event the 6-month period shall be computed from the
42 day he was no longer so prevented.

43 In any such proceeding, the provisions of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall be
45 applicable. Evidence shall be taken at the hearing and filed with the
46 commission. If, upon all the evidence taken, the commission shall
47 determine that any party charged has engaged or is engaging in any
48 such unfair practice, the commission shall state its findings of fact and

1 conclusions of law and issue and cause to be served on such party an
2 order requiring such party to cease and desist from such unfair
3 practice, and to take such reasonable affirmative action as will
4 effectuate the policies of this act. All cases in which a complaint and
5 notice of hearing on a charge is actually issued by the commission,
6 shall be prosecuted before the commission or its agent, or both, by the
7 representative of the employee organization or party filing the charge
8 or his authorized representative.

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

16 e. The commission shall adopt such rules as may be required to
17 regulate the conduct of representation elections, and to regulate the
18 time of commencement of negotiations and of institution of impasse
19 procedures so that there will be full opportunity for negotiations and
20 the resolution of impasses prior to required budget submission dates.

21 f. The commission shall have the power to apply to the Appellate
22 Division of the Superior Court for an appropriate order enforcing any
23 order of the commission issued under subsection c. or d. hereof, and its
24 findings of fact, if based upon substantial evidence on the record as a
25 whole, shall not, in such action, be set aside or modified; any order for
26 remedial or affirmative action, if reasonably designed to effectuate the
27 purposes of this act, shall be affirmed and enforced in such
28 proceeding.

29 g. The Director of the Division of Local Government Services in
30 the Department of Community Affairs may notify the commission that
31 a municipality deemed a "municipality in need of stabilization and
32 recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4)
33 shall not be subject to the commission's authority to prevent an unfair
34 practice pursuant to subsection a. of this section. Upon such notice,
35 neither the commission, nor any designee, shall have the authority to
36 issue or cause to be served upon such municipality in need of
37 stabilization and recovery any complaint alleging an unfair practice
38 under subsection a. of this section or to hold any hearings with respect
39 thereto. Nothing in this subsection shall be construed to limit the
40 scope of any general or specific powers of the Local Finance Board or
41 the Director set forth in P.L.2016, c.4 (C.52:27BBBB-1 et al.).

42 The provisions of this subsection shall no longer be applicable on
43 and after the first day of the sixth year next following the
44 determination by the Commissioner of Community Affairs that the
45 municipality shall be deemed "a municipality in need of stabilization
46 and recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4)
47 ¹; however, actions taken pursuant to this subsection prior to the

1 effective date of P.L. , c. (C.) (pending before the Legislature
2 as this bill) shall be final and shall not be subject to reconsideration¹.
3 (cf: P.L.2016, c.4, s.7)
4

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

7 3. a. (1) Negotiations between a public fire or police department
8 and an exclusive representative concerning the terms and conditions of
9 employment shall begin at least 120 days prior to the day on which
10 their collective negotiation agreement is to expire. The parties shall
11 meet at least three times during that 120-day period. The first of those
12 three meetings shall take place no later than the 90th day prior to the
13 day on which their collective negotiation agreement is to expire. By
14 mutual consent, the parties may agree to extend the period during
15 which the second and third meetings are required to take place beyond
16 the day on which their collective negotiation agreement is to expire. A
17 violation of this paragraph shall constitute an unfair practice and the
18 violator shall be subject to the penalties prescribed by the commission
19 pursuant to rule and regulation.

20 Prior to the expiration of their collective negotiation agreement,
21 either party may file an unfair practice charge with the commission
22 alleging that the other party is refusing to negotiate in good faith. The
23 charge shall be filed in the manner, form and time specified by the
24 commission in rule and regulation. If the charge is sustained, the
25 commission shall order that the respondent be assessed for all legal
26 and administrative costs associated with the filing and resolution of the
27 charge; if the charge is dismissed, the commission shall order that the
28 charging party be assessed for all legal and administrative costs
29 associated with the filing and resolution of the charge. The filing and
30 resolution of the unfair practice charge shall not delay or impair the
31 impasse resolution process.

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

38 b. (1) In the event of a failure to resolve the impasse by
39 mediation, the Division of Public Employment Relations, at the
40 request of either party, shall invoke factfinding with recommendation
41 for settlement of all issues in dispute unless the parties reach a
42 voluntary settlement prior to the issuance of the factfinder's report and
43 recommended terms of settlement. Factfinding shall be limited to those
44 issues that are within the required scope of negotiations unless the
45 parties to the factfinding agree to factfinding on permissive subjects of
46 negotiation.

47 (2) Notwithstanding the provisions of paragraph (2) of subsection
48 a. of this section or paragraph (1) of this subsection, either party may

1 petition the commission for arbitration on or after the date on which
2 their collective negotiation agreement expires. The petition shall be
3 filed in a manner and form prescribed by the commission. The party
4 filing the petition shall notify the other party of its action. The notice
5 shall be given in a manner and form prescribed by the commission.

6 Any mediation or factfinding invoked pursuant to paragraph (2) of
7 subsection a. of this section or paragraph (1) of subsection b. of this
8 section shall terminate immediately upon the filing of a petition for
9 arbitration.

10 (3) Upon the filing of a petition for arbitration pursuant to
11 paragraph (2) of this subsection, an arbitrator selected pursuant to
12 paragraph (1) of subsection e. of this section shall conduct an initial
13 meeting as a mediation session to effect a voluntary resolution of the
14 impasse.

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

16 d. The resolution of issues in dispute shall be binding arbitration
17 under which the award on the unsettled issues is determined by
18 conventional arbitration. The arbitrator shall determine whether the
19 total net annual economic changes for each year of the agreement are
20 reasonable under the nine statutory criteria set forth in subsection g. of
21 this section and shall adhere to the limitations set forth in section 2 of
22 P.L.2010, c.105 (C.34:13A-16.7). The non-petitioning party, within
23 five days of receipt of the petition, shall separately notify the
24 commission in writing of all issues in dispute. The filing of the written
25 response shall not delay, in any manner, the interest arbitration
26 process.

27 e. (1) The commission shall take measures to assure the impartial
28 selection of an arbitrator or arbitrators from its special panel of
29 arbitrators. On the first business day following receipt of an interest
30 arbitration petition, the commission shall, independent of and without
31 any participation by either of the parties, randomly select an arbitrator
32 from its special panel of arbitrators. The selection by the commission
33 shall be final and shall not be subject to review or appeal.

34 (2) Applicants for initial appointment to the commission's special
35 panel of arbitrators shall be chosen based on their professional
36 qualifications, knowledge, and experience, in accordance with the
37 criteria and rules adopted by the commission. Such rules shall include
38 relevant knowledge of local government operations and budgeting.
39 Appointment to the commission's special panel of arbitrators shall be
40 for a three-year term, with reappointment contingent upon a screening
41 process similar to that used for determining initial appointments.
42 Arbitrators currently serving on the panel shall demonstrate to the
43 commission their professional qualification, knowledge and
44 experience, in accordance with the criteria and rules adopted by the
45 commission, within one year of the effective date of this act. Any
46 arbitrator who does not satisfactorily demonstrate such to the
47 commission within the specified time shall be disqualified.

1 (3) Arbitrators serving on the commission's special panel shall be
2 guided by and subject to the objectives and principles set forth in the
3 "Code of Professional Responsibility for Arbitrators of Labor-
4 Management Disputes" of the National Academy of Arbitrators, the
5 American Arbitration Association, and the Federal Mediation and
6 Conciliation Service.

7 (4) Arbitrators shall be required to complete annual training
8 offered by the State Ethics Commission. Any arbitrator failing to
9 satisfactorily complete the annual training shall be immediately
10 removed from the special panel.

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

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

22 (2) In the event of a dispute, the commission shall have the power
23 to decide which issues are economic issues. Economic issues include
24 those items which have a direct relation to employee income including
25 wages, salaries, hours in relation to earnings, and other forms of
26 compensation such as paid vacation, paid holidays, health and medical
27 insurance, and other economic benefits to employees.

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

31 All parties to arbitration shall present, at the formal hearing before
32 the issuance of the award, written estimates of the financial impact of
33 their last offer on the taxpayers of the local unit to the arbitrator with
34 the submission of their last offer.

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

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

42 Each arbitrator's decision shall be accompanied by a written report
43 explaining how each of the statutory criteria played into the arbitrator's
44 determination of the final award. The report shall certify that the
45 arbitrator took the statutory limitations imposed on the local levy cap
46 into account in making the award.

47 Any arbitrator violating the provisions of this paragraph may be
48 subject to the commission's powers under paragraph (3) of subsection

1 e. of this section. The decision shall be final and binding upon the
2 parties and shall be irreversible, except:

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

16 Arbitration appeal decisions shall be accompanied by a written
17 report explaining how each of the statutory criteria played into their
18 determination of the final award. The report shall certify that in
19 deciding the appeal, the commission took the local levy cap into
20 account in making the award.

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

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

24 (6) The parties shall share equally the costs of arbitration subject
25 to a fee schedule approved by the commission. The fee schedule shall
26 provide that the cost of services provided by the arbitrator shall not
27 exceed \$ 1,000 per day. The total cost of services of an arbitrator shall
28 not exceed \$ 10,000. If the parties cancel an arbitration proceeding
29 without good cause, the arbitrator may impose a fee of not more than \$
30 500. The parties shall share equally in paying that fee if the request to
31 cancel or adjourn is a joint request. Otherwise, the party causing such
32 cancellation shall be responsible for payment of the entire fee.

33 g. The arbitrator shall decide the dispute based on a reasonable
34 determination of the issues, giving due weight to those factors listed
35 below that are judged relevant for the resolution of the specific
36 dispute. In the award, the arbitrator or panel of arbitrators shall
37 indicate which of the factors are deemed relevant, satisfactorily
38 explain why the others are not relevant, and provide an analysis of the
39 evidence on each relevant factor; provided, however, that in every
40 interest arbitration proceeding, the parties shall introduce evidence
41 regarding the factor set forth in paragraph (6) of this subsection and
42 the arbitrator shall analyze and consider the factor set forth in
43 paragraph (6) of this subsection in any award:

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

1 (2) Comparison of the wages, salaries, hours, and conditions of
2 employment of the employees involved in the arbitration proceedings
3 with the wages, hours, and conditions of employment of other
4 employees performing the same or similar services and with other
5 employees generally:

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

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

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

17 (3) The overall compensation presently received by the employees,
18 inclusive of direct wages, salary, vacations, holidays, excused leaves,
19 insurance and pensions, medical and hospitalization benefits, and all
20 other economic benefits received.

21 (4) Stipulations of the parties.

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

26 (6) The financial impact on the governing unit, its residents, the
27 limitations imposed upon the local unit's property tax levy pursuant to
28 section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers. When
29 considering this factor in a dispute in which the public employer is a
30 county or a municipality, the arbitrator or panel of arbitrators shall take
31 into account, to the extent that evidence is introduced, how the award
32 will affect the municipal or county purposes element, as the case may
33 be, of the local property tax; a comparison of the percentage of the
34 municipal purposes element or, in the case of a county, the county
35 purposes element, required to fund the employees' contract in the
36 preceding local budget year with that required under the award for the
37 current local budget year; the impact of the award for each income
38 sector of the property taxpayers of the local unit; the impact of the
39 award on the ability of the governing body to (a) maintain existing
40 local programs and services, (b) expand existing local programs and
41 services for which public moneys have been designated by the
42 governing body in a proposed local budget, or (c) initiate any new
43 programs and services for which public moneys have been designated
44 by the governing body in a proposed local budget.

45 (7) The cost of living.

46 (8) The continuity and stability of employment including seniority
47 rights and such other factors not confined to the foregoing which are
48 ordinarily or traditionally considered in the determination of wages,

1 hours, and conditions of employment through collective negotiations
2 and collective bargaining between the parties in the public service and
3 in private employment.

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

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

16 i. The Director of the Division of Local Government Services in
17 the Department of Community Affairs may notify the commission,
18 through the Division of Public Employment Relations, that a
19 municipality deemed a "municipality in need of stabilization and
20 recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4)
21 will not participate in any impasse procedures authorized by this
22 section. Upon such notice, any pending impasse procedures
23 authorized by this section shall immediately cease, and any pending
24 petition for arbitration shall be vacated. Nothing in this subsection
25 shall be construed to limit the scope of any general or specific powers
26 of the Local Finance Board or the director set forth in P.L.2016, c.4
27 (C.52:27BBBB-1 et al.).

28 The provisions of this subsection shall no longer be applicable on
29 and after the first day of the sixth year next following the
30 determination by the Commissioner of Community Affairs that the
31 municipality shall be deemed "a municipality in need of stabilization
32 and recovery" pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4)
33 ¹; however, actions taken pursuant to this subsection prior to the
34 effective date of P.L. , c. (C.) (pending before the Legislature
35 as this bill) shall be final and shall not be subject to reconsideration¹.

36 j. The Local Finance Board may provide that any arbitration
37 award, including but not limited to an interest arbitration award,
38 involving a municipality deemed a "municipality in need of
39 stabilization and recovery" pursuant to section 4 of P.L.2016, c.4
40 (C.52:27BBBB-4) shall be subject to the review and approval of the
41 Director of the Division of Local Government Services in the
42 Department of Community Affairs, including those on a collective
43 negotiations agreement where the matter has been submitted to an
44 arbitrator pursuant to law, and no such award shall be binding without
45 the approval of the director. Nothing in this subsection shall be
46 construed to limit the scope of any general or specific powers of the
47 Local Finance Board or the director set forth in P.L.2016, c.4
48 (C.52:27BBBB-4).

1 The provisions of this subsection shall no longer be applicable on
2 and after the first day of the sixth year next following the
3 determination by the Commissioner of Community Affairs that the
4 municipality shall be deemed “a municipality in need of stabilization
5 and recovery” pursuant to section 4 of P.L.2016, c.4 (C.52:27BBBB-4)
6 ¹; however, actions taken pursuant to this subsection prior to the
7 effective date of P.L. , c. (C.) (pending before the Legislature
8 as this bill) shall be final and shall not be subject to reconsideration¹.
9 (cf: P.L.2016, c.4, s.6)

10
11 6. Section 13 of P.L.2016, c.4 (C.52:27BBBB-11) is repealed ¹;
12 however, actions taken pursuant to this subsection prior to the
13 effective date of P.L. , c. (C.) (pending before the Legislature
14 as this bill) shall be final and shall not be subject to reconsideration¹.

15
16 7. This act shall take effect immediately.
17
18
19
20

21 Extends period of municipal stabilization and recovery, with
22 certain modifications, under “Municipal Stabilization and Recovery
23 Act.”