PROGRAM BILL # 7

Legislative Bill Drafting Commission
12027-02-3

S. --------
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

-------- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

STATFILA
(Establishes the financial restructuring board for local governments)

St Fin. financial restructuring

AN ACT

to amend the state finance law, the local finance law and the civil service law, in relation to the financial restructuring board for local governments and providing for the expiration of certain provisions of the civil service law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

IN SENATE_____

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal:

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s08 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gallivan	s24 Lanza	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	s46 Tkaczyk
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s53 Valesky
s18 Dilan	s36 Hassell-Thompson	s43 Marchione	s56 Robach	s57 Young
s31 Espaillat	s27 Hoylman	s07 Martins	s19 Sampson	s03 Zeldin
s49 Farley		s62 Maziarz	s10 Sanders	

IN ASSEMBLY_____

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

a049 Abbate	a081 Dinowitz	a135 Johns	a039 Moya	a016 Schimel
a092 Abinanti	a147 DiPietro	a113 Jordan	a133 Nojay	a140 Schimminger
a084 Arroyo	a115 Duprey	a094 Katz	a037 Nolan	a087 Sepulveda
a035 Aubry	a004 Englebright	a074 Kavanagh	a130 Oaks	a065 Silver
a120 Barclay	a054 Espinal	a142 Kearns	a069 O'Donnell	a027 Simanowitz
a106 Barrett	a109 Fahy	a076 Kellner	a051 Ortiz	a036 Simotas
a060 Barron	a071 Farrell	a040 Kim	a091 Otis	a104 Skartados
a082 Benedetto	a126 Finch	a131 Kolb	a132 Palmesano	a099 Skoufis
a117 Blankenbush	a008 Fitzpatrick	a105 Lalor	a088 Paulin	a022 Solages
a062 Borelli	a124 Friend	a013 Lavine	a141 Peoples-Stokes	a114 Stec
a055 Boyland	a143 Gabryszak	a050 Lentol	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a125 Lifton	a089 Pretlow	a079 Stevenson
a044 Brennan	a137 Gantt	a102 Lopez, P.	a073 Quart	a127 Stirpe
a119 Brindisi	a007 Garbarino	a053 Lopez, V.	a019 Ra	a011 Sweeney
a138 Bronson	a077 Gibson	a123 Lupardo	a098 Rabbitt	a112 Tedisco
a046 Brook-Krasny	a148 Giglio	a010 Lupinacci	a012 Raia	a101 Tenney
a093 Buchwald	a080 Gjonaj	a121 Magee	a006 Ramos	a001 Thiele
a118 Butler	a066 Glick	a129 Magnarelli	a134 Reilich	a061 Titone
a103 Cahill	a023 Goldfeder	a059 Maisel	a078 Rivera	a031 Titus
a043 Camara	a150 Goodell	a064 Malliotakis	a128 Roberts	a146 Walter
a145 Ceretto	a075 Gottfried	a030 Markey	a056 Robinson	a041 Weinstein
a033 Clark	a005 Graf	a090 Mayer	a068 Rodriguez	a020 Weisenberg
a047 Colton	a100 Gunther	a108 McDonald	a072 Rosa	a024 Weprin
a032 Cook	a139 Hawley	a014 McDonough	a067 Rosenthal	a070 Wright
a144 Corwin	a083 Heastie	a017 McKevitt	a025 Rozic	a096 Zebrowski
a085 Crespo	a003 Hennessey	a107 McLaughlin	a116 Russell	a002
a122 Crouch	a028 Hevesi	a038 Miller	a149 Ryan	a086
a021 Curran	a048 Hikind	a052 Millman	a009 Saladino	
a063 Cusick	a018 Hooper	a015 Montesano	a111 Santabarbara	
a045 Cymbrowitz	a042 Jacobs	a136 Morelle	a029 Scarborough	
a034 DenDekker	a097 Jaffee	a057 Mosley		

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

LBDC 04/09/13

1 Section 1. Paragraph t of subdivision 10 of section 54 of the state
2 finance law, as added by section 3 of part K of chapter 57 of the laws
3 of 2011 and as relettered by section 3 of part K of chapter 55 of the
4 laws of 2013, and subparagraph (vii) as added and subparagraph (viii) as
5 renumbered by section 3-a of part K of chapter 55 of the laws of 2013,
6 is amended to read as follows:
7 t. Local government performance and efficiency program. (i) (1) Defi-
8 nitions. For the purposes of this [paragraph] subparagraph, "munici-
9 pality" shall mean a county, city, town, or village, but shall not
10 include the individual counties contained in the city of New York.
11 [(ii)] (2) Purpose. [There is hereby established a local government
12 performance and efficiency program.] The purpose of [this program]
13 awards made pursuant to this subparagraph is to recognize municipalities
14 that have undertaken significant and innovative actions to improve the
15 overall efficiency of governmental operations and produce quantifiable
16 recurring financial savings that reduce the municipal tax burden on
17 residents.
18 [(iii)] (3) Eligibility. All municipalities in New York state are
19 eligible to apply individually or jointly, provided however that if an
20 action was undertaken jointly, municipalities must apply jointly for
21 such an action. The actions for which they apply must already have been
22 implemented.
23 [(iv)] (4) Use of awards. Awards received [pursuant to the program]
24 shall be used by municipalities for general municipal purposes.
25 [(v)] (5) Application. The secretary of state shall develop an appli-
26 cation for municipalities seeking to receive awards and a process by
27 which the applications will be evaluated. Such application shall require
28 municipalities to demonstrate how the action for which they have applied

1 has resulted in quantifiable recurring savings, efficiencies, and perma-
2 nent improvements to municipal services. The secretary of state may
3 focus the [program] awards in specific functional service areas, in
4 which case such areas of focus shall be detailed in a request for appli-
5 cations. No application shall be considered for actions that commenced
6 prior to January first, two thousand ten.

7 [(vi)] (6) Awards. The secretary of state may make awards to appli-
8 cants based on factors including, but not limited to, the amount of
9 current and future savings, the impact of such action upon the municipal
10 property tax levy, the size and complexity of the action, and the abili-
11 ty for the action to be replicated by other municipalities. Awards shall
12 only be made to municipalities for actions that have been fully imple-
13 mented, that clearly resulted in quantifiable savings and efficiencies,
14 and that produced permanent and quantifiable improvements to municipal
15 efficiency or services. The maximum amount awarded per application shall
16 not exceed the lesser of five million dollars or twenty-five dollars per
17 resident of the applying municipalities as of the most recent federal
18 decennial census, provided, however, that if the boundaries of munici-
19 palities jointly applying for such funding overlap, the residents in
20 overlapping areas shall only be counted once, and provided, further,
21 that if a county jointly applies with some but not all of the other
22 municipalities therein, only the residents in such other municipalities
23 shall be counted.

24 [(vii)] (7) Written notice shall be provided to an applicant of a
25 decision regarding the grant or denial of an award under this paragraph,
26 within thirty days after such decision.

27 [(viii)] (8) Regulation. The secretary of state shall, prior to the
28 establishment of applications, promulgate rules and regulations on the

1 [program] awards, including but not limited to award eligibility crite-
2 ria and application, review and approval procedures.
3 (ii)(1) Definitions. For the purposes of this subparagraph, "fiscally
4 distressed municipality" shall have the same meaning as "fiscally
5 distressed municipality" as defined by section 160.05 of the local
6 finance law. For the purposes of this subparagraph, "financial restruc-
7 turing board for local governments" or "board" shall mean the financial
8 restructuring board for local governments as authorized by section
9 160.05 of the local finance law.
10 (2) In addition to awards made pursuant to subparagraph (i) of this
11 paragraph, the board may award funding to fiscally distressed munici-
12 palities for financial restructuring and related purposes, as determined
13 by the board. This funding may be structured as a loan, a grant, or
14 combination thereof. The amount of such funding to be provided to a
15 fiscally distressed municipality, the structure of such funding, any
16 conditions to be placed on a fiscally distressed municipality that
17 accepts such funding, and any other aspects of funding awarded pursuant
18 to this subparagraph shall be determined by an affirmative vote of a
19 majority of the total number of members of the board and may differ for
20 each award of funding. Such loans shall not be bound by the local
21 finance law with respect to terms and repayment limitations. Further,
22 any such loans shall not be considered debt for purposes of calculating
23 constitutional limit provisions. Notwithstanding any other law to the
24 contrary, the director of the budget may direct the state comptroller to
25 withhold any state aid payments due to a fiscally distressed munici-
26 pality in order to satisfy the repayment conditions of the funding
27 awarded pursuant to this subparagraph.

1 § 2. The local finance law is amended by adding a new section 160.05
2 to read as follows:
3 § 160.05. Financial restructuring board for local governments. 1.
4 There shall be a financial restructuring board for local governments
5 which shall consist of five members: the director of the budget who
6 shall be chair of the board, the attorney general, the state comp-
7 troller, and the secretary of state, each of whom may designate a repre-
8 sentative to attend sessions of the board on his or her behalf, and one
9 designee with significant experience in municipal financial and restruc-
10 turing matters appointed by the governor. The designee of the governor
11 shall serve at his or her pleasure and shall receive fair compensation
12 for his or her services performed pursuant to this section in an amount
13 to be determined by the director of the budget and be reimbursed for all
14 reasonable expenses actually and necessarily incurred by him or her in
15 the performance of his or her duties. The board shall have the power to
16 act by an affirmative vote of a majority of the total number of members
17 and shall render its findings and recommendations within nine months of
18 being requested to act by a fiscally distressed municipality. The
19 provisions of section seventeen of the public officers law shall apply
20 to members of the board. No member of the board shall be held liable for
21 the performance of any function or duty authorized by this section. The
22 board may contract with such staff and entities as needed to carry out
23 its functions pursuant to this section. All proceedings, meetings and
24 hearings conducted by the board shall be held in the city of Albany.
25 2. A "fiscally distressed municipality" shall mean any county, city,
26 excluding a city with a population greater than one million, town, or
27 village that the director of the budget determines is fiscally
28 distressed. In considering whether a county, city, town or village is

1 fiscally distressed, the director of the budget may consider, fund
2 balance, full value property tax rate, operating deficit, population,
3 and constitutional tax limit exhaustion, and any other factors in his or
4 her discretion consistent with the purposes of this section.
5 3. Upon the request of a fiscally distressed municipality, by resol-
6 ution of the governing body of the fiscally distressed municipality, the
7 financial restructuring board for local governments shall undertake a
8 comprehensive review of the operations, finances, management practices,
9 economic base and any other factors that in its sole discretion it deems
10 relevant to be able to make findings and recommendations on reforming
11 and restructuring the operations of the fiscally distressed munici-
12 pality. The board may require the fiscally distressed municipality to
13 agree to fiscal accountability measures, as determined by the board,
14 including, but not limited to, multi-year financial planning. It may
15 also identify cost-saving measures, recommend consolidation of functions
16 or agencies within the financially distressed municipality or between
17 the financially distressed municipality and other municipalities, iden-
18 tify and make available, to the extent otherwise permitted by law,
19 grants and loans on such terms and conditions as it deems appropriate,
20 and make such other recommendations as the board may deem just and prop-
21 er. Such recommendations shall not be final and binding on a fiscally
22 distressed municipality unless it formally agrees to abide by and imple-
23 ment such recommendations in which event such recommendations and the
24 terms provided thereunder shall be final and binding on the fiscally
25 distressed municipality.
26 4. The board may hold hearings and shall have authority to require the
27 production of any information that it deems necessary to undertake its
28 comprehensive review.

1 5. The board shall also be authorized to resolve an impasse pursuant
2 to subdivision four-a of section two hundred nine of the civil service
3 law.
4 § 3. Section 209 of the civil service law is amended by adding a new
5 subdivision 4-a to read as follows:
6 4-a. (a) Notwithstanding anything in subdivision four of this section
7 to the contrary, a public employer that is also a fiscally distressed
8 municipality, as defined in section 160.05 of the local finance law, and
9 is otherwise subject to subdivision four of this section may, and a
10 public employee organization subject to subdivision four of this section
11 may, jointly stipulate and agree that an impasse exists, at any time,
12 with respect to collective negotiations between the parties for a
13 collective bargaining agreement and, in lieu of commencing a proceeding
14 under subdivision four of this section, jointly request that the finan-
15 cial restructuring board for local governments, established in section
16 160.05 of the local finance law, resolve such impasse. A joint agree-
17 ment pursuant to this subdivision shall be irrevocable.
18 (b) The financial restructuring board for local governments shall
19 render a just and reasonable determination of the matters in dispute by
20 an affirmative vote of a majority of the total number of its members.
21 In arriving at such determination, it shall specify the basis for its
22 findings, taking into consideration, in addition to any other relevant
23 factors, those factors set forth in subparagraph (v) of paragraph (c) of
24 subdivision four of this section. In all matters regarding public
25 disclosure of its proceedings and findings, it shall be treated the same
26 as the panel convened pursuant to subdivision four of this section. It
27 shall render a determination within nine months of being formally
28 requested by the parties to convene.

1 (c) Each party before the financial restructuring board for local
2 governments may be heard either in person, by counsel, or by other
3 representatives, as they may respectively designate and may present,
4 either orally or in writing, or both, statements of fact, supporting
5 witnesses and other evidence, and argument of their respective positions
6 with respect to each case. The board shall have authority to require
7 the production of additional evidence, either oral or written, as it may
8 desire from the parties. All proceedings, meetings and hearings
9 conducted by the board shall be held in the city of Albany.
10 (d) The determination of the financial restructuring board for local
11 governments with respect to the conditions of employment presented to it
12 pursuant to this section shall be final and binding upon the parties for
13 the period prescribed by such board, but in no event shall such period
14 exceed four years from the termination date of any previous collective
15 bargaining agreement or if there is no previous collective bargaining
16 agreement then for a period not to exceed four years from the date of
17 determination by the board. Such determination shall not be subject to
18 the approval of any local legislative body or other municipal authority,
19 and shall only be subject to review by a court of competent jurisdiction
20 in the manner prescribed by law.
21 (e) A request by a public employer to proceed pursuant to this subdi-
22 vision, shall constitute a request by such public employer, as a fiscal-
23 ly distressed municipality, to the financial restructuring board for
24 local governments to undertake a comprehensive review of the operations
25 of the fiscally distressed municipality pursuant to section 160.05 of
26 the local finance law. The financial restructuring board for local
27 governments shall proceed pursuant to such request in accordance with
28 that section. Findings and recommendations rendered pursuant to this

1 paragraph and section 160.05 of the local finance law shall be stated
2 separately from those determinations otherwise rendered pursuant to this
3 subdivision.
4 § 4. Severability. If any clause, sentence, paragraph, subdivision,
5 section or part of this article shall be adjudged by any court of compe-
6 tent jurisdiction to be invalid, such judgment shall not affect, impair,
7 or invalidate the remainder thereof, but shall be confined in its opera-
8 tion to the clause, sentence, paragraph, subdivision, section or part
9 thereof directly involved in the controversy in which such judgment
10 shall have been rendered.
11 § 5. This act shall take effect on the sixtieth day after it shall
12 have become a law, provided, that the provisions of subdivision 4-a of
13 section 209 of the civil service law, as added by section three of this
14 act, shall apply to any public employment dispute which shall be at an
15 impasse on or after the date this act shall have become a law and shall
16 expire on the same date as the provisions of subdivision 4 of section
17 209 of the civil service law expire pursuant to paragraph (d) of subdi-
18 vision 4 of section 209 of the civil service law, as amended.