

GOVERNOR'S PROGRAM BILL  
2013

MEMORANDUM

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

Purpose:

To establish a permanent Financial Restructuring Board for Local Governments that would provide a meaningful, substantive avenue for fiscally distressed municipalities to reform and restructure and provide public services in a cost-effective manner.

Summary of Provisions:

Section 1 of the bill would amend the State Finance Law to empower the newly created Financial Restructuring Board for Local Governments ("the Board") to award currently authorized Local Government Performance and Efficiency grants, in its discretion, for financial restructuring and related purposes.

Section 2 of the bill would amend the Local Finance Law to create a permanent Financial Restructuring Board for Local Governments composed of five members: the Director of the Budget (who would serve as chair), the State Comptroller, the Attorney General and the Secretary of State (each of whom could designate an individual to serve on their behalf) and one member appointed by the Governor with experience in municipal financial and restructuring matters.

The Board, at the request of a "fiscally distressed municipality" (to be determined by the Director of the Budget and not including New York City), would be empowered to seek information and make necessary queries in order to comprehensively review government operations, finances, management practices, a municipality's economic base and any other factors it deemed relevant to make findings and recommendations on reforming and restructuring the operations of a fiscally distressed municipality. It would have the discretion to, among other things, award grants, and prescribe loans (as provided in section one of the bill, the terms of which it would formulate, as well as make other recommendations. Its recommendations would not bind a municipality, but if the municipality agrees to the Board's proposals, it would be contractually bound to fulfill those terms. The Board would be mandated to complete its work and issue recommendations within nine months of receiving a request to convene.

Section 3 of the bill would amend Civil Service Law § 209 to provide an alternative “for fiscally distressed municipalities” to the current binding arbitration law. The municipality, with the consent of an impacted union (subject to Civil Service Law § 209, subd. 4), would have the opportunity to present an impasse in collective bargaining for a final determination to the Board. In such case, the Board would operate in the same manner as an arbitration panel under subdivision 4 and issue a binding ruling, although such ruling would have to be rendered within nine months of convening. A request by the municipality to the Board to so act under this provision of the Civil Service Law would also constitute a formal request for the Board to act and make recommendations pursuant to the Local Finance Law, as amended.

Section 4 of the bill provides an effective date.

**Existing Law:**

There is no permanent body empowered by law to inquire into and make recommendations with respect to fiscally distressed municipalities. In addition, Civil Service Law § 209, subd. 4 provides the only avenue for resolving impasses between municipalities and certain uniformed employee organizations.

**Justification:**

Municipalities, when faced with a fiscal crisis, often have nowhere to turn except for the extraordinary remedies of bankruptcy or the appointment of a financial control board – or do nothing. There is no standing body under State or federal law to which they can turn for help. This proposal fills that void. Provided that such distressed municipalities are prepared to make the often hard choices required to maintain solvency and fiscal viability while still providing the services to which their residents are entitled, the newly constituted Financial Restructuring Board for Local Governments would provide those municipalities with a resource so that their restructuring efforts can be coordinated and effective. The Board would be available all year and not tied to a legislative session. Moreover, it would have to make recommendations within nine months of being asked, a significantly shorter time than proceeding in court.

One incentive available for participating municipalities is the existing Local Government Performance Efficiency Program which would be amended to allow financial assistance as approved by the Board. Under this program, up to \$80 million would be available this year. The primary purpose for assistance would be to help fund the restructuring initiatives and recommendations provided by the Board. The Board would have discretion to determine what other form of assistance to provide (grant, loan, or combination). Specific loan terms and conditions would be determined by the Board– including allowable uses for loan proceeds

Finally, a fiscally distressed municipality and its labor unions subject to the Taylor Law’s provisions authorizing interest arbitration can jointly ask the Board to act as the arbitration panel to decide contract disputes at any point that the parties agree that they are at impasse. Such a request would also constitute a demand by the municipality that the Board undertake its role to recommend restructuring and other changes. The Board, when so acting as an arbitration panel,

must render its decision within nine months of being so requested, a substantially shorter time period than the length of most interest arbitrations.

**Legislative History:**

This is a new bill.

**Budget Implications:**

There will be minimal fiscal impacts associated with this bill. Costs associated with the operation of the Financial Restructuring Board for Local Governments would be borne by existing appropriations, and funding for any new financial assistance to localities would come from appropriations contained in the enacted 2013-14 State Budget.

**Effective Date:**

The bill would take effect on the sixtieth day after it becomes a law, provided, that the new Civil Service Law § 209, subd. 4-a, would apply to any public employment dispute which is at impasse or goes to impasse on or after the date the bill becomes law, and would expire when and if the current binding arbitration law expires.