



Pennsylvania Economy League
Response to Proposed Subcommittee Issues
Local Government Commission
Act 47 of 1987 Municipalities Financial Recovery Act Task Force

The Pennsylvania Economy League serves as recovery plan coordinator for three Act 47 communities — Scranton, Nanticoke and West Hazleton — and is a participant in the recovery plan team for the city of Harrisburg. As such, PEL has extensive knowledge and experience of Act 47's utility. In addition, PEL has developed numerous early intervention plans for Pennsylvania municipalities and in 1999 completed a review of Act 47 that outlined numerous recommendations to strengthen the program. PEL is attaching the 1999 review as part of its response.

PEL submits the following as relevant to the Act 47 Procedures Subcommittee of the Task Force:

1. Codify Early Intervention Program (EIP) and require that recommendations from DCED be adopted as a condition for eligibility in Act 47: PEL believes requiring municipalities to undergo the EIP process prior to eligibility for Act 47 is critical to the financial recovery process. As previously noted, PEL has written EIPs for many communities. The plans provide municipalities with a clear picture of their finances, both historically and in the future, and offer a path to correct financial and operational difficulties before they become so severe as to hamper operations. We believe the EIP municipalities have been able to avoid Act 47 as the result of aggressive EIP plans.
2. Limit time a municipality may be in Act 47/establish a fiscal control board after time limit/presume a municipality is financially secure after five years unless proved otherwise: PEL cautions against an arbitrary sunset of Act 47 status given that such a time limit could work against solutions that require financial assistance in the form of special taxation provisions permitted under the Act. In addition, collective bargaining agreements that are often crucial to the recovery process might expire after the arbitrary limit. As such, municipalities would then be unable to structure expenditures that require collective bargaining. Further, fiscal distress that is the result of a systemic problem as opposed to poor management cannot necessarily be corrected in a set time period. However, PEL supports establishing structured time limits for Act 47 recovery plans that would require completion of benchmarks and a progress review after an initial five year plan. Increased oversight, in the form of a fiscal control board, should be instituted if progress after five years is insufficient and benchmarks are not met. Oversight should include mandated requirements regarding appropriate limits on expenditures and increases to revenues.

3. Constitutional amendments (active state intervention and special recovery legislation for each municipality declared distressed): PEL does not favor constitutional amendments to fix Act 47. The better approach is to overhaul the manner in which the Commonwealth enables the financing of local governments. PEL also believes adoption of special recovery legislation for each municipality that is declared distressed is impractical and unnecessary in that it adds another layer of local and state politics and bureaucracy to the process and could slow response to a critical financial situation.
4. Expand Chapters 6 and 7 of Act 47 to all distressed municipalities: PEL believes extending these provisions to all distressed municipalities is an appropriate step in cases of political dysfunction that is hampering recovery efforts.
5. Provide greater resources to DCED/identify incentives for distressed municipalities to consolidate or merge: Both recommendations would provide struggling municipalities with needed additional assistance to overcome fiscal distress. In the case of the latter, regional service delivery may be necessary and appropriate to maintain services that impact residents across municipal boundaries without unduly burdening those living within a particular community.
6. Provide a procedure to address nonviable municipalities: PEL supports this option with a provision for appropriate regional assumption of public safety, public works and related services as necessary to provide for the health, safety and welfare of the community.
7. Expand power of the coordinator to examine financial instruments of municipal authorities incorporated by the distressed municipalities: PEL supports this recommendation. The coordinator should be empowered to examine any component unit and its assets and liability in that such financial conditions could have a direct adverse impact on the municipality.
8. Provide unions and municipal employees a substantive role in recovery: The current Act 47 process already requires a substantial role for all collective bargaining units and employees in the development and implementation of the recovery plan.
9. Promote municipal managerial training: PEL supports the recommendation but notes no amount of training will overcome situations of severe mismanagement caused by the inability of local officials or employees to effectively perform their duties.

Municipalities Financial Recovery Act Review

Prepared by the Pennsylvania Economy League, Inc., Western Division

January 21, 1999

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Municipalities Financial Recovery Act Review

Preface

The Pennsylvania Economy League, Inc., Western Division, was retained in April 1998 by the Center for Local Government Services to conduct a review of and recommend changes to the Municipalities Financial Recovery Act Program, commonly referred to as Act 47. The application of Act 47 over the past ten years has shown that its provisions for addressing municipal fiscal distress are inadequate and should be improved. Solutions to fiscal distress lay both within and beyond municipal boundaries and require actions from within and outside of the realm of local government.

Since 1987, the Commonwealth has declared 17 municipalities as distressed, but only three have emerged from the program. Six of the municipalities have been in the program for ten years or more. In its twelve years of existence, Act 47 has clearly not been a successful vehicle for bringing municipalities out of financial distress. Shortcomings that hamper the recovery of distressed municipalities include the following.

- ◆ Municipalities fall into two categories of distress: managerial distress, which is a result of inadequate, poor or corrupt management practices, and structural distress, which is a result of severe erosion of tax base. The legislation has had some success in addressing managerial distress but relatively little success in addressing structural distress.
- ◆ Municipal officials are sometimes unwilling to implement tough recovery plan recommendations. There is no practicable “stick” in Act 47 to encourage or force compliance with the recovery plan.
- ◆ There is no limit to the amount of time a municipality can be in the Act 47 program, and the Commonwealth’s authority to address the factors of distress in a given municipality are the same in year twelve of the program as in year one.
- ◆ Recovery plans can be thwarted by poor labor negotiations on the part of the municipality, unwillingness of labor unions to reach contract agreements and adverse arbitration decisions.
- ◆ Municipal distress is often exacerbated by regional distress factors. Act 47 does not effectively address the regional factors of distress.
- ◆ The economic and community development sides of the Department of Community and Economic Development (DCED) could better coordinate their actions to focus resources towards distressed and pre-distressed municipalities.
- ◆ Distressed municipalities often are served by distressed or fiscally weak school districts. There is no requirement for school districts and municipalities to work together toward general

fiscal recovery.

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- ◆ There is a need to consistently identify and offer help to at-risk municipalities before they slide into distress. Early intervention could be more effective in restoring fiscal health and potentially less costly to the Commonwealth than going through the Act 47 program.
- ◆ Financially healthy municipalities rarely participate with distressed municipalities in intergovernmental cooperation arrangements.
- ◆ Municipalities in severe structural distress may not be able to recover in a reasonable period of time. It may not be in the interest of the Commonwealth to provide open-ended support and subsidies to them. The inability of chronically distressed municipalities to unilaterally disincorporate is not conducive to a healthy local government system.

This report provides recommendations on modifying Act 47 statutory language and program policies to improve the likelihood of recovery of distressed municipalities in a timely fashion. The League has examined legislation dealing with municipal fiscal distress in other states to offer examples of how Pennsylvania could address its failing communities. The League facilitated a workshop in which current and former recovery plan coordinators collectively discussed and defined a series of suggestions for improving Act 47. The League also interviewed stakeholders, including municipal officials from distressed municipalities and municipal association officials, to learn how they thought the program was working in general, to offer ideas on its improvement, and to react to various suggested changes.

The League maintains that the most important general observation is that the law currently does not give Commonwealth officials sufficient tools to expediently bring distressed municipalities to a solid fiscal footing. While the report offers a variety of recommendations on improving the Municipalities Financial Recovery Program, two are crucial to rectifying this fundamental weakness in the program. First, the length of time a municipality operates under the program should be limited, and the Commonwealth's authority to intervene in municipal affairs should be increased the longer a municipality remains in the program. Secondly, DCED needs to have the power to compel the actions of governing bodies: this would be accomplished through a fiscal recovery board.

The League recognizes that some of the recommendations made in this report are controversial. While in the best of all possible worlds, even the most controversial of the recommendations would inform the public policy debate regarding distressed municipalities, in the world of the politically possible, prudence may dictate that DCED not advance every recommendation for implementation. DCED should carefully consider which of the recommendations herein it advances and which ones are best saved for another day.

Summary of Fiscal Distress Legislation in Selected States and Pennsylvania School Districts

Introduction

The purpose of this summary is to highlight and contrast municipal fiscal distress laws adopted by several states with Pennsylvania's Act 47. Two types of legislative acts were selected —those that are comprehensive/multi-jurisdictional in nature and those that are ad hoc or special laws, dealing with a single named governmental unit. The former laws are similar to Act 47 in scope. The ad hoc laws are reviewed because of the interest in establishing boards of control in fiscally distressed municipalities.

Florida, Illinois, Maine, Michigan, Nevada and Ohio adopted comprehensive laws. The ad hoc measures were adopted by Connecticut (involving three units) and Massachusetts (involving six local governments).

Six areas are covered:

- ◆ Powers and duties of boards of control, their sizes and composition;
- ◆ Types of sanctions and penalties applied to municipalities and/or their officials for not implementing recovery plans;
- ◆ Plan time frames and closure;
- ◆ Receivership;
- ◆ School district relationships; and
- ◆ Early warning or fiscal watch systems, particularly those aspects which differ from Pennsylvania's.

Boards Of Control

Boards of Control, or similar types of administrative agencies, have been authorized or created in the following states: Connecticut, Florida, Illinois, Maine, Massachusetts, Michigan and Ohio. Control boards in Massachusetts and Connecticut are established by special acts of the state legislature. General municipal fiscal emergency laws authorize the control agencies in the other states. The boards in Florida, Illinois and Ohio are "local" agencies. Those in Maine and Michigan are state boards. See Appendix A for detailed characteristics of the various states' boards of control.

In some instances, there are significant variations among their legal enactments. They differ as to the composition of the boards, their sizes, their powers and the appointment modes. The Florida financial Emergencies Law and the special act creating the City of West Haven (Connecticut) Control Boards are excellent examples of these differences.

The Florida law permits the establishment of a board whose members are appointed by the governor. The statute does not detail its composition or size. The statement of powers is most general: "...to oversee the activities of the local governmental entity." To accomplish this task, the agency is authorized to review fiscal and related records, consult with local officials on ways to improve the local fiscal management system and to review efficiency, productivity and financing of the entity's functions. Any proposals or recommendations made by the control board must be submitted to the governor for appropriate actions. The City of Miami is presently under a board of control's jurisdiction.

Pennsylvania School Districts

In Pennsylvania, special boards of control are authorized for school districts that are declared distressed by the Secretary of Education. The special board of control assumes control of the affairs of the district and operates it in the place of the elected school board during the period necessary to reestablish a sound financial structure in the district.¹ These administrative agencies are given the same powers, duties and responsibilities as possessed by boards of school directors.

In fiscally distressed districts, the elected school board has no power to act without the approval of the control board. In addition, these directors may not resign their offices, except with the unanimous approval of the control board or under special conditions. School board members may be removed from office by the court of common pleas for failure to perform delegated responsibilities.

School control boards have specific authority to require the elected school board* to revise the budget, cancel or re-negotiate certain non-professional contracts, impose added taxes, suspend professional employees, require an independent audit and appoint a special delinquent tax collector. Fiscal programs adopted in distressed districts are not restricted by existing tax limitations.

If a school board fails to impose added taxes recommended by the control board to liquidate the district's indebtedness, the board may petition the common pleas court for a mandamus requiring the elected board to levy the additional tax.

City of West Haven, Connecticut

The City of West Haven's Control Board consists of seven members: two state officials, a municipal officer, and four lay members, one of whom must represent organized labor. The board's powers are extensive.

The Board's powers are interesting for what they exclude and include. For example, the law does not specifically set forth traditional control board authority in the area of fiscal controls. However, the emergency finance director, whom the control board may hire, is given such powers as the board deems necessary for the appointee to manage the fiscal affairs of the city. The labor-

¹ 24 P.S. 6-692.

* Though the Public School Code implies a role for the board of school directors, in normal practice, the special board of control simply performs all the functions of the board of school directors.

management powers possessed by the board are of a scope not usually held by these agencies. For example, the board is empowered to:

- ◆ Set forth terms of a labor agreement if parties cannot reach an agreement – it is binding on all parties;
- ◆ Serve as the binding arbitration board – may impose binding arbitration upon parties after a certain time limit – time limits provided by law reduced to one-half; and
- ◆ Indicate total costs of contracts that it finds acceptable, when it rejects a labor agreement.

In the area of finance, the board also has powers that are “non-traditional.” It has specific authority to adopt an interim budget and tax rate, if the governing body fails to act in these areas. It also may modify the financial or recovery plan, when the governing body does not respond to the board’s request for change.

City of Brockton, Massachusetts

In the area of special legislation creating control boards, the law establishing the board for the City of Brockton (Massachusetts) is of interest for the constraints it imposes upon the board. The Brockton Control Board cannot exercise any of the following powers, unless the mayor and city council expressly delegate them to the board.

- ◆ Amend any appropriation, loan order, transfer or spending authority
- ◆ Establish appropriations for the year when a budget has not been adopted
- ◆ Establish or alter fees, rates or charges for any public service
- ◆ Impound or encumber appropriations
- ◆ Require work plans which must be approved by the mayor

The Board is a five-member agency. Three of its members are state commissioners or department heads (administration and finance, revenue, and accounts) and two are city officials – the mayor and council president.

Michigan

Michigan’s fiscal emergency legislation gives control boards traditional and normal financial management activities and controls. These boards, however, also possess additional authority. Michigan empowers the board-appointed emergency financial manager to:

- ◆ Limit the total amount appropriated or expended during the emergency period,
- ◆ Approve or disapprove creation of any new position and filling of vacancies,
- ◆ Consolidate departmental and transfer functions, unless prohibited by law,
- ◆ Appoint, supervise and remove non-elected department heads,

- ◆ Renegotiate labor contracts and act as an agent of the municipality in the collective bargaining process, and
- ◆ Enter into agreements with other local governments for the provision of services.

A distressed unit is required to pay the salary of the manager.

Ohio

Control boards provided by the Ohio fiscal emergency legislation, like in Michigan, give these boards traditional and normal financial management activities and controls. The Ohio law contains an unusual reporting requirement not generally in fiscal distress legislation. An Ohio control board must report annually to the Speaker of the House of Representatives and the President of the Senate. The report is to indicate the jurisdictional progress in eliminating distress, and the municipality's failures, if any, to comply with the emergency legislation. In addition, a control agency may make recommendations that it believes are necessary to correct deficiencies in the law.

The emergency law in Ohio also contains specific requirements for the financial manager. The person appointed must either be a certified public accountant or the State Auditor. Such specific mandates are generally not part of distress legislation.

The payment for the emergency financial manager is financed by the state for a two-year period. If this officer is retained, the municipality begins to assume the burden. After a 37-month period, the local government is responsible for 100 percent of this obligation.

Maine

The State of Maine's control board processes authority not given by the statutes adopted by other states. It is the only control agency with the power to declare a fiscally distressed unit in a state of receivership. If a unit's fiscal condition is not due to unanticipated emergency relief or an unavoidable misfortune, the Maine Board may declare the municipality in receivership and take over the local government's administration and management. The law does not detail the powers and responsibilities of the receiver.

Control boards are involved in the fiscal distress process at its inception. There are no plan coordinators or other agencies involved in a political subdivision's operations.

None of these boards of control have mandates or responsibilities to address structural issues, those dealing with the loss of tax bases. These agencies are solely concerned with correcting problems arising from poor management and/or lack of political responsibility.

The powers and responsibilities of the other municipal control boards are primarily concerned with approval and control of money flows and with ways to improve a political unit's financial management system. The sizes of these boards vary from three to eight members. Generally, their composition consists of state and local officials and municipal residents. The governor appoints the latter.

Sanctions and Penalties

All municipal distress laws contain penalty provisions except for those adopted by Florida and Maine. These deal with failure to perform and/or with violations of provisions of recovery budgets

and plans. The penalty provisions, such as those dealing with the flow of grant moneys, for the most part do not impact the community. Instead, they impact the governing body.

In general law distress legislation, the most common penalty is for a control board to seek court writs, such as a mandamus, to compel action by municipal officers. In a few, an official or employee may be removed after a hearing for failing to assist a control board or to provide it with requested information.

The Ohio law authorizes the control board to impose an expenditure "cap" if the local government does not adopt a recovery or fiscal plan. The "cap" provides that the unit's expenditure level in any one month may not exceed 85 percent of the general fund expenditures for such month in the preceding fiscal year. This penalty has been effective in having recovery plans adopted by recalcitrant local units.

Penalty provisions in ad hoc legislation basically require the imposition of surcharges against officers who spend moneys in excess of budgets or appropriations. They are personally liable for amounts spent in excess of these fiscal measures. In some instances, after judicial proceeding, the offending official may be removed from office. Several of the ad hoc laws authorize control boards to seek mandamus writs, via the office of attorney general.

The failure to submit mandated fiscal reports, which are the source of information for the state's early warning system in one state, can result in a significant fine being assessed against the offender. Such fine is not to be less than \$1,000 or more than \$10,000. However, if reasonable cause can be shown, the fine can be waived by the state.

Plan Time Frames and Closure

The general municipal fiscal distress laws and the ad hoc statutes differ as to their treatments of closure and time frames for fiscal plans. The general laws do not place any time limit as to how long a local government may remain in distress. This condition is terminated when a unit has corrected the problems causing distress. Such a decision is made by the governor or other agency or official, such as a state auditor. A fiscally distressed municipality may request a determination of its condition.

The ad hoc fiscal distress laws provide closure time frames. Generally, these are relatively short periods, such as two to three years. However, most of these legislative measures contain a provision authorizing a control board to extend the closure period. Other approaches used in several of these measures are to terminate distress when a local government has balanced its operating funds for several consecutive years or when it has cash revenues in excess of expenditures and a projected operating fund balance for three consecutive years. In several instances, the time frame for closure relates to the date special distress bonds mature. Fiscal plans, once completed, remain unless revised and updated as determined by a control board or a state agency.

Although these general statutes are silent on the issue of time, the Ohio and Nevada laws do contain provisions that may suggest time limits for a plan or for the termination of distress. The Nevada law places a five-year time frame for a new tax levy, viewed as critical to the successful implementation of a plan.

Since 1996, the Ohio measure has placed a cap on the compensation paid by the state to a financial supervisor employed by a control board. Under the law, the state will only pay 100 percent of the salary for the first two years. If the supervisor is employed after twenty-four months, the municipality is required to pay 25 percent of a supervisor's compensation. This percentage increases over time. By month 37, the political unit must pay all of a supervisor's compensation. If a municipality does not fulfill this responsibility, adjustments are made in certain grant flows. At present, according to the Ohio State Auditor, there are no distress units where this mandate would apply, and the provision has yet to be enforced.

If an effective financial management system is not fully implemented at the time of distress, the state auditor in Ohio must monitor the progress of the system's implementation. This must be accomplished within two years after distress termination. These officials may use their powers to ensure implementation.

In Nevada, the tax commission may require the governing body to submit special reports to the taxation department for a period not to exceed five years from the date of termination. Specific details for report not spelled out in the law.

State Receivership

In addition to Maine, the states of Connecticut, Nevada and Massachusetts have adopted fiscal distress legislation that, under certain conditions, places a local government in a receivership condition, a condition where the state, via a receiver, assumes virtual control of a municipality's operations.

The Massachusetts law is a special legislative measure placing the City of Chelsea in receivership. This action was deemed necessary because an existing board of control was not able to correct the City's fiscal problems. Connecticut's action also is a special law involving Jewett City Borough. The receiver for the City of Chelsea is appointed by the governor, as is the one for the Jewett City Borough.

The Borough's receiver has comprehensive fiscal powers and authority to supervise all personnel and the Borough's operations. The labor powers granted the receiver, interesting enough, are similar to those possessed by the West Haven Control Board. A receiver's taxing authority is similar to that possessed by the Control Board, but it is somewhat stronger and more comprehensive in scope as other forms of revenue are included. The Borough receiver has power to establish rates for taxes, fees and charges if the governing body does not act or the power to levy added taxes during the fiscal year if necessary to meet obligations.

The more interesting provisions for the City of Chelsea receiver are to:

- ◆ Be chief executive officer of the City and be responsible for overall operation and administration of the City,
- ◆ Formulate and implement a recovery plan,
- ◆ Promote opportunities for economic development, including particularly the expansion of the property tax base,

- ◆ Establish, increase, or decrease any fee, rate, or charge, for any services, licenses, permits or other municipal activity,
- ◆ Possess extensive power in all areas of financial management,
- ◆ Fix compensation rates and conditions of employment; appoint and have supervision and control over all employees; alter compensation of elected officers; make appointments to all boards and commissions,
- ◆ Reorganize and create departments, boards and commissions; recommend to general courts a form of government that will ensure the City's long-term fiscal stability and delivery of local services, and
- ◆ Alter compensation of elected officials.

The Chelsea receiver also is vested with the powers of the City Mayor. The board of aldermen is only vested with the power to advise the receiver concerning matters previously within its jurisdiction. In some instances, the exercise of various powers requires the approval of the Secretary of Administration and Finance, and public hearings may be required before final action is taken.

The Nevada approach to addressing municipal fiscal distress is different. The law does not provide for a board of control or any other similar distress agent. If the State Tax Commission, after a public hearing, determines that a municipality is in severe fiscal condition, it must order the State Tax Department to "...take over the management of the local government..." In its local management role, the Tax Department has mandates similar to those given a plan coordinator under Act 47. However, there are several exceptions.

- ◆ Various labor issues involving a fact-finder are beyond the purview of the Department.
- ◆ The Department may propose the imposition of added taxes. If proposal is approved by the Tax Commissioner, the local governing body must adopt the levy. The involved state agencies may seek redress in district court to compel compliance with their recommendations. The Tax Department may assess the local government for the cost of the services provided.

School District Relationships

In certain distressed Massachusetts cities, boards of control have jurisdiction over school district operations. These boards, for instance, approve school district fiscal programs and require the school districts to submit work plans for approval by the boards.

Work plans are to include a variety of programs and activities, such as curriculum review plans, budget objectives, professional and non-professional staffing requirements, and reviews of school lunch, transportation, special education and vocational programs. There is also a general requirement that the plan contains detailed implementation schedules.

Two states, Michigan and Ohio, have separate laws to cope with school distress. The municipal and school district laws, however, do not make reference to one another. Nevada requires notices to be given to overlapping local governments when a hearing is held on the determination of distress for a unit (it appears that a school district is considered to be an overlapping unit, however, the law is not clear on this point). These overlapping units must be given an opportunity to comment on the proposed action.

Early Warning Or Fiscal Watch Systems

Three of the states with general municipal fiscal distress legislation, Michigan, Nevada and Ohio, have early warning or fiscal watch programs. They differ from Pennsylvania's approach in the following ways.

- ◆ None of the three require local governments to submit special forms.
- ◆ Local audit reports filed by local governments are sources for data to determine whether a fiscal problem exists, or may exist.
- ◆ Distress criteria for the early warning or fiscal watch systems are not set forth in Nevada's laws. If criteria are defined, they are limited (the Ohio law, for example, establishes only four criteria) and separate from other distress criteria. In Michigan, seven of the 14 stated criteria deal with violation by local government of fiscal management mandates.
- ◆ A request to initiate the review process in Michigan may be made by either house of the general assembly. Michigan's governor has the responsibility to initiate the evaluation process. Either of these approaches involves state elected officials in the process much more closely than is the case for Pennsylvania distressed municipalities.
- ◆ Ohio has taken its technical assistance efforts to a new level – such assistance may include a performance audit. (The State Auditor expanded this assistance. The fiscal watch law does not specifically authorize such an audit.)
- ◆ Since 1996, Ohio has been authorized to charge for technical assistance it renders to a local government. The provision requires a local government to begin payment of the expenses incurred by the financial supervisor after 24 months.

Distress programs in two states require a local government to enter into either a consent agreement that it will implement the recommended changes or to adopt a resolution indicating that it will do so. In recent years, Michigan has used the consent agreement in at least three municipalities. These agreements proved useful in correcting problems that were causing these units to be on "paths" to distress. These three recent agreements represented a departure from the process used to formulate earlier agreements. Previously, agreements consisted for the most part of state mandates. There was little, if any, local government input and little concern about a unit's capacity to implement the mandates. As a result, there was not much political will to accept the agreement. The new approach involved significant input from local government officials. There was no attempt to micro-manage a unit's affairs.

Conclusions

Fiscal distress legislation in other states points to a number of directions that may be worthy of consideration for Pennsylvania's Act 47. Most of the states reviewed authorize boards of control with varying but often extensive powers. The Ohio law authorizes the control board to impose an expenditure "cap" if the local government does not adopt a recovery or fiscal plan. The "cap" provides that the unit's expenditure level in any one month may not exceed 85 percent of the general fund expenditures for such month in the preceding fiscal year. Another interesting feature is the enhanced labor negotiation powers given to City of West Haven's and Michigan's Boards of Control. A number of states compel municipal compliance with recovery plans by authorizing boards of control to seek court writs, such as mandamus action. Pennsylvania's distressed school district legislation empowers the special board of control to actually supplant the elected school board until the school district is no longer distressed. In this law, as well as in control board legislation in a number of other states, there is no "grace" period for elected officials to set their jurisdictions right: instead, control boards assume authority immediately upon implementation of the mitigative actions to address distress. Additionally, most do not conceive of a role for a plan coordinator but instead leave the development of corrective actions to the board of control.

Although time frames for recovery plans or closure of distress are not specifically provided in the distress laws, some have implied time frames. For example, Ohio's programs, in effect, imply a time frame by placing a cap on the compensation paid by the state to a financial supervisor employed by a control board. Under the law, the state's percentage decreases over time.

While school district concerns are generally not dealt with in general municipal distress legislation, there is precedent for distressed municipality/school district interaction in Nevada where notice must be given to all overlapping jurisdictions that a municipality is in a state of distress. In Massachusetts, some boards of control have jurisdiction over school district operations.

Early warning systems in some states require a local government to enter into either a consent agreement that it will implement the recommended changes or to adopt a resolution indicating that it will do so. In recent years, Michigan has used the consent agreement in several municipalities. These agreements proved useful in correcting problems that were causing these units to be on "paths" to distress.

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1. Recovery Plan Time Frame and Consequences

Recommendation

Distressed municipalities should operate under recovery plans initially for five years with an extension of an additional five years if necessary. Under exceptional circumstances, the Secretary of DCED could extend Act 47 status for an additional but final five years. The Commonwealth's direct authority should increase in these successive recovery plans.

Discussion

While Act 47 is not specific about the time frame for recovery plans, in practice distressed municipalities have operated under an unlimited series of three-year recovery plans.² Only Ambridge has emerged from the program within three years. Shenandoah came out of the program in its fifth year, while Wilksburg came out after ten years. Five of the 14 Act 47 municipalities have been in the program for ten years or more, and seven have been in the program between five and nine years. Most distressed municipalities have undergone recovery plan updates. Recovery plan coordinators generally agree that three years is not a long enough period for a recovery plan. A listing of the Commonwealth's distressed municipalities, populations, and years they either came into or exited the Act 47 program appears below.

<u>Municipality</u>	<u>1990 Population</u>	<u>1996 Population</u>	<u>In</u>	<u>Out</u>
Farrell	6,835	6,585	1987	-
Aliquippa	13,374	12,769	1987	-
Clairton	9,656	9,055	1988	-
Braddock	4,682	4,262	1988	-
Franklin	565	526	1988	-
Rankin	2,503	2,332	1989	-
Duquesne	8,525	7,907	1991	-
Scranton	81,805	77,189	1992	-
Johnstown	28,134	26,149	1992	-
East Pittsburgh	2,160	2,120	1992	-
Millbourne	831	809	1993	-
Homestead	4,179	3,918	1993	-
Chester	41,856	40,660	1995	-
North Braddock	7,036	6,711	1995	-
Shenandoah	6,221	6,071	1988	1993
Ambridge	8,133	7,787	1990	1993
Wilksburg	21,080	19,719	1988	1998

At the same time, Act 47's rewards were so beneficial to one Allegheny County distressed municipality that its officials sued to stay in the program. Distressed municipalities in Allegheny

² Section 241 (1) suggests that revenue and expenditure projections in recovery plans span three years. While Section 249 authorizes plan amendments, Act 47 does not provide specific procedures for updating recovery plans in the event that municipalities still meets one or more of the criteria for distress after three years. All recovery plan recommendations remain in effect, however, until amended by a subsequent recovery plan or the Secretary of DCED rescinds the status of financial distress.

County are part of a CDBG master contract that guarantees a higher allocation for them. Also Allegheny County is subsidizing the costs of 9-1-1 emergency call taking for distressed municipalities. Because of the benefits provided by Act 47, municipalities have, and may again, resist emerging from the program.

In other states, the Ohio and Nevada laws contain provisions that suggest time limits for a plan or for the termination of distress. The Nevada law places a five-year time frame for a new tax levy, viewed as critical to the successful implementation of a plan. The Ohio measure places a cap on the compensation paid by the state to a financial supervisor employed by a control board. Under the law, the state will only pay 100 percent of the salary for the first two years. If the supervisor is employed after 24 months, the municipality is required to pay 25 percent of a supervisor's compensation. This percentage increases over time. By month 37, the political unit must pay all of a supervisor's compensation. If a municipality does not fulfill this responsibility, adjustments are made in certain grant flows.

For Pennsylvania distressed municipalities, the initial recovery plan should span five years. If, midway in year five, the conditions that led to the distress determination have not been alleviated, the plan coordinator would draw up a new five-year recovery plan. No municipality would be allowed to remain in the Act 47 program for more than ten years without a special exception from the Secretary of DCED, in which case the plan coordinator would prepare a third, final five-year recovery plan.

The Commonwealth's direct authority should increase in each successive recovery plan. A fiscal recovery board (see recommendation 2) would be automatic in a municipality's second and third recovery plans. The Secretary of DCED could waive the requirement for a fiscal recovery board in those circumstances where the plan coordinator and DCED deem the imposition of fiscal recovery board to be counter-productive. The plan coordinator would have increased control over labor provisions in the third recovery plan. Additionally, the third, final recovery plan would include a municipal dissolution plan to be put into effect if distress was still present at the end of the third five-year recovery plan (see recommendation 10).

Recovery plans can be thwarted by poor labor negotiations on the part of the municipality, unwillingness of labor unions to reach contract agreements or adverse arbitration decisions. In some cases, municipal officials have ignored labor agreement recommendations.

In other states, fiscal distress legislation authorizes enhanced labor negotiation powers for plan coordinators or fiscal recovery boards. For example, the City of West Haven's (Connecticut) Control Board has the power to set forth terms, binding on all parties, of labor contracts if the parties cannot reach agreement. The board serves as the binding arbitration board. It may impose binding arbitration upon parties after a certain time limit³. Also, the board is empowered to indicate the total costs of contracts that it finds acceptable when it rejects a labor agreement. Michigan's law authorizes the control board to re-negotiate labor contracts and act as an agent of the municipality in the collective bargaining process.

In those exceptional cases in which municipalities are still distressed eleven years into the program, it is crucial for the Commonwealth to have increased control over labor agreements. Therefore, in the third and final recovery plan, the Commonwealth's direct authority would increase further by having the plan coordinator, or his or her designee, appointed as the neutral arbitrator in Act 111 proceedings. Additionally, Act 111 should be amended to recognize a municipality's

³ An additional provision is that the normal statutory time limit to negotiate a contract is halved.

fiscal condition as a factor in making arbitration decisions. Finally, under the Act 195 process, the municipality's contract proposal would automatically go into effect if no agreement has been achieved within twelve months of the previous contract's expiration. In those cases where the plan coordinator and DCED deem that these increased labor agreement powers are necessary prior to the third recovery plan, the Secretary of DCED may authorize such.

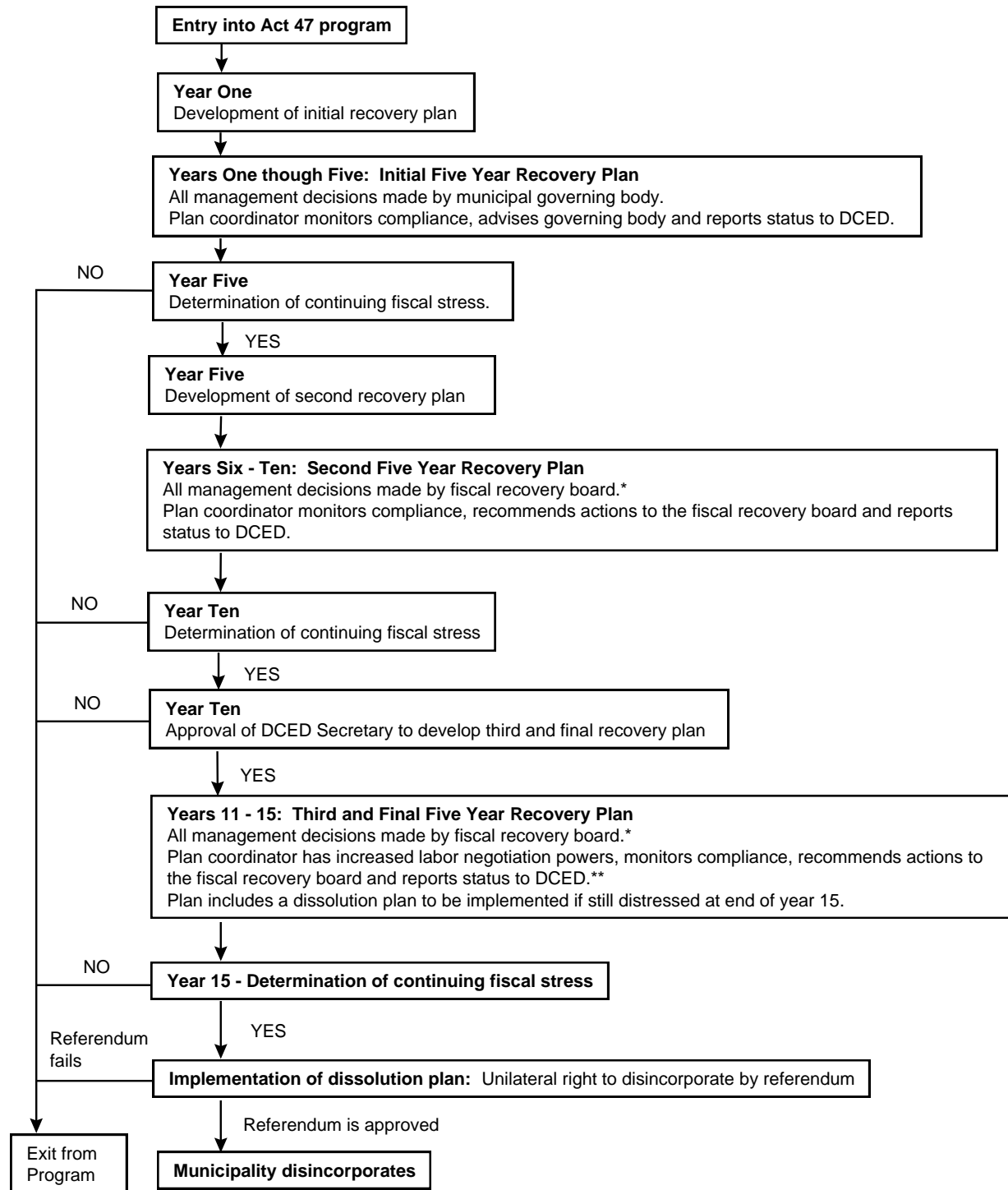
It is possible, sometime during the second recovery plan, for unions to win multiyear contracts, with concessions detrimental to the municipality. These contracts would be in effect through the third recovery plan, effectively denying the plan coordinator his or her increased labor negotiation powers. It is also possible that such multiyear, detrimental contracts could be signed just before or during the effective period of the distress declaration, diminishing the likelihood of quick fiscal recovery. To prohibit those possibilities, no distressed or "at risk" municipality (see Recommendations 5 and 7) should be allowed to sign labor contracts in excess of three years without the plan coordinator's or DCED's approval respectively.

Changes to labor laws are likely to be highly controversial. DCED may wish to consider whether conversion of these labor law recommendations into statutory amendments ultimately would reduce the likelihood of success of this report's other proposed amendments.

Municipalities suffering from severe structural distress may not be able to recover even after 15 years in Act 47. It may not be in the interest of the Commonwealth, however, to indefinitely provide Act 47 support and subsidies to municipalities. These municipalities may, in fact, be anachronistic and obsolete as units of government. Therefore, the third recovery plan would include a plan that gives the municipality the right to unilaterally disincorporate in the event that distress has not been alleviated by the end of year 15 in Act 47. Unilateral dissolution will necessitate amendment of state law (see recommendation 10).

Provisions for the Commonwealth's increased authority (i.e., fiscal recovery boards and enhanced labor negotiation powers) would have to be made in the event that a municipality comes out of distress before increased authority provisions come into effect but are later found to be distressed again. Figure 1 is a schematic of the time frame of Act 47 and the escalating levels of state involvement in municipal affairs.

Figure 1. Proposed Act 47 Flow Chart



* DCED Secretary authorized to waive fiscal recovery board requirement on a case-by-case basis.
 ** DCED Secretary may authorize increased labor negotiation powers prior to third and final recovery plan if deemed necessary.

2. Fiscal Recovery Board

Recommendation

Act 47 should require provisions for a fiscal recovery board with authority to exercise all the rights, powers, privileges, prerogatives and duties of municipal governing bodies during the second and third five-year recovery plan periods.

Discussion

Municipal officials are sometimes unwilling to implement tough recovery plan recommendations. The Commonwealth's sole power to discipline such a municipality, however, is stated in Section 251 of Act 47. This section empowers the Secretary of the Department of Community and Economic Development (DCED) to certify that a municipality has failed to implement an adopted recovery plan, and to thereby cause the withholding of grants, loans, entitlements or payments from the Commonwealth or any of its agencies. The Commonwealth, however, has generally been reluctant to exercise this power because it is widely seen as exacerbating the municipality's fundamental financial problem. There is, therefore, no practicable "stick" in Act 47 to encourage or force compliance with the recovery plan.

A fiscal recovery board would address this problem. The functions of such a board should include management of municipal affairs, in consultation with the plan coordinator, during the second and third five-year recovery plan periods. The ultimate threat of a fiscal recovery board assuming management authority in the municipality may be sufficient to compel the governing body to implement all recommendations before a fiscal recovery board is invoked. Municipal officials would likely prefer to work hard to get out of the program than to stay in Act 47 and have the municipality governed by a fiscal recovery board. It is the threat of the imposition of a fiscal recovery board, and not the imposition itself, that stimulates the desired behavioral change.

By statute, all recovery plans would provide for a fiscal recovery board to be appointed under conditions explained below. Act 47 would require that a fiscal recovery board provision be present in every recovery plan including alternate plans developed by municipal officials as authorized by Section 246. The fiscal recovery board provision would not be subject to amendment by the municipal governing body.

The fiscal recovery board provision would be invoked during all recovery plans following the initial one. The Secretary of DCED could waive the requirement for a fiscal recovery board in those circumstances where the plan coordinator and DCED deem that significant progress towards recovery is being made and the imposition of fiscal recovery board is unnecessary.

Also, if the Secretary of DCED deems it necessary, the plan coordinator and DCED could approach the court of common pleas to request the establishment of a fiscal recovery board within the first five-year recovery plan. In this instance, the fiscal recovery board provision is designed to be a "when all else fails" measure to be activated when the municipality has been entirely uncooperative in the implementation of recovery plan recommendations.

Does Article III, sec. 31 of the Pennsylvania Constitution prohibit the General Assembly from establishing a fiscal recovery board that has the power to levy taxes or control the expenditures of a municipality that has been certified to be a financially distressed municipality pursuant to Act 47? The League consulted with the law firm of Kirkpatrick and

Lockhart LLP regarding this potential constitutional issue. Although it should be pointed out that there is little case law about the subject, K & L's research suggested that the Pennsylvania Constitution would not prohibit the General Assembly from establishing a fiscal recovery board. According to K&L, a fiscal recovery board could be justified on three grounds.

- 1) Voluntary acceptance by a municipality of a state financial aid package that included the requirement that a fiscal recovery board be allowed to levy taxes would be deemed "intergovernmental cooperation" and not an unconstitutional delegation of the power to tax. Insofar as a financially distressed municipality voluntarily agreed to accept a package of aid from the state that included the requirement that the municipality surrender some measure of control over its financial affairs, a fiscal recovery board may be invested with the power to tax or regulate the fiscal affairs of the municipality without violating the constitutional prohibition against the General Assembly delegating the power to tax. Article III, sec. 31⁴ of the Pennsylvania Constitution would be interpreted in light of Article IX, sec. 5⁵ which provides for intergovernmental cooperation between a municipality and "any newly created governmental unit" such as a fiscal recovery board.
- 2) The exercise of legislative taxing power through an agency is permissible so long as appropriate limits are established. The General Assembly does not unconstitutionally delegate its power to tax when it exercises that power through an appointive agent such as a fiscal recovery board, so long as the General Assembly delineates the discretion of its agent by setting limits.
- 3) A state agency is not considered a special commission. The constitutional provision against the separation of the powers to tax and spend does not prohibit the establishment of a state agency designed to temporarily take control of a municipality's financial affairs for a limited period of time during a crisis and then to return control back to the municipality after the crisis has passed. Article III, sec. 31 was intended to prevent the giving of carte blanche to independent commissions to freely spend municipal funds without being accountable to taxpayers.

Local governments are creatures of the state, and as such, the Commonwealth regularly restricts various municipal actions and regulates how they conduct their affairs, including actions that effect health, the environment, and transportation. Pennsylvania's Constitutional language cited above goes back to the 1874 Constitution, written at a time when the concern about "special commissions" was really over whether special commissions could be established to circumvent municipal governing bodies in order to pay for railroad construction and other private sector development projects. It was not intended to restrict the state, or agents of the state, including the courts, from involvement in municipal affairs.

An amendment to Act 47 would detail the fiscal recovery board appointment process (one approach would be for the board to be appointed by the Court of Common Pleas upon the advice and recommendation of the Secretary of DCED), powers and duties, relationship to the governing body and the recovery plan coordinator, and other relevant details. Pennsylvania's Public School

⁴ Which reads, in relevant part: "The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever." Pennsylvania Constitution art. 3, sec. 31 (previously art. 3, sec. 20).

⁵ Which reads, in relevant part: "A municipality by act of its governing body may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility to, one or more other governmental units including other municipalities or districts, the Federal government, any other state or its governmental units, or any newly created governmental unit." Pennsylvania Constitution art. 9, sec. 5.

Code, as described in brief below, may be useful in shaping the details of a fiscal recovery board for distressed municipalities. The fiscal recovery board should be seen as a temporary managing body that implements the tough solutions necessary for the distressed municipality to emerge from distress. It should also educate the governing body on how best to operate the municipal government so that the governing body can maintain a fiscally sound position for the municipality once it reassumes control of municipal government.

Boards of control, or similar types of administrative agencies, have been authorized or created for distressed municipalities in seven states and for distressed school districts in Pennsylvania. It is instructive to review the makeup and powers of various fiscal recovery boards established in other states and for Pennsylvania distressed school districts (see Appendix A for detailed characteristics).

In Pennsylvania, boards of control are authorized for school districts that are declared fiscally distressed by the Secretary of Education. These special boards of control “assume control of the affairs of the district and operate it in the place of the school directors during the period necessary to reestablish a sound financial structure in the district.”⁶ The special board of control is given the same powers, duties and responsibilities as possessed by boards of school directors: The elected school board has no power to act without the approval of the control board.

These control boards are authorized to require the school board* to revise the budget, cancel or re-negotiate certain non-professional contracts, impose added taxes, suspend professional employees, require an independent audit and appoint a special delinquent tax collector. Fiscal programs adopted in distressed districts are not restricted by existing tax limitations.

If the school board fails to impose added taxes recommended by the control board to liquidate the district’s indebtedness, the control board may petition the court of common pleas court for a mandamus requiring the school board to levy the additional tax. School directors may be removed from office by the court for failure to perform delegated responsibilities. School directors may not resign their offices without the unanimous consent of the control board.

In Connecticut, the City of West Haven’s Control Board consists of seven members: two state officials, a municipal officer, and four lay members, one of whom must represent organized labor. The board’s powers include extensive labor-management powers, authority to adopt an interim budget and tax rate if the governing body fails to act, and authority to modify the recovery plan if the governing body does not respond to the board’s request for change. The board ceases to exist when the City’s operating funds are balanced for two consecutive years and positive operating balances are projected for three succeeding consecutive years. The board may be reestablished if imbalances occur.

The most common penalty is for a control board to seek court writs (e.g., mandamus) to compel action by municipal officers. In a few, an official or employee may be removed after a hearing for failing to assist a control board or to provide it with requested information.

Ohio authorizes control boards to impose an expenditure “cap” if a local governments do not adopt recovery or fiscal plans. The cap provides that the unit’s expenditure level in any one month may not exceed 85 percent of the general fund expenditures for such month in the preceding fiscal year. This penalty has been used several times.

⁶ 24 P.S. 6-692.

* Though the Public School Code implies a role for the board of school directors, in normal practice, the special board of control simply performs all the functions of the board of school directors.

3. Distinction Between Managerial and Structural Distress

Recommendation

Recovery plans should distinguish between managerial and structural distress.

Discussion

A review of the 17 municipalities that have been declared distressed suggests that the municipalities can be classified into two types of distress: managerial distress, which is a result of poor management practices, and structural distress, which is a result of severe erosion of tax base. A useful guide for differentiating structural and managerial distress is that structural distress may be typified by low per capita revenue while managerial distress may be typified by high per capita expenditures.

Alleviation of managerial distress may require changes in administrative practices and policy directions. Alleviation of structural distress more likely requires wholesale review of and changes to the range of community activities, not restricted to the municipal government, but including school district operations, civic involvement, and long term community and economic development. Severe economic dislocation is often a regional condition, and as such, structural distress may require regional solutions in some cases as discussed in Recommendation 4.

Whether a municipality is managerially or structurally distressed should play a role in the proper approaches to financial recovery and types of recommendations presented in recovery plans. For example, while recovery plans for any type of distressed municipalities might include specific recommendations for intergovernmental cooperation agreements or managed competition⁷, dissolution ultimately may be the only practical salvation for some structurally distressed municipalities. Recovery plans for managerially distressed municipalities could recommend the adoption of various nationally recognized standards for budgeting, accounting and procurement. The recovery plan should identify various performance standards for municipal operations and hold the municipality accountable to those standards.

Some practitioners have advocated trend analysis as a means of benchmarking local government finances to detect impending financial difficulty. In an article that won a 1998 Government Finance Officers' Association Award for Excellence, Jm Petro, Ohio's Auditor of State, cites population decline as an obvious indicator of a declining economy. He also advocated reviewing the rate of growth for police and social services as a percentage of general and governmental funds in order to assess economic vitality. These two criteria may be useful beginning points for developing a comprehensive set of criteria for determining structural distress.

Mr. Petro also advocates several other benchmarks that may be useful for determining both managerial and structural distress including reviewing:

⁷ Managed competition involves subjecting government services to market forces. It has been used by a number of progressive governments across the nation, perhaps most notably by Indianapolis, to control costs and improve delivery of public services. Managed competition, as opposed to "contracting out" or "outsourcing," denotes public employees competing against private sector vendors for service delivery contracts. Privatization, where the outside vendor wins the contract, may result. In many cases, however, public sector employees win the bid, taking advantage of governments' sales tax exemption and indifference to profit margins.

- ◆ the growth of percentage of revenues coming from extra-local sources in order to assess financial independence;
- ◆ accounts payable as a percentage of governmental funds revenue in order to assess the degree of deferred costs; and
- ◆ the percentage of unencumbered year-end fund balances as percentage of expenditures in order to measure the health of carry-over to provide a cushion⁸

⁸ Jim Petro, "Fiscal Indicator Reports and Ratio Analysis: Benchmarking Ohio Municipalities and School Districts" Government Finance Review (Washington, DC: Government Finance Officers Association, October 1998), p. 18.

Petro offers a listing, that follows, of “nine key ratios employed to help Ohio local governments develop a composite index of their financial condition”:⁹

Ratio	Interpretation
total revenues/population	high ratio typically suggests adequate annual resources
total general fund revenues from local sources/total general fund revenues	high ratio suggests government is not reliant on external governmental revenue sources
operating expenditures (excluding capital outlay)/total expenditures	low ratio typically suggests infrastructure is adequately maintained
total revenues/total expenditures	high ratio notes revenue exceeded expenditures
unreserved general fund balance/total general fund revenues	high ratio suggests adequate cash to pay short-term obligations
total general fund cash and investments/total general fund liabilities	high ratio suggests adequate cash to pay short-term obligations
total general fund liabilities/total general fund revenues	low ratio suggests normal flow of annual revenues can easily meet short-term obligations
direct long-term debt/population	low ratio suggests ability to repay general long-term debt
debt service/total revenues	low ratio suggests ability to make debt service payments

4. Regional Distress

Recommendation

Act 47 recovery plans should recognize and coordinate recommendations within “distressed regions.”

Discussion

Municipal distress is often exacerbated by regional structural distress factors. The decline of the steel industry in the Mon and Conemaugh Valleys precipitated distress in a fair number of contiguous municipalities. For example, the neighboring Boroughs of Rankin, Braddock, North Braddock and East Pittsburgh all suffer, to a greater or lesser degree, from the same fundamental economic problems, yet the four have individual recovery plans written by different plan coordinators at different times. This piecemeal approach could hinder the treatment of underlying economic problems. A regional recovery approach for contiguous distressed

⁹ Ibid, p. 21. (Note: These ratios apply to governments that use Generally Accepted Accounting Principals (GAAP).)

municipalities may be a better tool than individual recovery plans for attacking the causes of regional, structural distress.

Requests for determinations of distress have, to date, been initiated under Section 202 (2) by municipal governing bodies or, in one case, under Section 202 (4) by petition of the electorate. It is unlikely, however, that all the key contiguous municipalities that suffer from distressed conditions will request the Section 202 investigation on their own. To date, DCED has not exercised its power under Section 202 (1) to request a determination of distress.

DCED may wish to exercise its power under Section 202 (1) to request a determination of distress from the Secretary of DCED for municipalities contiguous to a municipality that meets one or more of the criteria in Section 201. If distress criteria are met in any contiguous municipality(ies), DCED should go through the normal distress determination procedure.

Determinations of distress for contiguous municipalities should result in coordinated recovery plans for the distressed municipalities within the grouping. Though it may be difficult to achieve consensus on common recovery plan recommendations among multiple distressed municipalities, plan coordinators should work together to develop recovery plans for contiguous municipalities. DCED may wish to stipulate in its RFPs for plan coordinators that, at the direction of DCED, plan coordinators cooperate with other plan coordinators and recovery plans coordinate with other recovery plans. This would not only make the need for such coordination explicit to prospective plan coordinators but would also serve as a signal to distressed municipalities that that such coordination may be necessary. Ultimately, it may prove advantageous for recovery plans in contiguous municipalities to be developed and managed by a single recovery plan coordinator.

Act 47 should promote recovery plan recommendations necessary to alleviate regional distress. It may be useful for recovery plans affecting municipalities within distressed regions to include recommendations for the adoption of regional comprehensive land-use plans, the joint provision or procurement and financing of municipal services, and the development of tax-base sharing plans within distressed regions. Local zoning ordinances must be consistent with these regional land use plans.

It may be advisable for the Municipalities Planning Code to be amended for distressed municipalities to encourage voluntary regional comprehensive planning by permitting joint zoning that would treat distressed regions from a single land-use point of view without requiring each participating municipal jurisdiction to provide every possible type of land use within its boundaries. While municipalities may now enter into joint zoning, such a change to the Municipalities Planning Code would protect each participating municipality from having to provide for every possible type of land use within its individual boundary as long as every possible type of land use is provided within the boundaries of the joint zoning area.

5. Coordination Between Economic and Community Development Policies

Recommendation

DCED should consider developing a new economic development program which would provide new funding for the following activities:

- ◆ identification of “at-risk” municipalities or regions (see recommendation 7);
- ◆ development of a local/regional economic recovery plan for “at-risk” and distressed municipalities that identifies resources, actions and responsible parties for implementation;
- ◆ administrative oversight of local/regional plan implementation; and
- ◆ follow-up evaluation of plan implementation.

As an alternative to creating a new state economic development program, the Commonwealth could increase the level of funding in Act 47 for economic development programs.

Discussion

DCED must do more to meld community and economic development policies as they pertain to communities identified as distressed under Act 47. More importantly, this same connection is not evident for communities approaching distress due to harsh economic conditions. For example, while there are general provisions targeting distress in many existing programs, and even though Sections 122a and 282c attempt to focus assistance generally from the Commonwealth to distressed municipalities, there are no specific economic development programs or set-asides which meet the specific problems of distressed municipalities.

At the local level, due largely to fragmentation of economic development programs and to reduced resources, distressed municipalities and regions do not have the capacity to sustain long economic recovery processes. Southwestern Pennsylvania business leaders at a Business Partnership Forum conducted by the Team Pennsylvania Foundation in October 1998 concluded that a stronger, more cohesive approach to economic development is needed to promote economic growth in the region. Among recommended specific actions are increasing the levels and types of public and private financing, and replacing the fragmented county and regional economic development agencies with a single, joint economic development district authority.

While attention to existing distressed municipalities is important, the primary emphasis of this proposed program should be on “at risk” regions. DCED’s role should be limited to initiating the recovery process, financing local capacity to plan and implement recovery, and ensuring that the process proceeds as planned. Actual on-sight implementation should be vested in an appropriate local/regional economic development agency. The Team PA structure should be used to identify the appropriate entity. The local/regional economic recovery plan is not meant to supplant, but rather to supplement and enhance, the normal Act 47 recovery plan.

When appropriate, DCED should incorporate special provisions into its economic assistance

programs which provide easier access to and liberalized terms for “at risk” and distressed municipalities. For example, the Keystone Opportunity Zones program could be altered to allow state participation to minimize forgone tax revenues for distressed municipalities.

6. Coordination with Local School District

Recommendation

Distressed municipalities and their school districts should work together more closely in an effort to alleviate conditions of distress.

Discussion

Distressed municipalities, particularly those that could be classified as structurally distressed, often are served by distressed or fiscally weak school districts. There is no requirement for school districts and municipalities to work together toward general financial recovery. School district decisions made in isolation can have serious consequences for municipal recovery. The reverse is also true.

The Pennsylvania Department of Education (PDE) and DCED should, to the extent possible, coordinate their approaches to fiscal distress under their respective jurisdictions. It may be useful for the two agencies to develop a memorandum of understanding on how the two agencies should coordinate their actions in distressed and “at risk” jurisdictions.

Declaration of municipal distress should trigger a PDE review of a coterminous school district to assess its fiscal health. Discovery of fiscal distress in a coterminous school district should result in the development of coordinated municipal and school district recovery plans.

No school district containing a distressed municipality should enact an increase in school district tax rates without an analysis by and testimony of the plan coordinator, to the school district of the fiscal impact of the proposed tax increase on the municipality. Furthermore, the review and comment of the local school board president and school district superintendent should be solicited in the development of any municipal recovery plan.

There is precedent for these kinds of distressed municipality/school district interaction in some states. Nevada requires notices to be given to overlapping local governments, including school districts, when a hearing is held on the determination of distress for a unit. These overlapping units must be given an opportunity to comment on the proposed action. In certain distressed Massachusetts cities, boards of control have jurisdiction over school district operations. These boards, for instance, approve school district fiscal programs and require the school districts to submit work plans for approval by the boards.

7. Timely Identification of Distressed Municipalities

Recommendation

Municipalities that are sliding towards distress or already meet the criteria should be identified and provided assistance as early as possible.

Discussion

Proactive identification of and assistance to at-risk municipalities before they slide into distress may be more effective and less costly than putting municipalities in the Act 47 program. Therefore, DCED should consistently use an effective and timely early warning system (EWS) to trigger the offer of technical assistance and training to pre-distressed municipalities. The EWS should also be used to assist in determining the applicability of the new economic development program outlined in recommendation 5. Additional funding may be necessary to perform these functions effectively.

DCED officials anticipate that new streamlined municipal financial reporting procedures and updated information management technology will significantly enhance the timeliness of its EWS. They expect that 1998 EWS results may be prepared in autumn 1999. If these improvements come to fruition, and given sufficient staff capacity, DCED would be in a position to provide proactive support to struggling municipalities.

DCED may wish to supplement its current EWS with an additional early warning system. The Pennsylvania Economy League, Inc., Western Division developed a property tax stress index as a quick and reasonably accurate indicator of the fiscal wherewithal to provide municipal services (see Appendix B for the 1998 Allegheny County municipal stress index results).

Supplementing DCED's current EWS with the stress index would give DCED multiple perspectives on fiscal stress:

This classification system assumes local elected decision-makers are aware of the competitive metropolitan market of which they are an integral part. This knowledge includes an assessment of how their community compares with their neighbors. Indeed, in the world of local politics, elected officials optimize their community's standing and their standing within the community by maximally meeting demands while minimally taxing voter-consumers. The desired result is a bundle of services desired by the consumer and willing financed by the voter.¹⁰

The scale ranks each municipality on the extent of service/degree of taxation continuum. Taxation is measured by calculating the rate of taxation of each municipality. The service bundle is measured by estimating the per capita yield generated at that rate of taxation. The higher the yield, the more resources exist for the elected officials to meet voter-consumer demands that legitimize the jurisdiction's rate of taxation. The League's stress index, by measuring relative tax effort and resulting tax yield, attempts to show how the taxation and spending policies of governing bodies is reflected in relative positions of fiscal stress. Communities with low tax effort and high tax yield represent the optimal situation for elected officials. Conversely, high tax effort, low tax yield communities represent the least desired state. It is worth noting that Allegheny County's eight distressed municipalities along with McKeesport each year consistently rank among the nine highest places on the League's stress index for 128 of Allegheny County's municipalities.¹¹

¹⁰ David Y. Miller, Ph.D., "Transforming the Governance of Western Pennsylvania from Town to Region", unpublished paper, 1998.

¹¹ The Boroughs of McDonald and Trafford are not included in the analysis because they lie only in part in Allegheny County.

Early warning systems in some states require a local government to enter into either a consent agreement that it will implement the recommended changes or to adopt a resolution indicating that it will do so. In recent years, Michigan has used the consent agreement in at least three municipalities. These agreements proved useful in correcting problems that were causing these units to be on "paths" to distress.

8. Role of Healthy, Neighboring Municipalities

Recommendation

The Commonwealth should develop a policy to encourage healthy municipalities to develop cooperative agreements with distressed municipalities.

Discussion

Financially strong municipalities seldom participate with financially weak municipalities in intergovernmental cooperation arrangements. Past experience has shown that distressed municipalities are rebuffed less often in intergovernmental cooperation arrangements by other weak municipalities than by strong ones. Weak municipalities, however, are often only marginally able to provide themselves with adequate services, let alone providing them at a reasonable cost to other weak municipalities.

A recovery plan may recommend that police protection be purchased from or shared with a neighbor. A study may conclude that partnering with large, wealthy neighbor A would be less expensive than continuing to provide police protection itself or partnering with small, poor neighbor B. Yet A is not interested in offering police protection to the distressed municipality because of significantly higher demands in quantity and type of police presence necessary to do the job.

Partial underwriting of these added costs could induce Neighbor A to extend services to or join services with its distressed neighbor. For example, the state could pay the municipality that provides a service to or joins services with a distressed municipality the differential between the amount the distressed municipality paid to provide a service itself and the resulting new cost to the service provider municipality.

The Commonwealth should consider providing financial incentives to councils of governments, school districts and counties to develop cooperative agreements with distressed municipalities. For example, the state could provide financial inducements to school districts, where such sharing would benefit the community, to open their libraries and recreation facilities to municipal use in lieu of municipal libraries and recreation facilities. As part of this inducement, it may be necessary for the state to cover additional insurance costs to the school district.

The financial incentives discussed in this recommendation should be phased out over several years with the distressed municipality's separation from the Act 47 program. The recovery plan should identify potential service providers. To hold down costs, the plan coordinator should project the costs necessary to provide the services. Cooperative services provision costs should be within the range identified by the plan coordinator.

9. Interest Bearing Loans

Recommendation

DCED loans to distressed municipalities should accrue interest that would be refundable if all plan recommendations have been implemented within five years.

Discussion

DCED emergency and long-term loans are no interest loans. Interest bearing loans with interest refunded upon implementation of all recovery plan recommendations might promote stricter adherence to recovery plans. Principal payments, along with accrued interest, perhaps at two percent, could be invoiced and paid yearly, and then rebated at the rescission of distressed status. This rebate would serve as a reward for strict adherence to the recovery plan.

Allowances could be made for recommendations that, over time, became inappropriate or are impossible to accomplish, allowing a pro-rata refund of interest based on the degree of compliance.

10. Municipal Dissolution

Recommendation

There is a need to allow the citizenry of distressed municipalities to initiate unilateral dissolution procedures when they have completed 15 years in recovery plans and show no marked improvement in their financial conditions.

Discussion

Mergers and consolidations are authorized but rarely attempted due in no small part to the necessity of finding willing partners. The Pennsylvania experience has been that municipalities decline merger or consolidation even when all participating municipalities are likely to benefit. State underwriting of such efforts may be necessary to induce parties to approve mergers and consolidations. DCED should be given sufficient resources to induce mergers and consolidations.

Merging or consolidating two or more distressed municipalities, however, might merely create one larger distressed municipality. Disincorporation may be an answer to this problem. State law does not provide for unilateral dissolution of municipalities. Distressed municipalities which have completed 15 years in the Act 47 program should have the option of unilaterally disincorporating through referendum. The county and municipal codes should establish procedures to permit large-scale municipal disincorporation with traditional municipal services provided to the newly unincorporated areas by county governments through special service districts and/or inclusion of unincorporated areas to one or more contiguous municipalities.

The municipal and county codes should clearly authorize special districts for varying levels of services, taxes and the handling of debt in newly disincorporated consolidated, merged or annexed areas. In the event that this authorization conflicts with the "uniformity clause" of the Pennsylvania Constitution, the Constitution should be amended to recognize special taxation and service districts as falling within the definition of a "uniform area of jurisdiction."

It should be noted that many Pennsylvania counties are not overly eager to jump into providing a wide range of municipal services to parts of their counties that might be disincorporated. While Allegheny County provides a wide range of services that could be adapted to the municipal level, most counties are not so equipped. Counties would certainly balk at the proposition of taking on more responsibilities by state mandate. Counties would resist increased service roles if not accomplished voluntarily and through negotiation. Some municipal association representatives think that disincorporation is not the right approach. Instead, they would favor annexation, merger or consolidation effected through a "carrot and stick" approach, with particular emphasis on financial incentives to make voluntary mergers more palatable to the involved parties.

Several elected officials from Act 47 municipalities indicated that mergers with fiscally sound municipalities should be made easier (see Appendix C for Act 47 elected officials' comments). One such official believes that merger should be forced when a municipality has no real chance of otherwise coming out of distress. One Act 47 municipal official thinks Act 47 stresses municipal cooperation too much. The views of municipal association officers and elected officials notwithstanding, Appendix D offers one approach to municipal dissolution.

Conclusion

This report has provided directions that the Commonwealth should explore for improving Act 47 and simultaneously enhancing the chances of expeditiously restoring Pennsylvania's distressed municipalities to fiscal health. While the League believes that all ten recommendations are worth pursuing, two are key to the success of the program. First, Act 47 should be amended to provide a specific time frame for recovery. Within that fixed time frame, the Commonwealth's authority to directly involve itself in municipal affairs should increase the longer the municipality is in the program. Secondly, the certainty of the implementation of a fiscal recovery board in the second five year recovery plan, increased labor powers in the third, final recovery plan and ultimate dissolution of non-viable municipalities should serve as incentives for municipal officials to make wise choices in their management of municipal government.

If the Commonwealth amends Act 47 as suggested in this report, a distressed municipality's governing body, with the plan coordinator's assistance, will have five years to get its fiscal house in order. At some point within those first five years, if the municipality has the economic wherewithal and the political will to set itself on the right course, the municipality will recover and exit from the Act 47 program.

If the economic conditions are severely limiting or the governing body has been unwilling to thoroughly implement the first recovery plan, a fiscal recovery board will supplant the governing body for a period of up to five years under the second recovery plan. Within that second five year time frame, it is assumed that, under the administration of the fiscal recovery board and with the additional economic development assistance and intergovernmental cooperation recommended in this report, the municipality will recover and exit the program.

If the municipality continues to be in severe structural distress, however, and the necessary economic conditions for recovery are not present at that time, the Secretary of DCED must decide whether to continue the program for an additional five years. If continued participation is authorized, the third, final recovery plan would, along with continuing economic development assistance and intergovernmental cooperation incentives, give the plan coordinator and fiscal recovery board greater powers in labor negotiations.

The desired outcome is that, with up to 15 years of state assistance and targeted programs, the municipality will at some point emerge from distress. The residents of those municipalities that are still distressed after 15 years must then decide whether their municipality is truly viable as a continuing unit of general purpose local government. If they deem that it is not, they should be able to unilaterally vote the municipality out of existence.

At the end of this lengthy and graduated process, a municipality will either emerge as a fiscally healthy unit of government, or the point will have been clearly made that the municipality has fundamentally lost the ability to fund municipal services from its own revenues and provide them to its residents and businesses. The municipality then should decide whether to continue as a general purpose unit of government, but without further assistance from the Commonwealth or to terminate the legal existence of the body corporate. The recommendations are intended to create new opportunities for recovery for distressed municipalities, but at the same time, to recognize that there are alternatives to the Commonwealth's provision of, what has in essence become, perpetual "life-support" to severely distressed local governments.

Appendix A: Selected Control Board Characteristics

PENNSYLVANIA **Distressed School District Board Of Control**

Public Instruction Superintendent declares district in distress – one of seven conditions.

Superintendent or other official petitions Court of Common Pleas to appoint two citizens (electors and taxpayers) in county in which district is located to special board of control – third member is either Superintendent or designated representative.

Committee members appointed by court – paid \$75, not to exceed \$900 per year – payment from school district funds.

Powers

Exercises all the rights, powers, privileges, prerogatives and duties imposed or conferred by law on the board of school directors. (Note: existing school board has no power to act without control board's approval.)

Requires the board of school directors' within sixty (60) days to revise the district's budget to reflect necessary economies. To accomplish such economies, the board of school directors' may be required by the control agency to:

- ◆ Cancel or renegotiate contracts of non-instructional personnel
- ◆ Increase taxes, if necessary
- ◆ Appoint special collector of delinquent taxes
- ◆ Appoint auditors to audit accounts
- ◆ Dispense with services of non-professional personnel
- ◆ Suspend, in accordance with law, professional and temporary professional personnel as may be necessary to maintain a pupil/teacher ratio of 26 pupils per teacher for the combined elementary and secondary school enrollments
- ◆ Require board, if necessary, to impose special tax sufficient to liquidate debt – existing rate limits do not apply to special levy (note: mandamus action is available if board does not levy tax or board may be removed from office for failure to do its duty.)

Duration

As long as is necessary to re-establish a sound financial structure.

* Though the legislation implies a role for the board of school directors, in normal practice, the special board of control simply performs all the functions of the board of school directors.

OHIO
Financial Planning And Supervision Commission

A fiscal emergency designation triggers creation of a financial planning and supervision commission, a local agency.

Commission consists of seven members:

- ◆ State Treasurer
- ◆ director of budget and management and five municipal officials, three of whom are selected by the Governor

The Commission may appoint a financial supervisor to exercise its powers.

Powers

- ◆ Approves or rejects financial recovery plan prepared by municipality
- ◆ If plan is not submitted and approved, as required, expenditures from general fund are not to exceed 85 percent of expenditures from the general fund for such month in the preceding fiscal year [This item isn't really a power]
- ◆ Reviews all tax budgets, tax levy ordinances, bond and note ordinances or resolutions, appropriation measures, and certificates of estimated resources to require that such are consistent with the financial plan
- ◆ Inspects financial management documents and related materials
- ◆ Approves determinations and certifications affecting municipality by various county agencies, such as the budget commission
- ◆ Brings civil actions, including mandamus, to enforce this chapter
- ◆ Approves the amount and purpose of any issue of debt obligations
- ◆ Authenticates and assists the appropriate officers in the delivery of debt obligations
- ◆ Consults with the officials of the municipal corporation and the auditor of state regarding any necessary or appropriate steps to bring the accounting systems into compliance with requirements prescribed by auditor of the state
- ◆ Provides assistance in the structuring or the terms of, and the placement of sale of debt obligations
- ◆ Performs all other powers, duties, and functions as provided under law?
- ◆ Makes and enters into all contracts and agreements necessary or incidental to the performance of its duties
- ◆ Consults with officials to make recommendations for cost reductions or revenue increases to achieve balanced budgets and carry out the financial plan
- ◆ Reviews the adequacy of all revenues to meet all expenditures for such fiscal year
- ◆ Reviews the extent of any deficiency of revenues to meet such expenditures
- ◆ Makes annual reports to legislative officials concerning progress of municipality to eliminate emergency conditions, and failure of municipality to comply with the law and to make recommendations to correct deficiencies in the emergency law
- ◆ Requires the municipality to establish monthly levels of expenditures and encumbrances consistent with the financial plan

Duration

State Auditor may determine if conditions creating emergency are corrected.

If an acceptable fiscal management system is not in place at termination, the state auditor monitors its implementation. Must be done within two years. Failure to implement results in a misdemeanor action.

If financial supervisor's services are required beyond a 24-month period, [list same percentage –85% that you included in the recommendations section] his/her compensation must be paid by the municipality. The percentage to be paid increases as the length of time increases. If services are for 37 months or more, the jurisdiction must pay 100 percent of the compensation. If money is not paid, the county auditor withholds amount due supervisor from moneys to be distributed to the municipality.

CONNECTICUT
City Of Bridgeport Financial Review Board (special legislation)

Twelve members:

- ◆ State Treasurer
- ◆ Secretary of the Office of Policy and Management
- ◆ City Mayor
- ◆ two persons appointed by Mayor (one must be a city resident)
- ◆ two members representing the public, appointed jointly by House speaker and Senate president pro tempore
- ◆ one member appointed jointly by minority leaders in House and Senate
- ◆ two members appointed by Governor
- ◆ two members appointed by State Treasurer (one must be a representative of organized labor) and one must be a city resident

One appointee must be a partner in a major accounting firm and another the chief financial officer of a major corporation in the city. All appointees must be residents of the State.

Powers

- Retains consultants
- Consults with City in budget preparation
- Approves budget and financial plan
- Prescribes format for financial plans
- Approves borrowing terms
- Approves contracts
- Reviews/analyzes collective bargaining agreements to determine fiscal impacts
- Presents testimony to binding arbitration panel
- Reviews the efficiency and productivity of city operations and management and makes recommendations
- Audits compliance with financial plan and budget
- Inspects, copies and audits books/records
- Coordinates with finance director review of city's revenues and expenditures
- Prescribes format and content requirements for financial plan
- Approves financial plan
- Develops interim budget when necessary
- Approves plan and budget modifications
- Approves transfers and contracts
- Applies for writ of mandamus to require compliance with orders

Duration

Six months after the end of the emergency period – Board, by resolution, determines fiscal problem resolved.

CONNECTICUT**City Of West Haven Finance Planning And Assistance Board (special legislation)****Seven Members:**

- ◆ State Secretary of Office of Policy and Management
- ◆ State Treasurer
- ◆ City Mayor
- ◆ Four members appointed by Governor – one must be a representative of organized labor

Powers

- ◆ Approves annual City budgets
- ◆ Adopts interim budget, if it disapproves budget
- ◆ Establishes tax rates, if interim budget adopted
- ◆ Approves all transfers and expenditures
- ◆ Approves financial plans and issuance of deficit funding bonds
- ◆ Requires modified fiscal plans and budgets
- ◆ Approves collective bargaining agreements
- ◆ Sets forth terms of agreement if parties cannot reach agreement
- ◆ Serves as the binding arbitration panel when contracts require such
- ◆ Approves all contracts
- ◆ Approves board of education budget
- ◆ Appoints emergency finance director
- ◆ Orders employees to implement board decisions

Duration

Ceases to exist when City's operating funds are balanced for two consecutive years and positive operating balances are projected for three succeeding consecutive years – Board may be reestablished if imbalances occur.

CONNECTICUT
Borough Of Jewett Receivership Legislation (special legislation)

State legislature establishes receivership

Receiver is appointed by governor – one-year term – Secretary of the Office of Policy and Management makes subsequent appointments.

Powers

- ◆ Prepares and implements a recovery plan
- ◆ Supervises and controls all Borough financial affairs
- ◆ Prescribes budgetary procedures and format
- ◆ Approves annual budget and tax levy
- ◆ Adopts interim budget and tax rate, if council fails to act
- ◆ Approves all expenditures and transfers
- ◆ Prepares multi-year fiscal plan
- ◆ Requires adoption of modified budget, when necessary
- ◆ Adopts property tax intercept and procedures for debt and capital reserve funds
- ◆ Approves collective bargaining agreements
- ◆ Sets forth terms of an agreement if parties cannot reach an agreement
- ◆ Serves as the binding arbitration panel when contracts require
- ◆ Imposes binding arbitration upon parties
- ◆ Approves all contracts
- ◆ Retains necessary staff
- ◆ Supervises and controls all Borough employees
- ◆ Keeps records of accounts and actions
- ◆ Sets employment terms/conditions
- ◆ Purchases/leases/sells all property
- ◆ Promulgates rules/guidelines governing Borough's operations

Duration

June 30, 1995, but secretary can extend term until certain debt obligations are retired or until budget is balanced for three years and if projections for three years are in balance. Receivership can be re-established if operation deficits occur.

MASSACHUSETTS

Control Boards and Receiverships – all special legislation. In most instances, the creation of a control board was triggered by a loan from the State. Currently, no control boards or receiverships exist in the Commonwealth.

City of Brockton, Massachusetts, Financial Control Board

Five Members:

- ◆ State Officials (Administration and Finance, Revenue, Accounts)
- ◆ City Mayor
- ◆ Council President

Powers

- ◆ Takes initiatives to secure fiscal stability of the City
- ◆ Amends any appropriation, loan order, transfer or spending authority, provided such authority be delegated by Mayor and Council
- ◆ Impounds or encumbers spending authority, with proper delegation of authority as above
- ◆ Establishes/fixes fees and rate schedules with proper delegation
- ◆ Approves appropriations, loan orders or transfers
- ◆ Establishes appropriations if no annual budget adopted
- ◆ Hires and supervises staff personnel and fixes their compensation
- ◆ Reviews budgets and issues report of findings
- ◆ Prescribes budget format
- ◆ Requires filing of detailed departmental work plans, which are approved by Mayor
- ◆ Issues recommendations for further actions to Mayor and Council
- ◆ Adopts necessary rules and procedures
- ◆ Informs when allotments are exhausted and course of action to correct
- ◆ Approves transfers and expenditures from special reserve funds
- ◆ Approves use of special borrowing powers

Duration

Board exists until special bond issue is retired – generally five years – by its own vote, board may cease to exist – must vote annually to continue oversight function – Council may recommend to the board a course of action.

City of Chelsea, Massachusetts, Financial Control Board

Eight Members named by the Governor:

- ◆ State Secretaries/Commissioners (administration and finance, education, revenue, accounts)
- ◆ City Mayor
- ◆ president of administrative board
- ◆ chairman of the City school committee and
- ◆ a representative from City's business community

Powers

- ◆ Approves proposed expenditures for special bond fund
- ◆ Initiates and ensures implementation of appropriate measures to secure City's fiscal stability
- ◆ Approves all appropriations
- ◆ Submits findings and recommendations to departments, Mayor and governing body
- ◆ Requires filing of detailed work plans
- ◆ Reviews school budget and issues report of findings
- ◆ Informs City officials when an allotment is exhausted and course of action to correct
- ◆ Appoints finance director if mayor fails to act
- ◆ Appoints director of assessing if finance director fails to act

Duration

For the duration of the special loan which is for ten years, provided board takes action annually to renew during this period.

City of Chelsea, Massachusetts, Receivership (Board of Control abolished September 1991)

Receiver appointed by governor for one year – subsequent appointments by Secretary for Administration and Finance

Powers

To be chief executive officer of City with responsibility for overall operation and administration.

- ◆ Formulates and implements a recovery plan
- ◆ Implements and maintains uniform budget guidelines and procedures for all departments
- ◆ Authorizes the issuance of bonds, notes or certificates of indebtedness
- ◆ Sells, leases, or otherwise transfers real property and other assets of the City
- ◆ Purchases, leases, or otherwise acquires property or other assets on behalf of the City
- ◆ Promulgates rules and regulations governing the operation and administration of the City during the period of such receivership
- ◆ Secures the fiscal stability of the City, including the establishment of a balanced annual budget, a five year operating and capital outlay plan, and the implementation of prudent financial management techniques, including generally accepted accounting principles
- ◆ Establishes a stable balance of revenue sources
- ◆ Promotes opportunities for economic development, including particularly the expansion of the property tax base

- ◆ Reduces costs, including the restructuring of services
- ◆ Maintains and strengthens local services
- ◆ Orders the laying out, locating anew or discontinuing of streets and ways within the City
- ◆ Regulates the construction of buildings
- ◆ Implements such changes to the City's zoning ordinances
- ◆ Establishes, increases, or decreases any fee, rate, or charge, for any services, licenses, permits or other municipal activity
- ◆ Borrows, once or from time to time, from the Commonwealth for the purpose of maintaining and operating the city, in such amounts and upon such terms as the secretary approves
- ◆ Amortizes operational deficits in an amount and for such term as the secretary approves
- ◆ Develops and maintains a uniform system for all financial planning and operations
- ◆ Reviews and approves or disapproves all proposed contracts for goods or services
- ◆ Initiates federal bankruptcy proceedings upon written notice to and with approval of the secretary
- ◆ May hire and fire employees and to set the terms and conditions of employment
- ◆ Prepares an annual report summarizing the actions taken by said receiver during the prior fiscal year and stating the progress made toward fiscal stability
- ◆ Recommends to the general court a form of governance for the City which will ensure long term fiscal stability and the delivery of local services
- ◆ Alters the compensation of elected officials of the City to reflect the fiscal emergency and changes in the responsibilities of said officials as provided by this act
- ◆ Appoints persons to fill vacancies on any board, committee, department
- ◆ Reorganizes, consolidates or abolishes City departments, commissions, boards, offices or functions, in whole or in part, and establishes such new departments, commissions, boards, offices or functions as deemed necessary, and transfers the duties, powers, functions and appropriations of one department, commission, board or other unit to another
- ◆ Employs, retains, and supervises such managerial, professional and clerical staff as are necessary to carry out responsibilities

Note: The exercise of various powers requires the approval of the Secretary of Administration and Finance. In some instances, public hearings are required before taking final action. The Board of Aldermen is vested only with the power to advise the receiver concerning matters previously within its jurisdiction under the City's charter.

Duration

The law set the termination date as of 12/31/96.

City of Holyoke, Massachusetts, Financial Control Board

Seven members:

- ◆ State Officials: Administration and Finance, Education, Revenue, Accounts
- ◆ City Mayor
- ◆ President of Board of Aldermen
- ◆ A representative of the City's business community

These appointees selected by the Governor

Powers

- ◆ Promotes the implementation of appropriate initiatives to secure the financial stability of the City
- ◆ Approves expenditures from special bond funds

Duration

Two years – not related to bond retirement.

City Of Lawrence, Massachusetts, Fiscal Review Board

Three Members:

- ◆ State Officials (Revenue, Education and Administration)

Powers

- ◆ Takes initiatives to secure fiscal stability of the City
- ◆ Adopts necessary rules and regulations
- ◆ Makes recommendations to Mayor and governing body
- ◆ Approves all appropriations, transfers and loan orders
- ◆ Prescribes budget format
- ◆ Reviews municipal/school district budgets – reports to governing body
- ◆ Informs City officials when allotments are exhausted and course of action to correct
- ◆ Approves transfers and expenditures from special revenue fund
- ◆ Requires departmental work plans which are approved by the Mayor
- ◆ Requires status reports when department exhausts its allotment

Duration

Board exists until special bond issue is amortized – generally five years – by its own actions can cease oversight function – must be an annual vote to continue oversight function.

City Of Lynn, Massachusetts, Finance Control Board

Seven Members:

- ◆ State Secretaries or Commissioners (Administration and Finance, Education and Revenue)
- ◆ City Mayor
- ◆ President of City Council
- ◆ Member of City's School Committee
- ◆ Representative of business community (this person is appointed by the Governor)

Powers

- ◆ Approves expenditures from special bond fund
- ◆ Assures the implementation of appropriate initiatives to secure the financial stability of the City
- ◆ Recommends courses of action to department heads
- ◆ Requires school superintendent to file detailed work plans
- ◆ Appoints finance director if Mayor fails to do so
- ◆ Appoints director of assessing if finance director fails to do so

Duration

Law mandated board cease activities by 6/86 – unless board action was taken earlier to go out of existence.

MAINE **Municipal Finance Board Law**

Interesting Provisions

- ◆ Board of Emergency Municipal Finance has power to take over a fiscally distressed unit
- ◆ Authority to issue assessments to retire debt previously incurred
- ◆ Removal of officials from office (note: reasons for removal are not stated)
- ◆ Authority to file complaint to determine validity of debt issue and in excess of debt limit prior to takeover
- ◆ Appointive power of board

Fiscal Distress Process

- ◆ The Act establishes a three member board of emergency municipal finance. The members are the Commissioner of Finance, State Treasurer and State Tax Assessor.
- ◆ Failure to pay taxes to the State, bond default, non-payment of salaries, and state aid in support of unit's poor will trigger an audit or investigation by the board to determine unit's fiscal condition and reasons for such condition, and whether the interest of the State and public requires unit's affairs be taken over by the board.
- ◆ If unit's fiscal condition is not due to unanticipated emergency relief or unavoidable misfortune, the board may take over the local government's administration and management.
- ◆ The Board appoints one commissioner to administer/manage unit's affairs for units with population under 5,000, appoints three commissioners for units over 5,000.

Powers (commissioners)

- ◆ Supervise unit's fiscal affairs
- ◆ Employ consultants and counsel (with board approval)
- ◆ Declare any municipal office temporarily vacant
- ◆ Appoint successors to these offices
- ◆ File legal complaints in the name of the municipal inhabitants against persons holding debt improperly issued by municipal officials before the state take-over – purpose of the complaint is to ascertain the validity of this debt.
- ◆ Issue debt instruments

Powers (board)

- ◆ Assess property to pay deficiencies and account previously contracted by the municipality
- ◆ Appoint managers, officers, and each commissioner to serve as any municipal official
- ◆ Offer compromise settlements to any of the unit's creditors

Duration

When obligations are paid or if the board determines its control should cease.

FLORIDA
Financial Emergency Board

Governor appoints – no details as to size, qualification, etc.

Powers

Oversees activities of the local governmental entity

- ◆ Makes review of records and assets of unit
- ◆ Consults with local officers and appropriate state officials as to steps necessary to bring unit's financial management system in compliance with state law
- ◆ Reviews the operations, management, efficiency, productivity, and financing of local government's functions
- ◆ Submits to governor all of its reports and recommendations for appropriate actions

Duration

- ◆ Law does not specifically address – assumes board ceases to operate when emergency status is terminated.

CONNECTICUT **Fiscal Watch Legislation**

Interesting Provisions

- ◆ Use of audit report to detect fiscal problems
- ◆ Audits prepared in accordance with generally accepted auditing standards
- ◆ Commission, with some members being experienced in public financial matters, advise.
- ◆ Role of Florida Office of Policy and Management in proposing recommendations

Fiscal Watch

- ◆ Secretary of the Office of Policy and Management reviews audit reports filed by local governments.
- ◆ Reports are reviewed biennially
- ◆ Secretary of the Office of Policy and Management annually reviews comments and recommendations of auditors who made reports (note: auditors are prepared in accordance with general auditing standards)
- ◆ Evidences of fraud or embezzlement are referred to state's attorney for judicial district in which the municipality is located
- ◆ Evidences of non-compliance with regulations or of unsound or irregular financial practices requires Secretary to prepare a report concerning such findings and proposing corrective recommendations
- ◆ Copies of the report are filed with municipality, the auditors of public accounts and the Florida Municipal Finance Advisory Commission
- ◆ This Commission reviews a unit's fiscal records to determine level of financial distress and it proposes way to improve its fiscal condition
- ◆ Commission may require unit's chief executive officer to discuss the fiscal problem and the implementation of remedial measures to improve government's fiscal conditions
- ◆ Commission may require the officer to submit a written report on the implementation of the Commission's recommendation
- ◆ Failure to submit report and other requested information may result in the officer being assessed a civil penalty of from \$1,000 to \$10,000

The Municipal Financial Advisory Commission is an eight member body whose members are appointed by the Governor. Four members must be fiscal or executive officers of municipalities, each from a municipality in a certain population category; three non-municipal members; and the eighth appointee is a representative from the Office of Policy and Management. All appointees serve four-year terms. They serve without compensation.

Financial Emergency

No specific legislation, although the State has adopted special legislation to deal with fiscal problems in various units, such as the City of Bridgeport.

ILLINOIS

Financial Planning and Supervision Commission

A local board consisting of eleven members – eight state members (Governor, director of revenue, budget director, treasurer, commerce director, executive director of state development authority, director of commerce and community affairs department and presiding officer of governing body of the local government affected). – three members selected by the commission from a panel of five names submitted by affected municipality.

Commission may appoint a financial advisor.

Powers

- ◆ Approves or rejects financial plans
- ◆ Reviews budgets, tax levies, bond ordinances and appropriation ordinances to determine whether they are consistent with the financial plan, and revises when appropriate
- ◆ Consults with creditors of the local unit
- ◆ Brings accounting system and records in conformance with state law
- ◆ Inspects and secures copies of all appropriate financial documents and records
- ◆ Assists in the structuring of an indebtedness plan
- ◆ Makes and enters into all appropriate contracts and agreements
- ◆ Recommends cost reductions or revenue programs necessary to balance budget
- ◆ Recommends the filing of a bankruptcy petition
- ◆ Reports annually to the general assembly on unit's recovery progress, its failure to comply with provisions of the act and proposed amendments to make the act more effective
- ◆ Performs all other powers and duties provided in the act

Duration

Commission determines distress condition – terminates when specified conditions are met.

If, upon termination, an acceptable financial management system is not in place, the Governor is to monitor the progress of its implementation. Governor is empowered to exercise his/her authority to ensure implementation that must be completed in two years from date of distress legislation.

MICHIGAN
Local Emergency Financial Assistance Loan Board

A state agency in the treasury office – three members: treasurer, director of commerce and director of the department of management and budget.

Board assumes jurisdiction if the governor declares that a fiscal emergency exists (violation of one or more of ten criteria). Of interest is the criterion involving the failure to implement a joint agreement entered into by a local government placed in the State's early warning system.

Powers

Appoints an emergency financial manager with authority to:

- ◆ Develop and amend a financial plan
- ◆ Amend, revise, approve or disapprove annual budget
- ◆ Analyze factors and circumstances causing fiscal condition and propose corrective action
- ◆ Approve or disapprove or revise debt retirement plan
- ◆ Prescribe format for special financial reports
- ◆ Examine all fiscal records, accounts and reports
- ◆ Make, approve or disapprove appropriations, contracts, expenditures or loans
- ◆ Approve or disapprove creation of new positions or the filing of vacancies
- ◆ Review payrolls and claims before payment
- ◆ Exercise all authority to renegotiate existing labor contracts, act as the unit's agent in collective bargaining with employees or representatives and approve all labor contracts or agreements
- ◆ Consolidate departments or transfer functions
- ◆ Appoint, supervise and remove all department heads, other than elected officials
- ◆ Require compliance with manager's orders by court action, if necessary
- ◆ Sell or otherwise use assets to meet outstanding obligations
- ◆ Apply for loans
- ◆ Approve or disapprove issuance of indebtedness obligations
- ◆ Enter into agreements with other local governments for the provision of services
- ◆ Exercise the authority provided a local government by several state laws
- ◆ Authorize the filing of a bankruptcy petition

Note: In some instances, the manager's action is subject to board approval or the action is to be taken in cooperation with the local unit.

Duration

- ◆ The governor may determine that conditions for the distress condition have been met, after receiving a recommendation from the board.

Appendix C: Act 47 Elected Officials Survey

City of Johnstown

City of Johnstown has been in the program since 1993

No tax increases since 1995, includes 1999. \$135,000 surplus in 1997. Expect surplus in 1998.

The Commonwealth should keep the Act 47 program.

It is an essential, constructive partnership between the distressed municipality and the Commonwealth.

Strengths:

- ◆ Act 47 municipalities have difficulty understanding solutions to their problems, so they cannot get out on their own. They need an outside, independent source who can help them see their way out of the financial difficulties. For example, recovery plan coordinators can get studies done by credible sources on how municipal functions should be conducted. As a result of such studies, Johnstown has automated its parking garage and made management changes to its golf course to get it in the black.
- ◆ Distressed municipalities are labor intensive places. Cost versus benefit of doing certain functions must be reviewed. Hard data from an impartial group keeps contracts from getting out of control.
- ◆ Outside resource people bring new ideas to the town. Team-building and goal setting. Professional management team used new ideas.
- ◆ Act 47 forces City Council to rise to the big issues and challenges. It creates a cultural change for City officials.

Act 47 is an attitude adjustment.

No real weaknesses in the Act.

The City needs to focus on doing fewer things.

The City created a vision statement and developed strategic partnerships.

Dedicate the non-resident earned income tax to the capital budget instead of to operating costs. Then one day, the City can wean itself off the non-resident earned income tax.

The City of Johnstown has cleaned up its act, and now neighboring municipalities work with it purchase services – five municipalities purchase police services. Fire protection and public works are currently under review.

City of Farrell

Impressions of Act 47 and what it has done for the City of Farrell:

They both believe that the Act has certainly saved the City at times over the last eleven years when the City faced two bankruptcies, major layoffs, and a major reassessment reduction at the City's largest property tax payer and former largest employer—the steel making plant located on about 390 acres at the former Sharon Steel facility. The Act 47 emergency loans prevented default on bills and helped the City to meet payroll when the two separate bankruptcies were filed. The grant funds have made possible the purchase of capital equipment that otherwise would never have been acquired for streets, fire and police services.

They both believe that the peer to peer assistance can be very beneficial to a distressed community in addressing specific needs and problems, but that the state needs to make sure that the community is getting the services that it requires.

Act 47 shortcomings and needed improvements

Both Farrell officials believe that the program is one of the best that the state ever initiated, but when appointing coordinators the state should give more serious consideration to candidates familiar with the communities than to complete outsiders. They realize, however, that there are benefits to bringing an unbiased position to the Act 47 community.

Additionally, when the state knows that an Act 47 community is faced with a pending financial or budget crisis due to lost tax revenue from layoffs, a plant closing, a reassessment, or the like, the state should not wait too long before stepping in to provide loans to deal with the immediate budget shortfalls. The Commonwealth should provide immediate assistance while developing longer term solutions.

Both officials recognize that the merger and consolidation process for small, struggling municipalities needs to be simplified. Perhaps Act 47 itself could be changed to facilitate this. The complexity of Pennsylvania's merger and consolidation process is widely recognized. Unless willing adjacent community partners step forward to at least study merger/consolidation, it will not happen in many communities who need it most.

The bottom line is that Act 47 has been a life saver for Farrell. The question is, how long can Farrell reasonably expect to stay in the program in light of its ongoing recovery struggles. The City continues to have a stagnant tax base in spite of major plans for redeveloping the steel plant.

Proposed Keystone Opportunity Zone legislation may create tax free zones in the Farrell area, which could spur economic development but cost the City potential tax revenues for up to 12 years.

Borough of Franklin

How has Act 47 been working for Franklin?

- ◆ The Department of Community and Economic Development and the Pennsylvania Economy League have been able to look at Franklin as outsiders, which enables the agencies to have a “big picture” perspective. The municipal officials and employees tend to get overcome with small issues and do not tie them all together.
- ◆ Act 47 has been a blessing to the Borough because there were no other options at the time that the Borough was declared distressed.
- ◆ The role of the recovery plan coordinator is essential, and there must be a good working relationship between the coordinator and the municipality.

What shortcomings does Act 47 have? What could you do to improve Act 47?

- ◆ None.
- ◆ There are not enough ways to increase revenues. The Commonwealth should allow distressed municipalities to use additional, innovative ways to raise money that are not based on existing sources (Act 511 and sales tax).
- ◆ When a municipality derives a certain percentage of its tax base from industrial companies that request to have the assessed value of the property lowered, the distressed municipality should be permitted to deny the petition.
- ◆ If recovery is not feasible, there is nothing in Act 47 that forces consolidation or merger. Consolidation or merger should be forced with a fiscally sound municipality that has similar demographic characteristics.
- ◆ The Act should permit transfers between pension funds, especially when one is over funded and the other is under funded.

Random thoughts

- ◆ The emergency loan that is provided up front is very beneficial.
- ◆ The existing criteria, initial review process, and hearings are good and should remain.
- ◆ There should not be a capped amount of time that a municipality can be in the program. The recovery plan coordinator and DCED should be allowed to determine the cap for each municipality.
- ◆ Some elected officials think that Act 47 is the recovery plan coordinator.

Borough of Wilksburg

1. The State needs to be more proactive to provide funds to foster recovery.
2. Provide a fixed period of time to be in Act 47, and advise elected officials that it is only for a finite period of time; it should not go on for 10-15 years.
3. The State can be more proactive in providing economic and community development funds, and that "priority" funding should mean priority.
4. The State should put more pressure on the county to provide its share of funding to partner with the state.
5. The State should have more direct and ongoing oversight and control during a recovery period.
6. The State should be more aggressive in promoting professional management and be consistent at it.
7. The recovery plan coordinator should spend more intensive time in Act 47 municipalities to provide technical assistance and advice on financial management, service delivery, personnel issues, and more intergovernmental cooperation, and to strengthen a COG's ability to provide services.

City of Duquesne

The following answers have been provided after a joint meeting with Mayor Matta and Manager Poljak. The Mayor was disappointed that the full meeting promised with other Act 47 communities to discuss these issues was not held. He feels it is important to share ideas and concerns with other municipal leaders.

How has the Act 47 program worked for the City of Duquesne?

- ◆ Ability to obtain grants and loans; increased ability to tax.
- ◆ The recovery plan provides a blueprint or "plan of attack." The City was forced to look realistically at major problems.
- ◆ Creation of a Volunteer Fire Department.
- ◆ Encouraged a more professional operation.
- ◆ Encouraged the City to review water operations.
- ◆ Studied how the City could make delinquent tax/fee collections more effective.
- ◆ Attacked blight.
- ◆ Act 47 gave staff the opportunity to use different resources that we would not have had.
- ◆ Provided opportunity for assistance from the PA Economy League as "recovery plan coordinator."

What shortcomings does it appear that the Act 47 program has?

- ◆ Act 47 should have approved and encouraged the bond issue that the City used to improve the community. The program does not look at innovative ways to finance capital improvement projects to improve the overall appearance of the City that comes about by paving streets, cutting trees, adding new fireplugs and demolition.
- ◆ Generally, the feeling is that Act 47 communities are ignored. Solutions must be provided that work. It appears that the only solution offered by the State is to merge various services and/or communities. That is not a solution.
- ◆ Act 47 does not look at the make-up of a community and its real needs. This includes a view of the community's economic base.
- ◆ Act 47 offers a "band aid" while doing little to address economic problems or characteristics.
- ◆ Solutions offered are often "boiler plate" answers. Act 47 deals in blanket solutions for all distressed communities rather than looking at each individual community.
- ◆ Effective economic development solutions must be offered. No dollars have been offered for economic development or housing starts. Little has been done to fund downtown revitalization and neighborhoods. Duquesne has not seen any large economic generator (industry) enter the community since the City came under Act 47. Demolition of vacant properties is important as is the rebuilding of middle income homes rather than subsidized housing.
- ◆ Act 47 is too much of an "accounting process." The state is worried about balancing budgets, something that improved management in the City has accomplished anyway.
- ◆ Act 47 tells communities how to solve problems. However, those who are offering solutions to the community do not live there. How can they know how to solve the community's problems?

- ◆ How do we change our schools? Act 47 does not provide a solution for that. The PA Department of Community and Economic Development should be taking the lead in approaching the PA Department of Education to encourage a solution to the problem.
- ◆ Act 47 emphasizes financial problems and excludes community improvements that must be made. Good citizens are moving from the City. Programs must be implemented to improve the economy, education and safety or the community will always remain under Act 47. All the characteristics necessary to revamp a community are not studied to encourage new resident and business development. Middle class families must reenter the City and purchase and own homes. Actions taken must work to stabilize the community and make it grow. Otherwise a community may come out of recovery temporarily but will return later on.

What do you think could be done to improve the Act 47 program?

- ◆ Economic change is the key. New programs need to be brought in to improve the local economy. Related to this is the rebuilding of existing neighborhoods and the building of new ones (similar to Crawford Square in Pittsburgh). Stabilizing neighborhoods through issues like education and housing is important.
- ◆ Act 47 must help with "hard sell" neighborhoods by eliminating the strings attached to new development.
- ◆ A mandate should be established that will prohibit section 8 vouchers in Act 47 communities. Section 8 housing destroys neighborhoods that the City is trying to rebuild because it spreads from house to house once one neighborhood home is taken over. In Duquesne, this is not a black/white issue. The Mayor predicts that HUD will take care of section 8 homes in suburban communities to prove a point while such housing stagnates in Duquesne.
- ◆ An emphasis on education is needed, and Act 47 should target this problem, especially in municipalities with contiguous school districts. How can a City of 8,000 provide quality education alone? The Mayor feels that Duquesne citizens could sue the PA Department of Education, since children cannot attend public schools because of conditions in the schools.
- ◆ Specifically, education is an epidemic statewide. Duquesne could be a test model for a solution that applies to the entire state. School mergers should be supported with dollars. A merger between Duquesne and McKeesport could have been effected with funding. McKeesport has similar problems making it difficult to assist Duquesne.
- ◆ Act 47 should be concerned with assisting communities with problems like Duquesne's pension problem. Dave Poljak states that the current problem with the pension funding should be resolved based on what makes sense from a budgetary position. Instead, it appears that the state is punishing Duquesne. Act 47 should be able to overcome issues like this for distressed communities.
- ◆ In general, help is needed with other State agencies. Act 47 should assist the community in dealing with other agencies to eliminate problems and provide solutions. For example, the State should be more active in pointing the City in right direction for obtaining grants.
- ◆ Encourage housing initiatives that are not governed by income guidelines, main street develop, and new home development.
- ◆ Solutions should be created with the specific community in mind. Ideas like mergers (e.g. police merger) are not always effective depending on the community.
- ◆ Encourage strong leadership in the community.
- ◆ Duquesne must do things that make citizens feel like people in other communities. That is why encouraging little things like a Halloween parade, paving an alley, and light up night

are important. Act 47 is so caught up in financial issues that the little things are missed. Some view these items as unimportant, but the little things help to provide pride in the community and encourage improvements throughout.

- ◆ Using the last point as an example, Duquesne created its own solution without the State's input, and the State does not appear to support it.
- ◆ Improving streets, demolition, and housing should be a key component of recovery.
- ◆ Every abandoned building should be demolished.
- ◆ Throughout the Act 47 community, the State must develop a general program that not only accomplishes demolition but follows up with a housing program that includes single family homes that are not income driven (i.e., a second mortgage program that does not have low income models associated with it).
- ◆ A program should be developed to wipe out delinquent taxes on abandoned property. A program unique to Act 47 programs should be created.
- ◆ The recovery plan and its revisions must have input from the Council and Mayor. Creating a plan without input only serves to make Council look negative when a plan is provided to them that they do not agree with.
- ◆ Assistance must be provided for emergency situations. For example, Duquesne requires additional funds to ensure that computerized operations are Y2K compliant.
- ◆ The City saved 5 mills in taxes by soliciting the pension bond (Act 47 should encourage rather than discourage this type of action).

Appendix D: A Sample Disincorporation Procedure

Scope

All cities, boroughs, townships and home rule municipalities with less than 100,000 population.

Process

- ◆ Proceedings are to be initiated by an action of the governing body or by a petition of the electorate.
- ◆ The petition is to be signed by voters comprising at least five percent of persons voting for the office of governor in the last gubernatorial general election in the municipality where the proposal will appear on the ballot.
- ◆ If a majority of the voters supports the referendum, the municipality is to be disincorporated.
- ◆ If the proposal is rejected at the election, the disincorporation question is not to be voted on again until five years have elapsed since the date of the election.
- ◆ The disincorporation question is not to go to referendum until a special committee appointed by the governing body has studied the question and made a recommendation to approve or reject the disincorporation proposal.
- ◆ The special committee is to be composed of seven members. Its membership is to reflect the jurisdiction's demographic characteristics.
- ◆ In addition to making a recommendation on the disincorporation issue, the committee is to propose a service plan for the area including , but not limited to:
 - services to be provided in the divested area;
 - means to finance these services;
 - ways to protect employee pension obligation; and
 - means to settle the unit's liabilities and to dispose of its assets.
- ◆ The special committee is to complete its work within six months.
- ◆ The governing body is to appropriate sufficient money to enable the committee to complete its responsibilities.
- ◆ The governing body is to hold at least one public hearing on the committee's report and recommendations.
- ◆ The service plan and disincorporation recommendation are to be part of the referendum question.

- ◆ DCED is to assist in the development of the recommendations and service plan.
- ◆ If a referendum is adopted, the effective disincorporation date is to be one year after the election results are certified to the county election board.
- ◆ Upon the effective date of disincorporation, the municipality is to cease to exist. All appointed and elected offices are to be abolished.
- ◆ Boards and commissions of the former jurisdiction are to be abolished. They are to be re-established, if deemed necessary, by the county.
- ◆ At the time disincorporation becomes effective, the county board of commissioners is to assume control of all property owned by the former municipality.
- ◆ The disincorporated political unit is to be re-established as a services district under the control of the county board of commissioners.
- ◆ All ordinances, rates and regulations in effect on the date of disincorporation are to remain in effect and are to be enforced by the county within the service district.
- ◆ The county board of commissioners is to be vested with authority to amend, repeal or enact new ordinances, rules and regulations governing the service district.
- ◆ With the committee's plan as a guide, the county is to provide for various services in the district. The county is to be authorized to provide services itself or negotiate with the state, other municipalities, or private agencies to provide one or more services to the district.
- ◆ The day-to-day operations of a service district are to be administered by the county's chief administrative officer or chief clerk or designee.
- ◆ In levying taxes, fees, charges and assessments to finance expenditures for the service district, the county is to have the same revenue generating powers as possessed by the former municipality.
- ◆ The district's fiscal management operations – budgeting, accounting, revenue collecting and auditing – are to be the responsibilities of the appropriate county departments.
- ◆ The Local Government Debt Act is to govern and control the borrowing powers and processes of the service district.
- ◆ The former unit's outstanding indebtedness and other liabilities are not to become obligations of the county, except that the county is to be responsible to ensure that such debts and other liabilities are paid.
- ◆ Current and future debt and other obligations are to be paid for or financed as provided by law.
- ◆ The county is to be eligible to receive all State grants-in-aid to which the former municipality was entitled.
- ◆ Service contracts in existence at the time of disincorporation are to continue in effect until

the termination dates. The county is to be authorized to negotiate earlier termination of these contracts.

Employees with the former municipality at the time of its disincorporation are either to be assigned duties with:

- the service district as to be determined by the district administration, or
- various county agencies as to be determined by the county board of commissioners.

Collective bargaining agreements and civil service provisions existing at the time of disincorporation shall govern the assignment of personnel.