



Rep. Debbie Meyers-Martin

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10400HB1753ham001

LRB104 08074 RTM 24299 a

1 AMENDMENT TO HOUSE BILL 1753

2 AMENDMENT NO. _____. Amend House Bill 1753 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Finance Authority Act is amended
5 by changing Section 825-60 as follows:

6 (20 ILCS 3501/825-60)

7 Sec. 825-60. Financially Distressed City Assistance
8 Program Limitation.

9 (a) In addition to the bonds authorized to be issued under
10 Sections 801-40(w), 825-65(e), 830-25 and 845-5, the Authority
11 may have outstanding at any time, bonds for the purposes
12 enumerated in Sections 825-20 through 825-60 in an aggregate
13 principal amount that shall not exceed \$50,000,000. Such bonds
14 shall not constitute an indebtedness or obligation of the
15 State of Illinois, and it shall be plainly stated on the face
16 of each bond that it does not constitute such an indebtedness

1 or obligation but is payable solely from the revenues, income
2 or other assets of the Authority pledged therefor.

3 (b) The Authority may require a municipality to match a
4 portion of the funds that the Authority may provide to the
5 municipality through bonds issued by the Authority pursuant to
6 Sections 825-20 through 825-60. If a municipality does not
7 match the funds, then the Authority shall retain from the
8 proceeds of the bonds issued by the Authority that would have
9 been remitted to the municipality pursuant to Sections 825-20
10 through 825-60 an amount equal to the funds that the
11 municipality was required to match.

12 (Source: P.A. 93-205, eff. 1-1-04.)

13 Section 10. The Illinois Municipal Code is amended by
14 changing Sections 8-12-2, 8-12-3, 8-12-4, 8-12-23, and 8-12-24
15 and by adding Sections 8-12-4.5, 8-12-10.5, and 8-12-21.5 as
16 follows:

17 (65 ILCS 5/8-12-2) (from Ch. 24, par. 8-12-2)

18 Sec. 8-12-2. (a) Pursuant to the authority of the General
19 Assembly to provide for the public health, safety and welfare,
20 the General Assembly hereby finds and declares that it is the
21 public policy and a public purpose of the State to offer
22 assistance to a financially distressed city so that it may
23 provide for the health, safety and welfare of its citizens,
24 pay when due principal and interest on its debt obligations,

1 meet financial obligations to its employees, vendors and
2 suppliers, and provide for proper financial accounting
3 procedures, budgeting and taxing practices, as well as
4 strengthen the human and economic development of the city.

5 (b) It is the purpose of this Division to provide a secure
6 financial basis for the continued operation of a financially
7 distressed city. The intention of the General Assembly, in
8 enacting this legislation is to establish sound, efficient and
9 generally accepted accounting, budgeting and taxing procedures
10 and practices within a financially distressed city, to provide
11 powers to a financial advisory authority established for a
12 financially distressed city, and to impose restrictions upon a
13 financially distressed city in order to assist that city in
14 assuring its financial integrity while leaving municipal
15 services policies to the city, consistent with the
16 requirements for satisfying the public policy and purposes
17 herein set forth.

18 (c) It also is the purpose of this Division to authorize a
19 city which has been certified and designated as a financially
20 distressed city under the procedure set forth in Section
21 8-12-4, ~~and which has by ordinance requested that a financial~~
22 ~~advisory authority be appointed for the city and that the city~~
23 ~~receive assistance as provided in this Division, and which has~~
24 ~~filed certified copies of that ordinance in the manner~~
25 ~~provided by Section 8-12-4,~~ to enter into such agreements as
26 are necessary to receive assistance as provided in this

1 Division and in applicable provisions of the Illinois Finance
2 Authority Act.

3 (Source: P.A. 93-205, eff. 1-1-04.)

4 (65 ILCS 5/8-12-3) (from Ch. 24, par. 8-12-3)

5 Sec. 8-12-3. As used in this Division:

6 (1) "Authority" means the "(Name of Financially Distressed
7 City) Financial Advisory Authority".

8 (2) "Financially distressed city" means any municipality
9 ~~that which is a home rule unit and which (i) is certified and~~
10 ~~designated by the Department of Revenue as being in the~~
11 ~~highest 5% of all home rule municipalities in terms of the~~
12 ~~aggregate of the rate per cent of all taxes levied pursuant to~~
13 ~~statute or ordinance upon all taxable property of the~~
14 ~~municipality and as being in the lowest 5% of all home rule~~
15 ~~municipalities in terms of per capita tax yield, and (ii) is~~
16 ~~designated by joint resolution of the General Assembly as a~~
17 financially distressed city under Section 8-12-4.

18 (3) (Blank). ~~"Home rule municipality" means a municipality~~
19 ~~which is a home rule unit as provided in Section 6 of Article~~
20 ~~VII of the Illinois Constitution.~~

21 (4) "Budget" means an annual appropriation ordinance or
22 annual budget as described in Division 2 of Article 8, as from
23 time to time in effect in the financially distressed city.

24 (5) "Chairperson" means the chairperson of the Authority
25 appointed pursuant to Section 8-12-7.

1 (6) "Financial Plan" means the financially distressed
2 city's financial plan as developed pursuant to Section
3 8-12-15, as from time to time in effect.

4 (7) "Fiscal year" means the fiscal year of the financially
5 distressed city.

6 (8) "Obligations" means bonds, notes or other evidence of
7 indebtedness issued by the Illinois Finance Authority in
8 connection with the provision of financial aid to a
9 financially distressed city pursuant to this Division and
10 applicable provisions of the Illinois Finance Authority Act.

11 (Source: P.A. 93-205, eff. 1-1-04.)

12 (65 ILCS 5/8-12-4) (from Ch. 24, par. 8-12-4)

13 Sec. 8-12-4. Certification and designation as financially
14 distressed city.

15 (a) In order to be certified as a financially distressed
16 city and receive assistance as provided in this Division:

17 (1) a ~~home-rule~~ municipality shall first, by ordinance
18 passed by its corporate authorities, request (i) that the
19 Department of Revenue certify that it is in the highest 5%
20 of all ~~home-rule~~ municipalities in terms of the aggregate
21 of the rate per cent of all taxes levied pursuant to
22 statute or ordinance upon all taxable property of the
23 municipality and in the lowest 5% of all ~~home-rule~~
24 municipalities in terms of per capita tax yield, and (ii)
25 that the General Assembly by joint resolution designate it

1 as a financially distressed city. A ~~home-rule~~ municipality
2 which is so certified and designated as a financially
3 distressed city and which desires to receive assistance as
4 provided in this Division shall, by ordinance passed by
5 its corporate authorities, request that a financial
6 advisory authority be appointed for the city and that the
7 city receive assistance as provided in this Division, and
8 shall file a certified copy of that ordinance with the
9 Governor, with the Clerk of the House of Representatives
10 and with the Secretary of the Senate; or-

11 (2) the Grant Accountability and Transparency Unit
12 within the Governor's Office of Management and Budget may
13 conduct a preliminary review to determine the existence of
14 probable financial stress within a municipality if one or
15 more of the following occur:

16 (A) the Grant Accountability and Transparency Unit
17 requests that the Department of Revenue certify that
18 the municipality is in the highest 5% of all
19 municipalities in terms of the aggregate of the rate
20 per cent of all taxes levied pursuant to statute or
21 ordinance upon all taxable property of the
22 municipality and in the lowest 5% of all
23 municipalities in terms of per capita tax yield, and
24 the Department certifies the same;

25 (B) the city council or the mayor of a
26 municipality or school board makes a written request

1 for a preliminary review and that request identifies
2 the existing or anticipated financial conditions or
3 events that make the request necessary;

4 (C) the Grant Accountability and Transparency Unit
5 receives a written request from a creditor with an
6 undisputed claim against the municipality that exceeds
7 the greater of \$10,000 or 1% of the annual general fund
8 budget of the municipality and that remains unpaid 6
9 months after its due date provided that the creditor
10 notifies the municipality in writing at least 30 days
11 before its request to the Grant Accountability and
12 Transparency Unit of its intention to submit a written
13 request under this paragraph;

14 (D) the Grant Accountability and Transparency Unit
15 receives, not earlier than 60 days before the next
16 municipal election, a petition containing specific
17 allegations of municipal financial distress signed by
18 at least 25% of the electors within the municipality
19 who voted at the last general election at which a
20 Governor was elected;

21 (E) the Grant Accountability and Transparency Unit
22 receives written notification that a municipality has
23 not timely deposited its minimum obligation payment to
24 the municipality's pension fund as required by law;

25 (F) the Grant Accountability and Transparency Unit
26 receives written notification that the municipality

1 has failed for a period of 7 days or more after the
2 scheduled date of payment to pay wages and salaries or
3 other compensation owed to employees or benefits owed
4 to retirees;

5 (G) the Grant Accountability and Transparency Unit
6 receives written notification from a trustee, paying
7 agent, bondholder, or auditor engaged by the
8 municipality of a default in a bond or note payment or
9 a violation of one or more bond or note covenants;

10 (H) the Grant Accountability and Transparency Unit
11 receives a resolution from either chamber of the
12 General Assembly requesting a preliminary review;

13 (I) the municipality is delinquent in the
14 distribution of tax revenues, as required by law, that
15 it has collected for another taxing jurisdiction, and
16 that taxing jurisdiction requests a preliminary
17 review;

18 (J) the municipality has been assigned a long-term
19 debt rating within or below the BBB category or its
20 equivalent by one or more nationally recognized credit
21 rating agencies; or

22 (K) the existence of other facts or circumstances
23 that, in the Grant Accountability and Transparency
24 Unit's sole discretion, are indicative of probable
25 financial stress.

26 Before commencing the preliminary review under this

1 paragraph (2), the Grant Accountability and Transparency
2 Unit shall provide the municipality written notification
3 that it intends to conduct a preliminary review. Elected
4 and appointed officials of the municipality shall promptly
5 and fully provide the assistance and information requested
6 by the Grant Accountability and Transparency Unit for that
7 municipality in conducting the preliminary review. The
8 Grant Accountability and Transparency Unit shall provide a
9 preliminary report of its findings to the municipality
10 within 20 days after the date the preliminary review
11 begins. A copy of the preliminary report shall be provided
12 to each State Senator and State Representative who
13 represents that municipality. The municipality may provide
14 comments to the Grant Accountability and Transparency Unit
15 concerning the preliminary report within 5 days after the
16 preliminary report is provided to the municipality.

17 If the Grant Accountability and Transparency Unit
18 believes there is probable financial stress after its
19 preliminary review and any input from the municipality,
20 the Grant Accountability and Transparency Unit shall
21 establish a review team under Section 8-12-4.5. A copy of
22 the preliminary report shall be provided to the review
23 team and each State Senator and State Representative who
24 represents that municipality, and the review shall be
25 posted on the Grant Accountability and Transparency Unit's
26 website. The review team shall examine the financial

1 situation of the municipality and complete a final report
2 as provided in Section 8-12-4.5.

3 If the Governor believes that probable financial
4 stress exists for the municipality to be certified as a
5 financially distressed city under this Section after
6 reviewing a final report prepared under Section 8-12-4.5,
7 the Governor may, by proclamation, certify and designate
8 the municipality as a financially distressed city and
9 authorize appointment of the municipality's Authority
10 under Section 8-12-7. The proclamation shall be filed with
11 the Secretary of State and the corporate authorities of
12 the municipality.

13 (b) Upon the filing of the certified copies of ~~the that~~
14 ordinance under paragraph (1) of subsection (a) or upon the
15 written proclamation by the Governor filed with the Secretary
16 of State and corporate authorities of the municipality under
17 paragraph (2) of subsection (a), ~~as required by this Section~~
18 this Division and all of its provisions shall then and
19 thereafter be applicable to the financially distressed city,
20 shall govern and control its financial accounting, budgeting
21 and taxing procedures and practices, and, subject to the
22 limitations of subsection (a) of Section 8-12-22, shall remain
23 in full force and effect with respect thereto until such time
24 as the financial advisory authority established under Section
25 8-12-5 is abolished as provided in subsection (c) of Section
26 8-12-22.

1 (Source: P.A. 86-1211.)

2 (65 ILCS 5/8-12-4.5 new)

3 Sec. 8-12-4.5. Review team powers and duties.

4 (a) If the Grant Accountability and Transparency Unit
5 within the Governor's Office of Management and Budget believes
6 there is probable financial stress after its preliminary
7 review and any input from the municipality under Section
8 8-12-4, the Grant Accountability and Transparency Unit shall
9 establish a review team for the municipality consisting of:
10 the Grant Accountability and Transparency Unit or its
11 designee; the Director of the Governor's Office of Management
12 and Budget or the Director's designee; a member appointed by
13 the Senate President; a member appointed by the Minority
14 Leader of the Senate; a member appointed by the Speaker of the
15 House of Representatives; and a member appointed by the
16 Minority Leader of the House of Representatives. The Grant
17 Accountability and Transparency Unit may appoint other State
18 officials or other persons with relevant professional
19 experience to serve on the review team. The Grant
20 Accountability and Transparency Unit shall provide
21 administrative support and other support to a review team
22 established under this Section.

23 (b) In conducting its review, the review team may:

24 (1) examine the books and records of the municipality;

25 (2) use the services of other State agencies and

1 employees in conducting the financial review; or

2 (3) both examine the books and records of the
3 municipality and use the services of other State agencies
4 and employees in conducting the financial review.

5 The review team shall meet with city council and employees
6 of the municipality as part of its review. At this meeting, the
7 review team shall receive, discuss, and consider information
8 provided by the municipality concerning the financial
9 condition of the municipality. In addition, the review team
10 shall hold at least one public meeting in the jurisdiction of
11 the municipality at which the public may provide comments.

12 (c) The review team shall submit a written final report of
13 its findings to the Grant Accountability and Transparency Unit
14 within 60 days following its establishment or earlier if
15 required by the Grant Accountability and Transparency Unit.
16 Upon request of a majority of the review team, the Grant
17 Accountability and Transparency Unit may grant one 30-day
18 extension to the 60-day limitation. A copy of the final report
19 shall be forwarded by the Grant Accountability and
20 Transparency Unit to the Governor, mayor and city council of
21 the municipality, the Speaker of the House of Representatives,
22 the Senate President, and each State Senator and State
23 Representative who represents the municipality. The final
24 report shall be posted on the Grant Accountability and
25 Transparency Unit's website within 7 days after the final
26 report is submitted to the Governor. The final report shall

1 identify the existence, or an indication of the likely
2 occurrence, of any of the following if found:

3 (1) a default in the payment of principal or interest
4 upon bonded obligations, notes, or other municipal
5 securities for which no funds or insufficient funds are on
6 hand and, if required, segregated in a special trust fund;

7 (2) a failure for a period of 30 days or more beyond
8 the due date to transfer one or more of the following to
9 the appropriate agency:

10 (i) taxes withheld on the income of employees;

11 (ii) taxes collected by the municipality as agent
12 for another unit of local government; and

13 (iii) a contribution required by a pension,
14 retirement, or benefit plan;

15 (3) a failure for a period of 7 days or more after the
16 scheduled date of payment to pay wages and salaries or
17 other compensation owed to employees or benefits owed to
18 retirees;

19 (4) the total amount of accounts payable for the
20 current fiscal year, as determined by the Grant
21 Accountability and Transparency Unit, is in excess of 10%
22 of the total expenditures of the municipality in that
23 fiscal year;

24 (5) a failure to eliminate an existing deficit in any
25 fund of the municipality within the 2-year period
26 preceding the end of the municipality's fiscal year during

1 which the review team final report is received;

2 (6) a projection of a deficit in the general fund of
3 the municipality for the current fiscal year in excess of
4 5% of the budgeted revenues for the general fund;

5 (7) a failure to comply in all material respects with
6 the terms of an approved deficit elimination plan or an
7 agreement entered into pursuant to a deficit elimination
8 plan;

9 (8) the existence of material loans to the general
10 fund from other municipal funds that are not regularly
11 settled between the funds or that are increasing in scope;

12 (9) the existence after the close of the fiscal year
13 of material recurring, non-budgeted subsidies from the
14 general fund to other major funds;

15 (10) the existence of a structural operating deficit;

16 (11) the use of restricted revenues for purposes not
17 authorized by law;

18 (12) the likelihood that the municipality is or will
19 be unable to pay its obligations within 60 days after the
20 date of the review team's final report; and

21 (13) any other facts and circumstances indicative of a
22 municipal financial emergency.

23 (d) The review team shall include one of the following
24 conclusions in its final report:

25 (1) a financial emergency does not exist within the
26 municipality; or

1 (2) a financial emergency exists within the
2 municipality.

3 (e) The review team may, with the approval of the Grant
4 Accountability and Transparency Unit, appoint an individual or
5 firm to carry out the review and submit a report to the review
6 team for approval. The Grant Accountability and Transparency
7 Unit may enter into a contract with an individual or firm
8 respecting the terms and conditions of the appointment.

9 (f) For purposes of this Section:

10 (1) A financial emergency does not exist within a
11 municipality if the final report concludes that none of
12 the factors in subsection (c) exist or are likely to occur
13 within the current or next fiscal year or, if they occur,
14 do not threaten the municipality's capability to provide
15 necessary governmental services essential to public
16 health, safety, and welfare.

17 (2) A financial emergency exists within a municipality
18 if any of the following occur:

19 (A) the final report concludes that one or more of
20 the factors in subsection (c) exist or are likely to
21 occur within the current or next fiscal year and
22 threaten the municipality's current and future
23 capability to provide necessary governmental services
24 essential to the public health, safety, and welfare;

25 (B) the municipality has failed to provide timely
26 and accurate information enabling the review team to

1 complete its final report; or

2 (C) the mayor of the municipality concludes in
3 writing to the review team that one or more of the
4 factors in subsection (c) exist or are likely to occur
5 within the current or next fiscal year and threaten
6 the municipality's current and future capability to
7 provide necessary governmental services essential to
8 the public health, safety, and welfare, and the mayor
9 recommends that a financial emergency be declared and
10 the Grant Accountability and Transparency Unit concurs
11 with the recommendation.

12 (65 ILCS 5/8-12-10.5 new)

13 Sec. 8-12-10.5. State grants. If a financially distressed
14 city or Authority is awarded a State grant, any moneys the
15 financially distressed city or Authority would be required to
16 match under the grant are waived unless the moneys under the
17 grant come from federal moneys that require the match. A
18 municipality's status as a financially distressed city may not
19 negatively impact a decision of whether or not to award a State
20 grant to the municipality or negatively impact the amount of
21 moneys received by the municipality from a State grant.

22 (65 ILCS 5/8-12-21.5 new)

23 Sec. 8-12-21.5. Noncompliance by corporate authorities or
24 employees of a municipality. If a financially distressed city,

1 including its corporate authorities or employees, materially
2 violates the requirements of this Division, the Authority may
3 commence action in the circuit court within any county in
4 which the municipality is located if the Authority has given
5 the corporate authorities of the city written notice that
6 includes: a detailed explanation of the material violation; a
7 statement of the Authority's intention to enforce the
8 provisions of this Division by commencing an action; a
9 statement giving the corporate authorities at least 15 days to
10 correct the violation before the Authority may commence an
11 action.

12 (65 ILCS 5/8-12-23) (from Ch. 24, par. 8-12-23)

13 Sec. 8-12-23. A financially distressed city to which this
14 Division applies shall remain subject to all other applicable
15 provisions of law ~~this Act~~, except as limited by this
16 Division; provided, however, that in case of a conflict
17 between the provisions of this Division and any other
18 provision of law ~~this Act~~, the provisions of this Division
19 shall control.

20 (Source: P.A. 86-1211.)

21 (65 ILCS 5/8-12-24) (from Ch. 24, par. 8-12-24)

22 Sec. 8-12-24. A municipality, including a home rule
23 municipality, ~~unit~~ which is a financially distressed city to
24 which this Division is applicable as provided in Section

1 8-12-4 may not employ financial or fiscal accounting or
2 budgetary procedures or systems, nor place into effect any
3 Financial Plan or Budget, nor enter into any contract or make
4 any expenditure, nor otherwise conduct its financial and
5 fiscal affairs or take other action in a manner inconsistent
6 with the provisions of this Division, until such time as the
7 powers and responsibilities of the Authority are terminated as
8 provided in Section 8-12-22. This Section is a limitation
9 under subsection (i) of Section 6 of Article VII of the
10 Illinois Constitution on the concurrent exercise by home rule
11 units which are financially distressed cities to which this
12 Division is applicable as provided in Section 8-12-4 of powers
13 and functions exercised by the State.
14 (Source: P.A. 86-1211.)".