

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-12-2, 8-12-3, 8-12-4, and 8-12-23 and by
6 adding Sections 8-12-4.5, 8-12-10.5, and 8-12-21.5 as follows:

7 (65 ILCS 5/8-12-2) (from Ch. 24, par. 8-12-2)

8 Sec. 8-12-2. (a) Pursuant to the authority of the General
9 Assembly to provide for the public health, safety and welfare,
10 the General Assembly hereby finds and declares that it is the
11 public policy and a public purpose of the State to offer
12 assistance to a financially distressed city so that it may
13 provide for the health, safety and welfare of its citizens,
14 pay when due principal and interest on its debt obligations,
15 meet financial obligations to its employees, vendors and
16 suppliers, and provide for proper financial accounting
17 procedures, budgeting and taxing practices, as well as
18 strengthen the human and economic development of the city.

19 (b) It is the purpose of this Division to provide a secure
20 financial basis for the continued operation of a financially
21 distressed city. The intention of the General Assembly, in
22 enacting this legislation is to establish sound, efficient and
23 generally accepted accounting, budgeting and taxing procedures

1 and practices within a financially distressed city, to provide
2 powers to a financial advisory authority established for a
3 financially distressed city, and to impose restrictions upon a
4 financially distressed city in order to assist that city in
5 assuring its financial integrity while leaving municipal
6 services policies to the city, consistent with the
7 requirements for satisfying the public policy and purposes
8 herein set forth.

9 (c) It also is the purpose of this Division to authorize a
10 city which has been certified and designated as a financially
11 distressed city under the procedure set forth in Section
12 8-12-4, ~~and which has by ordinance requested that a financial~~
13 ~~advisory authority be appointed for the city and that the city~~
14 ~~receive assistance as provided in this Division, and which has~~
15 ~~filed certified copies of that ordinance in the manner~~
16 ~~provided by Section 8-12-4,~~ to enter into such agreements as
17 are necessary to receive assistance as provided in this
18 Division and in applicable provisions of the Illinois Finance
19 Authority Act.

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

21 (65 ILCS 5/8-12-3) (from Ch. 24, par. 8-12-3)

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

23 (1) "Authority" means the "(Name of Financially Distressed
24 City) Financial Advisory Authority".

25 (2) "Financially distressed city" means a home rule ~~any~~

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

10 (3) "Home rule municipality" means a municipality which is
11 a home rule unit as provided in Section 6 of Article VII of the
12 Illinois Constitution.

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

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

18 (6) "Financial Plan" means the financially distressed
19 city's financial plan as developed pursuant to Section
20 8-12-15, as from time to time in effect.

21 (7) "Fiscal year" means the fiscal year of the financially
22 distressed city.

23 (8) "Obligations" means bonds, notes or other evidence of
24 indebtedness issued by the Illinois Finance Authority in
25 connection with the provision of financial aid to a
26 financially distressed city pursuant to this Division and

1 applicable provisions of the Illinois Finance Authority Act.

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

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

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

6 (a) In order to be certified as a financially distressed
7 city and receive assistance as provided in this Division:7

8 (1) a home rule municipality shall first, by ordinance
9 passed by its corporate authorities, request (i) that the
10 Department of Revenue certify that it is in the highest 5%
11 of all home rule municipalities in terms of the aggregate
12 of the rate per cent of all taxes levied pursuant to
13 statute or ordinance upon all taxable property of the
14 municipality and in the lowest 5% of all home rule
15 municipalities in terms of per capita tax yield, and (ii)
16 that the General Assembly by joint resolution designate it
17 as a financially distressed city. A home rule municipality
18 which is so certified and designated as a financially
19 distressed city and which desires to receive assistance as
20 provided in this Division shall, by ordinance passed by
21 its corporate authorities, request that a financial
22 advisory authority be appointed for the city and that the
23 city receive assistance as provided in this Division, and
24 shall file a certified copy of that ordinance with the
25 Governor, with the Clerk of the House of Representatives

1 and with the Secretary of the Senate; ~~or-~~

2 (2) the State Comptroller may conduct a preliminary
3 review to determine the existence of probable financial
4 stress within a home rule municipality if one or more of
5 the following occur:

6 (A) the State Comptroller requests that the
7 Department of Revenue certify that the municipality is
8 in the highest 5% of all home rule municipalities in
9 terms of the aggregate of the rate per cent of all
10 taxes levied pursuant to statute or ordinance upon all
11 taxable property of the municipality and in the lowest
12 5% of all home rule municipalities in terms of per
13 capita tax yield, and the Department certifies the
14 same;

15 (B) the city council or the mayor of a
16 municipality or school board makes a written request
17 for a preliminary review and that request identifies
18 the existing or anticipated financial conditions or
19 events that make the request necessary;

20 (C) the State Comptroller receives a written
21 request from a creditor with an undisputed claim
22 against the municipality that exceeds the greater of
23 \$10,000 or 1% of the annual general fund budget of the
24 municipality and that remains unpaid 6 months after
25 its due date provided that the creditor notifies the
26 municipality in writing at least 30 days before its

1 request to the State Comptroller of its intention to
2 submit a written request under this paragraph;

3 (D) the State Comptroller receives, not earlier
4 than 60 days before the next municipal election, a
5 petition containing specific allegations of municipal
6 financial distress signed by at least 25% of the
7 electors within the municipality who voted at the last
8 general election at which a Governor was elected;

9 (E) the State Comptroller receives written
10 notification that a municipality has not timely
11 deposited its minimum obligation payment to the
12 municipality's pension fund as required by law;

13 (F) the State Comptroller receives written
14 notification that the municipality has failed for a
15 period of 7 days or more after the scheduled date of
16 payment to pay wages and salaries or other
17 compensation owed to employees or benefits owed to
18 retirees;

19 (G) the State Comptroller receives written
20 notification from a trustee, paying agent, bondholder,
21 or auditor engaged by the municipality of a default in
22 a bond or note payment or a violation of one or more
23 bond or note covenants;

24 (H) the State Comptroller receives a resolution
25 from either chamber of the General Assembly requesting
26 a preliminary review;

1 (I) the municipality is delinquent in the
2 distribution of tax revenues, as required by law, that
3 it has collected for another taxing jurisdiction, and
4 that taxing jurisdiction requests a preliminary
5 review;

6 (J) the municipality has been assigned a long-term
7 debt rating within or below the BBB category or its
8 equivalent by one or more nationally recognized credit
9 rating agencies; or

10 (K) the existence of other facts or circumstances
11 that, in the State Comptroller's sole discretion, are
12 indicative of probable financial stress.

13 Before commencing the preliminary review under this
14 paragraph (2), the State Comptroller shall provide the
15 municipality written notification that he or she intends
16 to conduct a preliminary review. Elected and appointed
17 officials of the municipality shall promptly and fully
18 provide the assistance and information requested by the
19 State Comptroller for that municipality in conducting the
20 preliminary review. The State Comptroller shall provide a
21 preliminary report of his or her findings to the
22 municipality within 20 days after the date the preliminary
23 review begins. A copy of the preliminary report shall be
24 provided to each State Senator and State Representative
25 who represents that municipality. The municipality may
26 provide comments to the State Comptroller concerning the

1 preliminary report within 5 days after the preliminary
2 report is provided to the municipality.

3 If the State Comptroller believes there is probable
4 financial stress after his or her preliminary review and
5 any input from the municipality, the State Comptroller
6 shall establish a review team under Section 8-12-4.5. A
7 copy of the preliminary report shall be provided to the
8 review team and each State Senator and State
9 Representative who represents that municipality, and the
10 review shall be posted on the State Comptroller's website.
11 The review team shall examine the financial situation of
12 the municipality and complete a final report as provided
13 in Section 8-12-4.5.

14 If the Governor believes that probable financial
15 stress exists for the municipality to be certified as a
16 financially distressed city under this Section after
17 reviewing a final report prepared under Section 8-12-4.5,
18 the Governor may, by proclamation, certify and designate
19 the municipality as a financially distressed city and
20 authorize appointment of the municipality's Authority
21 under Section 8-12-7. The proclamation shall be filed with
22 the Secretary of State and the corporate authorities of
23 the municipality.

24 (b) Upon the filing of the certified copies of ~~the that~~
25 ordinance under paragraph (1) of subsection (a) or upon the
26 written proclamation by the Governor filed with the Secretary

1 of State and corporate authorities of a municipality under
2 paragraph (2) of subsection (a), ~~as required by this Section~~
3 this Division and all of its provisions shall then and
4 thereafter be applicable to the financially distressed city,
5 shall govern and control its financial accounting, budgeting
6 and taxing procedures and practices, and, subject to the
7 limitations of subsection (a) of Section 8-12-22, shall remain
8 in full force and effect with respect thereto until such time
9 as the financial advisory authority established under Section
10 8-12-5 is abolished as provided in subsection (c) of Section
11 8-12-22.

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

13 (65 ILCS 5/8-12-4.5 new)

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

15 (a) If the State Comptroller believes there is probable
16 financial stress after his or her preliminary review and any
17 input from the municipality under Section 8-12-4, the State
18 Comptroller shall establish a review team for the municipality
19 consisting of: the State Comptroller, or his or her designee;
20 the Director of the Governor's Office of Management and
21 Budget, or his or her designee; a member appointed by the
22 Senate President; a member appointed by the Minority Leader of
23 the Senate; a member appointed by the Speaker of the House of
24 Representatives; and a member appointed by the Minority Leader
25 of the House of Representatives. The State Comptroller may

1 appoint other State officials or other persons with relevant
2 professional experience to serve on the review team. The State
3 Comptroller shall provide administrative support and other
4 support to a review team established under this Section.

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

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

7 (2) use the services of other State agencies and
8 employees in conducting the financial review; or

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

12 The review team shall meet with city council and employees
13 of the municipality as part of its review. At this meeting, the
14 review team shall receive, discuss, and consider information
15 provided by the municipality concerning the financial
16 condition of the municipality. In addition, the review team
17 shall hold at least one public meeting in the jurisdiction of
18 the municipality at which the public may provide comments.

19 (c) The review team shall submit a written final report of
20 its findings to the State Comptroller within 60 days following
21 its establishment or earlier if required by the State
22 Comptroller. Upon request of a majority of the review team,
23 the State Comptroller may grant one 30-day extension to the
24 60-day limitation. A copy of the final report shall be
25 forwarded by the State Comptroller to the Governor, mayor and
26 city council of the municipality, the Speaker of the House of

1 Representatives, the Senate President, and each State Senator
2 and State Representative who represents the municipality. The
3 final report shall be posted on the State Comptroller's
4 website within 7 days after the final report is submitted to
5 the Governor. The final report shall identify the existence,
6 or an indication of the likely occurrence, of any of the
7 following if found:

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

12 (2) a failure for a period of 30 days or more beyond
13 the due date to transfer one or more of the following to
14 the appropriate agency:

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

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

18 (iii) a contribution required by a pension,
19 retirement, or benefit plan;

20 (3) a failure for a period of 7 days or more after the
21 scheduled date of payment to pay wages and salaries or
22 other compensation owed to employees or benefits owed to
23 retirees;

24 (4) the total amount of accounts payable for the
25 current fiscal year, as determined by the State
26 Comptroller, is in excess of 10% of the total expenditures

1 of the municipality in that fiscal year;

2 (5) a failure to eliminate an existing deficit in any
3 fund of the municipality within the 2-year period
4 preceding the end of the municipality's fiscal year during
5 which the review team final report is received;

6 (6) a projection of a deficit in the general fund of
7 the municipality for the current fiscal year in excess of
8 5% of the budgeted revenues for the general fund;

9 (7) a failure to comply in all material respects with
10 the terms of an approved deficit elimination plan or an
11 agreement entered into pursuant to a deficit elimination
12 plan;

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

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

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

20 (11) the use of restricted revenues for purposes not
21 authorized by law;

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

25 (13) any other facts and circumstances indicative of a
26 municipal financial emergency.

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

3 (1) a financial emergency does not exist within the
4 municipality; or

5 (2) a financial emergency exists within the
6 municipality.

7 (e) The review team may, with the approval of the State
8 Comptroller, appoint an individual or firm to carry out the
9 review and submit a report to the review team for approval. The
10 State Comptroller may enter into a contract with an individual
11 or firm respecting the terms and conditions of the
12 appointment.

13 (f) For purposes of this Section:

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

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

23 (A) the final report concludes that one or more of
24 the factors in subsection (c) exist or are likely to
25 occur within the current or next fiscal year and
26 threaten the municipality's current and future

1 capability to provide necessary governmental services
2 essential to the public health, safety, and welfare;

3 (B) the municipality has failed to provide timely
4 and accurate information enabling the review team to
5 complete its final report; or

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

15 (65 ILCS 5/8-12-10.5 new)

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

1 (65 ILCS 5/8-12-21.5 new)

2 Sec. 8-12-21.5. Noncompliance by corporate authorities or
3 employees of a municipality. If a financially distressed city,
4 including its corporate authorities or employees, materially
5 violates the requirements of this Division, the Authority may
6 commence action in the circuit court within any county in
7 which the municipality is located if the Authority has given
8 the corporate authorities of the city written notice that
9 includes: a detailed explanation of the material violation; a
10 statement of the Authority's intention to enforce the
11 provisions of this Division by commencing an action; a
12 statement giving the corporate authorities at least 15 days to
13 correct the violation before the Authority may commence an
14 action.

15 (65 ILCS 5/8-12-23) (from Ch. 24, par. 8-12-23)

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

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