

**ASSEMBLY, No. 5590**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MAY 5, 2021

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

**Assemblymen Mukherji, Giblin, Assemblywomen Jimenez and Downey**

**SYNOPSIS**

Extends period of municipal stabilization and recovery, with certain modifications, under “Municipal Stabilization and Recovery Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/20/2021)**

1 AN ACT concerning certain municipalities confronted by severe  
2 fiscal distress and amending and repealing various parts of the  
3 statutory law.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 4 of P.L.2016, c.4 (C.52:27BBBB-4) is amended to  
9 read as follows:

10 4. a. The director may ascertain whether a municipality should  
11 be deemed a municipality in need of stabilization and recovery. If  
12 the director ascertains that a municipality should be deemed a  
13 municipality in need of stabilization and recovery, the director shall  
14 recommend that the commissioner make that determination. Within  
15 7 days of receipt of the director's recommendation, the  
16 commissioner shall make the final determination of whether to  
17 deem the municipality a municipality in need of stabilization and  
18 recovery and subject to the provisions of P.L.2016, c.4  
19 (C.52:27BBBB-1 et al.). The commissioner shall notify the  
20 Governor, the State Treasurer, and the director when a  
21 determination has been made and a municipality is subject to the  
22 provisions of P.L.2016, c.4 (C.52:27BBBB-1 et al.). The director  
23 shall then notify the municipal clerk, or other appropriate municipal  
24 official of the municipality, in writing, of the determination. A  
25 municipality in need of stabilization and recovery shall be subject to  
26 the provisions of P.L.2016, c.4 (C.52:27BBBB-1 et al.) until the  
27 end of the recovery plan adopted pursuant to subsection b. of this  
28 section and approved by the commissioner pursuant to subsection c.  
29 of this section, or until the first day of the **[61st]** 109th month next  
30 following the date on which the municipality becomes subject to the  
31 requirements and provisions of sections 5 through 11, 14, 16, and  
32 17 of P.L.2016, c.4 (C.52:27BBBB-5 et al.), as applicable.

33 b. Not later than 150 days next following the commissioner's  
34 final determination that a municipality is in need of stabilization  
35 and recovery, the governing body of the municipality in need of  
36 stabilization and recovery shall prepare and adopt a resolution  
37 containing a **[five-year]** nine-year recovery plan, commencing on  
38 the first day of the first fiscal year of the municipality next  
39 following the enactment of P.L.2016, c.4 (C.52:27BBBB-1 et al.),  
40 that is sufficient to effectuate the financial stability of the  
41 municipality. The recovery plan shall establish processes and  
42 identify specific actions undertaken by the municipality following  
43 the determination that it is a municipality in need of stabilization  
44 and recovery pursuant to subsection a. of this section, and actions to  
45 be undertaken by the municipality if the recovery plan is approved

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to subsection c. of this section. The recovery plan shall  
2 include a proposed balanced budget for the first fiscal year of the  
3 municipality next following the enactment of P.L.2016, c.4  
4 (C.52:27BBBB-1 et al.), which shall be consistent with the "Local  
5 Budget Law," N.J.S.40A:4-1 et seq., except as otherwise stated in  
6 this subsection. There shall be no requirement for the proposed  
7 balanced budget to identify amounts outstanding, including accrued  
8 interest, on any obligation to the State of New Jersey, including any  
9 office, department, division, bureau, board, commission, or agency  
10 of the State, for deferred pension and health benefit payments for  
11 the first fiscal year of the municipality prior to the enactment of  
12 P.L.2016, c.4 (C.52:27BBBB-1 et al.). For the purposes of the  
13 proposed budget prepared pursuant to this subsection, the  
14 municipality in need of stabilization and recovery is not required to  
15 appropriate the total amount necessary for the extinguishment of all  
16 outstanding property tax appeal debt. For the purposes of the  
17 proposed budget prepared pursuant to this subsection, the  
18 municipality in need of stabilization and recovery shall identify and  
19 account for the loss in revenue from any anticipated set-offs arising  
20 from all such property tax appeal debt or identify and appropriate  
21 for any amounts owed in the first fiscal year of the municipality  
22 next following the enactment of P.L.2016, c.4 (C.52:27BBBB-  
23 1 et al.) for the continued repayment of debts related to all property  
24 tax appeals settled by the municipality. To effectuate financial  
25 stability, in addition to the proposed balanced budget, the recovery  
26 plan shall include detailed processes to:

27 (1) achieve sustainable net reductions in the municipality's  
28 general appropriations to be commensurate with revenues  
29 anticipated in the proposed budget;

30 (2) ensure that the municipality remits to the county in which it  
31 is located the full amount of all property taxes or payments in lieu  
32 of property taxes owed by law to the county on the dates on which  
33 the payments are due;

34 (3) ensure that the municipality remits to the school district  
35 serving the municipality the full amount of all property taxes or  
36 payments in lieu of property taxes owed by law to the school  
37 district on the dates the payments are due;

38 (4) schedule for the repayment of debts, including any accrued  
39 interest, as of the date of the commissioner's determination pursuant  
40 to subsection a. of this section, including, without limitation, any  
41 money owed to the State of New Jersey, including any office,  
42 department, division, bureau, board, commission, or agency of the  
43 State, for deferred pension and health benefits payments;

44 (5) account for future payments on bonded debt and unbonded  
45 debt, including, without limitation, any general obligation bonds,  
46 refunding bonds, pension refunding bonds, tax appeal bonds, and  
47 unbonded tax appeal settlements, obligations, liens, or judgments

1 known to the municipality as of the date of the commissioner's  
2 determination pursuant to subsection a. of this section;

3 (6) account for future payments on any off balance sheet  
4 liabilities of the municipality known to the municipality as of the  
5 date of the commissioner's determination pursuant to subsection a.  
6 of this section;

7 (7) ensure the repayment of the loan in accordance with section  
8 18 of P.L.2016, c.4 (C.52:27BBBB-16), including accrued interest;  
9 and

10 (8) increase the municipality's revenues, including, without  
11 limitation, through the establishment of long-term economic and  
12 land use development strategies.

13 c. The recovery plan shall be submitted by the governing body  
14 to the commissioner. The commissioner, within five business days  
15 next following the day of receipt of the plan, shall determine, in the  
16 commissioner's sole and exclusive discretion, whether the recovery  
17 plan is likely or is not likely to achieve financial stability for the  
18 municipality. If the commissioner determines that the recovery  
19 plan is likely to achieve financial stability for the municipality, the  
20 plan shall be effective and the provisions of sections 5 through 11,  
21 14, 16, and 17 of P.L.2016, c.4 (C.52:27BBBB-5 through  
22 C.52:27BBBB-9, C.52:27BBBB-12, C.52:27BBBB-14, and  
23 C.52:27BBBB-15) shall not be applicable with respect to the  
24 municipality in need of stabilization and recovery. If the  
25 commissioner determines that the recovery plan is likely to achieve  
26 financial stability for the municipality, the plan shall be  
27 implemented beginning on the first day of the first fiscal year of the  
28 municipality next following the enactment of P.L.2016, c.4  
29 (C.52:27BBBB-1 et al.) and the municipality in need of  
30 stabilization and recovery shall strictly comply with the recovery  
31 plan. If the commissioner determines that the plan is not likely to  
32 achieve financial stability for the municipality, if the municipality  
33 fails to submit a plan, if the commissioner determines that the  
34 municipality is not strictly complying with a recovery plan  
35 approved by the commissioner pursuant to this subsection, or if the  
36 commissioner determines that a recovery plan approved by the  
37 commissioner pursuant to this subsection is no longer likely to  
38 achieve financial stability, the municipality shall be immediately  
39 subject to the requirements and provisions of sections 5 through 11,  
40 14, 16, and 17 of P.L.2016, c.4 (C.52:27BBBB-5 et al.) for as long  
41 as the municipality is deemed a municipality in need of stabilization  
42 and recovery.

43 (cf: P.L.2016, c.4, s.4)

44

45 2. Section 5 of P.L.2016, c.4 (C.52:27BBBB-5) is amended to  
46 read as follows:

47 5. a. (1) Notwithstanding the provisions of any law, rule, or  
48 regulation to the contrary, if the municipality in need of

1 stabilization and recovery fails to submit a plan, if the  
2 commissioner has determined pursuant to subsection c. of section 4  
3 of P.L.2016, c.4 (C.52:27BBBB-4) that the recovery plan is not  
4 likely to achieve financial stability for the municipality in need of  
5 stabilization and recovery, if the commissioner determines that the  
6 municipality is not strictly complying with a recovery plan  
7 approved by the commissioner pursuant to subsection c. of section 4  
8 of P.L.2016, c.4 (C.52:27BBBB-4), or if the commissioner  
9 determines that a recovery plan approved by the commissioner  
10 pursuant to subsection c. of section 4 of P.L.2016, c.4  
11 (C.52:27BBBB-4) is no longer likely to achieve financial stability,  
12 the Local Finance Board may, in its exclusive discretion at any time  
13 during which the municipality is deemed a municipality in need of  
14 stabilization and recovery, assume and reallocate to, and vest  
15 exclusively in the director any of the functions, powers, privileges,  
16 and immunities of the governing body of that municipality set forth  
17 in any statute, regulation, ordinance, resolution, charter, or contract  
18 to which the municipality is a party that are, or may be,  
19 substantially related to the fiscal condition or financial  
20 rehabilitation and recovery of that municipality. The duration of  
21 the transfer of the functions, powers, privileges, and immunities of  
22 the governing body shall not exceed the duration of the time the  
23 municipality is deemed a municipality in need of stabilization and  
24 recovery.

25 (2) In the event the Local Finance Board assumes and  
26 reallocates to the director any function, power, privilege, or  
27 immunity of the governing body of a municipality in need of  
28 stabilization and recovery set forth in a contract to which that  
29 municipality is a party, the municipality shall remain the party to  
30 the contract and neither the Local Finance Board nor the director  
31 shall assume any contractual obligations or liability arising out of  
32 that contract or be subject to any claim for breach of that contract or  
33 any other claim related to that contract. Any actions or steps taken  
34 by the director under P.L.2016, c.4 (C.52:27BBBB-1 et al.) shall be  
35 deemed to be by, and on behalf of, the municipality in need of  
36 stabilization.

37 (3) The authorities granted to the director by the Local Finance  
38 Board pursuant to this section shall extend to any and all actions  
39 that, in the exclusive discretion of the director, may help stabilize  
40 the finances, restructure the debts, or assist in the financial  
41 rehabilitation and recovery of the municipality in need of  
42 stabilization and recovery. Notwithstanding the provisions of any  
43 other law, rule, regulation, or contract to the contrary, except for the  
44 provisions of Title 11A, Civil Service, the director shall have the  
45 authority to take any steps to stabilize the finances, restructure the  
46 debts, or assist in the financial rehabilitation and recovery of the  
47 municipality in need of stabilization and recovery, including, but  
48 not limited to:

1 (a) implementing governmental, administrative, and operational  
2 efficiency and oversight measures;

3 (b) dissolving, terminating, transferring, abolishing, or  
4 otherwise disposing of any municipal authority, board, commission,  
5 or department, or any function thereof; provided, however, that no  
6 such action shall be taken until adequate provision has been made  
7 for the payment of the creditors or obligees of the entity to be  
8 impacted unless otherwise permitted by law. This shall include the  
9 power to take any steps required of the governing body under  
10 applicable laws, including but not limited to the "municipal and  
11 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et  
12 seq.), the "Local Authorities Fiscal Control Law," P.L.1983, c.313  
13 (C.40A:5A-1 et seq.), the "Water Infrastructure Protection Act,"  
14 P.L.2015, c.18 (C.58:30-1 et seq.), the "Local Redevelopment and  
15 Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.), and the  
16 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).  
17 To the extent that the Local Finance Board or the director exercise  
18 any powers under the "Local Authorities Fiscal Control Law,"  
19 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal  
20 authority or municipal public utility in the municipality in need of  
21 stabilization and recovery;

22 (c) vetoing the minutes of the governing body of the  
23 municipality in need of stabilization and recovery, any board,  
24 commission, or department of the municipality in need of  
25 stabilization and recovery, and any independent board or authority  
26 in the municipality in need of stabilization and recovery, including,  
27 but not limited to, the housing authority, parking authority,  
28 redevelopment authority, planning board, and zoning board of  
29 adjustment. A true copy of the minutes of every meeting of the  
30 governing body and any board, commission, department, or  
31 independent board, or authority shall be delivered forthwith, by and  
32 under the certification of the secretary thereof, to the director. No  
33 action taken at the meeting shall have force or effect until 15  
34 business days after a copy of the minutes have been so delivered to  
35 the director, unless during this 15-day period the director shall  
36 approve in writing the minutes or any part thereof, in which case  
37 the action shall become effective upon approval. If, within that 15-  
38 day period, the director returns a copy of the minutes with a veto of  
39 any action taken by the governing body, board, commission,  
40 department, or independent board or authority, or any member  
41 thereof at the meeting, the action shall be null and void and of no  
42 effect. The director may approve all or part of the action taken at a  
43 meeting;

44 (d) controlling litigation and the municipality's legal affairs,  
45 including, but not limited to, suing in the municipality's corporate  
46 name; prosecuting, defending, and resolving litigation, arbitration,  
47 disputes, and controversies; and retaining and directing municipal

1 corporation counsel and other special counsel as the director may  
2 deem appropriate;

3 (e) selling, conveying, leasing, monetizing, or otherwise  
4 disposing of any interest in any municipally-owned assets,  
5 including but not limited to, any water, sewer, wastewater, and  
6 storm water infrastructure, equipment or facilities, services, and in  
7 any real property, including any improvements thereon; provided  
8 that the director shall not sell, convey, lease, monetize, or otherwise  
9 dispose of any municipally-owned water asset pursuant to an  
10 agreement with a private entity until one year after the effective  
11 date of P.L.2016, c.4 (C.52:27BBBB-1 et al.) to allow the  
12 municipality in need of stabilization and recovery to maximize the  
13 value of that asset;

14 (f) amending or terminating any existing contracts or  
15 agreements, which shall not include bonds, notes, indentures, or  
16 other similar financing instruments and documents to which the  
17 municipality is a party, in accordance with the terms thereof; or  
18 unilaterally amending or terminating any contracts or agreements  
19 which shall not include bonds, notes, indentures, or other similar  
20 financing instruments and documents to which the municipality is a  
21 party, provided that the director determines that the unilateral  
22 termination or amendment is reasonable and directly related to  
23 stabilizing the finances or assisting with the fiscal rehabilitation and  
24 recovery of the municipality in need of stabilization and recovery;

25 (g) unilaterally modifying, amending, or terminating any  
26 collective negotiations agreements, except those related to school  
27 districts, to which the municipality is a party, or unilaterally  
28 modifying, amending, or terminating the terms and conditions of  
29 employment during the term of any applicable collective  
30 negotiations agreement, or both, provided that the director  
31 determines that the modifications, amendments, or terminations are  
32 reasonable and directly related to stabilizing the finances or  
33 assisting with the fiscal rehabilitation and recovery of the  
34 municipality in need of stabilization and recovery;

35 (h) acting as the sole agent in collective negotiations on behalf  
36 of the municipality in need of stabilization and recovery;

37 (i) with respect to any expired collective negotiations  
38 agreement to which the municipality in need of stabilization and  
39 recovery is a party, unilaterally modifying wages, hours, or any  
40 other terms and conditions of employment;

41 (j) unilaterally abolishing any non-elected positions in the  
42 municipality in need of stabilization and recovery at any time. All  
43 of the functions, powers, and duties of abolished positions shall be  
44 exercised or delegated by the director; **provided, however, that the**  
45 **provisions of Title 11A, Civil Service, shall not apply to any**  
46 **employment action under this paragraph;**

47 (k) unilaterally appointing, transferring, or removing employees  
48 of the municipality in need of stabilization and recovery, including,

1 but not limited to, department heads and division heads, as the case  
2 may be, but excluding appointed officials who have obtained tenure  
3 in office; **【**provided, however, that the provisions of Title 11A,  
4 Civil Service, shall not apply to any employment action under this  
5 paragraph, and that the director shall not remove employees from a  
6 public safety department unless the employees of the department  
7 have been offered a retirement incentive plan, in writing, pursuant  
8 to section 13 of P.L.2016, c.4 (C.52:27BBBB-11);**】**

9 (l) acting as the appropriate authority, including, without  
10 limitation, the appointing authority, for purposes of Title 40A of the  
11 New Jersey Statutes;

12 (m) entering into any agreement with the county in which the  
13 municipality in need of stabilization and recovery is located, any of  
14 the other municipalities located in that county, or any  
15 instrumentality of the State to share or consolidate municipal  
16 services pursuant to any law applicable to consolidation or sharing  
17 of services, including, without limitation, the "Uniform Shared  
18 Services and Consolidation Act," P.L.2007, c.63 (C.40A:65-1 et al.)  
19 and P.L.2015, c.279 (C.40A:14-90.1 et al.);

20 (n) procuring any goods, services, commodities, information  
21 technology, software, hardware, or other items on behalf of the  
22 municipality in need of stabilization and recovery, in accordance  
23 with either the "Local Public Contracts Law," P.L.1971, c.198  
24 (C.40A:11-1 et seq.), or procurement laws applicable to the State, at  
25 the discretion of the director;

26 (o) retaining any professionals on behalf of the municipality in  
27 need of stabilization and recovery, and directing the work of  
28 professionals or any professionals previously retained by the  
29 municipality in need of stabilization and recovery, in accordance  
30 with either the "Local Public Contracts Law," P.L.1971, c.198  
31 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at  
32 the discretion of the director;

33 (p) retaining bond counsel, adopting bond ordinances to the  
34 extent necessary, making appropriate bond applications, and taking  
35 any other steps necessary to restructure and adjust debt, on behalf of  
36 the municipality in need of stabilization and recovery;

37 (q) exercising on behalf of the municipality in need of  
38 stabilization and recovery any authority granted to a municipality  
39 pursuant to the "Local Redevelopment and Housing Law,"  
40 P.L.1992, c.79 (C.40A:12A-1 et al.) when the director deems it  
41 necessary or appropriate to help stabilize the finances, restructure  
42 the debts, or assist with the financial rehabilitation and recovery of  
43 the municipality in need of stabilization and recovery;

44 (r) exercising on behalf of the municipality in need of  
45 stabilization and recovery any authority granted to a municipality  
46 pursuant to the "Redevelopment Area Bond Financing Law,"  
47 P.L.2001, c.310 (C.40A:12A-64 et seq.) when the director deems it  
48 necessary or appropriate to help stabilize the finances, restructure

1 the debts, or assist with the financial rehabilitation and recovery of  
2 the municipality in need of stabilization and recovery;

3 (s) exercising on behalf of the municipality in need of  
4 stabilization and recovery any authority granted to a municipality  
5 pursuant to the "Long Term Tax Exemption Law," P.L.1991, c.431  
6 (C.40A:20-1 et seq.) when the director deems it necessary or  
7 appropriate to help stabilize the finances, restructure the debts, or  
8 assist the financial rehabilitation and recovery of the municipality in  
9 need of stabilization and recovery;

10 (t) authorizing and filing, on behalf of the municipality in need  
11 of stabilization and recovery, subject only to the written approval of  
12 the majority of the members of the legislative Joint Budget  
13 Oversight Committee, a petition and other pleadings and papers  
14 with any United States court or federal bankruptcy court for the  
15 purpose of effecting a plan of readjustment or composition of debts  
16 as set forth in R.S.52:27-40 et seq., and taking any other and further  
17 actions necessary or appropriate in connection with any case or  
18 proceeding; and

19 (u) negotiating and executing any contracts, agreements, or  
20 other documents on behalf of the municipality in need of  
21 stabilization and recovery as may be necessary or appropriate to  
22 effectuate any of the actions or steps specifically identified in  
23 P.L.2016, c.4 (C.52:27BBBB-1 et al.) or that may otherwise, as the  
24 director deems necessary or appropriate, help stabilize the finances,  
25 restructure the debts, or assist with the financial rehabilitation and  
26 recovery of the municipality in need of stabilization and recovery.

27 (4) Subject to subsection b. of section 11 of P.L.2016, c.4  
28 (C.52:27BBBB-9), the Local Finance Board may authorize the  
29 director to take any action authorized to be taken under the "Local  
30 Bond Law," N.J.S.40A:2-1 et seq., and the "Municipal Qualified  
31 Bond Act," P.L.1976, c.38 (C.40A:3-1 et seq.) by a governing body  
32 of a local unit.

33 (5) The provisions of P.L.1941, c.100 (C.34:13A-1 et seq.), and  
34 regulations promulgated thereunder, shall in no way infringe on the  
35 authority of the Local Finance Board or the director set forth in this  
36 section or any actions taken by the director pursuant to this section.

37 (6) Any function, power, privilege, or immunity of the  
38 municipal governing body that is not assumed by the Local Finance  
39 Board and reallocated to and vested exclusively in the director  
40 pursuant to this section shall remain allocated to and vested in that  
41 governing body unless and until such time as the function, power,  
42 privilege, immunity, or duty may be allocated to and vested  
43 exclusively in the Local Finance Board or the director pursuant to  
44 this section. The Local Finance Board or the director may exercise  
45 any power implied or incidental to a power that has been  
46 specifically allocated.

47 b. (1) Notwithstanding the provisions of any law, rule, or  
48 regulation to the contrary, including any requirements set forth in

1 R.S.40:49-1 et seq., the "Senator Byron M. Baer Open Public  
2 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or R.S.52:27-41,  
3 the director shall have the exclusive authority to pass, adopt, repeal,  
4 or amend any ordinance or resolution of the municipality in need of  
5 stabilization and recovery, modify any meeting agenda of the  
6 governing body of the municipality in need of stabilization and  
7 recovery, and negotiate, enter into, amend, or terminate any contract  
8 or agreement, on behalf of the municipality in need of stabilization  
9 and recovery, provided that the director deems the action necessary  
10 or appropriate to help stabilize the finances, restructure the debts, or  
11 assist with the financial rehabilitation and recovery of the  
12 municipality in need of stabilization and recovery.

13 (2) When exercising powers under this section, the director  
14 shall, to the extent practicable, comply with all notice, hearing, and  
15 other requirements to which the municipality in need of  
16 stabilization and recovery is generally subject, but in no instance  
17 shall the director be deemed a "public body" pursuant to the  
18 "Senator Byron M. Baer Open Public Meetings Act," P.L.1975,  
19 c.231 (C.10:4-6 et seq.).

20 (3) The director may issue to the appropriate elected and  
21 appointed officials and employees, agents, and contractors of a  
22 municipality in need of stabilization and recovery the orders that the  
23 director deems appropriate to stabilize the finances, restructure the  
24 debts, or assist the financial rehabilitation and recovery of the  
25 municipality in need of stabilization and recovery pursuant to the  
26 authority granted by the Local Finance Board pursuant to this  
27 section. Any order by the director shall be binding on the  
28 appropriate elected and appointed officials and employees, agents,  
29 and contractors of a municipality in need of stabilization and  
30 recovery and may be enforced as other orders of the director are  
31 enforced under general law.

32 (cf: P.L.2017, c.232, s.1)

33

34 3. Section 17 of P.L.2016, c.4 (C.52:27BBBB-15) is amended  
35 to read as follows:

36 17. The director or the director's designee shall attend the  
37 regularly scheduled meetings of the municipal council in a  
38 municipality in need of stabilization and recovery. On or before the  
39 first day of the **【sixth】** tenth year next following the determination  
40 that a municipality is in need of stabilization and recovery pursuant  
41 to section 4 of P.L.2016, c.4 (C.52:27BBBB-4), the director shall  
42 provide a final report to the Governor and Legislature regarding the  
43 municipality in need of stabilization and recovery.

44 (cf: P.L.2016, c.4, s.17)

45

46 4. Section 1 of P.L.1974, c.123 (C.34:13A-5.4) is amended to  
47 read as follows:

- 1       1. a. Public employers, their representatives or agents are  
2 prohibited from:
  - 3       (1) Interfering with, restraining or coercing employees in the  
4 exercise of the rights guaranteed to them by this act.
  - 5       (2) Dominating or interfering with the formation, existence or  
6 administration of any employee organization.
  - 7       (3) Discriminating in regard to hire or tenure of employment or  
8 any term or condition of employment to encourage or discourage  
9 employees in the exercise of the rights guaranteed to them by  
10 this act.
  - 11       (4) Discharging or otherwise discriminating against any  
12 employee because he has signed or filed an affidavit, petition or  
13 complaint or given any information or testimony under this act.
  - 14       (5) Refusing to negotiate in good faith with a majority  
15 representative of employees in an appropriate unit concerning terms  
16 and conditions of employment of employees in that unit, or refusing  
17 to process grievances presented by the majority representative.
  - 18       (6) Refusing to reduce a negotiated agreement to writing and to  
19 sign such agreement.
  - 20       (7) Violating any of the rules and regulations established by the  
21 commission.
- 22       b. Employee organizations, their representatives or agents are  
23 prohibited from:
  - 24       (1) Interfering with, restraining or coercing employees in the  
25 exercise of the rights guaranteed to them by this act.
  - 26       (2) Interfering with, restraining or coercing a public employer in  
27 the selection of his representative for the purposes of negotiations  
28 or the adjustment of grievances.
  - 29       (3) Refusing to negotiate in good faith with a public employer,  
30 if they are the majority representative of employees in an  
31 appropriate unit concerning terms and conditions of employment of  
32 employees in that unit.
  - 33       (4) Refusing to reduce a negotiated agreement to writing and to  
34 sign such agreement.
  - 35       (5) Violating any of the rules and regulations established by the  
36 commission.
- 37       c. The commission shall have exclusive power as hereinafter  
38 provided to prevent anyone from engaging in any unfair practice  
39 listed in subsections a. and b. above. Whenever it is charged that  
40 anyone has engaged or is engaging in any such unfair practice, the  
41 commission, or any designated agent thereof, shall have authority to  
42 issue and cause to be served upon such party a complaint stating the  
43 specific unfair practice charged and including a notice of hearing  
44 containing the date and place of hearing before the commission or  
45 any designated agent thereof; provided that no complaint shall issue  
46 based upon any unfair practice occurring more than 6 months prior  
47 to the filing of the charge unless the person aggrieved thereby was  
48 prevented from filing such charge in which event the 6-month

1 period shall be computed from the day he was no longer so  
2 prevented.

3 In any such proceeding, the provisions of the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall be  
5 applicable. Evidence shall be taken at the hearing and filed with the  
6 commission. If, upon all the evidence taken, the commission shall  
7 determine that any party charged has engaged or is engaging in any  
8 such unfair practice, the commission shall state its findings of fact  
9 and conclusions of law and issue and cause to be served on such  
10 party an order requiring such party to cease and desist from such  
11 unfair practice, and to take such reasonable affirmative action as  
12 will effectuate the policies of this act. All cases in which a  
13 complaint and notice of hearing on a charge is actually issued by  
14 the commission, shall be prosecuted before the commission or its  
15 agent, or both, by the representative of the employee organization  
16 or party filing the charge or his authorized representative.

17 d. The commission shall at all times have the power and duty,  
18 upon the request of any public employer or majority representative,  
19 to make a determination as to whether a matter in dispute is within  
20 the scope of collective negotiations. The commission shall serve the  
21 parties with its findings of fact and conclusions of law. Any  
22 determination made by the commission pursuant to this subsection  
23 may be appealed to the Appellate Division of the Superior Court.

24 e. The commission shall adopt such rules as may be required to  
25 regulate the conduct of representation elections, and to regulate the  
26 time of commencement of negotiations and of institution of impasse  
27 procedures so that there will be full opportunity for negotiations and  
28 the resolution of impasses prior to required budget submission  
29 dates.

30 f. The commission shall have the power to apply to the  
31 Appellate Division of the Superior Court for an appropriate order  
32 enforcing any order of the commission issued under subsection c. or  
33 d. hereof, and its findings of fact, if based upon substantial evidence  
34 on the record as a whole, shall not, in such action, be set aside or  
35 modified; any order for remedial or affirmative action, if reasonably  
36 designed to effectuate the purposes of this act, shall be affirmed and  
37 enforced in such proceeding.

38 g. The Director of the Division of Local Government Services  
39 in the Department of Community Affairs may notify the  
40 commission that a municipality deemed a "municipality in need of  
41 stabilization and recovery" pursuant to section 4 of P.L.2016, c.4  
42 (C.52:27BBBB-4) shall not be subject to the commission's authority  
43 to prevent an unfair practice pursuant to subsection a. of this  
44 section. Upon such notice, neither the commission, nor any  
45 designee, shall have the authority to issue or cause to be served  
46 upon such municipality in need of stabilization and recovery any  
47 complaint alleging an unfair practice under subsection a. of this  
48 section or to hold any hearings with respect thereto. Nothing in this

1 subsection shall be construed to limit the scope of any general or  
2 specific powers of the Local Finance Board or the Director set forth  
3 in P.L.2016, c.4 (C.52:27BBBB-1 et al.).

4 The provisions of this subsection shall no longer be applicable  
5 on and after the first day of the sixth year next following the  
6 determination by the Commissioner of Community Affairs that the  
7 municipality shall be deemed “a municipality in need of  
8 stabilization and recovery” pursuant to section 4 of P.L.2016, c.4  
9 (C.52:27BBBB-4).

10 (cf: P.L.2016, c.4, s.7)

11  
12 5. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to  
13 read as follows:

14 3. a. (1) Negotiations between a public fire or police  
15 department and an exclusive representative concerning the terms  
16 and conditions of employment shall begin at least 120 days prior to  
17 the day on which their collective negotiation agreement is to expire.  
18 The parties shall meet at least three times during that 120-day  
19 period. The first of those three meetings shall take place no later  
20 than the 90th day prior to the day on which their collective  
21 negotiation agreement is to expire. By mutual consent, the parties  
22 may agree to extend the period during which the second and third  
23 meetings are required to take place beyond the day on which their  
24 collective negotiation agreement is to expire. A violation of this  
25 paragraph shall constitute an unfair practice and the violator shall  
26 be subject to the penalties prescribed by the commission pursuant to  
27 rule and regulation.

28 Prior to the expiration of their collective negotiation agreement,  
29 either party may file an unfair practice charge with the commission  
30 alleging that the other party is refusing to negotiate in good faith.  
31 The charge shall be filed in the manner, form and time specified by  
32 the commission in rule and regulation. If the charge is sustained,  
33 the commission shall order that the respondent be assessed for all  
34 legal and administrative costs associated with the filing and  
35 resolution of the charge; if the charge is dismissed, the commission  
36 shall order that the charging party be assessed for all legal and  
37 administrative costs associated with the filing and resolution of the  
38 charge. The filing and resolution of the unfair practice charge shall  
39 not delay or impair the impasse resolution process.

40 (2) Whenever those negotiations concerning the terms and  
41 conditions of employment shall reach an impasse, the commission,  
42 through the Division of Public Employment Relations shall, upon  
43 the request of either party, or upon its own motion take such steps,  
44 including the assignment of a mediator, as it may deem expedient to  
45 effect a voluntary resolution of the impasse.

46 b. (1) In the event of a failure to resolve the impasse by  
47 mediation, the Division of Public Employment Relations, at the  
48 request of either party, shall invoke factfinding with

1 recommendation for settlement of all issues in dispute unless the  
2 parties reach a voluntary settlement prior to the issuance of the  
3 factfinder's report and recommended terms of settlement.  
4 Factfinding shall be limited to those issues that are within the  
5 required scope of negotiations unless the parties to the factfinding  
6 agree to factfinding on permissive subjects of negotiation.

7 (2) Notwithstanding the provisions of paragraph (2) of  
8 subsection a. of this section or paragraph (1) of this subsection,  
9 either party may petition the commission for arbitration on or after  
10 the date on which their collective negotiation agreement expires.  
11 The petition shall be filed in a manner and form prescribed by the  
12 commission. The party filing the petition shall notify the other  
13 party of its action. The notice shall be given in a manner and form  
14 prescribed by the commission.

15 Any mediation or factfinding invoked pursuant to paragraph (2)  
16 of subsection a. of this section or paragraph (1) of subsection b. of  
17 this section shall terminate immediately upon the filing of a petition  
18 for arbitration.

19 (3) Upon the filing of a petition for arbitration pursuant to  
20 paragraph (2) of this subsection, an arbitrator selected pursuant to  
21 paragraph (1) of subsection e. of this section shall conduct an initial  
22 meeting as a mediation session to effect a voluntary resolution of  
23 the impasse.

24 c. (Deleted by amendment, P.L.2010, c.105)

25 d. The resolution of issues in dispute shall be binding  
26 arbitration under which the award on the unsettled issues is  
27 determined by conventional arbitration. The arbitrator shall  
28 determine whether the total net annual economic changes for each  
29 year of the agreement are reasonable under the nine statutory  
30 criteria set forth in subsection g. of this section and shall adhere to  
31 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-  
32 16.7). The non-petitioning party, within five days of receipt of the  
33 petition, shall separately notify the commission in writing of all  
34 issues in dispute. The filing of the written response shall not delay,  
35 in any manner, the interest arbitration process.

36 e. (1) The commission shall take measures to assure the  
37 impartial selection of an arbitrator or arbitrators from its special  
38 panel of arbitrators. On the first business day following receipt of  
39 an interest arbitration petition, the commission shall, independent of  
40 and without any participation by either of the parties, randomly  
41 select an arbitrator from its special panel of arbitrators. The  
42 selection by the commission shall be final and shall not be subject  
43 to review or appeal.

44 (2) Applicants for initial appointment to the commission's  
45 special panel of arbitrators shall be chosen based on their  
46 professional qualifications, knowledge, and experience, in  
47 accordance with the criteria and rules adopted by the commission.  
48 Such rules shall include relevant knowledge of local government

1 operations and budgeting. Appointment to the commission's special  
2 panel of arbitrators shall be for a three-year term, with  
3 reappointment contingent upon a screening process similar to that  
4 used for determining initial appointments. Arbitrators currently  
5 serving on the panel shall demonstrate to the commission their  
6 professional qualification, knowledge and experience, in accordance  
7 with the criteria and rules adopted by the commission, within one  
8 year of the effective date of this act. Any arbitrator who does not  
9 satisfactorily demonstrate such to the commission within the  
10 specified time shall be disqualified.

11 (3) Arbitrators serving on the commission's special panel shall  
12 be guided by and subject to the objectives and principles set forth in  
13 the "Code of Professional Responsibility for Arbitrators of Labor-  
14 Management Disputes" of the National Academy of Arbitrators, the  
15 American Arbitration Association, and the Federal Mediation and  
16 Conciliation Service.

17 (4) Arbitrators shall be required to complete annual training  
18 offered by the State Ethics Commission. Any arbitrator failing to  
19 satisfactorily complete the annual training shall be immediately  
20 removed from the special panel.

21 The commission may suspend, remove, or otherwise discipline  
22 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),  
23 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.  
24 An arbitrator who fails to render an award within the time  
25 requirements set forth in this section shall be fined \$ 1,000 for each  
26 day that the award is late.

27 f. (1) At a time prescribed by the commission, the parties shall  
28 submit to the arbitrator their final offers on each economic and non-  
29 economic issue in dispute. The offers submitted pursuant to this  
30 section shall be used by the arbitrator for the purposes of  
31 determining an award pursuant to subsection d. of this section.

32 (2) In the event of a dispute, the commission shall have the  
33 power to decide which issues are economic issues. Economic  
34 issues include those items which have a direct relation to employee  
35 income including wages, salaries, hours in relation to earnings, and  
36 other forms of compensation such as paid vacation, paid holidays,  
37 health and medical insurance, and other economic benefits to  
38 employees.

39 (3) Throughout formal arbitration proceedings the chosen  
40 arbitrator may mediate or assist the parties in reaching a mutually  
41 agreeable settlement.

42 All parties to arbitration shall present, at the formal hearing  
43 before the issuance of the award, written estimates of the financial  
44 impact of their last offer on the taxpayers of the local unit to the  
45 arbitrator with the submission of their last offer.

46 (4) Arbitration shall be limited to those subjects that are within  
47 the required scope of collective negotiations, except that the parties

1 may agree to submit to arbitration one or more permissive subjects  
2 of negotiation.

3 (5) The decision of an arbitrator or panel of arbitrators shall  
4 include an opinion and an award, and shall be rendered within 90  
5 calendar days of the commission's assignment of that arbitrator.

6 Each arbitrator's decision shall be accompanied by a written  
7 report explaining how each of the statutory criteria played into the  
8 arbitrator's determination of the final award. The report shall  
9 certify that the arbitrator took the statutory limitations imposed on  
10 the local levy cap into account in making the award.

11 Any arbitrator violating the provisions of this paragraph may be  
12 subject to the commission's powers under paragraph (3) of  
13 subsection e. of this section. The decision shall be final and binding  
14 upon the parties and shall be irreversible, except:

15 (a) Within 14 calendar days of receiving an award, an aggrieved  
16 party may file notice of an appeal of an award to the commission on  
17 the grounds that the arbitrator failed to apply the criteria specified  
18 in subsection g. of this section or violated the standards set forth in  
19 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form  
20 and manner prescribed by the commission. In deciding an appeal,  
21 the commission, pursuant to rule and regulation and upon petition,  
22 may afford the parties the opportunity to present oral arguments.  
23 The commission may affirm, modify, correct or vacate the award or  
24 may, at its discretion, remand the award to the same arbitrator or to  
25 another arbitrator, selected by lot, for reconsideration. The  
26 commission's decision shall be rendered no later than 60 calendar  
27 days after the filing of the appeal with the commission.

28 Arbitration appeal decisions shall be accompanied by a written  
29 report explaining how each of the statutory criteria played into their  
30 determination of the final award. The report shall certify that in  
31 deciding the appeal, the commission took the local levy cap into  
32 account in making the award.

33 An aggrieved party may appeal a decision of the commission to  
34 the Appellate Division of the Superior Court.

35 (b) An arbitrator's award shall be implemented immediately.

36 (6) The parties shall share equally the costs of arbitration  
37 subject to a fee schedule approved by the commission. The fee  
38 schedule shall provide that the cost of services provided by the  
39 arbitrator shall not exceed \$ 1,000 per day. The total cost of  
40 services of an arbitrator shall not exceed \$ 10,000. If the parties  
41 cancel an arbitration proceeding without good cause, the arbitrator  
42 may impose a fee of not more than \$ 500. The parties shall share  
43 equally in paying that fee if the request to cancel or adjourn is a  
44 joint request. Otherwise, the party causing such cancellation shall  
45 be responsible for payment of the entire fee.

46 g. The arbitrator shall decide the dispute based on a reasonable  
47 determination of the issues, giving due weight to those factors listed  
48 below that are judged relevant for the resolution of the specific

1 dispute. In the award, the arbitrator or panel of arbitrators shall  
2 indicate which of the factors are deemed relevant, satisfactorily  
3 explain why the others are not relevant, and provide an analysis of  
4 the evidence on each relevant factor; provided, however, that in  
5 every interest arbitration proceeding, the parties shall introduce  
6 evidence regarding the factor set forth in paragraph (6) of this  
7 subsection and the arbitrator shall analyze and consider the factor  
8 set forth in paragraph (6) of this subsection in any award:

9 (1) The interests and welfare of the public. Among the items  
10 the arbitrator or panel of arbitrators shall assess when considering  
11 this factor are the limitations imposed upon the employer by  
12 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

13 (2) Comparison of the wages, salaries, hours, and conditions of  
14 employment of the employees involved in the arbitration  
15 proceedings with the wages, hours, and conditions of employment  
16 of other employees performing the same or similar services and  
17 with other employees generally:

18 (a) In private employment in general; provided, however, each  
19 party shall have the right to submit additional evidence for the  
20 arbitrator's consideration.

21 (b) In public employment in general; provided, however, each  
22 party shall have the right to submit additional evidence for the  
23 arbitrator's consideration.

24 (c) In public employment in the same or similar comparable  
25 jurisdictions, as determined in accordance with section 5 of  
26 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each  
27 party shall have the right to submit additional evidence concerning  
28 the comparability of jurisdictions for the arbitrator's consideration.

29 (3) The overall compensation presently received by the  
30 employees, inclusive of direct wages, salary, vacations, holidays,  
31 excused leaves, insurance and pensions, medical and hospitalization  
32 benefits, and all other economic benefits received.

33 (4) Stipulations of the parties.

34 (5) The lawful authority of the employer. Among the items the  
35 arbitrator or panel of arbitrators shall assess when considering this  
36 factor are the limitations imposed upon the employer by P.L.1976,  
37 c.68 (C.40A:4-45.1 et seq.).

38 (6) The financial impact on the governing unit, its residents, the  
39 limitations imposed upon the local unit's property tax levy pursuant  
40 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.  
41 When considering this factor in a dispute in which the public  
42 employer is a county or a municipality, the arbitrator or panel of  
43 arbitrators shall take into account, to the extent that evidence is  
44 introduced, how the award will affect the municipal or county  
45 purposes element, as the case may be, of the local property tax; a  
46 comparison of the percentage of the municipal purposes element or,  
47 in the case of a county, the county purposes element, required to  
48 fund the employees' contract in the preceding local budget year with

1 that required under the award for the current local budget year; the  
2 impact of the award for each income sector of the property  
3 taxpayers of the local unit; the impact of the award on the ability of  
4 the governing body to (a) maintain existing local programs and  
5 services, (b) expand existing local programs and services for which  
6 public moneys have been designated by the governing body in a  
7 proposed local budget, or (c) initiate any new programs and services  
8 for which public moneys have been designated by the governing  
9 body in a proposed local budget.

10 (7) The cost of living.

11 (8) The continuity and stability of employment including  
12 seniority rights and such other factors not confined to the foregoing  
13 which are ordinarily or traditionally considered in the determination  
14 of wages, hours, and conditions of employment through collective  
15 negotiations and collective bargaining between the parties in the  
16 public service and in private employment.

17 (9) Statutory restrictions imposed on the employer. Among the  
18 items the arbitrator or panel of arbitrators shall assess when  
19 considering this factor are the limitations imposed upon the  
20 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

21 h. A mediator, factfinder, or arbitrator while functioning in a  
22 mediatory capacity shall not be required to disclose any files,  
23 records, reports, documents, or other papers classified as  
24 confidential received or prepared by him or to testify with regard to  
25 mediation, conducted by him under this act on behalf of any party  
26 to any cause pending in any type of proceeding under this act.  
27 Nothing contained herein shall exempt such an individual from  
28 disclosing information relating to the commission of a crime.

29 i. The Director of the Division of Local Government Services  
30 in the Department of Community Affairs may notify the  
31 commission, through the Division of Public Employment Relations,  
32 that a municipality deemed a "municipality in need of stabilization  
33 and recovery" pursuant to section 4 of P.L.2016, c.4  
34 (C.52:27BBBB-4) will not participate in any impasse procedures  
35 authorized by this section. Upon such notice, any pending impasse  
36 procedures authorized by this section shall immediately cease, and  
37 any pending petition for arbitration shall be vacated. Nothing in  
38 this subsection shall be construed to limit the scope of any general  
39 or specific powers of the Local Finance Board or the director set  
40 forth in P.L.2016, c.4 (C.52:27BBBB-1 et al.).

41 The provisions of this subsection shall no longer be applicable  
42 on and after the first day of the sixth year next following the  
43 determination by the Commissioner of Community Affairs that the  
44 municipality shall be deemed "a municipality in need of  
45 stabilization and recovery" pursuant to section 4 of P.L.2016, c.4  
46 (C.52:27BBBB-4).

47 j. The Local Finance Board may provide that any arbitration  
48 award, including but not limited to an interest arbitration award,

1 involving a municipality deemed a "municipality in need of  
2 stabilization and recovery" pursuant to section 4 of P.L.2016, c.4  
3 (C.52:27BBBB-4) shall be subject to the review and approval of the  
4 Director of the Division of Local Government Services in the  
5 Department of Community Affairs, including those on a collective  
6 negotiations agreement where the matter has been submitted to an  
7 arbitrator pursuant to law, and no such award shall be binding  
8 without the approval of the director. Nothing in this subsection  
9 shall be construed to limit the scope of any general or specific  
10 powers of the Local Finance Board or the director set forth in  
11 P.L.2016, c.4 (C.52:27BBBB-4).

12 The provisions of this subsection shall no longer be applicable  
13 on and after the first day of the sixth year next following the  
14 determination by the Commissioner of Community Affairs that the  
15 municipality shall be deemed "a municipality in need of  
16 stabilization and recovery" pursuant to section 4 of P.L.2016, c.4  
17 (C.52:27BBBB-4).

18 (cf: P.L.2016, c.4, s.6)

19

20 6. Section 13 of P.L.2016, c.4 (C.52:27BBBB-11) is repealed.

21

22 7. This act shall take effect immediately.

23

24

## 25 STATEMENT

26

27 This bill would amend the "Municipal Stabilization and  
28 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et al.) to extend to  
29 nine years the length of the period of State monitoring to which a  
30 municipality determined by the Commissioner of Community  
31 Affairs to be in need of stabilization and recovery is to be subject.

32 The bill also provides that certain provisions of chapter 13A of  
33 Title 34 of the Revised Statutes pertaining to unfair labor practices  
34 (N.J.S.A.34:13A-5.4) and impasse procedures and arbitration  
35 awards (N.J.S.A.34:13A-16) enacted as part of the "Municipal  
36 Stabilization and Recovery Act" shall not be applicable after the  
37 original five-year period of stabilization and recovery established in  
38 that law.

39 The bill also restores Civil Service protections removed by the  
40 "Municipal Stabilization and Recovery Act," P.L.2016, c.4  
41 (C.52:27BBBB-1 et al.).

42 The bill also repeals a section of the "Municipal Stabilization  
43 and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-11), which  
44 permits a municipality in need of stabilization and recovery to use  
45 early retirement incentives as a mechanism to stabilize its finances,  
46 restructure its debts, or assist its financial rehabilitation and  
47 recovery.