

SENATE, No. 2232

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 17, 1997

By Senator BRYANT

1 AN ACT concerning the review and rehabilitation of municipal finances
2 and supplementing chapter 27BB of Title 52 of the Revised
3 Statutes.

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

7
8 1. This act shall be known and may be referred to as the "Municipal
9 Fiscal Oversight and Rehabilitation Act."

10
11 2. The Legislature finds and declares:
12 Pursuant to the Constitution of the State of New Jersey,
13 municipalities are the creation of the Legislature, and so it is the
14 obligation of the Legislature to assure the fiscal integrity of
15 municipalities in order to protect the general welfare of property
16 taxpayers and other residents.

17 Although current statutory law contains provisions for the
18 assumption of the fiscal responsibility for a municipality with severe
19 financial difficulties by the Local Finance Board, no mechanism is
20 available to provide fiscal oversight for municipalities with endemic
21 fiscal problems that cannot be quickly or easily cured or for
22 municipalities with serious fraudulent or mismanagement practices
23 identified by the State Commission of Investigation.

24 It is appropriate for the Legislature to devise as an intermediate
25 oversight mechanism, financial review boards to aid financially
26 troubled or seriously mismanaged municipalities that have not yet
27 reached the point of requiring complete State supervision.

28 In attempting to assist a municipality with endemic fiscal problems
29 or with a history of fraudulent or mismanagement practices, it is
30 appropriate to solicit the involvement of a wide range of persons and
31 organizations that comprise the municipality in community
32 consultation committees so that they can participate in the
33 development of solutions to the fiscal difficulties of the municipality.

34 In attempting to assist a municipality with endemic fiscal problems
35 and low per capita income, it is appropriate to offer various State tax
36 incentives to encourage individuals and businesses to relocate into that
37 municipality in order to revitalize its tax base. It is further appropriate

1 to permit such municipalities to create municipal development
2 financing districts in order to redirect certain sales tax revenues from
3 revitalized areas into further revitalization efforts on the part of those
4 municipalities.

5 The costs incurred by a municipality to assist and cooperate with a
6 financial review board and community consultation committee are
7 deemed to be an inherent part of the conduct of the financial
8 administration and integrity of a municipality as provided by law.

9

10 3. As used in this act:

11 "Authority" means the New Jersey Urban Enterprise Zone
12 Authority created pursuant to section 4 of P.L.1983, c.303 (C.52:27H-
13 63).

14 "Board" means a financial review board created pursuant to section
15 5 of P.L. , c. (C.) (now pending before the Legislature as
16 this bill);

17 "Committee" means a community consultation committee created
18 pursuant to section 5 of P.L. , c. (C.) (now pending before
19 the Legislature as this bill);

20 "Director" means the Director of the Division of Local Government
21 Services in the Department of Community Affairs.

22 "District" means the municipal development financing district
23 established by a municipality and certified by the Commissioner of
24 Commerce and Economic Development pursuant to section 26 of
25 P.L. , c. (C.) (now pending before the Legislature as this bill).

26 "Municipal fiscal oversight and rehabilitation exclusion from the
27 gross income tax" means the exclusion of any amount, after all other
28 exemptions, exclusions and deductions from income provided by law,
29 necessary to reduce a New Jersey Gross Income taxpayer's taxable
30 income to \$30,000.

31 "Program" means a financial review program created pursuant to
32 section 4 of P.L. , c. (C.) (now pending before the
33 Legislature as this bill).

34 "Project" means any capital project or any other public
35 improvement, service, facility or equipment which a municipality is
36 legally authorized to undertake, purchase or provide.

37

38 4. a. Upon a determination by the director that at least three of the
39 conditions listed in this subsection exist in a municipality, the director
40 may give notice to the governing body of that municipality that the
41 Local Finance Board shall conduct a hearing to consider the creation
42 of a board and committee to assist the municipality in regulating its
43 finances. The notice shall be in writing and shall state the time and
44 place that the Local Finance Board will consider the matter. The
45 Local Finance Board, at the time and place stated in the notice, shall
46 give the local governing body and any other interested parties an

1 opportunity to be heard.

2 The conditions which shall be considered by the director are:

3 (1) A declining net valuation on which county taxes are
4 apportioned and an increasing municipal purposes tax levy;

5 (2) A net debt calculation in excess of 3.5%;

6 (3) A municipal purposes tax levy representing 40% or less of total
7 revenue;

8 (4) Cash or revenue deficits in excess of 2% of the total annual
9 general appropriations for the municipality;

10 (5) Deferred charges or budgetary overexpenditures;

11 (6) A tax collection rate less than 90%; or

12 (7) An inability to meet statutory budget deadlines.

13 b. If the Local Finance Board determines at the conclusion of the
14 hearing that three or more of the conditions set forth in subsection a.of
15 this section have existed together within the municipality during at
16 least three of the previous five years, then it shall proceed to determine
17 if the presence of those conditions is affecting the municipality's ability
18 to:

19 (1) Balance its municipal budget on an annual basis without
20 extraordinary means;

21 (2) Access the long and short term debt markets;

22 (3) Provide for necessary infrastructure improvements; or

23 (4) Attract new investments that result in additional ratables.

24 c. If the Local Finance Board determines that three or more of the
25 conditions set forth in subsection a. of this section exist or have
26 existed together within a municipality during at least three of the
27 previous five years, and further finds that any one of the conditions set
28 forth in subsection b. of this section also exists currently, it may, by
29 resolution, establish a financial review program in the municipality.

30 d. In addition to establishing a financial review program in a
31 municipality pursuant to the procedure set forth in subsection c. of this
32 section, the Local Finance Board may also establish a program in any
33 municipality which is subject to supervision pursuant to sections 54
34 through 99 of P.L.1947, c.151 (C.52:27BB-54 et seq.), when the
35 Local Finance Board determines, following a notice to the municipality
36 and a hearing, that, upon being released from State supervision, the
37 fiscal integrity of a municipality will be further stabilized by the
38 establishment of a financial review program.

39 e. In addition to establishing a financial review program in a
40 municipality pursuant to the procedure set forth in subsections c. and
41 d. of this section, the Local Finance Board may also establish a
42 program (1) in any municipality in which a report of the State
43 Commission of Investigation has detailed evidence of improper
44 administrative practices, fraudulent claims, fiscal mismanagement,
45 misuse of municipal resources, or other serious irregularities in that
46 municipality, or, (2) in any municipality in which an elected or

1 appointed officer responsible for handling municipal finances has been
2 found guilty of a crime involving that person's office and the finances
3 of the municipality.

4

5 5. a. A financial review program shall include the creation of a
6 financial review board and a community consultation committee for
7 the municipality. A board shall have the power and responsibility to:

8 (1) approve the financial plan of the municipality;

9 (2) investigate any aspect of municipal finances;

10 (3) issue directives to municipal officials concerning the finances of
11 the municipality;

12 (4) take legal action to compel municipal officials to comply with
13 its valid orders and directives;

14 (5) require the appearance of any municipal official or employee
15 before the board to answer questions concerning the finances of the
16 municipality;

17 (6) require municipal officials and employees to provide documents
18 concerning the finances of the municipality;

19 (7) approve any actions taken by the governing body affecting the
20 finances of the municipality that the board deems necessary ;

21 (8) request the community consultation committee to review and
22 provide advice on matters that come before the board;

23 (9) approve the appointment of or contract with a registered
24 municipal accountant appointed pursuant to N.J.S.40A:5-4;

25 (10) ratify any collective bargaining agreement, or award of an
26 arbitrator made under binding arbitration, to be entered into by the
27 municipality, notwithstanding the provisions of P.L.1977, c.85
28 (C.34:13A-14 et seq.) and P.L.1995, c.425 (C.34:13A-14a et al.); and

29 (11) adopt policies and procedures for the conduct of its activities;
30 and

31 (12) study matters related to best practices and benchmark costs of
32 municipal services in comparison to comparable municipalities.

33 b. A community consultation committee shall be comprised of
34 community leaders and representatives of organizations in the
35 community and the municipal government that influence municipal
36 financial matters, economic development policies and social service
37 requirements. A committee shall have the responsibility to:

38 (1) review and provide advice and recommendations to the board
39 on the financial plan;

40 (2) provide the board with advice regarding any matter requested
41 by the board;

42 (3) provide advice and recommendations to the board with regard
43 to any other matters the committee may consider appropriate;

44 (4) consult with municipal officials on any matter;

45 (5) study any aspect of municipal governance or issues affecting the
46 community; and

1 (6) review and advise the board on the annual budget of the
2 municipality.

3

4 6. a. A financial review board shall consist of nine members which
5 shall include:

6 (1) The Commissioner of Community Affairs, who shall serve ex
7 officio and shall serve as chair of the board, and the State Treasurer,
8 ex officio. The commissioner and State Treasurer each may designate
9 a representative to attend meetings of the board in their place and to
10 vote or otherwise act on their behalf. Written notice of the
11 designation of a representative shall be furnished to the board by the
12 commissioner or State Treasurer. A representative shall serve at the
13 pleasure of the commissioner or State Treasurer;

14 (2) The mayor of the municipality who shall serve ex officio;

15 (3) A member of the municipal governing body, selected by a
16 majority vote of the full voting membership of the governing body,
17 who shall serve ex officio;

18 (4) Three public members, appointed by the Governor, with the
19 advice and consent of the Senate, one of whom shall have a business
20 interest in the county in which is situated the municipality in which a
21 program is established. One of the other two public members shall be
22 recommended by the President of the Senate, and the other shall be
23 recommended by the Speaker of the General Assembly and both of
24 these public members shall be residents of the municipality in which a
25 program is established and shall be a community leader or social
26 service provider in that municipality. The public members appointed
27 pursuant to this paragraph shall not hold elected, political, or
28 appointed office or employment in the municipal government or any
29 agency of the municipality in which a program has been established.
30 These members shall be appointed not later than 60 days after the
31 determination of the Local Finance Board to establish a program in a
32 municipality pursuant to section 4 of P.L. , c. (C.) (now
33 pending before the Legislature as this bill); and

34 (5) The executive directors of the New Jersey Housing and
35 Mortgage Finance Agency and the Economic Development Authority,
36 who shall serve ex officio.

37 b. The members appointed by the Governor shall serve for terms
38 of two years and until their respective successors are appointed and
39 qualified, and may be eligible for reappointment for consecutive terms.
40 Vacancies in the membership of a board shall be filled for the
41 unexpired terms only in the same manner as the original appointments
42 were made.

43

44 7. a. Each board operating under a program that has been
45 established pursuant to section 4 of P.L. , c. (C.) (now
46 pending before the Legislature as this bill) shall meet as soon as

1 possible after the appointment of a majority of the members for the
2 purpose of organizing and undertaking its responsibilities. All
3 meetings shall be held in the municipality for which the board is
4 established. The chair person, or his or her designee, shall preside at
5 all meetings of the board. A majority of the members of the entire
6 board shall constitute a quorum for the conduct of business. The
7 board shall act by majority vote of the entire membership of the board.
8 All meetings of the board shall be subject to the "Open Public
9 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

10 b. The board shall be in, but not of, the Department of Community
11 Affairs. The board may incur expenses as it may deem necessary in
12 order to perform its duties and as may be within the limits of funds
13 made available to it for those purposes. Expenditures of the board
14 shall not be subject to the provisions of section 9 of article 6 of
15 P.L.1944, c.112 (C.52:27B-61).

16 c. The board may appoint an administrator who shall have
17 demonstrated experience and qualifications in the field of government
18 finance and whose annual salary shall be set by the Local Finance
19 Board. Subject to the limits of funds made available to it, the board
20 may also retain such consultants experienced in the field of municipal
21 finance or accounting as the board shall deem necessary or desirable
22 to accomplish its purposes, and employ clerical personnel as may be
23 necessary to support its activities. Employees of the board shall be
24 considered to be confidential employees and in the unclassified service
25 pursuant to N.J.S.11A:3-1 et seq., except that the administrator may
26 be a contract employee whose compensation shall be set by the Local
27 Finance Board.

28 d. The board administrator, if appointed, shall exercise oversight
29 of the financial activities of the municipality to ensure compliance with
30 State law and regulations; provide staff support to the board and the
31 committee; monitor the implementation of an approved financial plan
32 and of the reporting system thereof by the municipality; and perform
33 other related duties as may be delegated by the board.

34 e. The municipality shall provide the board with office space,
35 clerical personnel and support facilities as the board may determine to
36 be necessary to conduct its activities.

37 f. The board shall compile and file an annual report of its activities
38 with, and shall provide its assessment of the fiscal condition and
39 progress of the municipality to, the Local Finance Board.

40 g. The board shall provide staff to assist the municipal governing
41 body with the development and administration of the plan.

42 h. The board shall submit a budget for its activities to the Local
43 Finance Board for approval.

44
45 8. a. Within 60 days following the establishment of a program
46 pursuant to section 4 of P.L. , c. (C.) (now pending before the

1 Legislature as this bill) the mayor of the municipality, with advice and
2 consent of remainder of the municipal governing body, shall appoint
3 a community consultation committee of no more than 15 voting
4 members together with as many non-voting members as the mayor may
5 deem appropriate. The chief administrative officer or the chief
6 financial officer of the municipality, as determined by the mayor, shall
7 be appointed to serve on the committee as a non-voting member.
8 Each committee member who represents a particular community
9 interest or community organization of the type described in subsection
10 b. of this section shall serve as liaison to and shall communicate with
11 related community interests or organizations regarding the activities
12 of the committee. Actions of the committee shall require a two-thirds
13 vote of the entire voting membership. Members of the committee shall
14 serve at the pleasure of the municipal governing body and may be
15 removed by majority vote of the governing body, including the mayor,
16 at any time. The committee shall organize itself and establish its own
17 leadership and system of organization. The committee shall work
18 collaboratively to develop consensus when making recommendations
19 to the board.

20 b. When appointing voting members to the committee the mayor
21 shall endeavor to achieve diverse representation with preference to
22 representatives of the following interests and communities as
23 appropriate to the municipality:

- 24 (1) the county government;
 - 25 (2) municipal housing or redevelopment agencies;
 - 26 (3) uniformed and non-uniformed collective bargaining units;
 - 27 (4) small businesses and corporations;
 - 28 (5) religious organizations;
 - 29 (6) social services providers;
 - 30 (7) neighborhood groups;
 - 31 (8) non-profit housing providers;
 - 32 (9) the school district serving the municipality; and
 - 33 (10) economic development organizations.
- 34

35 9. a. Following appointment of members to a board pursuant to
36 section 6 of P.L. , c. (C.) (now pending before the
37 Legislature as this bill), the board, in consultation with the governing
38 body of the municipality, shall prepare and adopt a financial plan.

39 b. The financial plan shall be comprised of the following sections:
40 a budgetary plan, an operations plan, an economic development plan
41 and a capital improvement plan.

42 (1) The budgetary plan shall be general in nature and shall include
43 revenue and spending targets that must be met by the municipality
44 through its annual budget. Spending targets may be set by budgetary
45 line item. If, in the opinion of the board, the municipality does not
46 have an adequate cash management plan or cash flow analysis, the

1 board may require that the plan include such matters. The board shall
2 ensure that the provisions of the plan comply with all applicable
3 provisions of State law.

4 (2) The operations plan shall identify and describe opportunities to
5 reduce the costs of providing municipal services through general
6 reductions of municipal expenditures; sales of surplus municipal assets;
7 changes in staffing patterns; development of new sources of revenue;
8 implementation of shared services with other government agencies;
9 contracting of services to other providers; reductions in municipal
10 service levels; improved or lower cost operating methods and
11 practices; and any other measures which would serve to reduce the
12 costs of providing municipal services as may be developed by the
13 municipality, the committee, or the board. Elements of the operations
14 plan may be overridden by a two-thirds vote of the entire membership
15 of the municipal governing body, including the mayor.

16 (3) The capital improvement plan shall follow and reflect the capital
17 improvement plan adopted pursuant to the "Local Budget Law,"
18 N.J.S.40A:4-1 et seq., and any applicable regulations adopted by the
19 Local Finance Board.

20 (4) The economic development plan shall identify and describe
21 appropriate actions for the economic development of the municipality
22 planned by all government agencies, non-profit and private sector
23 organizations engaged in the economic development of the
24 municipality.

25

26 10. a. The financial plan prepared in accordance with section 9 of
27 P.L. , c. (C.) (now pending before the Legislature as this bill)
28 shall be developed and approved, and may from time to time be
29 modified in accordance with the procedures established in this section.

30 b. Not later than 120 days after the date that a financial review
31 board of a municipality has its first meeting, the governing body of the
32 municipality shall submit a proposed financial plan to the board
33 covering the three-year period beginning with the municipality's next
34 ensuing fiscal year. The governing body shall consult with the
35 committee in the development of the plan.

36 c. Not later than 120 days prior to the commencement of each
37 subsequent fiscal year, the governing body shall submit to the board
38 a report regarding the implementation of the financial plan approved
39 by the board together with recommendations for such modifications to
40 the approved financial plan as the governing body may wish to
41 propose.

42 d. Upon receipt of a proposed financial plan or of any proposed
43 modifications to an approved financial plan, the board shall provide a
44 copy of the proposed plan or the proposed modification to the voting
45 members of the committee, who shall have 30 days to review and
46 provide comments to the board. The committee may recommend to

1 the board that changes be made to the plan or the proposed
2 modification for board's consideration.

3 e. (1) Not more than sixty days after submission of the proposed
4 financial plan or recommendations for modification of an approved
5 financial plan to the board, the board shall determine whether the
6 proposed plan or the proposed plan modification is complete and
7 complies with the requirements of P.L. , c. (C.) (now pending
8 before the Legislature as this bill). If the board determines that the
9 proposed plan, or the proposed plan modification, is complete and
10 complies with the requirements of P.L. , c. (C.) (now pending
11 before the Legislature as this bill), the board shall, by resolution,
12 approve the financial plan or the financial plan modification.

13 (2) If the board determines that the proposed plan or proposed plan
14 modification is incomplete; that the budget plan therein fails to contain
15 projections of revenues and expenditures that are based on reasonable
16 and appropriate assumptions and methods of estimation; that the
17 proposed plan or proposed plan modification fails to demonstrate that
18 the operations of the municipality will be conducted within the cash
19 resources available to the municipality according to the board's
20 revenue estimates; or that the proposed plan or proposed plan
21 modification fails to comply with the provisions of this act, the board
22 shall, by resolution, disapprove the plan.

23 f. In the event that the governing body of the municipality either
24 fails to submit a financial plan as required by this section or fails to
25 submit a financial plan which receives the approval of the board, the
26 board shall, by resolution, formulate and adopt a financial plan to be
27 effective until the governing body of the municipality submits a
28 financial plan which is approved by the board. Any such plan shall be
29 submitted to the committee for its review at least 30 days prior to
30 adoption by the board.

31 g. Once adopted by the board, the provisions of the financial plan
32 shall be binding on the municipality.

33 h. The financial plan shall be updated on an annual basis.

34

35 11. a. Following its initial approval, the financial plan shall be
36 examined by the board and the committee on a regular basis, in
37 consultation with the governing body of the municipality. The
38 municipality shall establish a system for reporting on its progress in
39 complying with the various components of the plan. These reports
40 shall be prepared in a form and with such contents as shall be
41 prescribed by the board. Reports regarding the municipality's
42 compliance with the budget plan shall be made monthly. Reports
43 regarding the municipality's compliance with the other components of
44 the financial plan shall be made quarterly. The board shall provide
45 copies of all of the reports to the committee.

46 b. In the event that the reports provided to the board indicate that

1 expenditures being undertaken by the municipality are not consistent
2 with the approved financial plan, the board shall be authorized to issue
3 orders and directives as it believes necessary or desirable to ensure
4 compliance with the plan.

5 c. If, in the board's judgment, it appears at any time that (1) the
6 amount of revenues which the municipality is reasonably likely to
7 realize in cash during any fiscal year will be less than the amount of
8 anticipated revenues in the municipality's annual budget; or (2) the
9 expenditures for the municipality during any fiscal year will exceed the
10 amount of revenues which the municipality is reasonably likely to
11 realize in cash during that fiscal year, the board may direct the
12 municipality to submit a financial plan modification to the board
13 describing the manner in which the municipality will effect such
14 adjustments in revenue estimates and such reductions in expenditures
15 as may be necessary to conform the expenditures of the municipality
16 to such revised revenue estimates. Following approval by the board,
17 the municipality shall implement that financial plan modification.

18 d. The board shall approve a financial plan modification so long
19 as the modification complies with the requirements of P.L. , c.
20 (C.) (now pending before the Legislature as this bill). If,
21 within the time period specified by the board for the submission of a
22 financial plan modification, the municipality fails to submit a plan
23 modification as may be necessary to achieve the purposes of P.L. ,
24 c. (C.) (now pending before the Legislature as this bill), the
25 board, upon adoption of a resolution, may formulate and approve such
26 financial plan modification as may be necessary to achieve the
27 purposes of P.L. , c. (C.) (now pending before the
28 Legislature as this bill) and thereafter direct its implementation by the
29 municipality.

30 e. Any plan modifications shall be reviewed by the committee prior
31 to action by the board approving the modifications.

32

33 12. a. In any municipality in which a financial review program has
34 been established, the mayor of the municipality, at least 60 days prior
35 to the start of each fiscal year, shall require the directors or
36 supervisors of each department, function or operation of the municipal
37 government to submit budget requests for appropriations for the
38 forthcoming fiscal year and to appear before the committee at public
39 hearings on the various requests, which shall be held no later than 30
40 days prior to the start of each fiscal year. The mayor shall provide
41 appropriate instructions to those preparing the budget requests so that
42 the requests are prepared in compliance with the financial plan adopted
43 pursuant to section 9 or 10 of P.L. , c. (C.) (now pending
44 before the Legislature as this bill). The budget requests shall include
45 detailed information as to the items of appropriation set forth therein.

46 b. Following the hearings pursuant to subsection a. of this section

1 and in accordance with all other applicable provisions of law, the
2 governing body shall introduce an annual budget for the next fiscal
3 year. Following introduction of the budget, copies of the budget shall
4 be provided to the board and the committee. The budget introduced
5 by the governing body shall conform to the approved financial plan for
6 the municipality and shall be in the form required by, and shall
7 otherwise comply with, the requirements of the "Local Budget Law,"
8 N.J.S.40A:4-1 et seq. The introduced budget shall also be submitted
9 to the director who shall conduct an examination of the budget
10 pursuant to the provisions of the "Local Budget Law," N.J.S.40A:4-1
11 et seq.

12 c. The budget shall be advertised and a public hearing on the
13 budget shall be held by the governing body in accordance with the
14 provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq. Prior to
15 the commencement of the public hearing, the committee shall review
16 the budget and provide such comments to the governing body and the
17 board as it deems necessary or appropriate. Any budget amendments
18 shall be made pursuant to the "Local Budget Law," N.J.S.40A:4-1 et
19 seq.

20 d. Following receipt of the introduced budget, receipt of comments
21 regarding the introduced budget from the committee, and the
22 introduction of any amendments by the governing body, the board
23 shall review the budget and approve the budget either as submitted or
24 with such modifications as to anticipated revenues or budget
25 appropriations as the board may deem appropriate. The governing
26 body of the municipality shall incorporate any modifications required
27 by the board into the budget and shall then proceed to adopt the
28 budget. Notwithstanding the provisions of the "Local Budget Law,"
29 N.J.S.40A:4-1 et seq., actions of the board that result in budget
30 changes shall, if necessary, extend otherwise binding statutory time
31 periods to an appropriate date set by the board.

32
33 13. a. Any board established pursuant to section 5 of P.L. , c.
34 (C.) (now pending before the Legislature as this bill) shall, from
35 time to time and to the extent it deems necessary or desirable in order
36 to accomplish the purposes of P.L. , c. (C.) (now pending
37 before the Legislature as this bill), be authorized to:

38 (1) Review the efficiency and productivity of the operations and
39 management of the municipality and make reports thereon to the
40 mayor and the governing body of the municipality;

41 (2) Audit compliance with the approved financial plan for the
42 municipality as the board shall determine;

43 (3) Recommend to the municipality or require the implementation
44 of such measures relating to the efficiency and productivity of the
45 municipality including, but not limited to, public employee contracts,
46 personnel policies and purchasing practices, as the board may deem

1 appropriate to reduce costs and improve services;

2 (4) Obtain such information regarding the financial condition and
3 needs of the municipality including such financial statements and
4 projections, budgetary data, and information and management reports
5 and materials, as the board may deem necessary or desirable; and

6 (5) Inspect, copy and audit such financial books and financial
7 records of the municipality as the board shall determine necessary or
8 desirable.

9 b. Any reports of the board pursuant to subsection a. of this
10 section shall be forwarded to the committee.

11

12 14. During the period of time during which a board is authorized
13 to function in a municipality, the municipality shall not authorize the
14 issuance of bonds or notes without the prior approval of the board.
15 Any bond ordinance proposed to be adopted, together with such other
16 information as the board may require, shall be submitted to the board
17 for review and approval prior to introduction of the ordinance. The
18 board shall request the committee to comment regarding the proposed
19 ordinance. If the board is satisfied that the purpose or purposes to be
20 funded by the proposed ordinance are consistent with the approved
21 financial plan for the municipality, it shall approve the proposed
22 ordinance. Upon receipt of such approval, the governing body of the
23 municipality may proceed with the introduction and adoption of the
24 ordinance. The procedures set forth in this section shall be in addition
25 to, and not in lieu of any procedures which a municipality would be
26 required to follow in seeking the issue of debt in accordance with the
27 provisions of the "Municipal Qualified Bond Act," P.L.1976, c.38
28 (C.40A:3-1 et seq.). The board may not compel the municipality to
29 adopt any bond ordinance.

30

31 15. During the period of time during which a board is authorized
32 to function in a municipality, the board shall review the annual
33 financial statements and the annual audits of the municipality. To the
34 extent that corrective action plans are developed by the municipality
35 as a result of those audits, any such plans shall first be submitted to the
36 board for approval. In addition, if, as a result of an annual audit, the
37 board concludes that the preparation and implementation of a
38 corrective action is necessary and the municipality has not taken that
39 action, the board shall be authorized to direct the preparation and
40 implementation of such a corrective plan as the board may deem
41 necessary or desirable.

42

43 16. During the period of time during which a board is authorized
44 to function in a municipality, no emergency appropriation or other
45 budget amendment in excess of \$100,000 shall be adopted by the
46 governing body of a municipality until the emergency appropriation or

1 other budget amendment has first been reviewed and approved by the
2 board, or its administrator when that power has been delegated. In
3 reviewing any proposed emergency appropriation or other budget
4 amendment, the board shall consider such factors as may be
5 appropriate, including but not limited to, the need for the
6 appropriation and the existence of alternative sources to meet the need
7 for the appropriation. Any request for approval of a proposed
8 emergency or other budget amendment shall be accompanied by a
9 document prepared by the municipality explaining the need for the
10 action.

11 In addition, no transfer in excess of \$100,000 of appropriation or
12 change in text or title of an appropriation shall be authorized or
13 approved by the governing body of a municipality until the transfer of
14 appropriation or change in text or title of an appropriation has first
15 been reviewed and approved by the board or its administrator when
16 that authority has been delegated. Any request for approval of a
17 proposed transfer of appropriations or change in text or title of an
18 appropriation shall be accompanied by a document prepared by the
19 municipality explaining the need for the transfer.

20

21 17. a. During the period of time during which a board is
22 authorized to function within a municipality, the municipality shall not
23 enter into any contract with a value in excess of \$100,000 without
24 prior review and approval by the board, or its administrator when that
25 authority has been delegated. A copy of each such contract shall be
26 submitted to the board, or the board's administrator, together with an
27 analysis of the projected costs of the contract and a certification by the
28 municipality's chief financial officer that the performance of the
29 contract will be in accordance with the financial plan, all in such form
30 and with such additional information as the board may prescribe. The
31 board or its administrator shall promptly review the terms of the
32 contract and the supporting information in order to determine whether
33 the contract is in compliance with the financial plan.

34 b. The board or its administrator shall approve the contract if it
35 determines that the execution and the performance of the contract will
36 be consistent with the financial plan. In approving a contract, the
37 board or its administrator may establish appropriate terms and
38 conditions to achieve the purposes of the financial plan, provided that
39 the terms and conditions are not otherwise inconsistent with other
40 requirements of law, including, but not limited to the "Local Public
41 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

42 c. Upon receipt of notice of approval of a contract, the
43 municipality may proceed to enter into the contract subject to the
44 terms and conditions as may have been established by the board or its
45 administrator.

1 18. During the period of time during which a board is authorized
2 to function within a municipality, the municipality shall not incur any
3 expenditures, or obligations to incur expenditures, in excess of the
4 amount established under the financial plan then in effect without prior
5 review and approval by either the board or its administrator when that
6 authority has been delegated to the administrator. This provision shall
7 not be applicable to obligations incurred as a result of a court
8 judgment. Upon receipt of a final court judgment requiring the
9 municipality to appropriate funds, the board, in consultation with the
10 governing body shall modify the plan.

11

12 19. Any board created pursuant to section 5 of P.L. , c.
13 (C.) (now pending before the Legislature as this bill) shall be
14 authorized to issue such orders and directives as that board may deem
15 necessary to any officer or employee of the municipality in which it is
16 authorized to function to accomplish the purposes of P.L. , c.
17 (C.) (now pending before the Legislature as this bill),
18 including but not limited to, timely and satisfactory implementation of
19 the provisions of the approved financial plan of the municipality. Any
20 order or directive so issued shall be binding upon the officer or
21 employee to whom it was issued. Such order or directive shall be
22 subject to disapproval by the mayor or business administrator of the
23 municipality; however, the disapproval may be overridden by a two-
24 thirds vote of a majority of the total membership of the board. Any
25 officer or employee who, after the date fixed for compliance, fails or
26 refuses to obey a valid order or directive shall be subject to a personal
27 penalty of not less than \$25 or more than \$1,000 to be fixed by the
28 board. Such failure or refusal to obey a valid order or directive from
29 the board shall constitute inefficiency, neglect of duty, misconduct or
30 malfeasance in office or employment, and in the case of an elected
31 official, shall be grounds for an action to compel forfeiture of office.
32 The amount of a monetary penalty may be collected by the board in
33 the name of the State as a personal debt of the officer or employee and
34 shall be paid upon receipt to the municipality.

35

36 20. No officer or employee of a municipality in which a board has
37 been authorized to function shall take any action in violation of any
38 valid order or directive of the board, or shall fail or refuse to take any
39 action required by any such order or directive, or shall prepare,
40 present or certify any information or report, including any projections
41 or estimates, for the board or any of its agents that are wilfully false
42 or misleading. In addition to any penalty or liability under any other
43 law, any officer or employee of the municipality who shall violate the
44 provisions of this section shall be subject to appropriate administrative
45 discipline including, when circumstances warrant, suspension from
46 duty without pay or removal from office by order of the mayor or the

1 board. Any action taken against an officer or employee pursuant to
2 this section shall be reviewed by the Merit System Board in
3 accordance with its rules and regulations, in those municipalities that
4 have adopted Title 11A, Civil Service, of the New Jersey Statutes. In
5 the case of a violation of the provisions of this section by an officer or
6 employee of the municipality, the mayor shall immediately report to
7 the board all pertinent facts together with a statement of the action
8 taken thereon.

9
10 21. Orders and directives issued by a board may be enforced by a
11 proceeding in lieu of prerogative writ, by an action for injunctive relief
12 in appropriate cases, or by a mandamus action to compel performance
13 by the governing body or by any officer or employee of the
14 municipality in which the board is authorized to function.

15
16 22. The members of the board and any person authorized to act on
17 behalf of or assist the board shall be considered public employees
18 under the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq. and
19 shall be entitled to all of the rights and immunities provided to public
20 employees under that act.

21
22 23. The activities of the board shall cease and the board and the
23 committee shall be dissolved at the conclusion of the third municipal
24 budget year next following the budget year in which the program was
25 established.

26
27 24. The Commissioner of Community Affairs may issue orders, or
28 adopt rules and regulations pursuant to the "Administrative Procedure
29 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the
30 provisions of sections 4 through 23 of P.L. , c. (C.) (now
31 pending before the Legislature as this bill).

32
33 25. Notwithstanding any law, rule or regulation to the contrary, in
34 any municipality in which a program has been created pursuant to
35 section 4 of P.L. , c. (C.) (now pending before the
36 Legislature as this bill) and which has an average per capita income of
37 \$10,000 or less according to the latest federal decennial census,
38 whether or not promulgated by the State:

39 a. for a period of 10 years commencing on January 1 next
40 following the year in which the program was created, bona fide
41 residents of the municipality shall be entitled to a municipal fiscal
42 oversight and rehabilitation exclusion from the gross income tax;

43 b. for a period of 15 years commencing on January 1 next
44 following the year in which the program was created, corporations
45 maintaining an office or facility within the municipality and employing
46 at least eight residents of the municipality at that office or facility shall

1 be exempt from paying any amounts otherwise due under the
2 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
3 et seq.).

4
5 26. a. Any municipality in which a board has been established
6 pursuant to section 4 of P.L. , c. (C.) (now pending before
7 the Legislature as this bill) and which has an average per capita income
8 of \$10,000 or less according to the latest federal decennial census,
9 whether or not promulgated by the State, may establish a Municipal
10 Development Financing District by ordinance. The district shall be a
11 contiguous area of compact shape within the municipality. If a
12 boundary of the district is a body of water, any establishment situated
13 on the body of water and accessible from the district by a dock or
14 ramp shall be considered within the district.

15 The district may include any portion of the municipality which has
16 experienced significant revitalization, except that if any portion of the
17 district overlaps with an enterprise zone designated pursuant to section
18 7 of P.L.1983, c.303 (C.52:27H-66) or pursuant to section 3 of
19 P.L.1995, c.382 (C.52:27H-66.1), the provisions of section 27 of
20 P.L. , c. (C.) (now pending before the Legislature as this bill)
21 which otherwise apply to the enterprise zone shall not apply to that
22 area of the district included within the enterprise zone.

23 b. Any municipality which has adopted an ordinance pursuant to
24 subsection a. of this section shall submit the ordinance to the
25 Commissioner of Commerce and Economic Development who shall
26 certify the area as a Municipal Development Financing District upon
27 a determination that it meets the requirements of this section.

28

29 27. a. Fifty percent of all sales tax revenues derived within the
30 district from (1) receipts of retail sales, except retail sales of motor
31 vehicles, of alcoholic beverages as defined in the "Alcoholic beverage
32 tax law," R.S.54:41-1 et seq., cigarettes as defined in the "Cigarette
33 Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and of manufacturing
34 machinery, equipment or apparatus, made by a certified vendor from
35 a place of business owned or leased and regularly operated by the
36 vendor for the purpose of making retail sales; (2) receipts from the
37 sale of food and drink subject to taxation pursuant to subsection (c) of
38 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
39 (C.54:32B-3), but excluding sales of food and drink sold through coin
40 operated vending machines; (3) the rent for the occupancy of a room
41 or rooms in a hotel subject to taxation pursuant to subsection (d) of
42 section 3 of the "Sales and Use Tax Act"; and (4) admission charges
43 subject to taxation pursuant to subsection (e) of section 3 of the "Sales
44 and Use Tax Act," as certified by the Director of the Division of
45 Taxation, shall be remitted to the chief finance officer of the
46 municipality to be used for municipal purposes, subject to any financial

1 oversight or supervision applicable to the municipality under any law,
2 or rule or regulation promulgated pursuant thereto.

3 The State Treasurer may deduct from amounts so retained prior to
4 deposit in the fund an amount equal to that necessary to compensate
5 the Division of Taxation for costs actually incurred by that division in
6 administering the provisions of sections 27 through 30 of P.L. , c.
7 (C.) (now pending before the Legislature as this bill).

8 b. The remaining fifty percent of all sales tax revenues derived
9 within the district from the items enumerated in paragraphs (1)
10 through (4) of subsection a. of this section, less those amounts
11 deducted by the State Treasurer for administrative costs, shall be
12 deposited into a Municipal Development Assistance Fund to be used
13 for the purposes prescribed in section 31 of P.L. , c. (C.) (now
14 pending before the Legislature as this bill), except as provided in
15 subsection c. of this section.

16 c. Notwithstanding the provisions of subsection b. of this section
17 to the contrary, if any portion of the district is included within a
18 designated urban enterprise zone in which an exemption from receipts
19 of retail sales has been granted pursuant to section 21 of P.L.1983,
20 c.303 (C.52:27H-80), the moneys so collected shall be allocated in
21 accordance with the provisions of the urban enterprise zone program.
22 Any receipts collected from the items enumerated in paragraphs (1)
23 through (4) of subsection a. of this section on which the retail sales tax
24 exemption set forth in section 21 of P.L.1983, c.303 (C.52:27H-80)
25 does not apply shall be deposited into the Municipal Development
26 Assistance Fund as provided in subsection b. herein to the account of
27 that municipality to be used for the purposes prescribed in section 31
28 of P.L. , c. (C.) (pending before the Legislature as this
29 bill).

30

31 28. Any vendor making sales from a location within the district and
32 required to collect tax pursuant to the "Sales and Use Tax Act",
33 P.L.1966, c.30 (C.54:32B-1 et seq.) shall register with the Director of
34 the Division of Taxation in a manner prescribed by the director and file
35 a return in such form and with such information as the director shall
36 prescribe by rule or regulation as necessary to determine the municipal
37 share of the tax.

38

39 29. Any vendor making sales from a location within the district and
40 required to register under section 28 of P.L. , c. (C.) (now
41 pending before the Legislature as this bill) shall, on or before the dates
42 required pursuant to section 17 of the "Sales and Use Tax Act,"
43 P.L.1966, c.30 (C.54:32B-17), forward to the director the sales tax
44 collected in the preceding return period and make and file a return for
45 the preceding return period with the director on a form containing any
46 information that the Division of Taxation in the Department of the

1 Treasury shall prescribe by rule or regulation in order to determine the
2 municipal share of the tax.

3

4 30. a. There is created a Municipal Development Assistance Fund
5 to be held by the State Treasurer, which shall be the depository for all
6 moneys required to be deposited therein under subsection b. of section
7 27 of P.L. , c. (C.) (now pending before the Legislature
8 as this bill) or moneys appropriated annually to the fund. All moneys
9 deposited in the fund shall be held and disbursed in the amounts
10 necessary to fulfill the purposes of this section and subject to the
11 requirements hereinafter prescribed. The State Treasurer may invest
12 and reinvest any moneys in the fund, or any portion thereof, in legal
13 obligations of the United States or of the State or of any political
14 subdivision thereof. Any income from, interest on, or increment to
15 moneys so invested or reinvested shall be included in the fund.

16 b. The State Treasurer shall maintain separate accounts for each
17 municipality which has a certified Municipal Development Financing
18 District designated under section 26 of P.L. , c. (C.) (now
19 pending before the Legislature as this bill). The State Treasurer shall
20 credit to each account an amount of the moneys deposited in the fund
21 equal to the amount of revenues collected from the taxation of retail
22 sales made in the district as provided in subsection b. of section 27 of
23 P.L. , c. (C.) (now pending before the Legislature as this
24 bill) and appropriated to the Municipal Development Assistance Fund.

25

26 31. a. The Municipal Development Assistance Fund shall be used
27 for the purpose of assisting municipalities which have established
28 municipal development financing districts in undertaking public
29 improvements and economic development projects in those
30 municipalities.

31 b. A governing body which has designated an approved municipal
32 development financing district may, by resolution adopted after public
33 hearing, propose to undertake a project for the public improvement of
34 the municipality and to fund that project from moneys deposited in the
35 Municipal Development Assistance Fund and credited to the account
36 maintained by the State Treasurer for the municipality.

37 The proposal so adopted shall set forth a plan for the project and
38 shall include:

39 (1) A description of the proposed project;

40 (2) An estimate of the total project costs and an estimate of the
41 amounts of funding necessary annually from the municipal account;

42 (3) A statement of any other revenue sources to be used to finance
43 the project;

44 (4) A statement of the time necessary to complete the project;

45 (5) A statement of the manner in which the proposed project
46 furthers the municipality's policy and intentions for addressing

1 municipal economic and social conditions; and

2 (6) A description of the financial and programmatic controls and
3 reporting mechanisms to be used to guarantee that the funds will be
4 spent in accordance with the plan and that the project will accomplish
5 its purpose.

6 c. Upon adoption by the governing body of the municipality, the
7 proposal shall be sent to the authority for evaluation and approval.
8 The authority shall approve the proposal upon a finding that the
9 proposed project furthers the municipality's policy and intentions for
10 addressing municipal economic and social conditions, thereby
11 contributing to an increase in the municipality's economic
12 self-sufficiency;

13 d. The authority may at any time revoke the approval of a project
14 upon a finding that the payments made from the Municipal
15 Development Assistance Fund are not being used as required by this
16 section. The municipality shall annually certify to the State Treasurer
17 the amount to be paid in that year from the Municipal Development
18 Assistance Fund with respect to each project approved by the
19 authority.

20 e. Upon certification to the State Treasurer of the annual amount
21 to be paid to a municipality with respect to any project, the State
22 Treasurer shall pay in each year to the municipality from the amounts
23 deposited in the Municipal Development Assistance Fund the amount
24 so certified, within the limits of the amounts credited to the municipal
25 account.

26

27 32. Notwithstanding any law, rule or regulation to the contrary,
28 20% of the proceeds of bonds authorized to be issued by the New
29 Jersey Housing and Mortgage Finance Agency or the Economic
30 Development Authority following enactment of P.L. , c. (C.)
31 (now pending before the Legislature as this bill), shall be set aside for
32 projects located in municipalities in which a program has been created
33 pursuant to section 4 of P.L. , c. (C.) (now pending before the
34 Legislature as this bill) and which have an average per capita income
35 of \$10,000 or less according to the latest federal decennial census.
36 Whether or not promulgated by the State.

37

38 33. a. The State Treasurer shall promulgate those rules and
39 regulations necessary to effectuate the provisions of section 25 and
40 sections 27 through 30 of P.L. , c. (C.) (now pending before
41 the Legislature as this bill) pursuant to the "Administrative Procedure
42 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

43 b. The Commissioner of Commerce and Economic Development
44 in consultation with the Commissioner of Community Affairs shall
45 promulgate those rules and regulations necessary to effectuate the
46 provisions of section 31 of P.L. , c. (C.) (now pending

1 before the Legislature as this bill) pursuant to the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3
4 34. This act shall take effect immediately.

5
6
7 STATEMENT

8
9 This bill would permit the Director of the Division of Local
10 Government Services in the Department of Community Affairs (DCA)
11 to identify to the Local Finance Board those municipalities with severe
12 fiscal problems, but which do not require complete assumption of
13 fiscal responsibility by the State. The Local Finance Board would
14 conduct a hearing with each identified municipality to determine if a
15 financial review program should be established for that municipality.
16 The establishment of a financial review program would entail the
17 creation of a financial review board and a community consultation
18 committee that would work with the municipal governing body to
19 form a financial plan. The fiscal oversight would terminate at the end
20 of the third municipal budget year following the budget year in which
21 the financial review program was established.

22 A financial review board would consist of nine members. The
23 members would be the Commissioner of DCA, ex officio, who would
24 be the chairman of the board, the State Treasurer, ex officio, the
25 mayor of the municipality, ex officio, a member of the municipal
26 governing body, and three public members appointed by the Governor
27 with the advice and consent of the Senate. One public member would
28 be recommended by the President of the Senate and another public
29 member would be recommended by the Speaker of the General
30 Assembly. Both of these public members would have to reside in the
31 municipality and be a community leader or social service provider in
32 the municipality. The other public member would have to have a
33 business interest in the county in which the municipality is situate and
34 would not have to be a resident of the municipality. The remaining
35 members of the board would be the executive directors of the New
36 Jersey Housing and Mortgage Finance Agency and the Economic
37 Development Authority, ex officio.

38 The mayor of the municipality, with the advice and consent of the
39 remainder of the municipal governing body, would appoint a
40 community consultation committee to represent broad interests of
41 residents and social service organizations operating within the
42 municipality. The committee would be responsible for making
43 suggestions to the board and reviewing the financial plan before it is
44 approved by the board.

45 The bill gives financial review boards liberal powers to ensure
46 compliance by local officials with its orders and directives, subject to

1 the requirements of Title 11A, Civil Service, of the New Jersey
2 Statutes. Meetings of these boards would be subject to the "Open
3 Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). The board
4 would have the authority to appoint an administrator and delegate any
5 oversight functions to the administrator that the board deems
6 appropriate. An administrator would be a person of demonstrated
7 experience and qualifications in the field of government finance and
8 the administrator's compensation would be set by the Local Finance
9 Board.

10 To encourage rehabilitation of the property tax base of
11 municipalities in which a financial review program has been established
12 and which have an average per capita income of \$10,000 or less, the
13 bill provides an exemption from the State income tax of amounts in
14 excess of \$30,000 taxable income for residents of the municipality for
15 a period of 10 years. The bill also exempts corporations maintaining
16 an office or facility in the municipality and employing at least eight
17 residents of the municipality from payment of amounts otherwise due
18 under the Corporation Business Tax Act (1945), P.L.1945, c.162
19 (C.54:10A-1 et seq.) for a period of 15 years.

20 Finally, for those municipalities in which a financial review program
21 has been established and which have an average per capita income of
22 \$10,000 or less the bill would allow the delineation of a Municipal
23 Development Financing District, by ordinance.

24 Under the terms of the bill, fifty percent of those sales taxes
25 collected within the district derived from retail sales, with certain
26 exceptions; sales of food and drink; hotel room occupancy; and
27 admission charges must be returned to the municipality in which the
28 district is situated by the State Treasurer to be used for municipal
29 purposes, subject to any financial oversight or supervision which may
30 prevail within the municipality. The district must be a contiguous area
31 of compact shape and comprise an area in which significant
32 revitalization has occurred. The State Treasurer shall certify the area
33 as a Municipal Development Financing District upon a determination
34 that it meets the criteria set forth in the bill. The bill provides for a
35 reporting procedure on the part of vendors whose sales are subject to
36 the bill's provisions and requires the State Treasurer to promulgate
37 such rules and regulations as are necessary in order to effectuate the
38 bill's provisions.

39 The bill requires that the remaining three percent sales tax collected
40 in any Municipal Development Financing District be placed in an
41 account designated for the municipality by the State Treasurer, to be
42 used for projects which are defined in the bill. Those projects are
43 defined broadly to include any capital project or other public
44 improvement which furthers the municipality's economic revitalization
45 goals and which is legally authorized. The municipality shall propose
46 the project by resolution adopted after public hearing and the proposal

1 shall set forth a plan which includes a project description, estimate of
2 project costs, statement of other revenues to be used to fund the
3 project, estimated time necessary to complete the project, and other
4 significant information of similar nature. The bill permits the State
5 Treasurer to revoke the approval if the payments made from the fund
6 are not being used in accordance with the terms of the approval.

7 Those amounts which are otherwise to be deposited into the
8 Municipal Development Assistance Fund under the provisions of this
9 bill which are generated in an urban enterprise zone shall be allocated
10 as otherwise provided in the "New Jersey Urban Enterprise Zones
11 Act." Other retail sales tax revenues which are exempted under this
12 bill, generated in a designated urban enterprise zone which receives the
13 benefit of the retail sales tax exemption and which are payable into the
14 Municipal Development Assistance Fund shall be payable to the
15 municipal account as provided for in this bill.

16 Finally, the bill requires that 20% of the proceeds of bonds
17 authorized to be issued by the New Jersey Housing and Mortgage
18 Finance Agency or the Economic Development Authority following
19 enactment of the bill, shall be set aside for projects located in
20 municipalities in which a financial review program has been established
21 and which have an average per capita income of \$10,000 or less, so
22 that State bond money can be targeted to revitalize those
23 municipalities.

24

25

26

27

28 "Municipal Fiscal Oversight and Rehabilitation Act"; authorizes
29 establishment of financial review boards and provides for
30 redevelopment in certain municipalities.