

# Chapter 4, P.L. 2016

(Approved May 27, 2016)

[Third Reprint]

SENATE, No. 1711

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 29, 2016

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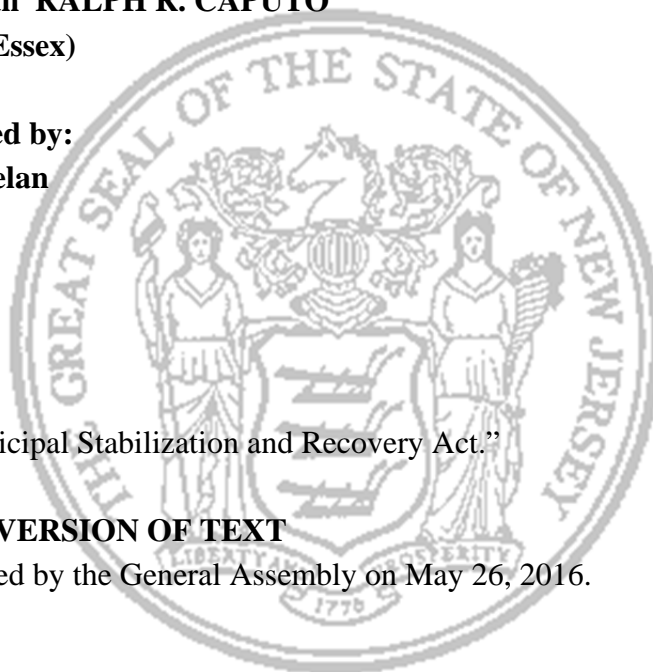
**SYNOPSIS**

The "Municipal Stabilization and Recovery Act."

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on May 26, 2016.

(Sponsorship Updated As Of: 5/27/2016)



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2

1 AN ACT concerning certain municipalities confronted by severe  
2 fiscal distress <sup>1</sup>[and] <sup>1</sup> supplementing Title 52 of the Revised  
3 Statutes <sup>1</sup> and amending P.L.1977, c.85 <sup>1</sup>[and] <sup>2</sup>[<sup>1</sup>] and<sup>2</sup>  
4 P.L.1974, c.123 <sup>2</sup>[<sup>1</sup>, and P.L.1999, c.59]<sup>2</sup>.

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

8  
9 1. (New section) This act shall be known and may be cited as  
10 the “Municipal Stabilization and Recovery Act.”

11  
12 2. (New section) The Legislature finds and declares that:

13 a. The short and long-term fiscal stability of local government  
14 units is essential to the interests of the citizens of this State to assure  
15 the efficient and effective provision of necessary governmental  
16 services vital to public health, safety, and welfare, including the fiscal  
17 health of our State’s municipalities.

18 b. In certain extreme cases, local governments that experience  
19 severe fiscal distress become incapable of addressing the  
20 circumstances that led to that extraordinary distress or of  
21 developing a comprehensive plan for financial rehabilitation and  
22 recovery.

23 c. It is necessary and appropriate for the State to take action to  
24 assist local governments experiencing severe budget imbalances  
25 and other conditions of severe fiscal distress or emergency by  
26 requiring prudent fiscal management and operational efficiencies in  
27 the provision of public services.

28 d. As the State entity primarily responsible for the financial  
29 integrity and stability of all local government units, the Local Finance  
30 Board should be authorized, under certain limited circumstances, to  
31 develop a comprehensive rehabilitation plan for local governments that  
32 are experiencing severe fiscal distress, and to act on behalf of local  
33 government units to remedy the distress.

34  
35 3. (New section) As used in <sup>2</sup>[this act] P.L. , c. (C. )  
36 (pending before the Legislature as this bill)<sup>2</sup>:

37 “Commissioner” means the Commissioner of Community  
38 Affairs.

39 “Director” means the Director of the Division of Local  
40 Government Services in the Department of Community Affairs.

41 “Director’s designee” means one or more individuals designated  
42 by the director, as the director deems appropriate, to act in the  
43 director’s stead or exercise one or more of the authorities granted to  
44 the director by the Local Finance Board pursuant to the terms of

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Senate SBA committee amendments adopted March 10, 2016.

<sup>2</sup>Assembly AJU committee amendments adopted May 23, 2016.

<sup>3</sup>Assembly floor amendments adopted May 26, 2016.

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1 <sup>2</sup>[this Act] P.L. , c. (C. ) (pending before the Legislature  
2 as this bill)<sup>2</sup>.

3 “Fiscal distress” means a fiscal condition based on a  
4 municipality’s tax rate, cash deficit, insufficient percentage of tax  
5 collections, insufficient collection of other revenues, over-  
6 anticipation of the revenues of prior years, non-liquidation of  
7 interfund transfers, reliance on emergency authorizations, continual  
8 rollover of tax anticipation notes, inefficiencies in the provision of  
9 municipal services such that associated costs substantially exceed  
10 costs for similar services in other municipalities, or other factors  
11 indicating a constrained ability to meets the municipality’s  
12 budgetary requirements.

13 “Governing body” means the municipal council, committee,  
14 board, or other entity having control of the finances of a  
15 municipality, and shall include the mayor.

16 “Local Finance Board” means the Local Finance Board in the  
17 Division of Local Government Services in the Department of  
18 Community Affairs.

19 “Municipality in need of stabilization and recovery” means a  
20 municipality that: (1) has experienced a decrease of more than 50  
21 percent in its total assessed <sup>2</sup>non-equalized<sup>2</sup> property values during  
22 the <sup>2</sup>[immediately preceding]<sup>2</sup> five-year period <sup>2</sup>terminating at the  
23 end of the tax year immediately preceding the enactment of P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill)<sup>2</sup> , as  
25 determined by the director <sup>2</sup>[, and, upon the recommendation of the  
26 director finding that the municipality is experiencing fiscal distress,  
27 the commissioner determines the municipality should appropriately  
28 be subject to the provisions of P.L. , c. (C. ) (pending before  
29 the Legislature as this bill)]<sup>2</sup> ; and (2) has experienced an increase  
30 in outstanding debt exceeding 50 percent during the immediately  
31 preceding five-year period, as determined by the director, and upon  
32 the recommendation of the director finding that the municipality is  
33 experiencing fiscal distress, the commissioner determines the  
34 municipality should appropriately be subject to the provisions of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill).  
36

37 4. (New section) <sup>2</sup>a.<sup>2</sup> The director may ascertain whether a  
38 municipality should be deemed a municipality in need of  
39 stabilization and recovery. If the director ascertains that a  
40 municipality should be deemed a municipality in need of  
41 stabilization and recovery, the director shall recommend that the  
42 commissioner make that determination. Within <sup>2</sup>[14] <sup>2</sup>7<sup>2</sup> days of  
43 receipt of the director’s recommendation, the commissioner shall  
44 make the final determination of whether to deem the municipality a  
45 municipality in need of stabilization and recovery and subject to the  
46 provisions of P.L. , c. (C. ) (pending before the Legislature  
47 as this bill). The commissioner shall notify the Governor, the State  
48 Treasurer, and the director when a determination has been made and  
49 a municipality is subject to the provisions of P.L. , c. (C. )

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1 (pending before the Legislature as this bill). The director shall then  
2 notify the municipal clerk, or other appropriate municipal official of  
3 the municipality, in writing, of the determination. A municipality  
4 in need of stabilization and recovery shall be subject to the  
5 provisions of P.L. , c. (C. ) (pending before the Legislature  
6 as this bill) <sup>2</sup>[for a period of five consecutive years] until the end of  
7 the recovery plan adopted pursuant to subsection b. of this section  
8 and approved by the commissioner pursuant to subsection c. of this  
9 section, or until first day of the 61<sup>st</sup> month next following the date  
10 on which the municipality becomes subject to the requirements and  
11 provisions of sections 5 through <sup>3</sup>[12] <sup>11</sup><sup>3</sup> , <sup>3</sup>[and]<sup>3</sup> <sup>14</sup>  
12 <sup>3</sup>[through] , <sup>3</sup> 16 <sup>3</sup>, and 17<sup>3</sup> of P.L. , c. (C. ) (pending before  
13 the Legislature as this bill), as applicable.

14 b. Not later than 150 days next following the commissioner's  
15 final determination that a municipality is in need of stabilization  
16 and recovery, the governing body of the municipality in need of  
17 stabilization and recovery shall prepare and adopt a resolution  
18 containing a five-year recovery plan, commencing on the first day  
19 of the first fiscal year of the municipality next following the  
20 enactment of P.L. , c. (C. ) (pending before the Legislature  
21 as this bill), that is sufficient to effectuate the financial stability of  
22 the municipality. The recovery plan shall establish processes and  
23 identify specific actions undertaken by the municipality following  
24 the determination that it is a municipality in need of stabilization  
25 and recovery pursuant to subsection a. of this section, and actions to  
26 be undertaken by the municipality if the recovery plan is approved  
27 pursuant to subsection c. of this section. The recovery plan shall  
28 include a proposed balanced budget for the first fiscal year of the  
29 municipality next following the enactment of P.L. , c. (C. )  
30 (pending before the Legislature as this bill), which shall be  
31 consistent with the "Local Budget Law," N.J.S.40A:4-1 et seq.,  
32 except as otherwise stated in this subsection. There shall be no  
33 requirement for the proposed balanced budget to identify amounts  
34 outstanding, including accrued interest, on any obligation to the  
35 State of New Jersey <sup>3</sup>, including any office, department, division,  
36 bureau, board, commission, or agency of the State,<sup>3</sup> for deferred  
37 pension and health benefit payments for the first fiscal year of the  
38 municipality prior to the enactment of P.L. , c. (C. ) (pending  
39 before the Legislature as this bill). For the purposes of the  
40 proposed budget prepared pursuant to this subsection, the  
41 municipality in need of stabilization and recovery is not required to  
42 appropriate the total amount necessary for the extinguishment of all  
43 outstanding property tax appeal debt. For the purposes of the  
44 proposed budget prepared pursuant to this subsection, the  
45 municipality in need of stabilization and recovery shall identify and  
46 account for the loss in revenue from any anticipated set-offs arising  
47 from all such property tax appeal debt or identify and appropriate  
48 for any amounts owed in the <sup>3</sup>[2017] first<sup>3</sup> fiscal year of the  
49 municipality <sup>3</sup>next following the enactment of P.L. , c. (C. )

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1 (pending before the Legislature as this bill)<sup>3</sup> for the continued  
2 repayment of debts related to all property tax appeals settled by the  
3 municipality. To effectuate financial stability, in addition to the  
4 proposed balanced budget, the recovery plan shall include detailed  
5 processes to:

6 (1) achieve sustainable net reductions in the municipality's  
7 general appropriations to be commensurate with revenues  
8 anticipated in the proposed budget;

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

13 (3) ensure that the municipality remits to the school district  
14 servicing the municipality the full amount of all property taxes or  
15 payments in lieu of property taxes owed by law to the school  
16 district on the dates the payments are due;

17 (4) schedule for the repayment of debts, including any accrued  
18 interest, as of the date of the commissioner's determination  
19 pursuant to subsection a. of this section, including, without  
20 limitation, any money owed to the State of New Jersey<sup>3</sup>, including  
21 any office, department, division, bureau, board, commission, or  
22 agency of the State,<sup>3</sup> for deferred pension and health benefits  
23 payments;

24 (5) account for future payments on bonded debt and unbonded  
25 debt, including, without limitation, any general obligation bonds,  
26 refunding bonds, pension refunding bonds, tax appeal bonds, and  
27 unbonded tax appeal settlements, obligations, liens, or judgments  
28 known to the municipality as of the date of the commissioner's  
29 determination pursuant to subsection a. of this section;

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

34 (7) ensure the repayment of the loan in accordance with section  
35 <sup>3</sup>[17] 18<sup>3</sup> of P.L. , c. (C. ) (pending before the Legislature as  
36 this bill), including accrued interest; and

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

40 c. The recovery plan shall be submitted by the governing body  
41 to the commissioner. The commissioner, within five business days  
42 next following the day of receipt of the plan, shall determine, in the  
43 commissioner's sole and exclusive discretion, whether the recovery  
44 plan is likely or is not likely to achieve financial stability for the  
45 municipality. If the commissioner determines that the recovery  
46 plan is likely to achieve financial stability for the municipality, the  
47 plan shall be effective and the provisions of sections 5 through <sup>3</sup>[12]  
48 11<sup>3</sup>, <sup>3</sup>[and] <sup>3</sup> 14 <sup>3</sup>[through] <sup>3</sup> 16<sup>3</sup>, and 17<sup>3</sup> of P.L. , c.  
49 (C. ) (pending before the Legislature as this bill) shall not be

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1 applicable with respect to the municipality in need of stabilization  
2 and recovery. If the commissioner determines that the recovery plan  
3 is likely to achieve financial stability for the municipality, the plan  
4 shall be implemented beginning on the first day of the first fiscal  
5 year of the municipality next following the enactment of P.L. \_\_\_\_\_,  
6 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) and the  
7 municipality in need of stabilization and recovery shall strictly  
8 comply with the recovery plan. If the commissioner determines that  
9 the plan is not likely to achieve financial stability for the  
10 municipality, <sup>3</sup>[or]<sup>3</sup> if the municipality fails to submit a plan, <sup>3</sup>if the  
11 commissioner determines that the municipality is not strictly  
12 complying with a recovery plan approved by the commissioner  
13 pursuant to this subsection, or if the commissioner determines that a  
14 recovery plan approved by the commissioner pursuant to this  
15 subsection is no longer likely to achieve financial stability,<sup>3</sup> the  
16 municipality shall be immediately subject to the requirements and  
17 provisions of sections 5 through <sup>3</sup>[12] 11<sup>3</sup>, <sup>3</sup>[and]<sup>3</sup> 14 <sup>3</sup>[through]<sup>3</sup>, <sup>3</sup>  
18 16<sup>3</sup>, and 17<sup>3</sup> of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
19 Legislature as this bill) for as the long as the municipality is  
20 deemed a municipality in need of stabilization and recovery<sup>2</sup>.

21

22 5. (New section) a. (1) Notwithstanding the provisions of any  
23 law, rule, or regulation to the contrary, <sup>2</sup>[upon the determination by  
24 the commissioner that a municipality is in need of stabilization and  
25 recovery, and at any time during the succeeding five years,] if the  
26 municipality in need of stabilization and recovery fails to submit a  
27 plan, if the commissioner has determined pursuant to subsection c.  
28 of section 4 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as  
29 this bill) that the recovery plan is not likely to achieve financial  
30 stability for the municipality in need of stabilization and recovery,  
31 if the commissioner determines that the municipality is not strictly  
32 complying with a recovery plan approved by the commissioner  
33 pursuant to subsection c. of section 4 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
34 (pending before the Legislature as this bill), or if the commissioner  
35 determines that a recovery plan approved by the commissioner  
36 pursuant to subsection c. of section 4 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
37 (pending before the Legislature as this bill) is no longer likely to  
38 achieve financial stability,<sup>2</sup> the Local Finance Board may, in its  
39 exclusive discretion <sup>2</sup>at any time during which the municipality is  
40 deemed a municipality in need of stabilization and recovery<sup>2</sup>,<sup>2</sup>  
41 assume and reallocate to, and vest exclusively in the director any of  
42 the functions, powers, privileges, and immunities of the governing  
43 body of that municipality set forth in any statute, regulation,  
44 ordinance, resolution, charter, or contract to which the municipality  
45 is a party that are, or may be, substantially related to the fiscal  
46 condition or financial rehabilitation and recovery of that  
47 municipality. The duration of the transfer of the functions, powers,  
48 privileges, and immunities of the governing body shall not exceed

1 <sup>2</sup>[five consecutive years] the duration of the time the municipality is  
2 deemed a municipality in need of stabilization and recovery<sup>2</sup>.

3 (2) In the event the Local Finance Board assumes and  
4 reallocates to the director any function, power, privilege, or  
5 immunity of the governing body of a municipality in need of  
6 stabilization and recovery set forth in a contract to which that  
7 municipality is a party, the municipality shall remain the party to  
8 the contract and neither the Local Finance Board nor the director  
9 shall assume any contractual obligations or liability arising out of  
10 that contract or be subject to any claim for breach of that contract or  
11 any other claim related to that contract. Any actions or steps taken  
12 by the director under P.L. , c. (C. ) (pending before the  
13 Legislature as this bill) shall be deemed to be by, and on behalf of,  
14 the municipality in need of stabilization.

15 (3) The authorities granted to the director by the Local Finance  
16 Board pursuant to this section shall extend to any and all actions  
17 that, in the exclusive discretion of the director, may help stabilize  
18 the finances, restructure the debts, or assist in the financial  
19 rehabilitation and recovery of the municipality in need of  
20 stabilization and recovery. Notwithstanding the provisions of any  
21 law, rule, regulation, or contract to the contrary, the director shall  
22 have the authority to take any steps to stabilize the finances,  
23 restructure the debts, or assist in the financial rehabilitation and  
24 recovery of the municipality in need of stabilization and recovery,  
25 including, but not limited to:

26 (a) implementing governmental, administrative, and operational  
27 efficiency and oversight measures;

28 (b) dissolving, terminating, transferring, abolishing, or  
29 otherwise disposing of any municipal authority, board, commission,  
30 or department, or any function thereof; provided, however, that no  
31 such action shall be taken until adequate provision has been made  
32 for the payment of the creditors or obligees of the entity to be  
33 impacted unless otherwise permitted by law. This shall include the  
34 power to take any steps required of the governing body under  
35 applicable laws, including but not limited to the “municipal and  
36 county utilities authorities law,” P.L.1957, c.183 (C.40:14B-1 et  
37 seq.), the “Local Authorities Fiscal Control Law,” P.L.1983, c.313  
38 (C.40A:5A-1 et seq.) the “Water Infrastructure Protection Act,”  
39 P.L.2015, c.18 (C.58:30-1 et seq.), the “Local Redevelopment and  
40 Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et seq.), and the  
41 “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).  
42 To the extent that the Local Finance Board or the director exercise  
43 any powers under the “Local Authorities Fiscal Control Law,”  
44 P.L.1983, c.313 (C.40A:5A-1 et seq.) with respect to any municipal  
45 authority or municipal public utility in the municipality in need of  
46 stabilization and recovery;

47 (c) vetoing the minutes of the governing body of the  
48 municipality in need of stabilization and recovery, any board,  
49 commission, or department of the municipality in need of  
50 stabilization and recovery, and any independent board or authority

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1 in the municipality in need of stabilization and recovery, including,  
2 but not limited to, the housing authority, parking authority,  
3 redevelopment authority, planning board, and zoning board of  
4 adjustment. A true copy of the minutes of every meeting of the  
5 governing body and any board, commission, department, or  
6 independent board, or authority shall be delivered forthwith, by and  
7 under the certification of the secretary thereof, to the director. No  
8 action taken at the meeting shall have force or effect until 15  
9 business days after a copy of the minutes have been so delivered to  
10 the director, unless during this 15-day period the director shall  
11 approve in writing the minutes or any part thereof, in which case  
12 the action shall become effective upon approval. If, within that 15-  
13 day period, the director returns a copy of the minutes with a veto of  
14 any action taken by the governing body, board, commission,  
15 department, or independent board or authority, or any member  
16 thereof at the meeting, the action shall be null and void and of no  
17 effect. The director may approve all or part of the action taken at a  
18 meeting;

19 (d) controlling litigation and the municipality's legal affairs,  
20 including, but not limited to, suing in the municipality's corporate  
21 name; prosecuting, defending, and resolving litigation, arbitration,  
22 disputes, and controversies; and retaining and directing municipal  
23 corporation counsel and other special counsel as the director may  
24 deem appropriate;

25 (e) selling, conveying, leasing, monetizing, or otherwise  
26 disposing of any interest in any municipally-owned assets,  
27 including but not limited to, any water, sewer, wastewater, and  
28 storm water infrastructure, equipment or facilities, services, and in  
29 any real property, including any improvements thereon; provided  
30 that the director shall not sell, convey, lease, monetize, or otherwise  
31 dispose of any municipally-owned water asset 'pursuant to an  
32 agreement with a private entity'<sup>1</sup> until one-year after the effective  
33 date of P.L. , c. (C. ) (pending before the Legislature as this  
34 bill) to allow the municipality in need of stabilization and recovery  
35 to maximize the value of that asset;

36 (f) amending or terminating any existing contracts or  
37 agreements, which shall not include bonds, notes, indentures, or  
38 other similar financing instruments and documents to which the  
39 municipality is a party, in accordance with the terms thereof; or  
40 unilaterally amending or terminating any contracts or agreements  
41 which shall not include bonds, notes, indentures, or other similar  
42 financing instruments and documents to which the municipality is a  
43 party, provided that the director determines that the unilateral  
44 termination or amendment is reasonable and directly related to  
45 stabilizing the finances or assisting with the fiscal rehabilitation and  
46 recovery of the municipality in need of stabilization and recovery;

47 (g) unilaterally modifying, amending, or terminating any  
48 collective negotiations agreements, except those related to school  
49 districts, to which the municipality is a party, or unilaterally  
50 modifying, amending, or terminating the terms and conditions of



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1 employment during the term of any applicable collective  
2 negotiations agreement, or both, provided that the director  
3 determines that the modifications, amendments, or terminations are  
4 reasonable and directly related to stabilizing the finances or  
5 assisting with the fiscal rehabilitation and recovery of the  
6 municipality in need of stabilization and recovery;

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

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

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

19 (k) unilaterally appointing, transferring, or removing employees  
20 of the municipality in need of stabilization and recovery, including,  
21 but not limited to, department heads and division heads, as the case  
22 may be, but excluding appointed officials who have obtained tenure  
23 in office; provided, however, that the provisions of Title 11A, Civil  
24 Service, shall not apply to any employment action under this  
25 paragraph;

26 (l) acting as the appropriate authority, including, without  
27 limitation, the appointing authority, for purposes of Title 40A of the  
28 New Jersey Statutes;

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

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

43 (o) retaining any professionals on behalf of the municipality in  
44 need of stabilization and recovery, and directing the work of  
45 professionals or any professionals previously retained by the  
46 municipality in need of stabilization and recovery, in accordance  
47 with either the "Local Public Contracts Law," P.L.1971, c.198  
48 (C.40A:11-1 et seq.) or procurement laws applicable to the State, at  
49 the discretion of the director;

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

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

12 (r) exercising on behalf of the municipality in need of  
13 stabilization and recovery any authority granted to a municipality  
14 pursuant to the "Redevelopment Area Bond Financing Law,"  
15 P.L.2001, c.310 (C. 40A:12A-64 et seq.) when the director deems it  
16 necessary or appropriate to help stabilize the finances, restructure  
17 the debts, or assist with the financial rehabilitation and recovery of  
18 the municipality in need of stabilization and recovery;

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

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

35 (u) negotiating and executing any contracts, agreements, or  
36 other documents on behalf of the municipality in need of  
37 stabilization and recovery as may be necessary or appropriate to  
38 effectuate any of the actions or steps specifically identified in P.L. ,  
39 c. (C. ) (pending before the Legislature as this bill) or that  
40 may otherwise, as the director deems necessary or appropriate, help  
41 stabilize the finances, restructure the debts, or assist with the  
42 financial rehabilitation and recovery of the municipality in need of  
43 stabilization and recovery.

44 (4) Subject to subsection b. of section 11 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), the Local Finance  
46 Board may authorize the director to take any action authorized to be  
47 taken under the "Local Bond Law," N.J.S.40A:2-1 et seq., and the  
48 "Municipal Qualified Bond Act," P.L.1976, c.38 (C.40A:3-1 et  
49 seq.) by a governing body of a local unit.

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

5 (6) Any function, power, privilege, or immunity of the  
6 municipal governing body that is not assumed by the Local Finance  
7 Board and reallocated to and vested exclusively in the director  
8 pursuant to this section shall remain allocated to and vested in that  
9 governing body unless and until such time as the function, power,  
10 privilege, immunity, or duty may be allocated to and vested  
11 exclusively in the Local Finance Board or the director pursuant to  
12 this section. The Local Finance Board or the director may exercise  
13 any power implied or incidental to a power that has been  
14 specifically allocated.

15 b. (1) Notwithstanding the provisions of any law, rule, or  
16 regulation to the contrary, including any requirements set forth in  
17 '[chapter 49 of Title 40 of the Revised Statutes (C.40:49-1 et seq.)]  
18 R.S.40:49-1 et seq.<sup>1</sup>, the "Senator Byron M. Baer Open Public  
19 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.), or '[section 2 of  
20 P.L.1935, c.193 (C.52:27-41)] R.S.52:27-41<sup>1</sup>, the director shall have  
21 the exclusive authority to pass, adopt, repeal, or amend any  
22 ordinance or resolution of the municipality in need of stabilization  
23 and recovery, modify any meeting agenda of the governing body of  
24 the municipality in need of stabilization and recovery, and  
25 negotiate, enter into, amend, or terminate any contract or  
26 agreement, on behalf of the municipality in need of stabilization  
27 and recovery, provided that the director deems the action necessary  
28 or appropriate to help stabilize the finances, restructure the debts, or  
29 assist with the financial rehabilitation and recovery of the  
30 municipality in need of stabilization and recovery.

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

38 (3) The director may issue to the appropriate elected and  
39 appointed officials and employees, agents, and contractors of a  
40 municipality in need of stabilization and recovery the orders that the  
41 director deems appropriate to stabilize the finances, restructure the  
42 debts, or assist the financial rehabilitation and recovery of the  
43 municipality in need of stabilization and recovery pursuant to the  
44 authority granted by the Local Finance Board pursuant to this  
45 section. Any order by the director shall be binding on the  
46 appropriate elected and appointed officials and employees, agents,  
47 and contractors of a municipality in need of stabilization and  
48 recovery and may be enforced as other orders of the director are  
49 enforced under general law.

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

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

17       Prior to the expiration of their collective negotiation agreement,  
18 either party may file an unfair practice charge with the commission  
19 alleging that the other party is refusing to negotiate in good faith.  
20 The charge shall be filed in the manner, form and time specified by  
21 the commission in rule and regulation. If the charge is sustained,  
22 the commission shall order that the respondent be assessed for all  
23 legal and administrative costs associated with the filing and  
24 resolution of the charge; if the charge is dismissed, the commission  
25 shall order that the charging party be assessed for all legal and  
26 administrative costs associated with the filing and resolution of the  
27 charge. The filing and resolution of the unfair practice charge shall  
28 not delay or impair the impasse resolution process.

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

35       b. (1) In the event of a failure to resolve the impasse by  
36 mediation, the Division of Public Employment Relations, at the  
37 request of either party, shall invoke factfinding with  
38 recommendation for settlement of all issues in dispute unless the  
39 parties reach a voluntary settlement prior to the issuance of the  
40 factfinder's report and recommended terms of settlement.  
41 Factfindings shall be limited to those issues that are within the  
42 required scope of negotiations unless the parties to the factfinding  
43 agree to factfinding on permissive subjects of negotiation.

44       (2) Notwithstanding the provisions of paragraph (2) of  
45 subsection a. of this section or paragraph (1) of this subsection,  
46 either party may petition the commission for arbitration on or after  
47 the date on which their collective negotiation agreement expires.  
48 The petition shall be filed in a manner and form prescribed by the  
49 commission. The party filing the petition shall notify the other

1 party of its action. The notice shall be given in a manner and form  
2 prescribed by the commission.

3 Any mediation or factfinding invoked pursuant to paragraph (2)  
4 of subsection a. of this section or paragraph (1) of subsection b. of  
5 this section shall terminate immediately upon the filing of a petition  
6 for arbitration.

7 (3) Upon the filing of a petition for arbitration pursuant to  
8 paragraph (2) of this subsection, an arbitrator selected pursuant to  
9 paragraph (1) of subsection e. of this section shall conduct an initial  
10 meeting as a mediation session to effect a voluntary resolution of  
11 the impasse.

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

13 d. The resolution of issues in dispute shall be binding  
14 arbitration under which the award on the unsettled issues is  
15 determined by conventional arbitration. The arbitrator shall  
16 determine whether the total net annual economic changes for each  
17 year of the agreement are reasonable under the nine statutory  
18 criteria set forth in subsection g. of this section and shall adhere to  
19 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-  
20 16.7). The non-petitioning party, within five days of receipt of the  
21 petition, shall separately notify the commission in writing of all  
22 issues in dispute. The filing of the written response shall not delay,  
23 in any manner, the interest arbitration process.

24 e. (1) The commission shall take measures to assure the  
25 impartial selection of an arbitrator or arbitrators from its special  
26 panel of arbitrators. On the first business day following receipt of  
27 an interest arbitration petition, the commission shall, independent of  
28 and without any participation by either of the parties, randomly  
29 select an arbitrator from its special panel of arbitrators. The  
30 selection by the commission shall be final and shall not be subject  
31 to review or appeal.

32 (2) Applicants for initial appointment to the commission's  
33 special panel of arbitrators shall be chosen based on their  
34 professional qualifications, knowledge, and experience, in  
35 accordance with the criteria and rules adopted by the commission.  
36 Such rules shall include relevant knowledge of local government  
37 operations and budgeting. Appointment to the commission's special  
38 panel of arbitrators shall be for a three-year term, with  
39 reappointment contingent upon a screening process similar to that  
40 used for determining initial appointments. Arbitrators currently  
41 serving on the panel shall demonstrate to the commission their  
42 professional qualification, knowledge and experience, in accordance  
43 with the criteria and rules adopted by the commission, within one  
44 year of the effective date of this act. Any arbitrator who does not  
45 satisfactorily demonstrate such to the commission within the  
46 specified time shall be disqualified.

47 (3) Arbitrators serving on the commission's special panel shall  
48 be guided by and subject to the objectives and principles set forth in  
49 the "Code of Professional Responsibility for Arbitrators of Labor-  
50 Management Disputers [Disputes]" of the National Academy of

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1 Arbitrators, the American Arbitration Association, and the Federal  
2 Mediation and Conciliation Service.

3 (4) Arbitrators shall be required to complete annual training  
4 offered by the State Ethics Commission. Any arbitrator failing to  
5 satisfactorily complete the annual training shall be immediately  
6 removed from the special panel.

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

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

18 (2) In the event of a dispute, the commission shall have the  
19 power to decide which issues are economic issues. Economic  
20 issues include those items which have a direct relation to employee  
21 income including wages, salaries, hours in relation to earnings, and  
22 other forms of compensation such as paid vacation, paid holidays,  
23 health and medical insurance, and other economic benefits to  
24 employees.

25 (3) Throughout formal arbitration proceedings the chosen  
26 arbitrator may mediate or assist the parties in reaching a mutually  
27 agreeable settlement.

28 All parties to arbitration shall present, at the formal hearing  
29 before the issuance of the award, written estimates of the financial  
30 impact of their last offer on the taxpayers of the local unit to the  
31 arbitrator with the submission of their last offer.

32 (4) Arbitration shall be limited to those subjects that are within  
33 the required scope of collective negotiations, except that the parties  
34 may agree to submit to arbitration one or more permissive subjects  
35 of negotiation.

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

39 Each arbitrator's decision shall be accompanied by a written  
40 report explaining how each of the statutory criteria played into the  
41 arbitrator's determination of the final award. The report shall  
42 certify that the arbitrator took the statutory limitations imposed on  
43 the local levy cap into account in making the award.

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

48 (a) Within 14 calendar days of receiving an award, an aggrieved  
49 party may file notice of an appeal of an award to the commission on  
50 the grounds that the arbitrator failed to apply the criteria specified

1 in subsection g. of this section or violated the standards set forth in  
2 N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form  
3 and manner prescribed by the commission. In deciding an appeal,  
4 the commission, pursuant to rule and regulation and upon petition,  
5 may afford the parties the opportunity to present oral arguments.  
6 The commission may affirm, modify, correct or vacate the award or  
7 may, at its discretion, remand the award to the same arbitrator or to  
8 another arbitrator, selected by lot, for reconsideration. The  
9 commission's decision shall be rendered no later than 60 calendar  
10 days after the filing of the appeal with the commission.

11 Arbitration appeal decisions shall be accompanied by a written  
12 report explaining how each of the statutory criteria played into their  
13 determination of the final award. The report shall certify that in  
14 deciding the appeal, the commission took the local levy cap into  
15 account in making the award.

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

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

19 (6) The parties shall share equally the costs of arbitration  
20 subject to a fee schedule approved by the commission. The fee  
21 schedule shall provide that the cost of services provided by the  
22 arbitrator shall not exceed \$ 1,000 per day. The total cost of  
23 services of an arbitrator shall not exceed \$ 10,000. If the parties  
24 cancel an arbitration proceeding without good cause, the arbitrator  
25 may impose a fee of not more than \$ 500. The parties shall share  
26 equally in paying that fee if the request to cancel or adjourn is a  
27 joint request. Otherwise, the party causing such cancellation shall  
28 be responsible for payment of the entire fee.

29 g. The arbitrator shall decide the dispute based on a reasonable  
30 determination of the issues, giving due weight to those factors listed  
31 below that are judged relevant for the resolution of the specific  
32 dispute. In the award, the arbitrator or panel of arbitrators shall  
33 indicate which of the factors are deemed relevant, satisfactorily  
34 explain why the others are not relevant, and provide an analysis of  
35 the evidence on each relevant factor; provided, however, that in  
36 every interest arbitration proceeding, the parties shall introduce  
37 evidence regarding the factor set forth in paragraph (6) of this  
38 subsection and the arbitrator shall analyze and consider the factor  
39 set forth in paragraph (6) of this subsection in any award:

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

44 (2) Comparison of the wages, salaries, hours, and conditions of  
45 employment of the employees involved in the arbitration  
46 proceedings with the wages, hours, and conditions of employment  
47 of other employees performing the same or similar services and  
48 with other employees generally:

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

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

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

12 (3) The overall compensation presently received by the  
13 employees, inclusive of direct wages, salary, vacations, holidays,  
14 excused leaves, insurance and pensions, medical and hospitalization  
15 benefits, and all other economic benefits received.

16 (4) Stipulations of the parties.

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

21 (6) The financial impact on the governing unit, its residents, the  
22 limitations imposed upon the local unit's property tax levy pursuant  
23 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.  
24 When considering this factor in a dispute in which the public  
25 employer is a county or a municipality, the arbitrator or panel of  
26 arbitrators shall take into account, to the extent that evidence is  
27 introduced, how the award will affect the municipal or county  
28 purposes element, as the case may be, of the local property tax; a  
29 comparison of the percentage of the municipal purposes element or,  
30 in the case of a county, the county purposes element, required to  
31 fund the employees' contract in the preceding local budget year with  
32 that required under the award for the current local budget year; the  
33 impact of the award for each income sector of the property  
34 taxpayers of the local unit; the impact of the award on the ability of  
35 the governing body to (a) maintain existing local programs and  
36 services, (b) expand existing local programs and services for which  
37 public moneys have been designated by the governing body in a  
38 proposed local budget, or (c) initiate any new programs and services  
39 for which public moneys have been designated by the governing  
40 body in a proposed local budget.

41 (7) The cost of living.

42 (8) The continuity and stability of employment including  
43 seniority rights and such other factors not confined to the foregoing  
44 which are ordinarily or traditionally considered in the determination  
45 of wages, hours, and conditions of employment through collective  
46 negotiations and collective bargaining between the parties in the  
47 public service and in private employment.

48 (9) Statutory restrictions imposed on the employer. Among the  
49 items the arbitrator or panel of arbitrators shall assess when



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1 considering this factor are the limitations imposed upon the  
2 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

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

11 i. The Director of the Division of Local Government Services  
12 in the Department of Community Affairs may notify the  
13 commission, through the Division of Public Employment Relations,  
14 that a municipality deemed a “municipality in need of stabilization  
15 and recovery” pursuant to section 4 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) will not participate in  
17 any impasse procedures authorized by this section. Upon such  
18 notice, any pending impasse procedures authorized by this section  
19 shall immediately cease, and any pending petition for arbitration  
20 shall be vacated. Nothing in this subsection shall be construed to  
21 limit the scope of any general or specific powers of the Local  
22 Finance Board or the director set forth in P.L. , c. (C. )  
23 (pending before the Legislature as this bill).

24 j. The Local Finance Board may provide that any arbitration  
25 award, including but not limited to an interest arbitration award,  
26 involving a municipality deemed a “municipality in need of  
27 stabilization and recovery” pursuant to section 4 of P.L. , c. (C. )  
28 (pending before the Legislature as this bill) shall be subject to the  
29 review and approval of the Director of the Division of Local  
30 Government Services in the Department of Community Affairs,  
31 including those on a collective negotiations agreement where the  
32 matter has been submitted to an arbitrator pursuant to law, and no  
33 such award shall be binding without the approval of the director.  
34 Nothing in this subsection shall be construed to limit the scope of  
35 any general or specific powers of the Local Finance Board or the  
36 director set forth in P.L. , c. (C. ) (pending before the  
37 Legislature as this bill).

38 (cf: P.L.2014, c.11, s.1)

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

41 a. Public employers, their representatives or agents are  
42 prohibited from:

43 (1) Interfering with, restraining or coercing employees in the  
44 exercise of the rights guaranteed to them by this act.

45 (2) Dominating or interfering with the formation, existence or  
46 administration of any employee organization.

47 (3) Discriminating in regard to hire or tenure of employment or  
48 any term or condition of employment to encourage or discourage  
49 employees in the exercise of the rights guaranteed to them by this  
50 act.

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1 (4) Discharging or otherwise discriminating against any  
2 employee because he has signed or filed an affidavit, petition or  
3 complaint or given any information or testimony under this act.

4 (5) Refusing to negotiate in good faith with a majority  
5 representative of employees in an appropriate unit concerning terms  
6 and conditions of employment of employees in that unit, or refusing  
7 to process grievances presented by the majority representative.

8 (6) Refusing to reduce a negotiated agreement to writing and to  
9 sign such agreement.

10 (7) Violating any of the rules and regulations established by the  
11 commission.

12 b. Employee organizations, their representatives or agents are  
13 prohibited from:

14 (1) Interfering with, restraining or coercing employees in the  
15 exercise of the rights guaranteed to them by this act.

16 (2) Interfering with, restraining or coercing a public employer in  
17 the selection of his representative for the purposes of negotiations  
18 or the adjustment of grievances.

19 (3) Refusing to negotiate in good faith with a public employer,  
20 if they are the majority representative of employees in an  
21 appropriate unit concerning terms and conditions of employment of  
22 employees in that unit.

23 (4) Refusing to reduce a negotiated agreement to writing and to  
24 sign such agreement.

25 (5) Violating any of the rules and regulations established by the  
26 commission.

27 c. The commission shall have exclusive power as hereinafter  
28 provided to prevent anyone from engaging in any unfair practice  
29 listed in subsections a. and b. above. Whenever it is charged that  
30 anyone has engaged or is engaging in any such unfair practice, the  
31 commission, or any designated agent thereof, shall have authority to  
32 issue and cause to be served upon such party a complaint stating the  
33 specific unfair practice charged and including a notice of hearing  
34 containing the date and place of hearing before the commission or  
35 any designated agent thereof; provided that no complaint shall issue  
36 based upon any unfair practice occurring more than 6 months prior  
37 to the filing of the charge unless the person aggrieved thereby was  
38 prevented from filing such charge in which event the 6-month  
39 period shall be computed from the day he was no longer so  
40 prevented.

41 In any such proceeding, the provisions of the Administrative  
42 Procedure Act P.L.1968, c. 410 (C. 52:14B-1 et seq.) shall be  
43 applicable. Evidence shall be taken at the hearing and filed with the  
44 commission. If, upon all the evidence taken, the commission shall  
45 determine that any party charged has engaged or is engaging in any  
46 such unfair practice, the commission shall state its findings of fact  
47 and conclusions of law and issue and cause to be served on such  
48 party an order requiring such party to cease and desist from such  
49 unfair practice, and to take such reasonable affirmative action as  
50 will effectuate the policies of this act. All cases in which a

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1 complaint and notice of hearing on a charge is actually issued by  
2 the commission, shall be prosecuted before the commission or its  
3 agent, or both, by the representative of the employee organization  
4 or party filing the charge or his authorized representative.

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

12 e. The commission shall adopt such rules as may be required to  
13 regulate the conduct of representation elections, and to regulate the  
14 time of commencement of negotiations and of institution of impasse  
15 procedures so that there will be full opportunity for negotiations and  
16 the resolution of impasses prior to required budget submission  
17 dates.

18 f. The commission shall have the power to apply to the  
19 Appellate Division of the Superior Court for an appropriate order  
20 enforcing any order of the commission issued under subsection c. or  
21 d. hereof, and its findings of fact, if based upon substantial evidence  
22 on the record as a whole, shall not, in such action, be set aside or  
23 modified; any order for remedial or affirmative action, if reasonably  
24 designed to effectuate the purposes of this act, shall be affirmed and  
25 enforced in such proceeding.

26 g. The Director of the Division of Local Government Services  
27 in the Department of Community Affairs may notify the  
28 commission that a municipality deemed a “municipality in need of  
29 stabilization and recovery” pursuant to section 4 of P.L. \_\_\_\_\_,  
30 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) shall not  
31 be subject to the commission’s authority to prevent an unfair  
32 practice pursuant to subsection a. of this section. Upon such notice,  
33 neither the commission, nor any designee, shall have the authority  
34 to issue or cause to be served upon such municipality in need of  
35 stabilization and recovery any complaint alleging an unfair practice  
36 under subsection a. of this section or to hold any hearings with  
37 respect thereto. Nothing in this subsection shall be construed to  
38 limit the scope of any general or specific powers of the Local  
39 Finance Board or the Director set forth in P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
40 (pending before the Legislature as this bill).

41 (cf: P.L.1979, c.477, s.1)

42

43 8. (New section) In a municipality in need of stabilization and  
44 recovery, the director may prepare the annual budget or to instruct  
45 the municipal governing body to prepare and submit a proposed  
46 annual budget. If the municipal governing body is submitting a  
47 proposed annual budget, the director shall fix a date for the  
48 municipal governing body to submit that budget to the Local  
49 Finance Board, and the board may approve the budget, modify it or  
50 instruct the director to prepare an alternative budget. If the director

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1 prepares the budget, it shall be submitted to the Local Finance  
2 Board for its approval. Once a budget is approved by the Local  
3 Finance Board, the budget shall be deemed adopted.

4 a. The director shall have the authority to make temporary  
5 appropriations necessary for the period prior to the adoption of the  
6 budget, and to make emergency temporary appropriations pursuant  
7 to N.J.S.40A:4-20 to meet an urgent situation or event which  
8 immediately endangers the health, safety, or property of the  
9 residents of the municipality, and to make emergency  
10 appropriations pursuant to N.J.S.40A:4-46.

11 b. The director shall have the authority to spend money and  
12 authorize expenditures, in accordance with the approved budget or  
13 any temporary or emergency appropriations.

14

15 9. (New section) The director may delegate to the director's  
16 designee any power granted to the Director pursuant to P.L. ,  
17 c. (C. ) (pending before the Legislature as this bill). The  
18 designation to a director's designee shall be in writing and filed  
19 with the Local Finance Board. Any action of a director's designee  
20 taken subsequent to the delegation shall be deemed to have been  
21 taken by the Director. If any claims are asserted against the  
22 director's designee, the director's designee shall, for that purpose  
23 only, be considered a State officer within the scope of the "New  
24 Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

25

26 10. (New section) In a municipality in need of stabilization and  
27 recovery, any initiative approved by the voters of the municipality  
28 pursuant to section 17-35 of P.L.1950, c.210 (C.40:69A-184) and  
29 any referendum approved pursuant to section 17-36 of P.L.1950,  
30 c.210 (C.40:69A-185) shall be advisory only and may be followed,  
31 or disregarded, by the Local Finance Board and the director in their  
32 discretion. The provisions of this section shall not apply to a  
33 referendum approved pursuant to section 11 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill).

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1 11. (New section) a. Notwithstanding the provisions of any law  
2 or regulation, including, without limitation, the "Local Bond Law,"  
3 N.J.S.40A:2-1 et seq., and the "Municipal Qualified Bond Act,"  
4 P.L.1979, c.38 (C. 40A:3-1 et seq.), that requires the adoption of an  
5 ordinance or resolution to authorize any action of a municipality, a  
6 resolution issued by the director shall suffice in lieu of a municipal  
7 ordinance or resolution for all purposes, except for bond  
8 ordinances, in a municipality in need of stabilization and recovery.

9 b. In the case of bond ordinances in a municipality in need of  
10 stabilization and recovery, the director's resolution in lieu of such  
11 ordinances shall be published in full in a newspaper circulating in  
12 the municipality and a copy of the resolution shall be filed for  
13 public inspection with the municipal clerk of the municipality in  
14 need of stabilization and recovery. The publication of the director's  
15 resolution shall occur not less than 10 days prior to the time and  
16 place of a public hearing to be had on the resolution. The resolution  
17 shall become effective on the 45th day after the public hearing,  
18 unless:

19 (1) the resolution is modified by the director subsequent to the  
20 meeting, in which case there shall be a second public hearing on no  
21 less than 10 days' notice; or

22 (2) there is filed with the municipal clerk within 45 days of the  
23 hearing, a petition requesting a referendum in said municipality  
24 signed by either five percent or 10,000 of the registered voters of  
25 said municipality, whichever is lesser.

26 If a petition is filed, the resolution pertaining to the bond  
27 measures issued by the director shall be submitted to the registered  
28 voters of said municipality at the next general or regular municipal  
29 election and in the same manner and form as other public questions  
30 to be voted upon by voters of a single municipality.

31

32 12. (New section) If any provision of P.L. , c. (C. )  
33 (pending before the Legislature as this bill) or its application is held  
34 invalid, the invalidity shall not affect other applications of that  
35 provision, or other provisions of P.L. , c. (C. ) (pending  
36 before the Legislature as this bill), which reasonably can be given  
37 effect despite the invalidity, and to this end the provisions of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill) are  
39 severable.

40

41 <sup>2</sup>[13. Section 1 of P.L.1999, c.59 (C.43:8C-1) is amended to  
42 read as follows:

43 1. As used in this act, unless the context indicates otherwise:

44 "Chief executive officer" means the mayor of a municipality, the  
45 elected county executive of a county, the director of the board of  
46 chosen freeholders in a county that does not have an elected county  
47 executive, and the chairman or other presiding officer of any other  
48 governing body.

49 "Consolidated municipality" or "municipal consolidation" means  
50 the resultant municipal entity created after approval and adoption of

1 a public question in favor of consolidation pursuant to the  
2 "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et  
3 seq.) , or a municipality in need of stabilization and recovery, as  
4 defined by section 2 of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill), for the exclusive purposes of section 2 of  
6 P.L.1999, c.59 (C.438C-2).

7 "Director" means the Director of the Division of Local  
8 Government Services in the Department of Community Affairs.

9 "Governing body" means the board, commission, council or  
10 other body having the control of the finances of a local unit; and in  
11 those local units in which a chief executive officer is authorized by  
12 law to participate in such control through powers of  
13 recommendation, approval or veto, the term includes such executive  
14 officer to the extent of such participation.

15 "Interlocal services contract" means a contract between two or  
16 more local units for the joint provision of governmental services  
17 pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-  
18 1 et seq.).

19 "Joint services contract" means a contract between two or more  
20 local units to form a joint meeting for the joint provision of  
21 governmental services pursuant to the "Consolidated Municipal  
22 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.).

23 "Local unit" means a municipality, consolidated municipality,  
24 county, authority as defined in section 3 of P.L.1983, c.313  
25 (C.40A:5A-3), joint meeting or fire district.  
26 (cf: P.L.1999,c.59,s.1)]<sup>2</sup>

27  
28 <sup>2</sup>13. (New section) a. In order to achieve financial stability, a  
29 municipality in need of stabilization and recovery, as determined by  
30 the commissioner pursuant to subsection a. of section 4 of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill), may offer  
32 and implement an incentive program for retirement or termination  
33 of employment after approval of such incentive program by the  
34 director. The program shall be limited to full-time employees in  
35 any department, office, section, or other organizational component  
36 of the municipality in need of stabilization and recovery to achieve  
37 financial stability. The incentive program may include one or more  
38 of the following:

39 (1) cash payments or the purchase of annuities;

40 (2) employer contributions to an approved employee deferred  
41 compensation program to the extent permitted by federal law;

42 (3) payment by the municipality for continuation of health  
43 benefits coverage after retirement for not more than five years or  
44 until the employee attains the age of eligibility for Medicare,  
45 whichever occurs first;

46 (4) payment by the municipality for health benefits coverage  
47 after retirement under the "New Jersey State Health Benefits  
48 Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), or under  
49 group insurance contracts pursuant to N.J.S.40A:10-23, for  
50 employees and dependents in accordance with the law and rules

1 governing the State Health Benefits Program or the law governing  
2 such group insurance contracts, as the case may be, for employees  
3 who fail to meet the service requirement for payment for such  
4 coverage after retirement by no more than five years, but who are  
5 otherwise eligible for employer payment for health benefits  
6 coverage after retirement; or

7 (5) additional service credit for employees who are members of  
8 the Public Employees' Retirement System of New Jersey, pursuant  
9 to P.L.1954, c.84 (C.43:15A-1 et seq.) or the Police and Firemen's  
10 Retirement System of New Jersey, pursuant to P.L.1944, c.255  
11 (C.43:16A-1 et seq.), or a municipal retirement system created  
12 under P.L.1954, c.218 (C.43:13-22.3 et seq.) or P.L.1964, c.275  
13 (C.43:13-22.50 et seq.), as provided in this section.

14 b. No later than six months prior to the date on which a  
15 proposed incentive program is to begin, the municipality shall  
16 submit detailed information concerning the incentive program to the  
17 director, in a form and manner prescribed by the director, which  
18 shall include the following:

19 (1) the governmental services affected by the plan adopted by  
20 the municipality pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
21 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);

22 (2) the departments, offices, sections, and other organizational  
23 components of the municipality to be affected, and a list of the  
24 employees thereof;

25 (3) the incentives to be offered;

26 (4) the estimated number of employees who will retire or  
27 terminate employment under the incentive program;

28 (5) fiscal information sufficient to demonstrate that the  
29 incentive program in conjunction with the plan adopted by the  
30 municipality pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
31 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) will result in  
32 a reduction for the municipality in the number of employees  
33 providing the affected governmental services, including information  
34 on the number of employees by which the municipality will reduce  
35 employment for a period of at least five years;

36 (6) fiscal information sufficient to demonstrate that, taking into  
37 consideration the costs of the incentive program, the plan adopted  
38 by the municipality pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
39 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) will result in  
40 a reduction in the cost of providing the affected governmental  
41 services for the municipality;

42 (7) information on the fiscal stability of the municipality  
43 sufficient to demonstrate that the municipality will be able to pay  
44 the costs for the incentive program which will result in net savings  
45 and shall not necessitate any increase in property taxes for the  
46 municipality;

47 (8) information sufficient to demonstrate that the municipality  
48 will continue to provide the affected governmental services without  
49 the number of employees that are expected to take the incentive;  
50 and

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- 1       (9) any other information which the director may require.  
2       c. The director may, for good cause, permit a municipality to  
3 submit information without complying with the time period for  
4 submission of information or which does not conform to the  
5 specific informational requirements of this section.  
6       d. The director shall provide to the Director of the Division of  
7 Pensions and Benefits in the Department of the Treasury sufficient  
8 information relating to the incentive program so that the Director of  
9 the Division of Pensions and Benefits may provide to the director:  
10       (1) an estimate of the anticipated liability of the affected  
11 retirement systems;  
12       (2) a determination of whether the incentive program is  
13 reasonably calculated to produce a reduction in the number of  
14 employees of the municipality; and  
15       (3) taking into consideration the liability for the incentive  
16 program, an estimate of the net savings in the employment costs to  
17 provide the affected governmental services.  
18       e. In order to make the calculation required by paragraph (2) of  
19 subsection d. of this section, the Director of the Division of  
20 Pensions and Benefits in the Department of the Treasury shall  
21 submit the proposed incentive program to the actuary of each  
22 retirement system which would be affected by the incentive  
23 program. Each actuary shall estimate the additional liability to the  
24 retirement system for the incentive program, including the liability  
25 for the additional service credit and the earlier retirement of  
26 employees under the incentive program. Each actuary shall provide  
27 the Director of the Division of Pensions and Benefits with an  
28 opinion on whether the incentive program is reasonably calculated  
29 to produce a reduction in the number of employees of the  
30 municipality providing the affected governmental services, and a  
31 net savings, taking into consideration the liability for the incentive  
32 program, in the employment costs to provide the affected  
33 governmental services. The State shall conduct the actuarial work  
34 required by this subsection at no charge to the municipality.  
35       f. If the incentive program includes the provision of additional  
36 service credit under State retirement systems for eligible  
37 employees, the beginning and ending dates for the incentive  
38 program and the time period during which the eligible employees  
39 will have to elect to participate in the incentive program shall be  
40 subject to approval by the Director of the Division of Pensions and  
41 Benefits in the Department of the Treasury.  
42       g. If the director determines that the incentive program will  
43 result in the municipality continuing to provide the affected  
44 governmental services with fewer employees and at a lower cost,  
45 and that the incentive program will result in net savings and will not  
46 necessitate any increase in local property taxes for the municipality,  
47 the director shall approve the incentive program for  
48 implementation.  
49       h. For employees who are members of the Police and Firemen's  
50 Retirement System of New Jersey, pursuant to P.L.1944, c.255



1 (C.43:16A-1 et seq.), an incentive program for retirement may  
2 provide additional months of service credit for an employee who  
3 has 20 or more years of service credit on the last day for retirement  
4 under the incentive program, so that the employee shall have an  
5 aggregate amount of service credit under the retirement system of  
6 no more than 30 years on the effective date of retirement. In no  
7 case shall more than 60 months of additional service credit be  
8 provided under the incentive program.

9 i. For employees who are members of the Public Employees'  
10 Retirement System of New Jersey, pursuant to P.L.1954, c.84  
11 (C.43:15A-1 et seq.), or a municipal retirement system, an incentive  
12 program for retirement may provide not more than 60 additional  
13 months of service credit for an employee who has 20 or more years  
14 of service credit on the last day for retirement under the incentive  
15 program.

16 j. An incentive program may require one or more of the  
17 following criteria: a minimum number of years of service credit in a  
18 retirement system, a minimum number of years of service with the  
19 municipality, or a minimum age for eligibility to participate in the  
20 program.

21 k. An employee who receives an incentive benefit for  
22 retirement or termination of employment under this section shall  
23 forfeit any tenure, civil service, or other employment right for  
24 continued employment or for return to employment based upon the  
25 employment for which the employee receives the incentive benefit.

26 l. When the needs of the municipality require the continuation  
27 in service of an employee who elects to retire and receive an  
28 incentive benefit under this section, the effective retirement date of  
29 the employee may be delayed, with the approval of the governing  
30 body of the municipality and the agreement of the employee, until  
31 the first day of any month not later than the twelfth month after the  
32 last date for retirement under the incentive program. If an  
33 employee whose retirement is delayed under this subsection dies  
34 before the retirement becomes effective, the retirement shall be  
35 effective on the first day of the month after the date of death of the  
36 employee, unless the employee's beneficiary for retirement benefits  
37 requests in writing to the board of trustees of the retirement system  
38 that benefits payable for death in active service be paid on behalf of  
39 the employee.

40 m. An employee retiring with an incentive benefit under this  
41 section who has not paid the full amount of a loan from the  
42 retirement system by the effective date of retirement may repay the  
43 loan through deductions from the monthly retirement benefits in the  
44 same monthly amount which was deducted from the member's  
45 compensation immediately preceding retirement, until the balance  
46 of the amount borrowed with interest at the statutory rate is repaid.  
47 If the retiree dies before the outstanding balance of the loan and  
48 interest is repaid, the remaining balance shall be repaid as provided  
49 in the laws governing the retirement system for repayment of loans.

1        n. Notwithstanding the provisions of the laws governing the  
2 retirement system, an employee purchasing service credit to qualify  
3 for a benefit under this section <sup>3</sup>may<sup>3</sup> , for each affected retirement  
4 system, purchase a portion of the service credit which the employee  
5 is eligible to purchase.

6        o. If the incentive program is approved and implemented, the  
7 actuary to the affected retirement system shall determine the full  
8 amount of the liability of the retirement system for the incentive  
9 program including the liability for the additional service credit and  
10 the earlier retirement of employees under the incentive program in  
11 accordance with the assumptions used by the retirement system to  
12 determine the full liabilities of the system. The municipality shall  
13 pay the amount of the liability determined by the actuary to the  
14 retirement system in a lump sum or through annual installment  
15 payments with regular interest at the rate used by the retirement  
16 system to determine liabilities and to estimate investment return for  
17 a period approved by the Director of the Division of Pensions and  
18 Benefits in the Department of the Treasury which shall not exceed  
19 15 years. The municipality shall pay the cost for the actuarial work  
20 to determine the full liability of the retirement system if the  
21 incentive program is approved and implemented. If the  
22 municipality does not make payments for the liability, the cost of  
23 the actuarial work, and administrative expenses in a timely manner,  
24 the municipality shall be subject to interest and penalties on the  
25 payments on the same basis provided for late payment of employer  
26 contributions to the retirement system under the laws and rules  
27 governing the retirement system.

28        p. The Director of the Division of Pensions and Benefits in the  
29 Department of the Treasury shall provide the municipality with  
30 information on the estimated liability for the proposed incentive  
31 program, and actual liability if the program is approved and  
32 implemented. If the program provides additional service credit to  
33 employees under the Public Employees' Retirement System of New  
34 Jersey, pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), or the  
35 Police and Firemen's Retirement System of New Jersey, pursuant to  
36 P.L.1944, c.255 (C.43:16A-1 et seq.), the director shall provide the  
37 eligible employees of the municipality with information on the  
38 benefits they would receive under the incentive program, and other  
39 appropriate assistance, to enable employees to decide whether to  
40 accept the incentive benefit and retire from the retirement systems if  
41 they accept the incentive benefit.

42        q. The powers, duties, and responsibilities related to retirement  
43 systems under this section for municipal retirement systems shall be  
44 exercised and performed by the governing bodies of the retirement  
45 systems.

46        r. Prior to the beginning date of the incentive program,  
47 appropriate representatives of the governing body of the  
48 municipality which implements an incentive program pursuant to  
49 this section shall meet and consult with the majority representative

1 of the bargaining unit or units which include the employees of the  
2 municipality who would be eligible for the incentive program.

3 s. For a period of five years after the last date for retirement or  
4 termination of employment under an incentive program  
5 implemented pursuant to this section, the employment level of the  
6 municipality for the provision of governmental services previously  
7 performed by employees that participated in the incentive program  
8 shall not, without the approval of the director, exceed the  
9 employment level specified in the incentive program approved by  
10 the director. The director may approve an increase in the  
11 employment level to provide the affected governmental services if  
12 the director determines that:

13 (1) changes in local conditions such as increased residential or  
14 commercial development, increased population, or other changes,  
15 have created an increased need or demand for the affected  
16 governmental services; and

17 (2) an increase in the employment level for the affected  
18 governmental services is warranted and will provide for the delivery  
19 of governmental services in an effective and cost efficient manner.  
20 The municipality shall submit annual reports to the director for five  
21 years after the last date for retirement or termination of employment  
22 under an incentive program implemented pursuant to this section, in  
23 the form and manner required by the director, concerning the  
24 number of employees and the employment costs to provide the  
25 affected governmental services.

26 t. If the municipality exceeds the employment levels under  
27 subsection s. of this section, it shall be required by the director to  
28 reimburse the Division of Pensions and Benefits in the Department  
29 of the Treasury for the costs of the actuarial work performed for the  
30 municipality pursuant to subsection e. of this section, as determined  
31 by the director of that division.<sup>2</sup>

32  
33 14. (New section) The enumeration of any specific power or  
34 authority granted to the Local Finance Board or the director  
35 pursuant to P.L. , c. (C. ) (pending before the Legislature  
36 as this bill) shall not be construed to limit or restrict in any way the  
37 general authorities granted by P.L. , c. (C. ) (pending  
38 before the Legislature as this bill) to the Local Finance Board or the  
39 director to take actions necessary or appropriate to help stabilize the  
40 finances, restructure the debts, or assist with the financial  
41 rehabilitation and recovery of the municipality in need of  
42 stabilization and recovery.

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1 15. (New section) P.L. , c. (C. ) (pending before the  
2 Legislature as this bill) shall be construed liberally to give effect to  
3 its intent that severe fiscal distress in municipalities in need of  
4 stabilization and recovery shall be addressed and corrected. <sup>3</sup>[The  
5 authorities granted to the director herein are intended to supplement  
6 authority provided in the “Local Government Supervision Act  
7 (1947),” P.L.1947, c.151 (C.52:27BB-1 et seq.) and other  
8 applicable laws. To the extent any inconsistency exists between the  
9 terms of P.L. , c. (C. ) (pending before the Legislature as  
10 this bill) and other applicable laws, the terms of P.L. , c. (C. )  
11 (pending before the Legislature as this bill) shall prevail.]<sup>3</sup>

12  
13 <sup>3</sup>16. (New section) The authorities granted to the director in  
14 P.L. , c. (C. ) (pending before the Legislature as this bill)  
15 are intended to supplement authority provided in the “Local  
16 Government Supervision Act (1947),” P.L.1947, c.151 (C.52:27BB-  
17 1 et seq.) and other applicable laws. To the extent any  
18 inconsistency exists between the terms of P.L. , c. (C. )  
19 (pending before the Legislature as this bill) and other applicable  
20 laws, the terms of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill) shall prevail.<sup>3</sup>

22  
23 <sup>3</sup>[16.] 17.<sup>3</sup> (New section) The director or the director’s designee  
24 shall attend the regularly scheduled meetings of the municipal  
25 council in a municipality in need of stabilization and recovery. On  
26 or before the first day of the sixth year next following the  
27 determination that a municipality is in need of stabilization and  
28 recovery pursuant to section 4 of P.L. , c. (C. ) (pending  
29 before the Legislature as this bill), the director shall provide a final  
30 report to the Governor and Legislature regarding the municipality in  
31 need of stabilization and recovery.

32  
33 <sup>3</sup>[<sup>2</sup>17.] 18.<sup>3</sup> (New section) The State Treasurer, in consultation  
34 with the commissioner, shall direct the Director of the Division of  
35 Budget and Accounting to transfer appropriations from any State  
36 department to any other State department as may be necessary to  
37 provide a secured loan, for the exclusive purpose of covering  
38 expenses of the municipality during the 2016 calendar year, and for  
39 a term not to exceed 180 days, to a municipality for which a  
40 recovery plan is required under section 4 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill) to be submitted to the  
42 director on such terms and conditions that may be required by the  
43 commissioner.<sup>2</sup>

44  
45 <sup>3</sup>[<sup>2</sup>18.] 19.<sup>3</sup> (New section) Notwithstanding any law, rule, or  
46 regulation to the contrary, the amount of consolidated municipal  
47 property tax relief aid and energy tax receipts property tax relief aid  
48 paid to a municipality in need of stabilization and recovery shall not  
49 be less than the amount certified for the municipality in the

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29

1 Certification of State Aid for Calendar Year 2016 and Fiscal Year  
2 2017 Budgets issued by the Division of Local Government Services  
3 in the Department of Community Affairs.<sup>2</sup>

4

5 <sup>2</sup>[17.] <sup>3</sup>[19.<sup>2</sup>] 20.<sup>3</sup> This act shall take effect immediately <sup>2</sup>but  
6 shall remain inoperative until the enactment of P.L. \_\_, c. \_\_ (C. \_\_)  
7 (pending before the Legislature as Senate Bill No.1715 of 2016, as  
8 amended)<sup>2</sup>.