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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1773 Session of  
2013

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INTRODUCED BY ROSS, GINGRICH, HARPER, FREEMAN, M. DALEY AND  
CALTAGIRONE, OCTOBER 17, 2013

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
OCTOBER 15, 2014

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AN ACT

1 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An  
2 act empowering the Department of Community Affairs to declare  
3 certain municipalities as financially distressed; providing  
4 for the restructuring of debt of financially distressed  
5 municipalities; limiting the ability of financially  
6 distressed municipalities to obtain government funding;  
7 authorizing municipalities to participate in Federal debt  
8 adjustment actions and bankruptcy actions under certain  
9 circumstances; and providing for consolidation or merger of  
10 contiguous municipalities to relieve financial distress,"  
11 further providing for title of act; providing for declaration  
12 of fiscal emergencies and receivership in municipalities;  
13 authorizing certain taxes; providing for disincorporation of  
14 municipalities and the establishment of unincorporated  
15 service districts; establishing the Unincorporated Service  
16 District Trust Fund; and making extensive amendments,  
17 additions and editorial changes.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The title of the act of July 10, 1987 (P.L.246,  
21 No.47), known as the Municipalities Financial Recovery Act, is  
22 amended to read:

23 AN ACT

24 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An

1 act empowering the Department of Community [Affairs] and  
2 Economic Development to assist municipalities in avoiding  
3 financial distress; declare certain municipalities as  
4 financially distressed; providing for the restructuring of  
5 debt of financially distressed municipalities; limiting the  
6 ability of financially distressed municipalities to obtain  
7 government funding; authorizing municipalities to participate  
8 in Federal debt adjustment actions and bankruptcy actions  
9 under certain circumstances; authorizing certain taxes; and  
10 providing for [consolidation or merger of contiguous  
11 municipalities to relieve financial distress] the  
12 disincorporation of municipalities and the establishment of  
13 unincorporated service districts.

14 Section 2. Section 102 of the act, amended Oct. 20, 2011  
15 (P.L.318, No.79), is amended to read:

16 Section 102. Purpose and legislative intent.

17 (a) Policy.--It is hereby declared to be a public policy of  
18 the Commonwealth to foster fiscal integrity of municipalities so  
19 that they provide for the health, safety and welfare of their  
20 citizens; pay principal and interest on their debt obligations  
21 when due; meet financial obligations to their employees, vendors  
22 and suppliers; and provide for proper financial accounting  
23 procedures, budgeting and taxing practices. The failure of a  
24 municipality to do so is hereby determined to affect adversely  
25 the health, safety and welfare not only of the citizens of the  
26 municipality but also of other citizens in this Commonwealth.

27 (b) Legislative intent.--The General Assembly finds and  
28 declares as follows:

29 (1) It is the intent of the General Assembly to:

30 (i) Enact procedures to provide municipalities

1 showing early indicators of financial distress with  
2 training and technical and financial assistance.

3 [(i)] (ii) Enact procedures and provide powers and  
4 guidelines to ensure fiscal integrity of municipalities  
5 while leaving principal responsibility for conducting the  
6 governmental affairs of a municipality, including  
7 choosing the priorities for and manner of expenditures  
8 based on available revenues, to the charge of its elected  
9 officials, consistent with the public policy set forth in  
10 this section.

11 [(ii)] (iii) Enact procedures for the adjustment of  
12 municipal debt by negotiated agreement with creditors.

13 [(iii)] (iv) Provide for the exercise of the  
14 Commonwealth's sovereign and plenary police power in  
15 emergency fiscal conditions to protect the health, safety  
16 and welfare of a municipality's citizens when local  
17 officials are unwilling or unable to accept a solvency  
18 plan developed for the benefit of the [community]  
19 municipality.

20 (v) Provide for the exercise of the Commonwealth's  
21 sovereign and plenary power to establish and abolish  
22 local government units and provide essential services in  
23 areas of this Commonwealth in which the fiscal integrity  
24 of existing local government units cannot be sustained.

25 (2) Changing and deteriorating economic conditions,  
26 developing technologies and attendant unemployment erode  
27 local tax bases and threaten essential municipal services.  
28 Under such circumstances, such distressed governmental units  
29 may no longer be viable and that the citizens of those  
30 communities should be granted the opportunity in accordance

1 with law to voluntarily consolidate or merge their  
2 municipalities with other municipalities in an effort to  
3 allow municipal boundaries to reflect the geographic and  
4 economic realities of a distressed area, to merge a common  
5 community of interest, to take advantage of economies of  
6 scale in providing services and to create an expanded revenue  
7 base to provide necessary public services to the citizens of  
8 financially distressed municipalities.

9 (3) Policies of certain municipalities are so  
10 ineffective and the financial conditions so severe that the  
11 provision of vital and necessary services is threatened.

12 (4) Sustained failure of a municipality to enact or  
13 implement a fiscal plan to adequately address or prevent  
14 insolvency after repeated opportunities to do so:

15 (i) constitutes a fiscal emergency; and

16 (ii) signifies:

17 (A) a breakdown in the function of municipal  
18 government;

19 (B) a dereliction of its elected officials'  
20 paramount public duty to safeguard the health, safety  
21 and welfare of its citizens; and

22 (C) a threat to the fiscal stability of  
23 neighboring communities.

24 (5) Pursuant to the Commonwealth's paramount right and  
25 duty to maintain law and order and protect and preserve the  
26 health, safety and welfare of its citizens and ensure  
27 compliance with this act under Article IX of the Constitution  
28 of Pennsylvania, the Governor is authorized to act in the  
29 face of a fiscal emergency under paragraph (4) (i) and  
30 dereliction of official duty under paragraph (4) (ii) (B).

1           (6) Municipalities may face such deteriorated economic  
2           conditions that all reasonable efforts to restore economic  
3           viability have failed and merger or consolidation cannot  
4           occur through any means provided by law. It is the intent of  
5           the General Assembly that, for municipalities incapable of  
6           continuing to function as general purpose units of local  
7           government, procedures exist to ensure the provision of  
8           essential and vital public services to the residents of those  
9           areas absent a functioning municipal government.

10          Section 3. Section 103 of the act, repealed Oct. 13, 1994  
11          (P.L.596, No.90) and added July 5, 2012 (P.L.1104, No.133), is  
12          amended to read:

13          Section 103. Definitions.

14          The following words and phrases when used in this act shall  
15          have the meanings given to them in this section unless the  
16          context clearly indicates otherwise:

17          "Arbitration settlement." An adjustment or settlement of a  
18          collective bargaining agreement or dispute. The term includes a  
19          final or binding arbitration award or other determination.

20          "Authority." A municipal authority, parking authority or any  
21          other authority or corporate entity that is directly or  
22          indirectly controlled by a distressed municipality or to which a  
23          distressed municipality has power of appointment.

24          "Basis of accounting." Revenues and expenditures may be  
25          recognized on the cash, modified accrual or full accrual basis  
26          of accounting, provided that basis is applied consistently  
27          throughout the fiscal periods reported for evaluation purposes.

28          "Chief executive officer." Mayor in a mayor-council form of  
29          government or manager in a council-manager form of government of  
30          a city operating under an optional form of government pursuant

1 to the act of July 15, 1957 (P.L.901, No.399), known as the  
2 Optional Third Class City Charter Law; a mayor of a city of the  
3 first class under the act of April 21, 1949 (P.L.665, No.155),  
4 known as the First Class City Home Rule Act; or an individual  
5 serving in such capacity as designated by a home rule charter or  
6 optional plan pursuant to the act of April 13, 1972 (P.L.184,  
7 No.62), known as the Home Rule Charter and Optional Plans Law.

8 "Claim." Right to payment, whether or not the right is  
9 reduced to judgment, liquidated, unliquidated, fixed,  
10 contingent, matured, unmatured, disputed, undisputed, legal,  
11 equitable, secured or unsecured; or right to an equitable remedy  
12 for breach of performance if the breach gives rise to a right to  
13 payment, whether or not the right to an equitable remedy is  
14 reduced to judgment, fixed, contingent, matured, unmatured,  
15 disputed, undisputed, secured or unsecured.

16 "Commonwealth agency." The Governor and the departments,  
17 boards, commissions, authorities and other officers and agencies  
18 of this Commonwealth, whether or not subject to the policy  
19 supervision and control of the Governor.

20 "Creditor." An individual, partnership, corporation,  
21 association, estate, trust, governmental unit or the governing  
22 board of a pension fund of a municipality that has a claim  
23 against a municipality.

24 "Deficit." The excess of expenditures over revenues, stated  
25 as a percentage of revenue, during an accounting period. This  
26 calculation shall include all governmental fund types and all  
27 proprietary fund types, but shall exclude all fiduciary fund  
28 types of the municipality.

29 "Department." The Department of Community [Affairs] and  
30 Economic Development of the Commonwealth.

1 "Expenditures." Reductions in fund equity, including current  
2 operating expenses that require the use of fund equity, debt  
3 service and capital outlays. The term shall not include  
4 interfund transfers.

5 "Fund equity." Excess of assets of a fund over its  
6 liabilities.

7 "Governing body." The council in cities, boroughs and  
8 incorporated towns; the board of commissioners in counties; the  
9 board of commissioners in townships of the first class; the  
10 board of supervisors in townships of the second class; or the  
11 legislative policy-making body in home rule municipalities.

12 "Matured claim." A claim that has been reduced to judgment  
13 or liquidated in amount by agreement for a period of 90 days  
14 prior to the filing of a petition to commence fiscal distress  
15 proceedings under this act.

16 "Municipal record." A financial record [and] or document of  
17 a municipality or of [an authority incorporated by a  
18 municipality, excluding confidential] an authority or other  
19 corporate entity which directly or indirectly performs a  
20 governmental function on behalf of the municipality, is directly  
21 or indirectly controlled by the municipality or to which the  
22 municipality has direct or indirect power of appointment or has  
23 directly or indirectly pledged or designated the municipality's  
24 revenues or the municipality's credit. The term does not  
25 include:

26 (1) Confidential information relating to personnel  
27 matters and matters relating to the initiation and conduct of  
28 investigations of violations of law. To the extent such  
29 information is included in a financial record or document  
30 otherwise subject to this definition, it shall be redacted

1 and the remainder subject to disclosure as otherwise provided  
2 by this act.

3 (2) A financial record or document in the custody or  
4 control of an entity other than a municipality, municipal  
5 authority or other authority, except if the document relates  
6 to services or governmental functions performed by the  
7 municipality, municipal authority or on behalf of the  
8 municipality or municipal authority, or the revenues or  
9 credit of the municipality or a municipal authority.

10 "Municipality." Every county, city, borough, incorporated  
11 town, township and home rule municipality.

12 "Plan" or "recovery plan." A recovery plan developed under  
13 this act.

14 "Revenues." Additions to fund equity other than from  
15 interfund transfers, proceeds of debt and proceeds of  
16 disposition of general fixed assets.

17 "Secretary." The Secretary of Community [Affairs] and  
18 Economic Development of the Commonwealth.

19 Section 4. Section 121(a), (b) and (c) of the act are  
20 amended to read:

21 Section 121. Powers and duties of department.

22 (a) Compile financial data.--

23 (1) A power and duty of the department shall be to  
24 maintain accurate and current information and data on the  
25 fiscal status of municipalities to determine if criteria set  
26 forth in section 201 exist and, if so, whether the existence  
27 of those factors validly indicates fiscal distress.

28 (2) In compiling the information and data, the  
29 department shall mail, before January 1 of each year, a  
30 Survey of Financial Condition form to each municipality



1 applicable to the municipality's prior fiscal year.

2 (i) The survey shall seek information necessary to  
3 determine the fiscal status of a municipality, shall be  
4 concise to facilitate prompt response and shall contain  
5 an attestation clause to be signed by the presiding  
6 officer of the municipality's governing body. [The actual  
7 survey form shall not exceed two pages in length.]

8 (ii) The survey shall be provided to the municipal  
9 clerk or municipal secretary along with tax information  
10 forms in accordance with law.

11 (iii) The survey shall include information based on  
12 the criteria specified in section 201.

13 (iv) The survey shall include information relating  
14 to the basis of accounting utilized by municipalities.

15 (b) Assess data.--A power and duty of the department shall  
16 be to apply the criteria of section 201 to data and information  
17 on the fiscal status of municipalities to assess the validity  
18 and applicability of an indication of municipal financial  
19 distress. In assessing validity and applicability, the  
20 department shall undertake a review process, including, but not  
21 limited to, consultation, correspondence and visits with a  
22 municipality which appears to be financially distressed,  
23 notwithstanding the provisions of section 2501-C(e) and (f) of  
24 the act of April 9, 1929 (P.L.177, No.175), known as The  
25 Administrative Code of 1929, which limits department  
26 intervention to incidences when such is requested by the  
27 municipality. If the department [assesses] determines that a  
28 municipality needs assistance to correct minor fiscal problems,  
29 the department shall offer appropriate recommendations,  
30 including a recommendation that the municipality submit an

1 application as provided in Chapter 1-A. If the municipality  
2 adopts those recommendations, the department need take no  
3 further action.

4 (c) Notify agencies of determination.--Upon the making of a  
5 determination by the secretary that a municipality is distressed  
6 pursuant to section 203(f), the department shall immediately  
7 notify the heads of all Commonwealth agencies of the  
8 determination. The department shall, by January 1 of each year  
9 thereafter, notify the heads of all Commonwealth agencies of the  
10 priority funding requirement for distressed municipalities as  
11 provided in section 282.

12 \* \* \*

13 Section 5. Section 122 of the act is amended by adding a  
14 subsection to read:

15 Section 122. Duties of Commonwealth agencies.

16 \* \* \*

17 (c) Waiver of certain administrative mandates.--

18 (1) Notwithstanding any provision of law and at the  
19 request of the coordinator or receiver, a Commonwealth agency  
20 may exempt a distressed municipality from the application of  
21 a regulatory requirement, if the following conditions are  
22 satisfied:

23 (i) The regulatory requirement is not expressly  
24 required by Federal law or regulation, or an act of the  
25 Commonwealth, and is not related to the rights or terms  
26 and conditions of employment by the municipality.

27 (ii) The waiver of the regulatory mandate will not  
28 likely affect public health and safety.

29 (2) It is the intent of this subsection that distressed  
30 municipalities be considered for relief from regulatory

1 mandates that, due to financial distress or the  
2 implementation of recovery measures, are unduly burdensome on  
3 the municipality and would not undermine the regulatory  
4 purposes of the agency if waived.

5 Section 6. Sections 123 and 141 of the act, amended July 11,  
6 1996 (P.L.645, No.108), are amended to read:

7 Section 123. Powers and duties of municipalities.

8 (a) File completed survey.--On or before March 15 of each  
9 year, every municipality shall return to the department a  
10 completed Survey of Financial Conditions referred to in section  
11 121(a). No municipality shall receive its allotted payments  
12 pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655),  
13 referred to as the Liquid Fuels Tax Municipal Allocation Law,  
14 unless it complies with the provisions of this section,  
15 notwithstanding a provision of law to the contrary, including  
16 any provisions which require payment prior to March 15, and the  
17 Department of Transportation may not disburse funds to a  
18 municipality pursuant to the Liquid Fuels Tax Municipal  
19 Allocation Law until notified by the department that the  
20 municipality has complied with the provisions of this section.

21 (b) File applications for grants and loans.--A financially  
22 distressed municipality may apply to the secretary for emergency  
23 financial aid in the form of a grant or loan pursuant to Chapter  
24 3.

25 (c) Right to petition court for tax increase.--

26 (1) After a municipality has adopted a plan under  
27 [Subchapter C] Subchapters C and C.1 of Chapter 2, it may  
28 petition the court of common pleas of the county in which the  
29 municipality is located to increase its rates of taxation

30 **[for]** ON THE earned income ~~of residents and nonresidents,~~

<--

1 real property, or both, beyond maximum rates provided by law.

2 NO INCREASE IN THE RATE OF TAXATION ON NONRESIDENTS SHALL BE <--  
3 AUTHORIZED UNLESS AN EQUAL OR GREATER INCREASE IN THE RATE OF  
4 TAXATION ON RESIDENT INCOME OVER THE HIGHEST RATE LEVIED IN  
5 THE PREVIOUS FISCAL YEAR IS AUTHORIZED IN THE SAME TAX YEAR.

6 (1.1) In addition to the right under paragraph (1), a A <--  
7 municipality may petition the court to increase the rate of a <--  
8 local services tax and levy a payroll preparation tax as  
9 provided in subsection (d). (D) (2). <--

10 (1.2) A MUNICIPALITY MAY PETITION THE COURT FOR AN  
11 INCREASE IN THE MUNICIPALITY'S RATE OF TAXATION FOR EARNED  
12 INCOME UNDER PARAGRAPH (1) OR MAY PETITION THE COURT FOR AN  
13 INCREASE OF THE LOCAL SERVICES TAX AS PROVIDED UNDER  
14 SUBSECTION (D) (1) OR (1.1).

15 (2) If a tax increase above existing limits is granted  
16 by the courts or a tax is approved as provided in subsection  
17 (d), the increase shall be effective for a period of one  
18 year. The one-year increase shall run from the date specified  
19 in the petition filed with the court or, if no such date is  
20 specified, from the beginning of the current fiscal year of  
21 the municipality. Subsequent increases in rates of taxation  
22 or the imposition of a tax under subsection (d) may be  
23 granted by the court upon annual petition of the municipality  
24 until the termination date of the plan adopted by the  
25 municipality under Chapter 2. The additional amount of taxes  
26 resulting from the petition shall not be subject to sharing  
27 with a school district.

28 (3) [A petition filed by a city of the second class A or <--  
29 a home rule municipality that was previously a city of the  
30 second class A under this subsection may not include an

1 increase in a ~~{tax} rate of taxation~~ on nonresident income] <--  
2 ~~that is greater than an increase in the rate of taxation,~~ <--  
3 ~~over the highest rate levied in the previous fiscal year, on~~  
4 ~~resident income. A NO INCREASE IN THE RATE OF TAXATION ON THE~~ <--  
5 INCOME OF NONRESIDENTS SHALL BE AUTHORIZED IN A CITY OF THE  
6 SECOND CLASS A, OR A HOME RULE MUNICIPALITY THAT WAS  
7 PREVIOUSLY A CITY OF THE SECOND CLASS A, UNLESS AN EQUAL OR  
8 GREATER INCREASE IN THE RATE OF TAXATION ON RESIDENT INCOME  
9 OVER THE HIGHEST RATE LEVIED IN THE PREVIOUS FISCAL YEAR IS  
10 AUTHORIZED IN THE SAME TAX YEAR. IN ADDITION, A petition  
11 shall not include an increase in a rate of taxation on  
12 nonresident income unless the municipality certifies to the  
13 court, with regard to those provisions of the plan having a  
14 measurable fiscal impact, that:

15 (i) the municipality has substantially implemented  
16 the provisions which are within the authority of the  
17 chief executive officer or governing body, including, but  
18 not limited to, provisions of the plan that call for  
19 increasing existing tax rates levied on residents and  
20 increasing fees charged by the municipality;

21 (ii) the municipality has taken those actions  
22 required to obtain the approval of other parties for  
23 those provisions which may not be implemented without  
24 such approval, including, but not limited to, the  
25 approval of a court, local electors or any collective  
26 bargaining unit; and

27 (iii) the additional income from the aforementioned  
28 actions is insufficient to balance the municipal budget,  
29 necessitating additional revenue from an increase in the  
30 tax on nonresident income.

1 (d) Additional tax options and limitations.--After a  
2 municipality has adopted a plan under Subchapter C or C.1 of  
3 Chapter 2 and with the approval of the court, it may adopt an  
4 ordinance imposing the following:

5 (1) A local services tax pursuant to Chapter 3 of the  
6 act of December 31, 1965 (P.L.1257, No.511), known as The  
7 Local Tax Enabling Act, at a rate not to exceed \$156. A  
8 municipality adopting an ordinance under this paragraph shall  
9 be prohibited from imposing any additional tax on earned  
10 income pursuant to subsection (c). A municipality levying the  
11 local services tax at a rate in excess of \$52 shall, by  
12 ordinance, exempt any person from the local services tax  
13 whose total earned income and net profits from all sources  
14 within the municipality is less than \$15,600 for the calendar  
15 year in which the local services tax is levied. This  
16 paragraph does not apply to a municipality which, on the  
17 effective date of this subsection, is not authorized to  
18 petition the court of common pleas for the imposition of an  
19 earned income tax on nonresidents.

20 (1.1) IN THE CASE OF A FINANCIALLY DISTRESSED <--  
21 MUNICIPALITY THAT HAS ALSO RECEIVED A DETERMINATION THAT IT  
22 HAS A LEVEL II OR LEVEL III FINANCIALLY DISTRESSED PENSION  
23 SYSTEM UNDER CHAPTER 6 OF THE ACT OF DECEMBER 18, 1984  
24 (P.L.1005, NO.205), KNOWN AS THE MUNICIPAL PENSION PLAN  
25 FUNDING STANDARD AND RECOVERY ACT, A PETITION FOR A LOCAL  
26 SERVICES TAX UNDER SUBSECTION (D) (1) SHALL NOT BE AUTHORIZED  
27 AT A RATE IN EXCESS OF \$104 IN ANY FISCAL YEAR DURING WHICH  
28 THE MUNICIPALITY LEVIES A TAX UNDER SECTION 607(F) OF THE  
29 MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT ON  
30 EARNED INCOME.

1           (2) A payroll preparation tax pursuant to section 303 of  
2 The Local Tax Enabling Act. A municipality imposing a tax  
3 under this paragraph may levy a tax at a rate as provided in  
4 this section and as certified by the coordinator and approved  
5 by the court. When imposing a tax under this paragraph the  
6 municipality may impose the tax not to exceed a rate that is  
7 sufficient to produce revenues equal to revenues collected as  
8 a result of a business privilege tax and a mercantile tax  
9 under Chapter 3 of The Local Tax Enabling Act in the  
10 preceding fiscal year. After approval by the court of the tax  
11 at the rate as provided in this section, the municipality may  
12 levy the tax in any subsequent year without additional court  
13 approval, including any year after the termination of the  
14 municipality's distressed status, at a rate not to exceed  
15 that initially approved by the court. A municipality adopting  
16 a payroll preparation tax under this paragraph may not levy a  
17 business privilege tax or mercantile tax. The authority  
18 provided by this paragraph is limited to those municipalities  
19 levying a business privilege or mercantile tax, on a flat-  
20 rate or millage basis, in the year of the filing of a  
21 petition as provided in subsection (c).

22 ~~(c) Local services tax in municipalities subject to this act <--~~  
23 ~~with distressed pension systems.~~

24           ~~(1) A financially distressed municipality that has also~~  
25 ~~received a determination that it has a financially distressed~~  
26 ~~pension system under section 603 of the act of December 18,~~  
27 ~~1984 (P.L.1005, No.205), known as the Municipal Pension Plan~~  
28 ~~Funding Standard and Recovery Act, may adopt an ordinance,~~  
29 ~~without court approval, and as recommended in a plan adopted~~  
30 ~~under Subchapter C or C.1 of Chapter 2, imposing a local~~

~~services tax pursuant to Chapter 3 of The Local Tax Enabling Act at a rate not to exceed \$156, or, in a tax year during which the income of nonresidents is subject to a tax above maximum rates as provided in section 607(f) of the Municipal Pension Plan Funding Standard and Recovery Act, a rate not to exceed \$104. A municipality adopting an ordinance under this paragraph shall be prohibited from petitioning the court for an increase in the rate of taxation on the income of nonresidents under this section. A municipality levying the local services tax at a rate in excess of \$52 shall, by ordinance, exempt any person from the local services tax whose total income and net profits from all sources within the municipality is less than \$15,600 for the calendar year in which the local services tax is levied. In addition to the uses authorized by section 330 of The Local Tax Enabling Act, revenue derived from a rate in excess of \$52 may only be used for municipal purposes as provided in the plan. This paragraph does not apply to a municipality which, on the effective date of this subsection, is not authorized to petition the court of common pleas for the imposition of an earned income tax on nonresidents.~~

~~(2) A municipality that has levied a local services tax pursuant to paragraph (1) may continue to levy a local services tax at a rate in excess of \$52 in accordance with paragraph (1) in any subsequent year, provided that a tax levied for any year after a termination of distressed status shall be authorized subject to all of the following:~~

~~(i) A pension plan of the municipality has unfunded actuarial accrued pension liability.~~

~~(ii) All revenue derived from that portion of the~~



1 ~~rate in excess of \$52 shall be used solely to defray the~~  
2 ~~municipality's unfunded actuarial accrued pension~~  
3 ~~liability.~~

4 ~~(iii) The local services tax levied at a rate in~~  
5 ~~excess of \$52 may not be levied in the same year that the~~  
6 ~~income of nonresidents is subject to a tax above maximum~~  
7 ~~rates as provided in section 607(f) of the Municipal~~  
8 ~~Pension Plan Funding Standard and Recovery Act.~~

9 Section 141. Jurisdiction of court of common pleas.

10 (a) Increases in tax rates.--The court of common pleas of  
11 each county shall have jurisdiction to hear a petition filed by  
12 a municipality which has adopted a [final] plan pursuant to  
13 Subchapter C or C.1 of Chapter 2 to increase rates of taxation  
14 for earned income on residents and nonresidents, real property,  
15 or both, beyond maximum rates provided by law in accordance with  
16 section 123. The court may extend annually the increased taxing  
17 powers of the municipality until the termination date of the  
18 plan adopted by the municipality pursuant to Chapter 2.

19 (a.1) Levy of payroll preparation tax.--The court of common  
20 pleas of each county shall have jurisdiction to hear a petition  
21 filed by a municipality which has adopted a plan pursuant to  
22 Subchapter C or C.1 of Chapter 2 to levy a payroll preparation  
23 tax authorized by section 123(c)(1.1).

24 (a.2) Increase in local services tax.--The court of common  
25 pleas of each county shall have jurisdiction to hear a petition  
26 filed by a municipality which has adopted a plan pursuant to  
27 Subchapter C or C.1 of Chapter 2 to increase the rate of the  
28 local services tax in accordance with section ~~123(e)(1.1)~~ 123(C) <--  
29 (1.2).

30 (b) Involuntary compromises of delinquent taxes.--The court

1 of common pleas of each county may hear a petition filed by at  
2 least two taxing authorities having taxing power over the  
3 properties within a municipality which has adopted a [final]  
4 plan pursuant to Subchapter C or C.1 of Chapter 2 if the  
5 petition requests a compromise of delinquent taxes due on a  
6 property in that municipality. The court may order the property  
7 to be sold at a sheriff's sale and the proceeds to be divided  
8 among all authorities which are owed taxes for the property  
9 sold. If the property is sold at sheriff's sale and if the  
10 proceeds are insufficient to satisfy tax liens on the property,  
11 the court shall order a proration of the sale proceeds among the  
12 taxing authorities which fixed the liens.

13 Section 7. The act is amended by adding a chapter to read:

14 CHAPTER 1-A

15 EARLY INTERVENTION PROGRAM

16 SUBCHAPTER A

17 PRELIMINARY PROVISIONS

18 Section 101-A. Definitions.

19 The following words and phrases when used in this chapter  
20 shall have the meanings given them in this section unless the  
21 context clearly indicates otherwise:

22 "Center." The Governor's Center for Local Government  
23 Services of the Department of Community and Economic Development  
24 of the Commonwealth.

25 "Keystone Principles." The Keystone Principles and Criteria  
26 for Growth Investment and Resource Conservation adopted May 31,  
27 2005, by the Economic Development Cabinet to foster and measure  
28 the effectiveness of sustainable economic development and  
29 conservation of resources through the investment of Commonwealth  
30 funds in its municipalities.

1 "Program." The Early Intervention Program established by  
2 this chapter.

3 Section 102-A. Program objectives.

4 The Early Intervention Program established by this chapter  
5 provides a municipality with a preemptive step for the purpose  
6 of seeking guidance and assistance from the Commonwealth to  
7 develop long-term financial management, administrative, service  
8 delivery and economic development strategies that the  
9 municipality can implement to avert a fiscal crisis and provide  
10 fiscal stability. The specific objectives of the Early  
11 Intervention Program include the following and are meant to:

12 (1) Provide the resources to assist a municipality in  
13 identifying, prioritizing and addressing the financial  
14 difficulties confronting it, while ensuring its short-term  
15 and long-term goals and objectives are adequately taken into  
16 account.

17 (2) Engage in a management review of its operations and  
18 provide recommendations that will enhance financial  
19 administration, management and service delivery of a  
20 municipality.

21 (3) Strengthen the ability of a municipality to develop,  
22 adopt, implement and monitor multiyear financial management  
23 plans and to incorporate the process into its annual budget  
24 process.

25 (4) Implement a system of multiyear revenue and  
26 expenditure trend analysis, monitoring and forecasting so  
27 that a municipality can better anticipate and plan for future  
28 financial circumstances.

29 (5) Promote multimunicipal and regional planning,  
30 cooperation strategies and cost-sharing opportunities between

1 two or more municipalities.

2 (6) Support the adoption by a municipality of best  
3 management practices and efficiency measures to increase the  
4 financial stability of a municipality.

5 (7) Further the integration of sound community and  
6 economic development strategies to encourage the economic  
7 growth of the tax base of a municipality over a multiyear  
8 period.

9 SUBCHAPTER B

10 ADMINISTRATIVE PROVISIONS

11 Section 103-A. Authorization.

12 The Early Intervention Program is established to authorize  
13 the center to provide guidance and assistance through grants to  
14 a municipality seeking to ensure fiscal stability by developing  
15 and implementing long-term financial, managerial and economic  
16 development strategies.

17 Section 104-A. Grants.

18 (a) General rule.--A grant may be awarded by the center to a  
19 municipality or two or more municipalities cooperating together  
20 to ensure fiscal stability through the development and  
21 implementation of long-term financial, managerial and economic  
22 development strategies in an amount not exceeding \$200,000  
23 during the first fiscal year that commences on the effective  
24 date of this section, adjusted for inflation in subsequent years  
25 by an amount not to exceed an annual cost-of-living adjustment  
26 calculated by applying the percentage change in the Consumer  
27 Price Index immediately prior to the date the adjustment is due  
28 to take effect. To be eligible for a grant for implementation  
29 funding, a municipality must meet the basic training  
30 requirements established in guidelines developed by the center.

1 (b) Match.--The grant amount is subject to a 50% financial  
2 match by the municipality to which the grant was provided,  
3 unless the center determines a match by the municipality of a  
4 lesser amount not less than 10% is warranted. The center may  
5 authorize any portion of the municipality's financial match to  
6 be offset by an in-kind match.

7 (c) Eligible activities.--A grant shall be used for the  
8 following eligible activities:

9 (1) The development of multiyear financial management  
10 plan for a municipality.

11 (2) The development of multimunicipal or regional  
12 intergovernmental cooperation initiatives and cost-sharing  
13 strategies.

14 (3) A study to improve the management and operational  
15 practices and financial administration procedures of a  
16 municipality.

17 (4) A merger or consolidation feasibility study.

18 (5) The implementation of any of the eligible activities  
19 identified in paragraphs (1) through (4).

20 (6) Training and capacity-building activities that meet  
21 basic requirements established in guidelines developed by the  
22 center which assist the municipality in the implementation of  
23 plan recommendations.

24 (7) Contracts with professional consultants to develop  
25 and implement recommendations related to eligible activities.

26 (8) An audit, prepared by an independent accountant or  
27 firm, as required by section 108-A.

28 Section 105-A. Application.

29 A program application must be submitted by the applicant  
30 municipality on a form prescribed by the department utilizing

1 the electronic single application format and include or  
2 demonstrate all of the following:

3 (1) The name and address of the municipality or, in the  
4 case of a multimunicipal application, the municipalities.

5 (2) The name of a contact person.

6 (3) The execution of a supporting resolution authorizing  
7 the submission of the application and committing the  
8 resources of the municipality or, in the case of a  
9 multimunicipal application, municipalities.

10 (4) The single application shall be signed by the  
11 authorized officer of the municipality or, in the case of a  
12 multimunicipal application, municipalities.

13 (5) Any other information required by the department.

14 Section 106-A. Evaluation criteria.

15 The center shall evaluate a program application on the basis  
16 of municipal financial characteristics and the quality of the  
17 proposed program, including the extent to which the program is  
18 estimated to improve the administrative, operational and  
19 financial management capacity of the applicant municipality. The  
20 following factors shall be considered in the evaluation:

21 (1) The current and projected financial condition of the  
22 municipality.

23 (2) The economic and demographic condition of the  
24 municipality.

25 (3) The proactive measures the municipality has taken to  
26 manage its finances in a responsible manner, including  
27 attempts to reduce expenditures, increase revenues, adopt  
28 sound management practices, establish municipal priorities  
29 and adhere to generally accepted financial management, budget  
30 and financial reporting standards.

1           (4) The extent to which the municipality has  
2 demonstrated its willingness and commitment to engage in a  
3 multimunicipal or regional strategy and has examined whether  
4 certain municipal services can be provided through a council  
5 of governments, a county government or other structure.

6           (5) The extent to which the municipality has  
7 demonstrated its willingness and commitment to improve its  
8 financial and administrative operation through the adoption  
9 and implementation of a multiyear financial management plan.

10          (6) Where it has received assistance and funding from  
11 the department, past performance by the municipality.

12          (7) Where applicable, the elements of the Keystone  
13 Principles shall be included as part of the evaluation  
14 criteria.

15          (8) Any other factors the center considers relevant.

16 Section 107-A. Award.

17          The secretary shall announce by letter applications selected  
18 for funding. The contact person specified in the application  
19 shall be sent the offer letter. All funding decisions shall be  
20 made subject to the availability of funds.

21 Section 108-A. Guidelines.

22          The department shall establish guidelines consistent with  
23 this chapter, particularly the program requirements and  
24 measurements to ensure a municipality is provided with adequate  
25 guidance. The program shall include a requirement of a financial  
26 audit of the municipality, prepared by an independent accountant  
27 or firm, for the fiscal year immediately preceding the  
28 application for funds under this chapter. The department may  
29 establish guidelines for the audit, and the requirement may be  
30 satisfied by any previous audit prepared in accordance with the

1 guidelines.

2 Section 8. Section 203(c) and (g) of the act, amended June  
3 30, 1992 (P.L.336, No.69), are amended to read:

4 Section 203. Procedure for determination.

5 \* \* \*

6 (c) Investigation.--After receiving the request but before  
7 the public hearing, the secretary may make an investigation into  
8 the financial affairs of the municipality. The results of the  
9 investigation or any study previously conducted by the  
10 department or with department funds under Chapter 1-A or section  
11 121 shall be placed in the record of the public hearing.

12 \* \* \*

13 (g) Appeal.--A determination by the secretary under this  
14 [act] section is appealable pursuant to [Title 2 of the  
15 Pennsylvania Consolidated Statutes (relating to administrative  
16 law and procedure)] 2 Pa.C.S. Ch. 7 Subch. A (relating to  
17 judicial review of Commonwealth agency action).

18 Section 9. Sections 221(d) and (e), 222 and 223 of the act  
19 are amended to read:

20 Section 221. Designation.

21 \* \* \*

22 (d) Duties.--The coordinator shall [prepare and administer a  
23 plan designed to relieve the financial distress of the  
24 municipality which he has been appointed to serve.]:

25 (1) Present, at a public meeting within 45 days of the  
26 execution of the contract between the department and the  
27 coordinator, a list of the coordinator's preliminary  
28 findings, as to the financial condition of municipality. The  
29 list of findings shall include, but is not limited to, a  
30 quantification of all operating deficits for the current



1 fiscal year and a projection of revenues and operating  
2 expenses for the next three fiscal years, all outstanding  
3 debt obligations, the cost and term of all outstanding  
4 contracts, and other relevant information.

5 (2) Solicit, not later than the date of the  
6 coordinator's presentation described in paragraph (1),  
7 comments in writing relating to the issues associated with  
8 the municipality's distress from such persons and entities  
9 who:

10 (i) have participated in the early intervention  
11 process;

12 (ii) have provided consultation on behalf of the  
13 municipality relating to the issues associated with its  
14 distress; or

15 (iii) are elected officials or employees of the  
16 municipality or labor organizations representing  
17 employees of the municipality.

18 (3) Consider all comments submitted within 30 days of  
19 the coordinator's presentation described in paragraph (1)  
20 before preparing and administering a plan designed to relieve  
21 the financial distress of the municipality which the  
22 coordinator has been appointed to serve.

23 (e) Powers.--The coordinator may [apply]:

24 (1) Apply for grants and loans pursuant to Chapter 3, as  
25 [he] the coordinator deems necessary.

26 (2) Investigate the tax-exempt status of any property  
27 within a distressed municipality and advise the governing  
28 body of the municipality to appeal the assessment or exempt  
29 status of property within the distressed municipality.

30 (3) Solicit and negotiate payments in lieu of taxes from

1 institutions of public charity and other tax-exempt property  
2 owners in the municipality and recommend action by the  
3 municipality.

4 Section 222. Access to information.

5 (a) General rule.--The coordinator shall have full access to  
6 all municipal records.

7 (b) Enforcement where records in possession of official or  
8 public employee.--If the coordinator believes that an official  
9 or employee of the municipality or an authority is not answering  
10 questions accurately or completely or is not furnishing  
11 information requested, the coordinator may notify the official  
12 or employee in writing to furnish answers to questions or to  
13 furnish documents or records, or both. If the official or  
14 employee refuses, the coordinator may seek a subpoena in the  
15 court of common pleas to compel testimony and furnish records  
16 and documents. An action in mandamus shall lie to enforce the  
17 provisions of this section.

18 (c) Enforcement where records in possession of other  
19 persons.--If the coordinator believes that a person is not  
20 furnishing information related to municipal records and that  
21 person is not subject to subsection (b), the coordinator may  
22 seek a subpoena in the court of common pleas to compel testimony  
23 and furnish records and documents.

24 Section 223. Public and private meetings.

25 (a) Public meetings authorized.--The coordinator may hold  
26 public meetings as defined in [the act of July 3, 1986 (P.L.388,  
27 No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to  
28 open meetings), in connection with plan preparation.

29 (b) Private meetings authorized.--Notwithstanding the  
30 provisions of [the Sunshine Act] 65 Pa.C.S. Ch. 7, private

1 negotiation sessions may be conducted by the coordinator between  
2 the municipality and the individual creditors in an effort to  
3 obtain the consent of each creditor to the proposed adjustment  
4 and handling of specific claims against the municipality.

5 Section 10. The act is amended by adding a section to read:

6 Section 224.1. Performance of coordinator.

7 (a) Review of coordinator.--Beginning on July 1, 2015, the  
8 secretary, or his designee, shall conduct an annual review of  
9 each coordinator appointed under section 221 to assess whether:

10 (1) The coordinator's performance has been in compliance  
11 with the requirements of the coordinator's contract, if any,  
12 and the provisions of this act.

13 (2) The coordinator has been ineffective in providing  
14 assistance necessary to develop and implement the plan.

15 (b) Termination of coordinator.--An unfavorable review under  
16 this section may constitute grounds for termination of the  
17 coordinator's contract.

18 Section 11. Section 241 of the act, amended or added June  
19 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)  
20 and repealed in part October 13, 1994 (P.L.596, No.90), is  
21 amended to read:

22 Section 241. Contents.

23 A plan formulated by the appointed coordinator shall be  
24 consistent with applicable law and shall include any of the  
25 following factors which are relevant to alleviating the  
26 financially distressed status of the municipality:

27 (1) Projections of revenues and expenditures for the  
28 current year and the next [three] five years, both assuming  
29 the continuation of present operations and as impacted by the  
30 measures in the plan. The projections must include an

1 itemization of the following:

2 (i) Projected revenues, including:

3 (A) Local taxes.

4 (B) Licenses, permits and fines.

5 (C) Sales and rentals.

6 (D) Federal, State and county grants and loans.

7 (E) Any other sources of projected revenue.

8 (ii) Projected expenditures, including:

9 (A) Debt service.

10 (B) Workforce.

11 (C) Elected and executive officials.

12 (D) Financial management.

13 (E) Infrastructure costs, including highways,  
14 roads and wastewater systems.

15 (F) Maintenance costs, including recycling and  
16 trash collection, disposal and removal.

17 (G) Other professional services.

18 (H) Public safety.

19 (I) Community and economic development.

20 (J) Any other applicable expenditures.

21 (2) Recommendations which will:

22 (i) Satisfy judgments, past due accounts payable,  
23 and past due and payable payroll and fringe benefits.

24 (ii) Eliminate deficits and deficit funds.

25 (iii) Restore to special fund accounts money from  
26 those accounts that was used for purposes other than  
27 those specifically authorized.

28 (iv) Balance the budget, avoid future deficits in  
29 funds and maintain current payments of payroll, [fringe]  
30 benefits and accounts through possible revenue

1 enhancement recommendations, including tax or fee  
2 changes.

3 (v) Avoid a fiscal emergency condition in the  
4 future.

5 (vi) Enhance the ability of the municipality to  
6 negotiate new general obligation bonds, lease rental  
7 debt, funded debt and tax and revenue anticipation  
8 borrowing.

9 (vii) Consider changes in accounting and automation  
10 procedures for the financial benefit of the municipality.

11 (viii) Propose a reduction of debt due on specific  
12 claims by an amortized or lump-sum payment considered to  
13 be the most reasonable disposition of each claim possible  
14 for the municipality considering the totality of  
15 circumstances.

16 (3) Possible changes in collective bargaining agreements  
17 and permanent and temporary staffing level changes or changes  
18 in organization.

19 (4) Recommended changes in municipal ordinances or  
20 rules.

21 (5) Recommendations for special audits or further  
22 studies.

23 (6) An analysis of whether conditions set forth in  
24 section 261 exist, whether specific exclusive Federal  
25 remedies could help relieve the municipality's financial  
26 distress and whether filing a Federal debt adjustment action  
27 under Subchapter D is deemed to be appropriate.

28 [(7) An analysis of whether the economic conditions of  
29 the municipality are so severe that it is reasonable to  
30 conclude that the municipality is no longer viable and should

1 consolidate or merge with an adjacent municipality or  
2 municipalities.]

3 (7.1) An analysis of whether the economic conditions  
4 within the municipality are so severe that it is no longer  
5 viable and should consolidate or merge with an adjacent  
6 municipality or municipalities in accordance with 53 Pa.C.S.  
7 Ch. 7 (relating to alteration of territory or corporate  
8 entity and dissolution) or disincorporate in accordance with  
9 Chapter 4.

10 (8) An analysis of whether functional consolidation of  
11 or privatization of existing municipal services is  
12 appropriate and feasible and recommendations for where and  
13 how this could be done.

14 (9) A capital budget which addresses infrastructure  
15 deficiencies.

16 (10) Recommendations for greater use of Commonwealth  
17 economic and community development programs.

18 (10.1) Recommendations for enhanced cooperation and  
19 changes in land use planning and zoning, including regional  
20 approaches that would promote economic development and  
21 improve residential, commercial and industrial use  
22 availability within and around the municipality.

23 (11) Notwithstanding any other provision of law, limits  
24 on projected expenditures for individual collective  
25 bargaining units that may not be exceeded by the distressed  
26 municipality, giving due consideration to the projection of  
27 revenue and expenses under paragraph (1).

28 (12) An analysis of current revenue sources and  
29 recommendation to modify revenue sources, including the  
30 subjects and rates of taxation of the distressed municipality

1 in accordance with section 123. Recommendations relating to a  
2 modification of revenue sources shall be made with  
3 consideration to the effect on economic development,  
4 employment and an equitable distribution of tax burden. The  
5 analysis and recommendations shall be presented to the court  
6 in any proceeding under section 123. The analysis shall  
7 address:

8 (i) The tax bases of current and recommended revenue  
9 sources from both within and outside of the distressed  
10 municipality.

11 (ii) Collection rates, methods and costs of existing  
12 and, to the extent possible, proposed revenue sources and  
13 tax collection.

14 (iii) The current fee, charge, penalty and fine  
15 provisions of municipal enactments related to municipal  
16 services and police powers.

17 (iv) Revenue as defined in section 103.

18 Section 12. Section 242(a) of the act, amended December 19,  
19 1988 (P.L.1272, No.157), is amended and the section is amended  
20 by adding a subsection to read:

21 Section 242. Publication.

22 (a) Filing.--Within [90] 120 days of an executed contract  
23 between the department and the coordinator, the coordinator  
24 shall formulate a plan for relieving the municipality's  
25 financial distress and shall deliver true and correct copies of  
26 it to:

27 (1) The municipal clerk or municipal secretary, who  
28 shall immediately place the copy on file for public  
29 inspection in the municipal office.

30 (2) The secretary.

- 1 (3) Each member of the municipal governing body.  
2 (4) The mayor.  
3 (5) The chief financial officer of the municipality.  
4 (6) The solicitor of the municipal governing body.  
5 (7) All parties who have petitioned the secretary under  
6 section 203.

7 \* \* \*

8 (c.1) Solicitation of comments.--The coordinator shall, no  
9 later than the date of filing, solicit comments on the  
10 coordinator's plan to be presented at the public meeting from  
11 such persons and entities which submitted timely comments under  
12 section 221(d) (2).

13 \* \* \*

14 Section 13. Section 245 of the act, amended December 19,  
15 1988 (P.L.1272, No.157), is amended to read:

16 Section 245. Adoption by municipality.

17 Not later than 25 days following the coordinator's public  
18 meeting, the municipal governing body shall either enact an  
19 ordinance approving the implementation of the plan, including  
20 enactment of necessary related ordinances and revisions to  
21 ordinances, or shall reject the plan and proceed under section  
22 246. If the ordinance takes effect in a municipality operating  
23 under an optional plan form of government or a home rule  
24 charter, the chief executive officer [may] shall issue an order  
25 directing the implementation of the plan no later than seven  
26 days from the enactment of the ordinance by the governing body.

27 Section 14. Section 246(d) (3) of the act is amended to read:

28 Section 246. Preparation and action on alternate plan.

29 \* \* \*

30 (d) Review by secretary.--



1 \* \* \*

2 (3) If the secretary is of the opinion that the plan,  
3 when implemented, will not overcome the municipality's  
4 financial problems, the secretary shall inform the  
5 municipality of the following:

6 (i) The secretary's determination.

7 (ii) The reasons for the determination.

8 (iii) The applicability of sections 251 and 264 to  
9 the municipality.

10 (iv) The applicability of Chapters 6 and 7 to the  
11 municipality.

12 Section 15. Section 247(a)(4) of the act, amended June 30,  
13 1992 (P.L.336, No.69), is amended to read:

14 Section 247. Plan implementation.

15 (a) Coordinator's plan.--If the coordinator's plan is  
16 adopted by the municipal governing body, the coordinator shall  
17 be charged with implementing his plan and shall:

18 \* \* \*

19 (4) Terminate the plan upon its completion in accordance  
20 with Subchapter C.1.

21 \* \* \*

22 Section 16. The act is amended by adding a section to read:

23 Section 247.1. Annual budget.

24 (a) Proposed budget.--Notwithstanding any provision of law  
25 or home rule charter to the contrary, a municipality subject to  
26 a plan under this chapter shall, at least 120 days prior to the  
27 end of its current fiscal year, commence development of a  
28 proposed annual budget for the next fiscal year that implements  
29 the provisions of the plan or makes other changes to the  
30 management of the municipality necessary to implement the

1 provisions of the plan. The proposed budget shall be prepared by  
2 the governing body or the chief executive officer, as the case  
3 may be.

4 (b) Coordinator review.--At least 75 days prior to the end  
5 of the fiscal year, the governing body or chief executive  
6 officer shall submit the proposed budget to the coordinator. The  
7 coordinator shall review the proposed budget to verify that the  
8 proposed budget conforms with the plan. The coordinator shall  
9 make any modifications necessary to the proposed budget to meet  
10 the objectives of the plan.

11 (c) Return of proposed budget.--After completion of the  
12 coordinator's review, the coordinator shall, at least 45 days  
13 before the end of the municipality's fiscal year, submit the  
14 proposed budget, together with the coordinator's modifications,  
15 if any, to the municipality for adoption in accordance with law.

16 (d) Notification to secretary.--Within 30 days of the  
17 municipality's adoption of the budget, or the municipality's  
18 failure to timely adopt a budget, the coordinator shall notify  
19 the secretary whether or not the adopted budget, if any,  
20 conforms to the plan. Upon a determination that the budget does  
21 not conform to the plan, or that the municipality has not timely  
22 adopted a budget, the secretary may take action as provided for  
23 by this act.

24 Section 17. Sections 248 and 250 of the act are amended to  
25 read:

26 Section 248. Failure to adopt or implement plan.

27 If no plan is adopted or implemented pursuant to this  
28 chapter, then sections 251 and 264 shall apply[.] and, upon a  
29 written recommendation of the coordinator, the secretary may  
30 request a determination of a fiscal emergency in accordance with

1 Chapter 6.

2 Section 250. Debt provisions.

3 Adoption of a plan in accordance with this subchapter and  
4 Subchapter C.1 by ordinance is a condition precedent for the  
5 approval of long-term debt or funding debt under [the act of  
6 July 12, 1972 (P.L.781, No.185), known as the Local Government  
7 Unit Debt Act] 53 Pa.C.S. Pt. VII Subpt. B (relating to  
8 indebtedness and borrowing). A debt financing provision of the  
9 plan may be waived by agreement of the lender and the  
10 municipality; but any such waiving must be expressly set forth  
11 in the indenture or contract securing the debt.

12 Section 18. Section 253 of the act is repealed:

13 [Section 253. Termination of status.

14 (a) Determination by secretary.--Following a duly advertised  
15 public hearing with notices given as provided in section 203,  
16 the secretary may issue a determination that the conditions  
17 which led to the earlier determination of municipal financial  
18 distress are no longer present. The determination shall rescind  
19 the status of municipal financial distress and shall include a  
20 statement of facts as part of the final order.

21 (b) Determination upon petition by a municipality.--A  
22 financially distressed municipality may petition the secretary  
23 to make a determination that the conditions which led to the  
24 earlier determination of municipal financial distress are no  
25 longer present. Upon receiving the petition, the secretary may  
26 issue a determination to rescind following a duly advertised  
27 public hearing with notices given as provided in section 203.

28 (c) Factors to consider.--In determining whether the  
29 conditions which led to the earlier determination of municipal  
30 financial distress are no longer present, the secretary shall

1 consider that:

2 (1) Monthly reports submitted by the coordinator to the  
3 department under section 247(a)(3) indicate that termination  
4 of the status of municipal financial distress is appropriate.

5 (2) Accrued deficits in the municipality have been  
6 eliminated.

7 (3) Obligations issued to finance all or part of the  
8 municipality's deficit have been retired.

9 (4) The municipality has operated, for a period of at  
10 least one year, under a positive current operating fund  
11 balance or equity, as evidenced by the municipality's audited  
12 financial statements prepared in accordance with generally  
13 accepted accounting principles.]

14 Section 19. The act is amended by adding a subchapter to  
15 read:

16 SUBCHAPTER C.1

17 DURATION OF DISTRESSED STATUS

18 Section 254. Limitation of status.

19 (a) Termination date.--

20 (1) Except as otherwise provided in this subchapter, no  
21 municipality shall be subject to the provisions of this act  
22 after five years from the effective date of an ordinance  
23 enacted in accordance with section 245 or 246. No amendment  
24 to a plan shall affect the termination date as determined  
25 from the date of enactment of the original ordinance.

26 (2) Nothing in this section shall be construed to:

27 (i) prohibit a municipality from participating in an  
28 early intervention program as provided in Chapter 1-A or  
29 reentering distressed status in accordance with this act  
30 after a termination of status in accordance with this

1           subchapter.

2           (ii) Prohibit termination of status proceedings in  
3           accordance with section 255.1 prior to the termination  
4           date as provided in this section.

5           (b) Distressed municipalities.--

6           (1) Municipalities operating pursuant to a recovery plan  
7           on the effective date of this section shall be subject to a  
8           termination date five years from the effective date of the  
9           most recent recovery plan or amendment enacted in accordance  
10           with this act, provided, however, that municipalities subject  
11           to a plan that will remain in effect for one year or less on  
12           the effective date of this subsection shall be subject to a  
13           termination date three years from the termination date of the  
14           current plan or plan amendment.

15           (2) If its distressed status has not been rescinded or  
16           has been continued in accordance with section 710.1, a  
17           municipality operating under Chapter 7 shall be subject to a  
18           final termination date no more than five years from the  
19           termination date of receivership. Section 255 shall not apply  
20           to a termination of status under this paragraph.

21 Section 255. Coordinator's report.

22           (a) General rule.--Not later than 180 days after the  
23           beginning of the final year of distressed status as determined  
24           in accordance with section 254(a) and (b)(1), the coordinator  
25           shall complete a report stating the financial condition of the  
26           municipality and include one of the following findings:

27           (1) Conditions within the municipality warrant a  
28           termination in status in accordance with section 255.1. A  
29           report containing a recommendation under this paragraph shall  
30           address each of the factors set forth in section 255.1(c).

1           (2) Conditions are such that the municipality should be  
2 disincorporated in accordance with Chapter 4.

3           (3) Conditions are such that the secretary should  
4 request a determination of a fiscal emergency in accordance  
5 with Chapter 6.

6           (4) A three-year exit plan in accordance with section  
7 256 is warranted.

8           (b) Filing and notice.--

9           (1) The report shall be filed with the same parties as  
10 provided in section 242(a). The date of filing shall be the  
11 date on which the municipal clerk or municipal secretary  
12 places a true and correct copy of the report on file for  
13 public inspection in the municipal office.

14           (2) On the date of filing, notice that the report has  
15 been filed and is open for public inspection in the municipal  
16 office shall be published by the coordinator in the county  
17 legal reporter and in one or more newspapers with general  
18 circulation serving the area in which the municipality is  
19 located. The department shall pay for the cost of the  
20 publication of the notice. The notice shall contain the  
21 following information:

22           (i) A statement that a report regarding the status  
23 of the municipality's financial distress was filed  
24 pursuant to this act.

25           (ii) The date and place of filing.

26           (iii) A statement that the public has 15 days from  
27 the date of filing in which to file written comments on  
28 the report.

29           (iv) The name and address of the coordinator to whom  
30 written comments should be sent.

1           (v) A summary of the report and findings of the  
2           coordinator.

3           (vi) The date and place of a public meeting to  
4           receive comments on the report.

5           (c) Written comments.--Written comments on the report may be  
6           filed with the coordinator. Written comments shall be made no  
7           later than 15 days after the date of filing. Written comments  
8           judged by the coordinator to have value to the plan may be used  
9           to develop a revised report.

10          (d) Public meeting.--A meeting conducted by the coordinator  
11          in the municipality shall be set for a date not later than 20  
12          days after the date of filing the report. The coordinator shall  
13          request in writing that the chief executive officer, each member  
14          of the municipal governing body and the chief financial officer  
15          of the municipality be present at the coordinator's meeting.  
16          Comments on the plan shall be received by the coordinator at  
17          that time. The coordinator has the discretion whether to  
18          consider comments made on the report.

19          (e) Revision of report.--

20                (1) Nothing in this section shall be construed to  
21                preclude the coordinator from revising a report of his own  
22                initiative.

23                (2) Neither the secretary nor the chief executive  
24                officer or the governing body, as appropriate, may revise the  
25                coordinator's report.

26                (3) If the coordinator decides to revise the report, the  
27                coordinator shall consult with the secretary and either the  
28                chief executive officer or the governing body throughout the  
29                revision of the report and shall give consideration to  
30                comments they may propose.

1           (4) A revised report shall be completed and delivered to  
2           each party cited in section 242(a) within ten days from the  
3           date of the coordinator's public meeting on the original  
4           report.

5 Section 255.1. Termination of status.

6           (a) Public hearing.--Within 30 days of the date for the  
7           filing of a final report containing a finding as provided in  
8           section 255(a) (1) the secretary shall conduct a public hearing,  
9           advertised with notices given as provided in section 203.

10          (b) Determination.--Within 90 days of the conclusion of the  
11          public hearing, the secretary shall issue an administrative  
12          determination of whether the termination of status is  
13          appropriate and reasons for the determination. The determination  
14          shall include findings addressing each of the factors in  
15          subsection (c) and shall consider information provided in the  
16          report of the coordinator and any additional information  
17          received during the public hearing.

18          (c) Factors to consider.--If the secretary concludes that  
19          substantial evidence supports an affirmative determination for  
20          each of the following factors, the determination shall be that  
21          distressed status will be rescinded. The secretary shall  
22          consider whether:

23                (1) Operational deficits of the municipality have been  
24                eliminated and the financial condition of the municipality,  
25                as evidenced by audited financial statements prepared in  
26                accordance with generally accepted accounting principles and  
27                projections of future revenues and expenditures, demonstrates  
28                a reasonable probability of future balanced budgets absent  
29                participation in this act.

30                (2) Obligations issued to finance the municipality's



1 debt have been retired, reduced or reissued in a manner that  
2 has adequately refinanced outstanding principle and interest  
3 and has permitted timely debt service and reasonable  
4 probability of continued timely debt service absent  
5 participation in this act.

6 (3) The municipality has negotiated and resolved all  
7 claims or judgments that would have placed the municipality  
8 in imminent jeopardy of financial default.

9 (4) The reasonably projected revenues of the  
10 municipality are sufficient to fund ongoing necessary  
11 expenditures, including pension and debt obligations and the  
12 continuation or negotiation of collective bargaining  
13 agreements and the provision of municipal services.  
14 Projections of revenues shall include any anticipated tax or  
15 fee increases to fund ongoing expenditures for the first five  
16 years after a termination of distressed status.

17 (d) Appeal.--The determination of the secretary may be  
18 appealed pursuant to 2 Pa.C.S. Ch. 7 Subch. A (relating to  
19 judicial review of Commonwealth agency action) by any of the  
20 following:

21 (1) The governing body of the municipality.

22 (2) A creditor of the municipality.

23 (3) Ten percent of the number of electors of the  
24 municipality that voted at the last municipal election.

25 (4) Ten percent of the beneficiaries of a pension fund  
26 of the municipality.

27 (5) Ten percent of the employees of the municipality.

28 (6) Trustees or paying agents of a municipal bond  
29 indenture.

30 (7) Elected auditors, elected controllers or appointed

1 independent auditors.

2 (8) A trustee of the Municipal Pension Fund.

3 (9) The chief executive officer of any city.

4 (10) A labor organization that is a party to a  
5 collective bargaining agreement with the municipality.

6 (e) Suspension of subsequent proceedings.--The coordinator  
7 and secretary shall not take any action under sections 256 and  
8 257 until a final decision is issued for any appeal under  
9 subsection (d) or (f). The duration of distressed status of the  
10 municipality shall be extended subject to subsequent action in  
11 accordance with section 257.

12 (f) Action of the secretary preserved.--Except as otherwise  
13 provided in chapters 6 and 7, the secretary may, following a  
14 duly advertised public hearing with notices given as provided in  
15 section 203, at any time issue a determination as provided in  
16 this section upon written recommendation of the coordinator  
17 setting forth a discussion of each of the factors specified in  
18 subsection (c). The determination may be appealed in accordance  
19 with subsection (d).

20 Section 256. Exit plan.

21 (a) General rule.--If recommended in a final report under  
22 section 255, the coordinator shall within 90 days of the public  
23 meeting referred to in section 255 or the filing of the final  
24 report under section 255(e)(4), whichever is later, prepare an  
25 exit plan for the municipality. The exit plan shall be subject  
26 to the same filing, notice, public meeting and revision  
27 procedures as specified in section 255.

28 (b) Contents of exit plan.--The exit plan prepared by the  
29 coordinator shall contain such elements as may be necessary to  
30 ensure termination of distressed status after three years,

1 including, but not limited to:

2 (1) The sale, lease, conveyance, assignment or other use  
3 or disposition of the assets of the distressed municipality.

4 (2) Functional consolidation of or privatization of  
5 existing municipal services.

6 (3) The execution, approval, modification, rejection,  
7 renegotiation or termination of contracts or agreements of  
8 the distressed municipality, provided, however, that the  
9 provisions of section 252 shall apply to any exit plan  
10 adopted in accordance with this subchapter.

11 (4) Changes in the form of municipal government or the  
12 configuration of elected or appointed municipal officials and  
13 employees as permitted by law.

14 (c) Adoption of plan.--

15 (1) Not later than 45 days following the coordinator's  
16 public meeting to hear comments on the exit plan, the  
17 municipal governing body shall enact an ordinance approving  
18 the implementation of the plan, including enactment of  
19 necessary related ordinances and revisions to ordinances.

20 (2) If the ordinance takes effect in a municipality  
21 operating under an optional plan form of government or a home  
22 rule charter, the chief executive officer shall issue an  
23 order directing the implementation of the plan no later than  
24 seven days from the enactment of the ordinance by the  
25 governing body.

26 (3) If the governing body fails to adopt and implement  
27 the plan, the secretary shall, upon a written determination  
28 by the coordinator, request that the Governor make a  
29 determination of a fiscal emergency in accordance with  
30 Chapter 6.

1           (4) The requirements of this subsection shall be  
2           suspended if the coordinator first provides a recommendation  
3           to the secretary that the municipality should be  
4           disincorporated under Chapter 4.

5 Section 257. Postreport procedures.

6           (a) Five-year procedures.--The secretary shall, upon written  
7           recommendation from the coordinator and after filing a final  
8           report under section 255, take one of the following actions:

9                   (1) Terminate the distressed status of the municipality  
10                   effective 90 days after a determination or final decision  
11                   requiring termination of status as provided in section 255.1.

12                   (2) After filing a final report containing a  
13                   recommendation under section 255(a)(2), terminate the  
14                   distressed status of the municipality effective on the date  
15                   of a final order establishing an unincorporated district  
16                   under Chapter 4.

17                   (3) After filing a final report containing a  
18                   recommendation under section 255(a)(3), request a  
19                   determination of a fiscal emergency in accordance with  
20                   Chapter 6.

21           (b) Exit plan procedures.--The secretary may, after the  
22           adoption of a plan under section 256(c) and upon written  
23           recommendation of the coordinator:

24                   (1) issue a determination in accordance with section  
25                   255.1; or

26                   (2) request a determination of a fiscal emergency in  
27                   accordance with Chapter 6.

28           (c) Postexit plan procedures.--If three years have elapsed  
29           since the adoption of an exit plan without a recommendation as  
30           provided in subsection (b), the secretary shall terminate the

1 distressed status of the municipality.

2 Section 20. Section 261(a)(4) of the act, amended July 5,  
3 2012 (P.L.1104, No.133), is amended and the section is amended  
4 by adding a subsection to read:

5 Section 261. Filing municipal debt adjustment under Federal  
6 law.

7 (a) [Authorization.--In the event one of the following  
8 conditions is present, a] General authorization.--A municipality  
9 is hereby authorized to apply to the department to file a  
10 municipal debt adjustment action pursuant to the Bankruptcy Code  
11 (11 U.S.C. § 101 et seq.), if at least one of the following  
12 conditions is present:

13 \* \* \*

14 [(4) A majority of the current or immediately preceding  
15 governing body of a municipality determined to be financially  
16 distressed has failed to adopt a plan or to carry out the  
17 recommendations of the coordinator pursuant to this act.]

18 (a.1) Filing after determination of distress.--The  
19 municipality's authorization under subsection (a) shall continue  
20 after the issuance of a declaration of distress under section  
21 203, so long as the municipality is not in a state of fiscal  
22 emergency pursuant to a declaration under section 602. A  
23 municipality that is in a state of fiscal emergency shall not be  
24 authorized under subsection (a) to apply to the department to  
25 file a municipal debt adjustment.

26 \* \* \*

27 Section 21. Section 281 of the act, added June 30, 1992  
28 (P.L.336, No.69), is amended to read:

29 Section 281. Eligibility.

30 If a municipality has been determined to be distressed under

1 section 203(f) and is not subject to funding restrictions under  
2 section 251 or 264, it shall be eligible for economic and  
3 community development assistance as provided in section 282.  
4 Merger or consolidation [under Chapter 4] of a distressed  
5 municipality with a municipality may not be deemed to diminish  
6 the successor municipality's eligibility or priority status for  
7 economic assistance under this chapter.

8 Section 22. Section 282(b) of the act, added June 30, 1992  
9 (P.L.336, No.69), is amended and the section is amended by  
10 adding a subsection to read:

11 Section 282. Priority.

12 \* \* \*

13 (b) Releases of funds.--Funds granted to a distressed  
14 municipality shall only be released upon concurrence by the  
15 coordinator or receiver that the program to be funded is  
16 consistent with efforts to alleviate the financially distressed  
17 status of the municipality as provided in this act.

18 (b.1) Release of funds to unincorporated district.--Funds  
19 granted to an unincorporated district shall be released to the  
20 administrator in accordance with section 441.

21 \* \* \*

22 Section 23. Chapter 4 heading of the act is amended to read:

23 CHAPTER 4  
24 [CONSOLIDATION OR MERGER OF] ECONOMICALLY NONVIABLE  
25 MUNICIPALITIES

26 Section 24. Chapter 4 of the act is amended by adding  
27 subchapters to read:

28 SUBCHAPTER C  
29 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

30 Section 431. Definitions

1 The following words and phrases when used in this subchapter  
2 shall have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 "Administrator." A service district administrator appointed  
5 pursuant to section 434.

6 "District." An unincorporated service district created by  
7 section 441.

8 "District advisory committee." A service district advisory  
9 committee established by section 442.

10 "Governing standards." Provisions within an essential  
11 services plan providing for certain conduct of residents and  
12 property owners as provided by section 436(c).

13 "Municipality." A county, city, borough, incorporated town,  
14 township or home rule municipality that does not provide police  
15 service or fire service through its employees. The term does not  
16 include a city of the first class.

17 "Restricted Account." An account established in the State  
18 Treasury as provided by section 445.1.

19 Section 431.1. Determination of nonviability.

20 (a) General rule.--Upon recommendation of a coordinator  
21 appointed under Chapter 2 or a receiver appointed under Chapter  
22 7, the secretary shall consider whether all of the following  
23 conditions have been met in determining that a municipality is  
24 nonviable:

25 (1) The municipality is unable to function as a general  
26 purpose unit of government to provide essential services to  
27 its residents and property owners.

28 (2) The municipality has experienced such deteriorated  
29 economic conditions and a collapse of its tax base that all  
30 reasonable efforts to restore economic viability have failed.

1           (3) Efforts to merge or consolidate the municipality  
2           with a neighboring municipality are unachievable or will not  
3           result in viability.

4           (b) Notice and recommendation.--If the secretary determines  
5           that a municipality is nonviable under all of the conditions  
6           provided in subsection (a), the secretary shall provide notice  
7           to the governing body of the municipality of the secretary's  
8           determination and recommend that the municipality be  
9           disincorporated under this subchapter.

10 Section 432. Procedure for disincorporation.

11           (a) Ordinance.--Within 45 days of a determination of  
12           nonviability under section 431.1, the governing body may enact  
13           an ordinance, subject to review by the court of common pleas  
14           under section 433, that will initiate the disincorporation of  
15           the municipality. The ordinance shall be advertised as required  
16           by law but it may not become effective until the court has  
17           issued its decree under section 433.

18           (b) Petition by electors.--If the governing body of the  
19           municipality fails to pass an ordinance authorized under  
20           subsection (a), then a petition signed by registered electors of  
21           the municipality comprising at least 51% of the number of  
22           electors voting for the office of Governor in the last  
23           gubernatorial general election may be submitted to the court  
24           within 60 days of the failure of the governing body to enact an  
25           ordinance as provided in subsection (a).

26 Section 433. Judicial review of ordinance or petition.

27           (a) Filing and notice.--Upon presentation to the court of  
28           the filing of an ordinance under section 432(a) or a petition  
29           under section 432(b), the court shall direct the prothonotary to  
30           give notice of the filing of the ordinance or petition in a



1 newspaper of general circulation in the county where the  
2 municipality is located once a week for four consecutive weeks  
3 and once in the county legal journal, if any, during the four-  
4 week period. The notice shall provide the date the ordinance or  
5 petition was filed and specify that exceptions to the ordinance  
6 or petition may be filed within 45 days of the date of the  
7 filing of the ordinance or petition by any of the following:

- 8       (1) the governing body of the municipality;  
9       (2) a taxpayer of the municipality;  
10       (3) any creditor or bondholder of the municipality; or  
11       (4) any collective bargaining unit or contractor of the  
12 municipality.

13       (b) Notice of hearing.--No later than 60 days after the date  
14 of the filing of the ordinance or petition, the court shall  
15 conduct a hearing on the ordinance or petition and exceptions  
16 filed thereto. Notice of the hearing shall be provided by the  
17 court to those receiving notice under subsection (a) and to all  
18 other parties that have filed exceptions in accordance with  
19 subsection (a).

20       (c) Hearing proceedings.--

21       (1) The governing body of the municipality and all other  
22 individuals and entities which have filed exceptions under  
23 subsection (a) shall be parties to the proceedings and shall  
24 be entitled to present testimony or other evidence relevant  
25 to the nonviability of the municipality or relevant to  
26 exceptions timely filed, provided that the court, in its  
27 discretion, may consolidate testimony related to similar  
28 exceptions.

29       (2) The coordinator or receiver, or another designee of  
30 the secretary, shall testify about the progress of the

1 municipality under the adopted recovery plan under Chapter 2  
2 or plan adopted under Chapter 7 and render an opinion  
3 regarding the viability of the municipality.

4 (3) The court may examine pertinent financial  
5 information and any audits prepared by a certified public  
6 accountant of the municipality and receive additional  
7 evidence relevant to the matter, including, but not limited  
8 to, evidence relating to:

9 (i) The effect of disincorporation, including  
10 provisions for services that would be continued to be  
11 provided to residents and property owners of the proposed  
12 disincorporated area.

13 (ii) Additional plans, proceedings or strategies  
14 that could ensure that the municipality remain viable.

15 (iii) The effect of the disincorporation on any  
16 bonds, other obligations or agreements of the  
17 municipality.

18 (d) Costs and fees.--Court costs and filing fees associated  
19 with proceedings under this subchapter shall be paid by the  
20 department.

21 (e) Judicial decree.--

22 (1) The court shall issue a decree approving the  
23 validity of the ordinance or granting the petition unless it  
24 finds, by clear and convincing evidence, that the  
25 municipality should continue to exist as a separate municipal  
26 corporation because of a reasonable expectation that the  
27 municipality is viable.

28 (2) Upon issuance of the judicial decree, the department  
29 and governing body of the municipality shall engage in the  
30 duties required by this subchapter to prepare for

1 disincorporation. The disincorporation shall take effect upon  
2 the execution of disincorporation under section 439.

3 Section 433.1. Failure to initiate disincorporation.

4 (a) Conditions prior to determination.--The secretary shall  
5 issue a determination under subsection (b) within 30 days of  
6 either:

7 (1) the final day for filing a petition under section  
8 432(b), if judicial review under section 433 has not been  
9 initiated; or

10 (2) a final adjudication pursuant to a hearing held  
11 under section 433 finding that the municipality should  
12 continue to exist as a separate municipal corporation because  
13 of a reasonable expectation that the municipality is viable.

14 (b) Determination.--The secretary shall determine whether:

15 (1) the recovery plan for the municipality shall remain  
16 in effect subject to the limitations of chapter 2, subchapter  
17 C.1 and, if the coordinator has previously issued a report  
18 pursuant to section 255, the secretary shall direct the  
19 coordinator to prepare an exit plan according to section 256;

20 (2) the elected and appointed officials of the  
21 municipality have demonstrated a failure to adequately  
22 implement recovery measures and, if so, request a  
23 determination of a fiscal emergency in accordance with  
24 Chapter 6;

25 (3) conditions within the municipality warrant a  
26 termination in status in accordance with section 255.1; or

27 (4) conditions as set forth in section 261 exist and, if  
28 so, that the governing body should initiate proceedings for  
29 federal debt readjustment under Subchapter D of Chapter 2.

30 Section 434. Service district administrator.

1 (a) Appointment.--No later than 30 days following a decree  
2 of the court of common pleas under section 433(e), the secretary  
3 shall appoint a service district administrator. The  
4 administrator must have a minimum of five years' experience and  
5 demonstrable expertise in business, financial or State or local  
6 budgetary matters and be a resident of this Commonwealth for at  
7 least one year prior to appointment.

8 (b) Compensation and expenses.--The administrator's  
9 compensation and reimbursement for actual and necessary expenses  
10 shall be paid by the Commonwealth. The date and amount of  
11 compensation shall be established by the secretary. The  
12 department may require the compensation and expenses of the  
13 administrator to be reimbursed by an assessment for  
14 administrative costs under Subchapter D.

15 (c) Revocation and vacancy.--The secretary may the elected  
16 and appointed officials of the revoke the appointment of an  
17 administrator at any time. A vacancy in the office of the  
18 administrator by way of revocation or resignation shall be  
19 filled in the same manner as the original appointment.

20 (d) Prohibitions.--An administrator may not:

21 (1) Seek or hold a position as any other elected or  
22 appointed public official within this Commonwealth or as a  
23 political party officer during the term of the  
24 administrator's tenure.

25 (2) Seek election as a public official or political  
26 party officer for one year after the person's service as  
27 administrator has ended.

28 (3) Engage in any conduct prohibited by the act of July  
29 19, 1957 (P.L.1017, No.451), known as the State Adverse  
30 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics

1 standards and financial disclosure).

2 (e) Liability.--

3 (1) The administrator shall not be liable personally for  
4 any obligations of the municipality or unincorporated service  
5 district.

6 (2) It is declared to be the intent of the General  
7 Assembly that the administrator shall enjoy sovereign and  
8 official immunity as provided in 1 Pa.C.S. § 2310 (relating  
9 to sovereign immunity reaffirmed; specific waiver) and shall  
10 remain immune from suit except as provided by and subject to  
11 the provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to  
12 general provisions) and B (relating to actions against  
13 Commonwealth parties).

14 (f) Powers and duties.--Notwithstanding any other provision  
15 of law, the administrator shall have the following powers and  
16 duties:

17 (1) To require the municipality to take actions  
18 necessary for disincorporation under section 439, including:

19 (i) The sale, conveyance, assignment or other use or  
20 disposition of the municipality's assets as provided by  
21 law.

22 (ii) The repayment of debt, bonds or other  
23 obligations before disincorporation.

24 (iii) Any other action necessary to implement the  
25 disincorporation.

26 (2) To seek a writ of mandamus against the governing  
27 body to carry out this subchapter.

28 (3) To identify essential services which should be  
29 provided to the residents and property owners of the district  
30 after the municipality is disincorporated.

1       (4) To approve, disapprove, modify, reject, terminate or  
2 renegotiate contracts and agreements to provide services to  
3 the residents and property owners of the district.

4       (5) To deposit all funds collected to administer  
5 Subchapter D in the municipality's restricted account and to  
6 requisition moneys from the restricted account.

7       (6) To apply for grants, loans or payments under any  
8 economic and community development program funded by the  
9 Commonwealth.

10       (7) To establish fees which may be assessed to fund  
11 essential services provided by contract or intergovernmental  
12 cooperation agreements under Subchapter D.

13       (8) To meet and consult with the municipal governing  
14 body before disincorporation and the district advisory  
15 committee after the establishment of the district.

16       (9) To meet and consult with county officials to  
17 prevent, abate and mediate blight as permissible by law.

18       (10) To contract for professional services to aid in the  
19 administrator's duties under this subchapter and Subchapter  
20 D.

21       (11) To seek enforcement of any provision of this  
22 subchapter and Subchapter D.

23       (12) To seek invalidation of any act by the governing  
24 body of the municipality in conflict with the administrator's  
25 essential services plan.

26 Section 435. Powers and duties of municipality.

27       (a) General rule.--After the review of the court of common  
28 pleas resulting in a decree under section 433(e), but not less  
29 than 30 days before the date set by the administrator for  
30 disincorporation to take effect, the governing body of the

1 municipality shall:

2 (1) Enact a budget in the municipality's projected final  
3 year that funds the municipality's functions until the date  
4 of disincorporation and provides for the payment of every  
5 current obligation of the municipality before the date of  
6 disincorporation. All remaining municipal funds as of the  
7 date of disincorporation shall be transferred to the  
8 municipality's restricted account.

9 (2) Provide for the transfer and administration of any  
10 municipal pension obligation to a private or public pension  
11 fund. Nothing in this paragraph shall be construed to  
12 authorize a modification of the pension benefits due to any  
13 current or past employee of the municipality.

14 (3) Provide for the appointment of the district advisory  
15 committee to assist the administrator after the  
16 disincorporation of the municipality.

17 (b) Corporate powers reserved.--After the review of the  
18 court of common pleas resulting in a decree under section 433(e)  
19 until the date of disincorporation, the governing body shall  
20 retain all corporate powers otherwise authorized by law, except  
21 that it shall not take any action inconsistent with the  
22 administrator's plan for disincorporation.

23 (c) Establishment of governing standards for district.--

24 (1) The governing body of the municipality may adopt  
25 recommended governing standards which may be included by the  
26 administrator in the essential services plan as the governing  
27 standards of the district.

28 (2) If the governing body adopts recommended governing  
29 standards, the following shall apply:

30 (i) No later than 30 days following a decree of the

1 court of common pleas under section 433(e), the governing  
2 body shall provide written notice to the administrator  
3 that the governing body intends to adopt an ordinance  
4 containing recommended governing standards for the  
5 inclusion in the essential services plan.

6 (ii) No later than 60 days following the notice  
7 provided under subparagraph (i), the governing body shall  
8 adopt an ordinance containing recommended governing  
9 standards for inclusion in the essential services plan.  
10 The ordinance may incorporate, by reference, any  
11 previously enacted ordinance of the municipality.

12 (d) Powers of district advisory committee authorized.--After  
13 the review of the court of common pleas resulting in a decree  
14 under section 433(e) but prior to the date of disincorporation,  
15 in addition to the powers provided for under this subchapter,  
16 the governing body of the municipality may advise the  
17 administrator in the manner provided for the district advisory  
18 committee under Subchapter D in the formation and amendment of  
19 the essential services plan.

20 Section 436. Essential services plan.

21 (a) Formation.--The administrator shall, within 90 days  
22 following appointment and in consultation with the department,  
23 develop an essential services plan to provide essential services  
24 after the date of disincorporation. The essential services plan  
25 shall provide for:

26 (1) Negotiation of contracts for the provision of vital  
27 and necessary services, not otherwise provided by an  
28 authority, as defined under Chapters 6 and 7. If the  
29 municipality participates in a regional police or fire  
30 department through an intergovernmental cooperation



1 agreement, the essential services plan may provide for  
2 continued service from that regional department by contract  
3 or by renegotiating the intergovernmental cooperation  
4 agreement.

5 (2) Local emergency management in accordance with the  
6 plan and program of the Pennsylvania Emergency Management  
7 Agency. The administrator shall consult with the emergency  
8 management organization of the county where the district is  
9 located to develop a plan which serves the district in a  
10 substantially similar manner as plans required for a  
11 political subdivision under 35 Pa.C.S. Ch. 75 Subch. A  
12 (relating to general provisions). The plan shall include a  
13 procedure for a declaration of a disaster emergency to be  
14 made in the district and the designation of a local  
15 coordinator of emergency management. The administrator is  
16 authorized to negotiate any contracts which are necessary to  
17 provide for the execution of a plan formed under this  
18 paragraph.

19 (3) Payment of the lawful financial obligations of the  
20 unincorporated service district, including any transferred  
21 current obligation of the municipality and service of any  
22 debt incurred by the municipality in the manner provided by  
23 Subchapter D, after the disincorporation of the municipality.

24 (4) Assessment of fees as provided by Subchapter D.

25 (5) Disposition of all municipal property by sale, lease  
26 or conveyance for any of the following purposes:

27 (i) Payment of outstanding debt obligations.

28 (ii) Provision of services by an entity contracting  
29 with the unincorporated service district.

30 (iii) Possession of title by the Commonwealth as

1 provided by Subchapter D.

2 (6) Termination of all contracts with the municipality.

3 (7) Administration of the unincorporated service  
4 district, which may include reimbursement to the department  
5 for the compensation of the administrator.

6 (8) Establishment of the date of disincorporation of the  
7 municipality as provided for by section 439.

8 (9) Establishment of the name of the district. A  
9 district established by this act shall be named "The  
10 Unincorporated District of ....."

11 (b) Restrictions.--An essential services plan may not:

12 (1) Provide for the levy of any taxes.

13 (2) Terminate an obligation to repay any debt, except  
14 that the plan may designate the unincorporated service  
15 district as the servicer of a debt and may specify that a  
16 debt secured by the collection of taxes shall be secured by  
17 the assessment of fees sufficient to satisfy the service  
18 obligations of the debt.

19 (3) Assess and collect a higher amount of fees in the  
20 district's first full calendar year totaling 5% more than the  
21 total taxes levied in the municipality's final year before  
22 disincorporation.

23 (4) Authorize the incurrence of any debt by the  
24 district, except as provided under section 441(k).

25 (c) Governing standards of the district.--

26 (1) The essential services plan shall provide for  
27 governing standards, which standards shall include:

28 (i) Rules and conduct related to the maintenance of  
29 property, conduct in public places and the parking of  
30 vehicles in public places which shall protect the health,

1 safety and welfare of the residents and property owners  
2 of the district to the extent such rules and conduct  
3 could have been adopted by the municipality by ordinance.

4 (ii) Fines and other relief which may be granted by  
5 a court presiding over a civil action brought for a  
6 violation of the governing standards.

7 (2) If the governing body of the municipality adopts  
8 recommended governing standards as provided in section  
9 435(c), the administrator shall include the recommended  
10 governing standards in the essential services plan unless the  
11 administrator finds that the recommended governing standards  
12 are unlawful, unconstitutional or would substantially impede  
13 the administration of the essential services plan.

14 Section 437. Proposed essential services plan.

15 (a) Filing.--Within 90 days of the appointment of the  
16 administrator, the administrator shall deliver true and correct  
17 copies of the proposed essential services plan to:

18 (1) The municipal clerk or municipal secretary, who  
19 shall immediately place the copy on file for public  
20 inspection in the municipal office.

21 (2) The secretary.

22 (3) Each member of the municipal governing body.

23 (4) The chief executive officer of the municipality.

24 (5) The chief financial officer of the municipality.

25 (6) The solicitor of the municipal governing body.

26 (b) Date of filing.--For purposes of this section, the date  
27 of filing the proposed essential services plan shall be the date  
28 on which the municipal clerk or municipal secretary places a  
29 true and correct copy of the proposed essential services plan on  
30 file for public inspection in the municipal office.

1 (c) Notices of proposed essential services plan.--

2 (1) On the date of filing, notice that a proposed  
3 essential services plan has been filed and is open for public  
4 inspection in the municipal office shall be published by the  
5 administrator in the county legal reporter and in one or more  
6 newspapers with general circulation serving the area in which  
7 the municipality is located. The cost for publishing the  
8 notice shall be borne by the department. The notice shall  
9 contain the following:

10 (i) A statement that a proposed essential services  
11 plan has been filed regarding the provision of essential  
12 services to the residents and property owners of the  
13 unincorporated service district which shall succeed the  
14 municipality after disincorporation.

15 (ii) The date and place of filing.

16 (iii) A statement that the public has 15 days from  
17 the date of filing in which to file written comments  
18 relating to the proposed essential services plan.

19 (iv) The name and address of the administrator to  
20 whom written comments should be sent.

21 (v) Summary of the proposed essential services plan.

22 (2) Notice of an administrator's public meeting on the  
23 proposed essential services plan shall be published by the  
24 administrator in the county legal reporter and in one or more  
25 newspapers with general circulation serving the area in which  
26 the municipality is located. The department shall bear the  
27 cost for publishing the notice. The notice shall contain the  
28 following:

29 (i) A statement that the purpose of the  
30 administrator's public meeting is to receive public

1 comments on the proposed essential services plan.

2 (ii) The date and place of the meeting.

3 (3) The administrator may combine the publication of the  
4 notice that a proposed essential services plan has been filed  
5 with the publication of the notice of the public meeting.

6 (d) Comment period.--Written comments on the proposed  
7 essential services plan may be filed with the administrator.  
8 Written comments shall be made no later than 15 days after the  
9 date of filing. Written comments judged by the administrator to  
10 have value to the proposed essential services plan may be used  
11 to develop revisions for a final essential services plan.

12 (e) Administrator's public meeting.--A meeting conducted by  
13 the administrator in the municipality shall be set for a date no  
14 later than 20 days after the date of filing the proposed  
15 essential services plan. The administrator shall request in  
16 writing that the chief executive officer, each member of the  
17 municipal governing body and the chief financial officer of the  
18 municipality to be present at the service administrator's  
19 meeting. At that meeting, the administrator shall:

20 (1) Present a summary of the proposed essential services  
21 plan.

22 (2) Receive public comment on the proposed essential  
23 services plan.

24 (3) Allow the members of the governing body of the  
25 municipality to present written and oral comments requesting  
26 revisions of the proposed essential services plan.

27 Section 438. Final essential services plan.

28 (a) Amendment of plan.--

29 (1) The administrator shall consider all timely  
30 submitted written comments, comments presented at the public

1 meeting and requests for revision in the amendment of the  
2 publicly presented proposed essential services plan before  
3 publishing a final essential services plan.

4 (2) In the event that the administrator does not  
5 incorporate the requests for revision by the members of the  
6 governing body of the municipality regarding the levels of  
7 services provided under the proposed essential services plan  
8 or the basis for the calculation of fees assessed under the  
9 proposed essential services plan, the administrator shall  
10 state in the proposed essential services plan why the  
11 requested revisions were not feasible to incorporate in the  
12 final essential services plan.

13 (b) Notice of final essential services plan.--Within 45 days  
14 of the public meeting the administrator shall file the final  
15 essential services plan with the persons listed in section  
16 437(a) and provide notice of the publication of the final  
17 essential services plan in the manner provided in section  
18 437(c) (1) (i), (ii) and (v).

19 (c) Appeal.--

20 (1) Any person aggrieved by the final essential services  
21 plan may appeal the plan to the court of common pleas within  
22 30 days of notice of the filing of the final essential  
23 services plan. For purposes of this section, notice shall  
24 constitute the date that the person received actual notice of  
25 the final essential services plan, or the date that notice of  
26 the filing of the final essential services plan is first  
27 published in a newspaper with general circulation serving the  
28 area in which the municipality is located.

29 (2) No appeal of a final essential services plan shall  
30 constitute an automatic stay of the essential services plan.

1           (3) The appeal shall be sustained only where the court  
2           finds that the final essential services plan is unlawful or  
3           unconstitutional, or the conduct of the administrator is  
4           arbitrary or capricious.

5 Section 439. Disincorporation of municipality.

6           (a) Effects of disincorporation.--On the date of  
7 disincorporation, the following shall occur:

8           (1) Notwithstanding any other provision of law, the  
9           terms of office of all elected officials of the municipality  
10           shall end and no person shall be elected or appointed to fill  
11           any vacancy of office.

12           (2) All ordinances of the municipality shall be  
13           nullified.

14           (3) All corporate powers granted to the municipality  
15           under its charter, municipal code or any other provision of  
16           law shall terminate.

17           (4) The municipality shall be deemed by operation of law  
18           to be disincorporated. The area formerly contained within the  
19           municipality shall be an unincorporated service district as  
20           provided under Subchapter D.

21           (b) Duties of administrator.--On or before the date of  
22 disincorporation, the administrator shall:

23           (1) Execute all contracts for the provision of services  
24           and otherwise implement the essential services plan, which  
25           shall take effect on the date of disincorporation.

26           (2) Provide notice of assessments to the property owners  
27           of the unincorporated service district according to the  
28           procedure provided in section 443(b) which may be a partial  
29           year assessment as provided by section 443(e).

30           (3) Provide notice to the Governor and all Commonwealth

1 agencies that the municipality has been disincorporated and  
2 the date of disincorporation.

3 (c) Duties of county.--Effective on the date of  
4 disincorporation, notwithstanding any other provision of law,  
5 the county in which the municipality is located shall:

6 (1) Adopt a zoning ordinance which applies to the  
7 unincorporated service district and adopts the substantive  
8 provisions of the municipality's zoning ordinance, if any, as  
9 it was in effect before nullification by subsection (a)(2).

10 (2) Adopt an official map for the unincorporated service  
11 district which adopts the substance of the municipality's  
12 official map, if any, as it was in effect before  
13 nullification by subsection (a)(2).

14 (3) Unless the county has adopted a subdivision and land  
15 development ordinance prior to the date of disincorporation  
16 of the municipality, adopt a subdivision and land development  
17 ordinance which shall apply to any unincorporated service  
18 district within the county.

19 (4) Provide for the administration of the zoning  
20 ordinance and the subdivision and land development ordinance  
21 as they apply to the unincorporated service district and any  
22 other provisions of the act of July 31, 1968 (P.L.805,  
23 No.247), known as the Pennsylvania Municipalities Planning  
24 Code, that may be applicable.

25 (5) Amend the county's comprehensive plan to the extent  
26 necessary to be consistent with the requirements of this  
27 subsection.

28 (d) Property succession.--Immediately following  
29 disincorporation the area formerly contained within the  
30 municipality shall, by operation of law, be deemed an



1 unincorporated service district under Subchapter D, the  
2 Commonwealth shall succeed in title to all property, including  
3 all real property, personal property and moneys in any municipal  
4 account, of the disincorporated municipality to be held in trust  
5 for the benefit of the residents and property owners of the  
6 unincorporated service district as provided under Subchapter D.

7 SUBCHAPTER D

8 UNINCORPORATED SERVICE DISTRICT

9 Section 441. Establishment of unincorporated service district.

10 (a) General rule.--The area formerly contained within a  
11 municipality shall, after disincorporation under Subchapter C,  
12 become an unincorporated service district. The district shall be  
13 an entity of the Commonwealth established for the special  
14 purpose of providing essential services to the citizens living  
15 within the district until such time as the district is  
16 incorporated as a municipality or made a part of a merged or  
17 consolidated with an existing municipality under section 447.

18 (b) Authorized administrative authority.--All powers  
19 providing for the administration of the district shall be vested  
20 in the department through the administrator as provided in this  
21 subchapter. The district advisory committee shall not possess  
22 the corporate powers of the governing body of any municipality  
23 or any authority, except as provided by this subchapter.

24 (c) Corporate powers prohibited.--Nothing in this subchapter  
25 shall be construed as authorizing the district to exercise  
26 corporate powers for the administration of a local government,  
27 including the power to levy taxes, establish elected or  
28 appointed offices and purchase, sell or convey property, except  
29 that the residents of the district may incorporate a  
30 municipality or merge or consolidate with an existing

1 municipality as provided for in section 447.

2 (d) Assets held by Commonwealth in trust.--

3 (1) All assets not sold by the municipality during the  
4 process of its disincorporation shall be conveyed to the  
5 Commonwealth to be held in trust for the benefit of the  
6 residents and property owners of the district.

7 (2) The administrator shall serve as trustee of the  
8 property and provide for the repair and maintenance of all  
9 real property and roadways held in trust for the benefit of  
10 the residents and property owners of the district through the  
11 collection of assessments under this subchapter and  
12 administration of payments distributed to the district as  
13 provided in subsection (f).

14 (3) Nothing in this subsection shall be construed as  
15 providing the express approval of the General Assembly to  
16 dispose of or use any lands acquired with funds under the act  
17 of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the  
18 Project 70 Land Acquisition and Borrowing Act, for purposes  
19 other than those provided by that act, except that the  
20 Commonwealth may succeed in title of the property for the  
21 limited purposes established by this subsection.

22 (e) Former municipal debt secured by entrusted assets.--

23 (1) All debt incurred by the municipality before the  
24 establishment of the district shall be held by the district  
25 for administration by the administrator. Any such debt shall  
26 be secured by the assets conveyed to the Commonwealth and  
27 held in trust under subsection (d) and serviced by fees  
28 collected under this subchapter.

29 (2) Nothing in this section shall be construed to  
30 authorize the Commonwealth to guarantee any debt incurred by

1 a municipality or district with the full faith and credit of  
2 the Commonwealth, revenues from the General Fund or any other  
3 source of revenue not derived from fees assessed for the  
4 administration of this subchapter or gains from the sale of  
5 assets of the former municipality.

6 (f) Eligibility for State grants and programs unaffected.--

7 (1) A district shall be eligible to receive any  
8 financial grant, loan or payment and participate in any  
9 program for which it was eligible when it was a municipality,  
10 including, but not limited to, emergency grants and loans  
11 under Chapter 3, payments distributed pursuant to the act of  
12 June 1, 1956 (1955 P.L.1944, No.655), referred to as the  
13 Liquid Fuels Tax Municipal Allocation Law, all programs  
14 administered by the Pennsylvania Infrastructure Investment  
15 Authority and all economic and community development programs  
16 funded by the Commonwealth.

17 (2) A district shall continue to receive priority in all  
18 economic and community development programs funded by the  
19 Commonwealth as provided for by Subchapter E of Chapter 2.

20 (3) The administrator may apply for and shall manage any  
21 funds distributed to the district pursuant to this section.

22 (g) Credit for fees assessed.--The payment of fees under  
23 this subchapter by a resident of a district shall constitute a  
24 credit against the collection of any income tax by a  
25 municipality on nonresidents, if applicable.

26 (h) Relationship with existing municipal and other  
27 authorities preserved.--

28 (1) All authorities established to provide services to  
29 the residents and property owners of a municipality prior to  
30 disincorporation shall continue to serve the residents and

1 property owners of a district, and all members of the  
2 authority appointed by the governing body of the municipality  
3 prior to disincorporation shall continue to serve out the  
4 remainder of the members' terms.

5 (2) Notwithstanding the provisions of 53 Pa.C.S. § 5607  
6 (relating to purposes and powers) or any other provision of  
7 law, subsequent appointments to the authority board which  
8 would otherwise be made by the governing body of the  
9 municipality shall be made by the administrator in  
10 consultation with the district advisory committee.

11 (i) Governing standards enforceable.--

12 (1) The governing standards included in the essential  
13 services plan shall be enforceable by the filing of a civil  
14 action by the administrator or any aggrieved property owner  
15 or resident of the district.

16 (2) A violation of the governing standards shall  
17 constitute a public nuisance.

18 (3) A magisterial district court or another court of  
19 competent jurisdiction presiding over a civil action brought  
20 under this subsection may find relief for the filing party  
21 according to the relief provided for in the essential  
22 services plan or any other relief which is available by law  
23 for the abatement of a public nuisance.

24 (j) Pennsylvania Construction Code applicable.--

25 (1) The act of November 10, 1999 (P.L.491, No.45), known  
26 as the Pennsylvania Construction Code Act, shall apply to all  
27 construction, alteration, repair and occupancy of all  
28 buildings within the district as though the district were a  
29 municipality which opted not to adopt the uniform  
30 construction code by ordinance.

1       (2) The administrator shall receive any application for  
2       a construction permit and provide appropriate notices to an  
3       applicant of a construction permit and the Department of  
4       Labor and Industry as provided under section 501(e) of the  
5       Pennsylvania Construction Code Act.

6       (k) Incurrence of debt limited.--The district shall not  
7       incur debts not provided for in subsection (e), except that the  
8       administrator may utilize such mechanisms as are necessary to  
9       incur temporary debts, or make purchases on credit, on behalf of  
10       and for the limited purpose of managing the cash flow for the  
11       district. All obligations incurred under this subsection shall  
12       be satisfied in full within one year and secured only by the  
13       anticipation of the collection of assessments under section 443.  
14       Section 442. Service district advisory committee.

15       (a) Establishment.--Each service district shall establish a  
16       service district advisory committee.

17       (b) Composition.--The district advisory committee shall be  
18       composed of three persons who are at least 18 years of age,  
19       including two resident property owners of the district and one  
20       owner of a business within the district, if any, who may or may  
21       not be a resident of the district.

22       (c) Appointment by governing body.--At least 30 days prior  
23       to the date of disincorporation, the governing body of the  
24       former municipality shall appoint three members of the district  
25       advisory committee. The governing body shall designate that one  
26       appointee serve a term of one year, one appointee serve a term  
27       of two years and one appointee serve a term of three years.

28       (d) Vacancy.--At the expiration of the term of a member of  
29       the district advisory committee, the remaining members of the  
30       committee shall appoint a person to fill the vacancy. In the

1 event that the remaining members of the committee are unable to  
2 agree on a person to fill the vacancy or there is more than one  
3 vacancy, the administrator shall select a person or persons to  
4 fill the vacancy. All persons appointed to fill a vacancy on the  
5 district advisory committee shall have a term of three years  
6 beginning on the date of appointment.

7 (e) Advise administrator.--The district advisory committee  
8 shall, at least once every three months, meet with the  
9 administrator and may make recommendations to the administrator  
10 for revisions to the essential services plan, including  
11 revisions to the levels of services provided to the residents  
12 and property owners of the district and methodology of rate  
13 calculation. The administrator shall consider all  
14 recommendations of the district advisory committee.

15 (f) Advise county on land use issues.--The district advisory  
16 committee may provide recommendations on behalf of the residents  
17 and property owners of the district to any county official  
18 regarding any land use-related matter.

19 (g) Advise department on incorporation.--The district  
20 advisory committee may provide recommendations to the department  
21 at any time that the residents of the district and the  
22 department consider the feasibility of incorporating as a viable  
23 municipality or merger or consolidation with an existing  
24 municipality.

25 (h) Recommended amendment of governing standards.--

26 (1) Amendments to the governing standards may be  
27 recommended by a majority vote of the district advisory  
28 committee or by a petition signed by registered electors of  
29 the municipality comprising at least 10% of the number of  
30 electors voting for the office of Governor in the last

1 gubernatorial general election.

2 (2) Upon receipt of a recommendation made under this  
3 subsection, the administrator shall include the recommended  
4 amendments to the governing standard as a proposed plan  
5 amendment under section 444, unless the administrator finds  
6 that the recommended amendment of the governing standards is  
7 unlawful, unconstitutional or would substantially impede the  
8 administration of the essential services plan.

9 (i) Restrictions.--The district advisory committee shall  
10 have no authority to act as a municipal governing body.

11 (j) Open meetings.--The district advisory committee shall be  
12 an agency for purposes of the open meeting provisions of 65  
13 Pa.C.S. Ch.7 (relating to open meetings).

14 Section 443. Assessments.

15 (a) Authority to assess.--The administrator may establish  
16 assessments on a front foot or benefit-conferred basis, or a  
17 combination of both, on all real property within the district to  
18 provide for:

19 (1) The cost of all essential services provided to the  
20 district.

21 (2) The service of all debts held in trust by the  
22 Commonwealth which were incurred by the former municipality  
23 prior to disincorporation.

24 (3) The necessary construction, maintenance or repair of  
25 facilities or properties which have been conveyed to the  
26 Commonwealth and are held in trust for the benefit of the  
27 district.

28 (4) Reimbursement to the department of its reasonable  
29 costs of administration of the district, including, but not  
30 limited to, the compensation of the administrator and the

1 collection of assessments authorized under this section.

2 (5) Other costs incurred by the district or  
3 administrator in the execution of this subchapter, including  
4 a reserve of no more than 15% of the annual estimated costs  
5 of the essential services plan in the restricted account  
6 established in section 445 to provide for the provision of  
7 unforeseeable costs.

8 (b) Establishment of assessment.--

9 (1) No later than October 1 of the year preceding the  
10 year for which the assessment applies, the administrator  
11 shall establish a schedule of assessment for all real  
12 property within the unincorporated district.

13 (2) The administrator shall provide written personal  
14 notice to each property owner of each property of the  
15 assessment due for the ensuing year no later than November 1  
16 of the year preceding the year for which the assessment  
17 applies.

18 (3) As used in this subsection, "personal notice" shall  
19 mean and include notice upon the owner of a property either  
20 by personal service upon the owner or by certified mail to  
21 the owner at the owner's last known address or where service,  
22 after a reasonable attempt, shall not have been successfully  
23 made by either of these two methods, then by leaving notice  
24 at or upon the property.

25 (c) Appeal of assessment.--Any person wishing to challenge  
26 the reasonableness of the assessment may file a suit in the  
27 court of common pleas within 30 days of receiving the notice  
28 provided in subsection (b).

29 (d) Payment of assessments.--Payment of the assessment in  
30 full shall be due no later than March 1, unless the



1 administrator has provided for installment payments in  
2 accordance with subsection (e).

3 (e) Installments.--The administrator may provide for the  
4 payment of assessments by equal installments on a quarterly or  
5 semiannual basis as follows:

6 (1) The administrator shall provide written personal  
7 notice of the installment plan to owners containing the date  
8 installments are due, interest and prepayment.

9 (2) The rate of interest for the installments shall be  
10 established by the administrator at a rate of 6% per year.

11 (3) If any of the installments remain unpaid for 60 days  
12 after the same has become due and payable, the entire unpaid  
13 assessment, plus unpaid accrued interest and any costs, shall  
14 be due and payable and the administrator shall proceed to  
15 collect the assessment due as provided in subsection (g).

16 (4) A property owner upon whom an assessment has been  
17 made may pay all or as many of the installments before the  
18 same are due, with interest and costs to the due date of the  
19 next installment.

20 (f) First year assessment.--The administrator may provide  
21 for a partial assessment for the calendar year in which the  
22 disincorporation of the municipality occurs. The due date for a  
23 partial year assessment and installment schedule may be set by  
24 the administrator, provided that no assessment shall be due  
25 sooner than 60 days after the administrator provides written  
26 personal notice of the assessment under the procedure in  
27 subsection (a).

28 (g) Delinquent assessments.--Assessments remaining unpaid on  
29 December 31 of the year in which they are due shall be  
30 delinquent and subject to interest at a rate of 10% per year

1 from the date of filing as a lien in accordance with the act of  
2 May 16, 1923 (P.L.207, No.153), referred to as the Municipal  
3 Claim and Tax Lien Law.

4 (h) Liens.--An assessment, together with all charges,  
5 expenses and fees, including reasonable attorney fees necessary  
6 for its collection, shall be a lien upon the real property  
7 benefited. The lien shall have the same priority and may be  
8 collected in the same manner as a municipal lien in accordance  
9 with the Municipal Claim and Tax Lien Law or through a civil  
10 action initiated by the administrator.

11 (i) Limited assessment of public property.--An assessment  
12 under this section on property held by the Federal Government,  
13 the Commonwealth and any other public property shall be limited  
14 to an assessment for those services which are directly consumed  
15 by the property, including, but not limited to, water service,  
16 sewer service and waste collection.

17 Section 444. Amendment of essential services plan.

18 (a) Periodic review.--No less than once per year, the  
19 administrator shall meet with the district advisory committee to  
20 consider the adequacy of the essential services plan and  
21 consider any request for revision of the essential services plan  
22 made by the district advisory committee.

23 (b) Filing of amendment.--The administrator may file a  
24 proposed essential services plan amendment with the secretary  
25 and each member of the district advisory committee at any time.  
26 The district advisory committee may request a public meeting to  
27 consider the amendment within five days of the filing of a  
28 proposed essential services plan amendment.

29 (c) Notice of amendment.--No later than the date that the  
30 administrator files the proposed essential services plan

1 amendment, the administrator shall provide notice to the public  
2 of the amended essential services plan using the procedure  
3 provided for by section 437(c)(1). If the district advisory  
4 committee requests a public hearing, the administrator shall  
5 schedule a public meeting within 30 days of the date that the  
6 proposed essential services plan amendment was filed and provide  
7 notice of the public meeting using the procedure provided for by  
8 section 437(c)(2).

9 (d) Comment period.--Written comments on the proposed  
10 essential services plan amendment may be filed with the  
11 administrator. Written comments must be made no later than 15  
12 days after the date of filing. Written comments judged by the  
13 administrator to have value to the essential services plan may  
14 be used to develop revisions for a final essential services plan  
15 amendment.

16 (e) Administrator's public meeting.--If a public meeting is  
17 scheduled at the request of the district advisory committee, the  
18 administrator shall request in writing that the members of the  
19 district advisory committee be present at the administrator's  
20 meeting. At that meeting, the administrator shall:

21 (1) Present a summary of the proposed essential services  
22 plan amendment.

23 (2) Receive public comment on the proposed essential  
24 services plan amendment.

25 (3) Allow the members of the district advisory committee  
26 to present written and oral comments requesting revisions of  
27 the proposed essential services plan amendment.

28 (f) Final essential services plan amendment.--The  
29 administrator shall consider all timely submitted written  
30 comments, comments presented at the public meeting and requests

1 for revision in the amendment of the publicly presented proposed  
2 essential services plan before filing a final essential services  
3 plan amendment. In the event that the administrator does not  
4 incorporate the requests for revision by the district advisory  
5 committee regarding the levels of services provided under the  
6 essential services plan or the basis for the calculation of fees  
7 assessed under the essential services plan, the administrator  
8 shall state in the essential services plan amendment why the  
9 requested revisions were not feasible to incorporate in the  
10 final essential services plan.

11 (g) Emergency essential services plan amendment.--  
12 Notwithstanding the requirements provided by this section for  
13 the adoption of a final essential services plan amendment, where  
14 the secretary finds that there is or will be an imminent threat  
15 to public safety, human health or the environment, the secretary  
16 may provide a waiver to the administrator allowing the  
17 administrator to immediately publish an emergency essential  
18 services plan amendment. An emergency essential services plan  
19 amendment shall take effect immediately.

20 (h) Notice of final essential services plan amendment.--The  
21 administrator shall provide notice of the publication of the  
22 final essential services plan amendment or emergency essential  
23 services plan amendment in the manner provided in section 437(c)  
24 (1)(i), (ii) and (v). Upon providing notice as required by this  
25 chapter, the administrator may execute any contract necessary to  
26 administer the essential services plan, as amended.

27 (i) Appeal.--

28 (1) Any person aggrieved by a final essential services  
29 plan amendment or emergency essential services plan amendment  
30 may appeal the final essential services plan amendment to the

1 court of common pleas within 30 days of notice of the filing  
2 of the final essential services plan amendment.

3 (2) For purposes of this section, notice shall  
4 constitute the date that the person received actual notice of  
5 the final essential services plan amendment, or the date that  
6 notice of the filing of the final essential services plan  
7 amendment is first published in a newspaper with general  
8 circulation serving the area in which the municipality is  
9 located.

10 (3) An appeal of a final essential services plan  
11 amendment shall be limited to the amended portion of the  
12 essential services plan.

13 (4) No appeal of a final essential services plan  
14 amendment shall constitute an automatic stay of any portion  
15 of the essential services plan.

16 (5) The appeal shall be sustained only where the court  
17 finds that the final essential services plan amendment is  
18 unlawful or unconstitutional, or the conduct of the  
19 administrator is arbitrary or capricious.

20 Section 445. Unincorporated Service District Trust Fund.

21 (a) Establishment.--There is hereby established a special  
22 fund in the State Treasury, separate and apart from all other  
23 public moneys or funds of the Commonwealth, to be known as the  
24 Unincorporated Service District Trust Fund. The purpose of this  
25 fund shall be to hold moneys from unincorporated service  
26 districts and pay for the expenses and obligations of  
27 administrators, unincorporated service districts and the  
28 department pursuant to Subchapter C. The department shall  
29 allocate funds specific to a district in a restricted account  
30 pursuant to section 445.1.

1 (b) Appropriation.--As much as may be necessary of such  
2 moneys and interest in the special fund established under  
3 subsection (a) is hereby appropriated for the purposes  
4 authorized by this subchapter.

5 Section 445.1. Restricted accounts.

6 (a) Establishment.--There is established in the  
7 Unincorporated Service District Trust Fund a restricted account  
8 for each unincorporated service district. The administrator for  
9 each district shall deposit all moneys collected by assessments,  
10 delinquent municipal tax receipts, and proceeds from the sale of  
11 municipal assets authorized under this subchapter into the  
12 restricted account not later than 30 days after collection. Any  
13 interest accrued on the account shall be credited to the account  
14 for purposes of meeting the requirements of this subchapter. The  
15 restricted account shall be used to pay for the expenses and  
16 obligations of the administrator and the unincorporated service  
17 district. The department may pay for the compensation and  
18 expenses of the administrator from the restricted account.

19 (b) Appropriation.--As much as may be necessary of such  
20 moneys and interest in the restricted account established under  
21 subsection (a) is hereby appropriated for the purposes  
22 authorized by this subchapter.

23 Section 446. Audit.

24 The Auditor General shall conduct an annual audit of the  
25 district. The audit shall include a review of the services  
26 rendered under the essential services plan, the proceeds  
27 generated by the assessments levied pursuant to section 443 and  
28 all transactions made by the administrator on behalf of the  
29 district.

30 Section 447. Merger and consolidation; incorporation of

1           municipal corporation.

2    (a) Merger and consolidation.--

3           (1) For the limited purpose of merging or consolidating  
4 with one or more surrounding municipalities under 53 Pa.C.S.  
5 Ch. 7 Subch. C (relating to consolidation and merger), the  
6 residents of the district may file a petition with the county  
7 board of elections as provided in 53 Pa.C.S. §§ 735 (relating  
8 to initiative of electors seeking consolidation or merger  
9 without new home rule charter) and 735.1 (relating to  
10 initiative of electors seeking consolidation or merger with  
11 new home rule charter).

12           (2) Residents of the district may be nominated to, and  
13 serve on, a commission formed to study merger or  
14 consolidation of the district with one or more  
15 municipalities.

16           (3) Upon favorable action by the electorate on  
17 consolidation or merger, the administrator, in consultation  
18 with the district advisory committee, may enter into a merger  
19 or consolidation agreement with the governing bodies of other  
20 municipalities in accordance with 53 Pa.C.S. § 737 (relating  
21 to consolidation or merger agreement) and shall provide for  
22 the transition of the district into a consolidated or merged  
23 municipality with the same powers and duties as provided by  
24 law to governing bodies of municipalities.

25           (4) The administrator may expend district funds to the  
26 extent authorized by law for the purpose of merger,  
27 consolidation or incorporation as provided in subsection (b).

28    (b) Incorporation as municipality.--If the secretary  
29 determines that the district could be incorporated as a viable  
30 municipality, the residents of the district may establish or

1 incorporate the territory of the district as a municipality as  
2 provided by law.

3 (c) Grants permitted.--The department may issue any loan or  
4 grant authorized under Chapter 3 to a merged, consolidated or  
5 subsequently incorporated municipality, including the territory  
6 of the district to provide transitional assistance.

7 (d) Assets in trust.--All assets conveyed to the  
8 Commonwealth to be held in trust, not otherwise transferred  
9 under the essential services plan or sold to repay the debt of  
10 the former municipality, shall be conveyed to a merged,  
11 consolidated or subsequently incorporated municipality,  
12 including the territory of the district.

13 (e) Assumption of debt.--All debt obligations held in trust  
14 by the Commonwealth on behalf of the former municipality for  
15 service by a district shall be assumed by a merged, consolidated  
16 or subsequently incorporated municipality, including the  
17 territory of the district.

18 Section 25. Chapter 5 of the act is repealed:

19 [CHAPTER 5

20 FUNDING

21 Section 501. Appropriation.

22 The sum of \$5,000,000, appropriated under section 210 of the  
23 act of July 1, 1986 (P.L.1776, No.5A), known as the General  
24 Appropriation Act of 1986, shall be used to carry out the  
25 provisions of this act. The appropriation shall be distributed  
26 as follows:

27 (1) \$500,000 shall be used by the department for  
28 administrative expenses necessary to carry out the provisions  
29 of this act.

30 (2) \$4,500,000 shall be used to provide grants and loans



1 to municipalities determined to be financially distressed  
2 pursuant to this act.]

3 Section 26. Chapter 6 heading of the act, added October 20,  
4 2011 (P.L.318, No.79), is amended to read:

5 CHAPTER 6

6 FISCAL EMERGENCIES IN [CITIES OF THE  
7 THIRD CLASS] MUNICIPALITIES

8 Section 27. Sections 601, 602 and 603 of the act, renumbered  
9 and added October 20, 2011 (P.L.318, No.79), are amended to  
10 read:

11 Section 601. Definitions.

12 The following words and phrases when used in this chapter  
13 shall have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Authority." A municipal authority, parking authority or any  
16 other authority or corporate entity that is directly or  
17 indirectly controlled by a distressed [city] municipality or to  
18 which a distressed [city] municipality has power of appointment.  
19 The term shall not include a joint municipal authority.

20 ["City." A city of the third class.]

21 "Debt obligations." Any obligation to pay money, including  
22 amounts owed for payments relating to lease rental debt, debt  
23 service, bonds, notes, guarantees for bonds or notes, trust  
24 indentures, contracts or other agreements.

25 "Distressed [city] municipality." A [city] municipality  
26 which has been determined to be financially distressed under  
27 section 203(f).

28 "Fiscal emergency." A determination made by the Governor  
29 under section 602(b).

30 "Insolvent." Unable to meet all financial obligations as

1 they become due, including payment of debt obligations.

2 "Municipality." A municipality as defined in section 103,  
3 other than a city of the first class.

4 "Vital and necessary services." Basic and fundamental  
5 municipal services, including any of the following:

6 (1) Police and fire services.

7 (2) Ambulance and rescue services.

8 (3) Water supply and distribution.

9 (4) Wastewater services.

10 (5) Refuse collection and disposal.

11 (6) Snow removal.

12 (7) Payroll and pension obligations.

13 (8) Fulfillment of payment of debt obligations or any  
14 other financial obligations.

15 Section 602. Declaration of fiscal emergency.

16 (a) Fiscal emergency.--The Governor determines a fiscal  
17 emergency exists if the distressed [city] municipality:

18 (1) (i) is insolvent or is projected to be insolvent  
19 within 180 days or less; [or] and

20 (ii) is unable to ensure the continued provision of  
21 vital and necessary services; [and] or

22 (2) [(i)] has failed to adopt or implement:

23 (i) the coordinator's plan in accordance with  
24 Subchapter C or C.1 of Chapter 2; or

25 (ii) [has failed to adopt or implement] an  
26 alternative plan that the secretary has approved under  
27 section 246.

28 (b) Governor.--Upon making a determination that a state of  
29 fiscal emergency exists, the Governor may declare a state of  
30 fiscal emergency within the distressed [city] municipality.

1 Immediately upon making the declaration, the Governor shall:

2 (1) Provide written notice of the declaration to the  
3 governing body and, if applicable, the chief executive  
4 officer of the distressed [city] municipality along with a  
5 concise statement of facts supporting the determination.

6 (2) Direct the secretary to, within ten days of the  
7 Governor's declaration, develop an emergency action plan to  
8 ensure that vital and necessary services are maintained  
9 within the [city] municipality during the state of fiscal  
10 emergency.

11 (c) Secretary.--In developing the emergency action plan, the  
12 secretary shall consider the financial plan prepared by the  
13 coordinator under Subchapter C of Chapter 2 and any other  
14 available plan or information the secretary deems appropriate  
15 and may employ financial or legal experts to assist in  
16 addressing the fiscal emergency. Notwithstanding any law to the  
17 contrary, the employment of such experts shall not be subject to  
18 contractual competitive bidding procedures.

19 Section 603. Notification by the secretary.

20 (a) Notice.--Upon completion of the emergency action plan,  
21 the secretary shall cause the plan to be posted on the  
22 department's publicly accessible Internet website and shall  
23 provide written notice of the emergency action plan by overnight  
24 delivery service, providing proof of receipt, to all members of  
25 the governing body and, if applicable, the chief executive  
26 officer of the distressed [city] municipality.

27 (b) Publication.--The secretary shall publish once in a  
28 newspaper of general circulation notice that the emergency  
29 action plan has been completed. The notice shall specify the  
30 publicly accessible Internet address of the department's website

1 where the plan is posted.

2 Section 28. Sections 604, 605, 606, 607, 608, 609 and 610 of  
3 the act, added October 20, 2011 (P.L.318, No.79), are amended to  
4 read:

5 Section 604. Powers of the Governor.

6 (a) Powers.--During the state of fiscal emergency, the  
7 Governor may exercise the authority of the elected or appointed  
8 officials of the distressed [city] municipality or authority as  
9 necessary to ensure the provision of vital and necessary  
10 services and may delegate the authority to the secretary or a  
11 designee of the secretary. The emergency powers of the Governor  
12 shall include the following:

13 (1) The power to collect funds payable to the distressed  
14 [city] municipality and authority and use those funds to pay  
15 for vital and necessary services.

16 (2) The power to obtain emergency financial aid for the  
17 distressed [city] municipality and authority under Chapter 3  
18 to pay for vital and necessary services.

19 (3) The power to enter into contracts and agreements on  
20 behalf of the distressed [city] municipality and authority to  
21 pay for vital and necessary services.

22 (4) The power to modify the emergency action plan as  
23 necessary to ensure the provision of vital and necessary  
24 services.

25 (5) Any other power of the elected or appointed  
26 officials of the distressed [city] municipality or authority  
27 to ensure the provision of vital and necessary services.

28 (b) Orders.--The Governor may issue an order to an elected  
29 or appointed official of the distressed [city] municipality or  
30 an authority to implement any provision of the emergency action

1 plan or refrain from taking any action that would interfere with  
2 the powers granted to the Governor or the goals of the plan. An  
3 order issued under this subsection shall be enforceable under  
4 section 606.

5 (c) Authorization prohibited.--Neither this chapter nor the  
6 emergency action plan shall be interpreted to authorize the  
7 Governor to:

8 (1) Unilaterally levy taxes.

9 (2) Unilaterally abrogate, alter or otherwise interfere  
10 with a lien, charge, covenant or relative priority that is:

11 (i) held by a holder of a debt obligation of a  
12 distressed [city] municipality; and

13 (ii) granted by the contract, law, rule or  
14 regulation governing the debt obligation.

15 (3) Unilaterally impair or modify existing bonds, notes,  
16 municipal securities or other lawful contractual or legal  
17 obligations of the distressed [city] municipality or  
18 authority[, except as otherwise ordered by a court of  
19 competent jurisdiction].

20 (4) Authorize the use of the proceeds of the sale,  
21 lease, conveyance, assignment or other use or disposition of  
22 the assets of the distressed [city] municipality or  
23 authorities in a manner contrary to section 707.

24 (5) Pledge the full faith and credit of the  
25 Commonwealth.

26 Section 605. Elected and appointed officials.

27 During a fiscal emergency, the authorities and appointed and  
28 elected officials of the distressed [city] municipality shall  
29 continue to carry out the duties of their respective offices,  
30 except that no decision or action shall conflict with an

1 emergency action plan, order or exercise of power by the  
2 Governor under section 604.

3 Section 606. Mandamus.

4 The Governor may petition Commonwealth Court to issue a writ  
5 of mandamus upon any elected or appointed official of the  
6 distressed [city] municipality or authority to secure compliance  
7 with an order issued under section 604(b). The court shall grant  
8 the relief requested within 14 days of the filing of the  
9 petition if it determines that the order was issued in  
10 compliance with this chapter.

11 Section 607. Consent agreement.

12 (a) Negotiations.--Within eight days of the declaration of a  
13 fiscal emergency, the governing body and, if applicable, the  
14 chief executive officer of the distressed [city] municipality  
15 shall convene a special public meeting to negotiate a consent  
16 agreement. The meeting shall be attended by the secretary or  
17 secretary's designee. Negotiations among creditors and any of  
18 the parties in this subsection shall be conducted in accordance  
19 with section 223(b).

20 (b) Contents.--

21 (1) The consent agreement shall incorporate a plan  
22 setting forth measures designed to provide long-term  
23 financial stability to the distressed [city] municipality  
24 after the termination of the fiscal emergency.

25 (2) The consent agreement shall include all of the  
26 following:

27 (i) Continued provision of vital and necessary  
28 services.

29 (ii) Payment of the lawful financial obligations of  
30 the distressed [city] municipality and authority. This

1           subparagraph includes debt obligations, municipal  
2           securities, lease rental obligations, legal obligations  
3           and consensual modifications of existing obligations,  
4           except as otherwise ordered by a court of competent  
5           jurisdiction.

6           (iii) Timely deposit of required payments to the  
7           pension fund for the distressed [city] municipality and  
8           each authority or the fund in which the distressed [city]  
9           municipality and each authority participates.

10          (iv) Legislative and administrative actions to be  
11          taken by the elected or appointed officials of the  
12          distressed [city] municipality during the term of the  
13          consent agreement.

14          (3) The consent agreement may include:

15           (i) The sale, lease, conveyance, assignment or other  
16           use or disposition of the assets of the distressed [city]  
17           municipality or authority.

18           (ii) Approval, modification, rejection,  
19           renegotiation or termination of contracts or agreements  
20           of the distressed [city] municipality or authorities.

21           (iii) Execution of new contracts or agreements.

22          (4) The consent agreement may not include any of the  
23          following:

24           (i) Projections of revenue from a tax or tax rate  
25           not currently authorized by law.

26           (ii) Provisions that unilaterally abrogate, alter or  
27           otherwise interfere with a lien, charge, covenant or  
28           relative priority, that is:

29           (A) held by a holder of a debt obligation of a  
30           distressed [city] municipality; and

1 (B) granted by the contract, law, rule or  
2 regulation governing the debt obligation.

3 (iii) Provisions that unilaterally impair or modify  
4 existing bonds, notes, municipal securities or other  
5 lawful contractual or legal obligations of the distressed  
6 [city] municipality or authority[, except as otherwise  
7 ordered by a court of competent jurisdiction].

8 (iv) Provisions that authorize the use of the  
9 proceeds of the sale, lease, conveyance, assignment or  
10 other use or disposition of the assets of the distressed  
11 [city] municipality or authorities in a manner contrary  
12 to section 707.

13 (v) Any increase in the rate of an earned income tax  
14 imposed on nonresident workers.

15 (c) Ordinance.--Notwithstanding any law to the contrary, the  
16 following shall apply:

17 (1) Upon approval by a majority vote of the governing  
18 body of the distressed [city] municipality, the consent  
19 agreement shall be presented to the secretary within 20 days  
20 of the declaration of fiscal emergency.

21 (2) The secretary shall approve or disapprove the  
22 consent agreement within three days.

23 (3) If the secretary determines that the consent  
24 agreement is sufficient to overcome the distressed [city's]  
25 municipality's financial distress and approves the agreement,  
26 the governing body shall enact the consent agreement in the  
27 form of an ordinance within seven days of approval by the  
28 secretary.

29 (4) The ordinance shall provide that, in the event of a  
30 breach or unilateral modification of the consent decree by



1 the governing body or an elected or appointed official, the  
2 Governor may institute or reinstitute proceedings under  
3 Chapter 7.

4 (d) Consent to proceedings under Chapter 7.--In addition to  
5 breach or modification of the consent agreement under subsection  
6 (c), the following shall be deemed consent to proceedings under  
7 Chapter 7:

8 (1) Failure of the governing body of the distressed  
9 [city] municipality to convene or the failure of a quorum of  
10 the governing body to participate in a special public meeting  
11 required by subsection (a).

12 (2) Failure of the governing body or, if applicable, the  
13 chief executive officer to enact a valid ordinance under  
14 subsection (c).

15 (3) Failure of the distressed [city] municipality to  
16 comply with the consent agreement or provision of an  
17 ordinance enacted under subsection (c).

18 (4) Enactment by the distressed [city] municipality of  
19 an amendment to the ordinance enacted in subsection (c) in  
20 violation of subsection (e).

21 (e) Amendment.--The ordinance may be amended upon the  
22 approval of the secretary.

23 (f) Collective bargaining.--A collective bargaining  
24 agreement or arbitration settlement executed following the  
25 enactment of an ordinance under this section may not in any  
26 manner violate, expand or diminish the provisions of the consent  
27 agreement, provided, however, that the provisions of section 252  
28 shall apply to any consent agreement adopted in accordance with  
29 this subchapter.

30 Section 608. Termination of fiscal emergency and suspension of

1 powers.

2 (a) [Financial] Fiscal emergency.--A fiscal emergency shall  
3 end upon certification by the secretary that the [city is no  
4 longer financially distressed.] municipality:

5 (1) is solvent and is not projected to be insolvent  
6 within 180 days or less; and

7 (2) is able to ensure the continued provision of vital  
8 and necessary services after the termination of the fiscal  
9 emergency.

10 (b) Governor's powers.--The emergency powers of the Governor  
11 under this chapter shall be suspended upon the enactment and  
12 continued implementation of an ordinance under section 607 or  
13 entry of a judicial order appointing a receiver under section  
14 702.

15 Section 609. Restrictions.

16 (a) Earned income tax on nonresidents.--A distressed [city]  
17 municipality subject to this chapter or Chapter 7 may not  
18 petition a court of common pleas for an increase in the rate of  
19 an earned income tax imposed on nonresident workers under  
20 section 123(c) [until the secretary terminates the distress  
21 status of the city under section 253].

22 (b) Municipal debt adjustment.--A distressed [city]  
23 municipality subject to this chapter or Chapter 7 may not file a  
24 municipal debt adjustment action under the Bankruptcy Code (11  
25 U.S.C. § 101 et seq.) except to the extent authorized under  
26 Chapter 7.

27 Section 610. Applicability.

28 (a) Statement.--

29 (1) This chapter shall apply only to distressed [cities]  
30 municipalities.

1 (2) Except as set forth in subsection (b), nothing in  
2 this chapter is intended to limit or otherwise abrogate the  
3 applicability of any other part of this act.

4 (b) Conflict.--If there is a conflict between a provision of  
5 this chapter and any other provision of this act, the provision  
6 of this chapter shall prevail.

7 Section 29. Chapter 7 heading of the act, added October 20,  
8 2011 (P.L.318, No.79), is amended to read:

9 CHAPTER 7

10 RECEIVERSHIP IN [CITIES OF THE  
11 THIRD CLASS] MUNICIPALITIES

12 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,  
13 708 and 709 of the act, added October 20, 2011 (P.L.318, No.79),  
14 are amended to read:

15 Section 701. Definitions.

16 The following words and phrases when used in this chapter  
17 shall have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Authority." A municipal authority, parking authority or any  
20 other authority or corporate entity that is directly or  
21 indirectly controlled by a distressed [city] municipality or to  
22 which a distressed [city] municipality has power of appointment.  
23 The term shall not include a joint municipal authority.

24 ["City." A city of the third class.]

25 "Debt obligations." Any obligation to pay money, including  
26 amounts owed for payments relating to lease rental debt, debt  
27 service, bonds, notes, guarantees for bonds or notes, trust  
28 indentures, contracts or other agreements.

29 "Distressed [city] municipality." A [city] municipality  
30 which has been determined to be financially distressed under

1 section 203(f).

2 "Fiscal emergency." A determination made by the Governor  
3 under section 602(b).

4 "Insolvent." Unable to meet all financial obligations as  
5 they become due, including payment of debt obligations.

6 "Vital and necessary services." Basic and fundamental  
7 municipal services, including any of the following:

8 (1) Police and fire services.

9 (2) Ambulance and rescue services.

10 (3) Water supply and distribution.

11 (4) Wastewater services.

12 (5) Refuse collection and disposal.

13 (6) Snow removal.

14 (7) Payroll and pension obligations.

15 (8) Fulfillment of payment of debt obligations or any  
16 other financial obligations.

17 Section 702. Receivership.

18 (a) Receiver.--Following the issuance of a declaration of  
19 fiscal emergency under section 602(b), the Governor may direct  
20 the secretary to file a petition in Commonwealth Court to  
21 appoint the individual named in the petition as a receiver for  
22 the distressed [city] municipality. The court shall have no  
23 authority to appoint anyone other than the individual named in  
24 the petition as the receiver.

25 (b) Service and notice.--

26 (1) The secretary shall serve the petition upon:

27 (i) the governing body of the distressed [city]  
28 municipality;

29 (ii) the chief executive officer of the distressed  
30 [city] municipality; and

1 (iii) the governing body of each authority.

2 (2) The secretary must publish notice of the filing of  
3 the petition once in a newspaper of general circulation.

4 (c) Hearing.--Upon notification of the Governor of the  
5 failure of the distressed [city] municipality to adopt a valid  
6 ordinance under section 607, Commonwealth Court shall conduct a  
7 hearing within 15 days on the petition.

8 (d) Determination.--No later than 60 days following the  
9 filing of a petition under this section, the court shall issue  
10 an order under subsection (e) if it finds by a preponderance of  
11 the evidence that all of the following apply:

12 (1) Thirty days have passed since the declaration of a  
13 fiscal emergency.

14 (2) There has been a failure by:

15 (i) the governing body of the distressed [city]  
16 municipality to adopt an ordinance under section 607;

17 (ii) the governing body of the distressed [city]  
18 municipality to implement an ordinance under section 607;

19 [or]

20 (iii) an elected or appointed official of the  
21 distressed city or authority to strictly comply with an  
22 order issued by the Governor under section 604[.]; or

23 (iv) (Reserved).

24 (3) A fiscal emergency under section 602(a) continues to  
25 exist.

26 (e) Order.--An order issued under this subsection shall:

27 (1) set forth the findings under subsection (d);

28 (2) grant the petition and declare the distressed [city]  
29 municipality to be in receivership;

30 (3) appoint the individual named in the petition to be

1 the receiver for a period not to exceed two years, subject to  
2 extension under section 710(b);

3 (4) direct the receiver to develop a recovery plan  
4 within 30 days under section 703 and submit it to the court,  
5 the secretary, the governing body and, if applicable, the  
6 chief executive officer of the distressed [city]  
7 municipality; and

8 (5) require and empower the receiver to implement the  
9 emergency action plan developed by the secretary under  
10 section 602 until a recovery plan developed by the receiver  
11 is approved by the court under section 703.

12 (f) Additional actions.--

13 (1) The Governor may direct the secretary to file a  
14 petition in Commonwealth Court to appoint an individual named  
15 in the petition as a receiver for the distressed [city]  
16 municipality if the distressed [city] municipality fails to  
17 comply with or has amended the ordinance without the approval  
18 of the secretary under section 607(d)(3) or (4).

19 (2) The court shall conduct a hearing on the petition  
20 under paragraph (1) within 15 days of the filing of the  
21 petition.

22 (3) No later than 60 days following the filing of the  
23 petition under paragraph (1), the court shall issue an order  
24 under subsection (e) if it finds by a preponderance of the  
25 evidence that the distressed [city] municipality has failed  
26 to comply with section 607(d)(3) or (4).

27 Section 703. Recovery plan.

28 (a) Issuance.--Within 30 days of the appointment of the  
29 receiver, the recovery plan required under section 702(e)(4)  
30 shall be furnished to Commonwealth Court, the secretary and the

1 governing body and, if applicable, the chief executive officer  
2 of the distressed [city] municipality.

3 (b) Contents.--The receiver shall consider the plan prepared  
4 by the coordinator under section 241 and any other existing  
5 alternate plans in the development of the recovery plan. The  
6 following shall apply:

7 (1) The recovery plan shall provide for all of the  
8 following:

9 (i) Continued provision of vital and necessary  
10 services.

11 (ii) Payment of the lawful financial obligations of  
12 the distressed [city] municipality and authorities. This  
13 subparagraph includes debt obligations, municipal  
14 securities, lease rental obligations, legal obligations  
15 and consensual modifications of existing obligations.

16 (iii) Timely deposit of required payments to the  
17 pension fund in which the distressed [city] municipality  
18 and each authority participates.

19 (2) The recovery plan may include:

20 (i) the sale, lease, conveyance, assignment or other  
21 use or disposition of the assets of the distressed [city]  
22 municipality or authority;

23 (ii) the approval, modification, rejection,  
24 renegotiation or termination of contracts or agreements  
25 of the distressed [city] municipality or authorities,  
26 except to the extent prohibited by the Constitutions of  
27 the United States and Pennsylvania;

28 (iii) the execution of new contracts or agreements;  
29 and

30 (iv) other information the receiver deems

1           appropriate.

2           (c) Restrictions.--The recovery plan may not do any of the  
3 following:

4           (1) Unilaterally levy taxes.

5           (2) Unilaterally abrogate, alter or otherwise interfere  
6 with a lien, charge, covenant or relative priority that is:

7           (i) held by a holder of a debt obligation of a  
8 distressed [city] municipality; and

9           (ii) granted by the contract, law, rule or  
10 regulation governing the debt obligation.

11           (3) Unilaterally impair or modify existing bonds, notes,  
12 municipal securities or other lawful contractual or legal  
13 obligations of the distressed [city] municipality or  
14 authority[, except as otherwise ordered by a court of  
15 competent jurisdiction].

16           (4) Authorize the use of the proceeds of the sale,  
17 lease, conveyance, assignment or other use or disposition of  
18 the assets of the distressed [city] municipality or authority  
19 in a manner contrary to section 707.

20           (d) Confirmation.--Commonwealth Court shall conduct a  
21 hearing on the recovery plan within 30 days of the receipt of  
22 the plan from the receiver. The court shall confirm the plan  
23 within 60 days of the receipt of the plan unless it finds clear  
24 and convincing evidence that the plan is arbitrary, capricious  
25 or wholly inadequate to alleviate the fiscal emergency in the  
26 distressed [city] municipality.

27           (e) Modification of plan.--The receiver shall notify the  
28 Commonwealth Court of any modification to the plan. The court  
29 may conduct a hearing on the modification within 30 days of its  
30 receipt. The court shall confirm the modification within 60 days



1 of receipt of notification of the modification unless it finds  
2 clear and convincing evidence that the recovery plan as modified  
3 is arbitrary, capricious or wholly inadequate to alleviate the  
4 fiscal emergency in the distressed [city] municipality.

5 Section 704. Confirmation.

6 (a) Effect of confirmation.--The confirmation of the  
7 recovery plan and any modification to the receiver's plan under  
8 section 703 shall have the effect of:

9 (1) imposing on the elected and appointed officials of  
10 the distressed [city] municipality or an authority a  
11 mandatory duty to undertake the acts set forth in the  
12 recovery plan;

13 (2) suspending the authority of the elected and  
14 appointed officials of the distressed [city] municipality or  
15 an authority to exercise power on behalf of the distressed  
16 [city] municipality or authority pursuant to law, charter,  
17 ordinance, rule or regulation to the extent that the power  
18 would interfere with the powers granted to the receiver or  
19 the goals of the recovery plan; and

20 (3) superseding the emergency action plan developed by  
21 the secretary under section 602.

22 (b) Form of government.--Confirmation of the recovery plan  
23 and any modification to the plan under section 703 shall not be  
24 construed to:

25 (1) change the form of government of the distressed  
26 [city] municipality or an authority; or

27 (2) except as set forth in subsection (a), affect powers  
28 and duties of elected and appointed officials of the  
29 distressed [city] municipality or an authority.

30 (c) Collective bargaining.--A collective bargaining

1 agreement or arbitration settlement executed after confirmation  
2 of a recovery plan may not, in any manner, violate, expand or  
3 diminish the provisions of the recovery plan, provided, however,  
4 that the provisions of section 252 shall apply to any recovery  
5 plan adopted in accordance with this chapter.

6 Section 705. Receiver.

7 \* \* \*

8 (g) Liability.--The receiver shall not be liable personally  
9 for any obligations of the distressed [city] municipality or  
10 authority. It is declared to be the intent of the General  
11 Assembly that the receiver shall enjoy sovereign and official  
12 immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign  
13 immunity reaffirmed; specific waiver) and shall remain immune  
14 from suit except as provided by and subject to the provisions of  
15 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and  
16 B (relating to actions against Commonwealth parties).

17 Section 706. Powers, duties and prohibited actions.

18 (a) Powers and duties.--Notwithstanding any other provision  
19 of law, the receiver shall have the following powers and duties:

20 (1) To require the distressed [city] municipality or  
21 authority to take actions necessary to implement the recovery  
22 plan under section 703.

23 (2) To modify the recovery plan as necessary to achieve  
24 financial stability of the distressed [city] municipality and  
25 authorities in accordance with section 703.

26 (3) To require the distressed [city] municipality or  
27 authority to negotiate intergovernmental cooperation  
28 agreements between the distressed [city] municipality and  
29 other political subdivisions in order to eliminate and avoid  
30 deficits, maintain sound budgetary practices and avoid

1 interruption of municipal services.

2 (4) To submit quarterly reports to the governing body  
3 and, if applicable, the chief executive officer of the  
4 distressed [city] municipality and to the department. The  
5 reports shall be posted on [the] a publicly accessible  
6 Internet website [for] maintained by the distressed [city]  
7 municipality.

8 (5) To require the distressed [city] municipality or  
9 authority to cause the sale, lease, conveyance, assignment or  
10 other use or disposition of the distressed [city's]  
11 municipality's or authority's assets in accordance with  
12 section 707.

13 (6) To approve, disapprove, modify, reject, terminate or  
14 renegotiate contracts and agreements with the distressed  
15 [city] municipality or authority, except to the extent  
16 prohibited by the Constitutions of the United States and  
17 Pennsylvania.

18 (7) To direct the distressed [city] municipality or  
19 authority to take any other action to implement the recovery  
20 plan.

21 (8) To attend executive sessions of the governing body  
22 of the distressed [city] municipality or authority and make  
23 reports to the public on implementation of the recovery plan.

24 (9) [After July 1, 2012, to] To file a municipal debt  
25 adjustment action under the Bankruptcy Code (11 U.S.C. § 101  
26 et seq.) and to act on the [city's] municipality's behalf in  
27 the proceeding. The power under this paragraph shall only be  
28 exercised upon the written authorization of the secretary.  
29 The filing of a municipal debt adjustment action under this  
30 paragraph and any plan of the receiver accepted by the

1 Federal court shall be considered a modification of the  
2 recovery plan, except that the modification shall not be  
3 subject to judicial review under section 709. A recovery plan  
4 submitted to and approved by the Federal court under a  
5 Federal municipal debt adjustment action may include Federal  
6 remedies not otherwise available under this chapter.

7 (10) To meet and consult with the advisory committee  
8 under section 711.

9 (11) To employ financial or legal experts deemed  
10 necessary to develop and implement the recovery plan.  
11 Notwithstanding any law to the contrary, the employment of  
12 such experts shall not be subject to contractual competitive  
13 bidding procedures.

14 (12) To make a recommendation to the secretary that the  
15 municipality be disincorporated in accordance with Chapter 4.

16 (b) Authorization prohibited.--Neither this chapter nor the  
17 recovery plan shall be interpreted to authorize the receiver to  
18 do any of the following:

19 (1) Unilaterally levy taxes.

20 (2) Unilaterally abrogate, alter or otherwise interfere  
21 with a lien, charge, covenant or relative priority that is:

22 (i) held by a holder of a debt obligation of a  
23 distressed [city] municipality; and

24 (ii) granted by the contract, law, rule or  
25 regulation governing the debt obligation.

26 (3) Unilaterally impair or modify existing bonds, notes,  
27 municipal securities or other lawful contractual or legal  
28 obligations of the distressed [city] municipality or  
29 authority[, except as otherwise ordered by a court of  
30 competent jurisdiction].

1           (4) Authorize the use of the proceeds of the sale,  
2       lease, conveyance, assignment or other use or disposition of  
3       the assets of the distressed [city] municipality or authority  
4       in a manner contrary to section 707.

5 Section 707. Use or disposition of assets.

6       (a) Use of proceeds.--The proceeds from any sale, lease,  
7       conveyance, assignment or other use or disposition of assets of  
8       the distressed [city] municipality or authority shall be applied  
9       to the payment of outstanding debt obligations owed by the  
10       distressed [city] municipality or authority, subject to any  
11       lien, charge, covenant, restriction, contract, law, rule or  
12       regulation, that encumbers or is otherwise applicable to the  
13       assets. Proceeds remaining after payment of outstanding debt  
14       obligations owed by the distressed [city] municipality or  
15       authority may be used by the receiver to restructure or provide  
16       escrow for the payment of future debt obligations or to meet  
17       operating and capital needs of the distressed [city]  
18       municipality or authority.

19       (b) Prohibitions.--Nothing under this section shall be  
20       construed to authorize the receiver to unilaterally abrogate,  
21       alter or otherwise interfere with a lien, charge, covenant or  
22       relative priority that is:

23           (1) held by a holder of a debt obligation of a  
24       distressed [city] municipality; and

25           (2) granted by the contract, law, rule or regulation  
26       governing the debt obligation.

27 Section 708. Elected and appointed officials.

28       (a) Orders.--The receiver may issue an order to an elected  
29       or appointed official of the distressed [city] municipality or  
30       an authority to:

1 (1) implement any provision of the recovery plan; and  
2 (2) refrain from taking any action that would interfere  
3 with the powers granted to the receiver or the goals of the  
4 recovery plan.

5 (b) Enforcement.--An order issued under subsection (a) shall  
6 be enforceable under section 709.

7 Section 709. Judicial actions.

8 (a) Action by receiver.--The receiver may petition  
9 Commonwealth Court to issue a writ of mandamus upon any elected  
10 or appointed official of the distressed [city] municipality or  
11 authority to secure compliance with an order issued under  
12 section 708. The court shall grant or deny the relief within 14  
13 days of the filing of the petition. The court shall grant the  
14 relief requested if it determines that the order was issued in  
15 compliance with this chapter.

16 (b) Action by elected or appointed officials.--Any elected  
17 or appointed official of a distressed [city] municipality or  
18 authority may petition Commonwealth Court to enjoin any action  
19 of the receiver that is contrary to this chapter.

20 Section 30.1. Section 710 of the act is amended to read:

21 Section 710. Termination of receivership.

22 (a) Time.--Except as provided under subsection (b) or (c),  
23 the receivership under this chapter shall expire two years after  
24 the appointment of the receiver.

25 (b) Extension.--The secretary may petition Commonwealth  
26 Court for one or more extensions of the receivership. The court  
27 shall grant each extension [for] of up to another two years if  
28 the secretary establishes by a preponderance of the evidence  
29 that further implementation of the recovery plan is necessary  
30 to end the fiscal emergency.

1 (c) Termination of fiscal emergency.--Notwithstanding the  
2 date of expiration of receivership under subsection (a) or an  
3 extension of receivership under subsection (b), the receivership  
4 shall terminate upon the secretary's termination of a fiscal  
5 emergency under section 608(a).

6 Section 31. The act is amended by adding a section to read:  
7 Section 710.1. Continuation of recovery plan.

8 (a) Administrative determination required.--Within 30 days  
9 of the termination or expiration of the receivership under  
10 section 710, the secretary shall issue one of the following  
11 administrative determinations:

12 (1) conditions within the municipality warrant a  
13 termination in status in accordance with section 255.1; or

14 (2) the municipality continues to be financially  
15 distressed.

16 (b) Appointment of coordinator.--Upon a determination under  
17 subsection (a)(2), a recovery plan adopted under section 703 and  
18 confirmed by Commonwealth Court shall remain in effect and shall  
19 be deemed to be a plan adopted under Chapter 2. The secretary  
20 shall appoint a coordinator in accordance with section 221. The  
21 receiver may be appointed as coordinator. The coordinator shall  
22 implement the recovery plan under section 247(a) subject to the  
23 following:

24 (1) The plan shall be subject to amendment in accordance  
25 with section 249, provided that nothing in this section shall  
26 authorize the impairment of existing lawful contractual or  
27 legal obligations of the distressed municipality except where  
28 otherwise permitted by law.

29 (2) The coordinator may exercise the same powers and  
30 duties of this chapter as a receiver for the purposes of

1 issuing orders under section 708, and seek enforcement of  
2 such orders under section 709. The Commonwealth Court shall  
3 retain jurisdiction to hear an action under this paragraph.

4 (3) The plan shall terminate as provided in section  
5 254(b) (2).

6 Section 32. Sections 711(a) and (b) and 712(a)(1) of the  
7 act, added October 20, 2011 (P.L.312, No.79), are amended to  
8 read:

9 Section 711. Municipal financial recovery advisory committee.

10 (a) Establishment.--[There is established a] A municipal  
11 financial recovery advisory committee is established to meet and  
12 consult with the receiver in carrying out the duties under this  
13 chapter. The sole function of the advisory committee shall be to  
14 provide recommendations and feedback to the receiver on the  
15 implementation of the recovery plan.

16 (b) Composition.--The advisory committee established under  
17 subsection (a) shall be comprised of the following:

18 (1) The chief executive officer, if any, of the  
19 distressed [city] municipality or a designee.

20 (2) The president of the governing body of the  
21 distressed [city] municipality or a designee.

22 (3) One member appointed by the county commissioners of  
23 the county where the distressed [city] municipality is  
24 located.

25 (4) One member appointed by the Governor.

26 \* \* \*

27 Section 712. Applicability.

28 (a) Statement.--

29 (1) This chapter shall apply only to distressed [cities]  
30 municipalities.



1           \* \* \*

2           Section 33. This act shall apply as follows:

3           (1) The addition of section 122(c) of the act shall  
4           apply to any and all regulations in effect on the effective  
5           date of this section.

6           (2) The amendment or addition of sections 608, 710 and  
7           710.1(a) and (b) of the act shall not apply to a municipality  
8           that entered receivership prior to the effective date of this  
9           section and shall not supersede or constitute grounds to  
10          modify any order of court issued prior to the effective date  
11          of this section.

12          Section 34. For tax years beginning after the effective date  
13          of this section, a financially distressed municipality shall be  
14          prohibited from using the special taxing authority in section  
15          607(f) of the act of December 18, 1984 (P.L.1005, No.205), known  
16          as the Municipal Pension Plan Funding Standard and Recovery Act,  
17          to impose an increase in the rate, over the rate imposed as of  
18          June 30, 2014, of taxation on nonresident income unless an equal  
19          or greater increase in the rate of taxation on resident income,  
20          over the highest rate levied in the previous fiscal year, is  
21          imposed in the same tax year.

22          Section 35. The addition of section 255.1 of the act shall  
23          not apply to determinations issued by the Secretary of Community  
24          and Economic Development prior to the effective date of this  
25          section or to appeals pending on the effective date of this  
26          section.

27          Section 36. This act shall take effect as follows:

28          (1) Section 34 of this act and this section shall take  
29          effect immediately.

30          (2) The remainder of this act shall take effect in 60

1 days.