

# ***Government Finance Officers Association of Connecticut***

Overview of Public Act 17-2 Provisions Regarding Assistance  
and Accountability for Distressed Municipalities



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*Connecticut's Historic Approach to Monitoring, Preventing and Addressing Municipal Fiscal Distress*

- Annual municipal audits and budgets submitted to State OPM
- OPM works informally with municipalities showing distress
- Municipalities can also be referred, by Secretary, to the **State Municipal Finance Advisory Commission**
- MFAC can require municipal CEO to report on municipality's fiscal condition and on its implementation of remedial actions to address financial problems, including actions recommended by MFAC

## ***Connecticut's Historic Approach to Monitoring, Preventing and Addressing Municipal Fiscal Distress***

**For severe fiscal distress**, Specials Acts passed allowing for *state-backed deficit bonds combined with strong state oversight*:

- Bridgeport Financial Review Board (Special Act 88-80; 1988-95; \$58m bonds)**
- West Haven Financial Planning and Assistance Board (Special Act 92-5; 1992-94; \$35m bonds)**
- Receiver, Borough of Jewett City (Special Act 93-4; 1993-96)**
- Waterbury Financial Planning and Assistance Board (Special Act 01-1; 2001-2007; \$97.5m bonds)**

**Causes:** Persistent deficits threatened ability to meet current expenses (cash flow-crisis) and to secure access to credit markets

**Approach:** Issuance of Deficit Bonds to stabilize finances followed by implementation of structural reforms

**Special Acts** generally requested by Mayors & state legislative delegations

**Powers:** Review and approve on budgets, contracts, borrowings, financial plans and labor contracts

## ***Connecticut's Historic Approach to Monitoring, Preventing and Addressing Municipal Fiscal Distress***

### **Bonding Cumulative General Fund Deficits: “One Bite at the Apple” (1993 ACCSES Legislation); Deficit borrowing not permitted previously**

- *May issue deficit bonds if no deficit financing obligation outstanding or issued in past 5 years; referred to MFAC*
- *Municipality must establish property tax intercept & debt service reserve fund\**  
\*Legislation also allows property tax intercept and debt service reserve fund for any GO bonds
- *Municipality may request Special Capital Reserve Fund (SCRF) (state-backing) for deficit bonds or non-deficit bonds*
  - Must have least one investment grade rating and be unable to purchase bond insurance on reasonable terms*
  - Municipality referred to MFAC; Enhanced MFAC powers if deficit borrowing:*
    - 1) *Approve deficit and other borrowings, 3-Year Plan and state aid and tax collection assumptions used in budgets*
    - 2) *Require monthly financial reports*
- **Chapter 9:** Municipality may not file without written approval of Governor

## ***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

According to the Act, municipalities experiencing degrees of fiscal distress and in need of technical or other state assistance can seek designation into one of four tiers.

- Designated Tier I municipalities shall be referred to the current State Municipal Finance Advisory Commission (MFAC)
- Designated Tier II, III and IV municipalities shall be referred to the Municipal Accountability Review Board (MARB) established in the Act.
- The higher numbered tiers relate to higher levels of fiscal distress and oversight

## ***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

### **Criteria for Tiers**

- Municipal Aid as a Percentage of Revenues
- Fund Balance Percentage
- Bond Rating
- Municipal Revenue Increase as a Percent of Revenues
- Equalized Mill Rate

A large number of municipalities would not qualify for any Tier; Can only be apply for or be designated in the tier for which the municipality meets criteria

## ***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

### **Designated Tier I Municipality**

- The chief elected official of a municipality may apply to the Secretary for Tier I designation
- Referral to the MFAC
- MFAC may require the chief executive officer to: (A) provide information and appear before the commission to discuss municipal financial condition and the implementation of remedial measures to improve such condition and (B) submit a written report to the commission on implementation of the recommendations of the commission and other remedial measures.
- Designated municipalities shall submit a three-year financial plan to MFAC for its review and approval.
- Term of Designation: Two years of balance budget, MFAC approval of 3-year plan, no fund balance deficit, no drop in bond rating
- *Secretary may refer municipality to MFAC under existing statutes*

## ***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

### **Designated Tier II Municipalities**

- The chief elected official of a municipality may apply to the Secretary for Tier II designation
- Referral to the Municipal Accountability Review Board (MARB)
- The MARB has the same authority and responsibilities as the MFAC has with respect to Tier I municipalities, in addition to which municipality shall submit monthly reports to MARB and shall only include assumptions as to state revenues and property tax collections as approved by the Board.
- Term of Designation: Same as Tier I
- A designated Tier II municipality is eligible to apply for Municipal Restructuring Funds in accordance with Section 370 of the Act.

## ***Composition of the MARB for Designated Tier II and III Municipalities; Added Members Tier IV***

The MARB, located in the OPM for administrative purposes only, shall be comprised of 11 members, appointed as follows:

- Secretary of OPM, or designee, Chairperson
- State Treasurer, or designee, Cochairperson
- Five members appointed by the Governor:
  - > a municipal finance director
  - > a municipal bond or bankruptcy attorney
  - > a town manager
  - > member from list of three recommendations by AFSCME
  - > member from list of three joint recommendations by CEA & AFT-CT
- One member each appointed by the Senate President Pro Tempore, Speaker of the House, Minority Leader of the Senate and Minority Leader of the House, each of whom shall have experience in business, finance or municipal management

**Additional Non-Voting Members for designated Tier IV Municipalities:** CEO, Legislative Body, Treasurer or Finance Official (Bonds), Minority Party Member of Legislative Body

## ***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

### **Designated Tier III Municipalities**

**The chief elected official of a municipality\*, or its legislative body by majority vote, may apply for Tier III designation**

**\*NOTE:** The legislative body shall have 30 days to approve or reject the request. If the it doesn't act in 30 days, request deemed approved.

**Other Means of Designation as a Tier III Municipality (July 1, 2018 and after):** The Secretary of OPM shall designate a municipality as Tier III if it:

- (1) meets the qualifications for Tier III and the Secretary, based on the MFAC, finds that the municipality's fiscal condition warrants such designation;
- (2) issues refunding bonds which: (I) have term of more than 25 years; (II) do not achieve net present value savings; and (III) have annual debt service payments in any year that are greater than the first full year of debt service payments following the refunding

**\*\* NOTE:** Any municipality that issues a deficit obligation or has issued one in the 5 years preceding July 1, 2017 shall be designated as Tier III

**Current Designated Tier III Municipalities:** Hartford and West Haven

***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

**Tier III-MARB Powers & Responsibilities**

1. Review and comment on municipality's annual budget
2. Approve assumptions re: state revenues & property tax revenues & mill rate
3. Approve the issuance of debt service obligations supported by a State special capital reserve fund (SCRF) and the issuance of refunding bonds (MARB may approve & authorize bonds with term up to 40 years)
4. Review and comment on other proposed debt obligations
5. May review & comment on non-labor contracts over certain \$ amount
6. Have same opportunity & authority as the legislative body to approve or reject, on not more than two occasions, proposed collective bargaining contracts of the municipality and its board of education
7. Have the same opportunity and authority as the legislative body to approve or reject, on not more than two occasions, arbitration awards related to the collective bargaining contracts municipality of the BOE, except for those involving a teachers' unit

***Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities***

**Tier III-MARB Powers & Responsibilities—continued**

8. Monitor the municipality's compliance with three-year financial plan and annual budget and recommend any changes
9. Recommend the municipality & board of education implement efficiency measures
10. Obtain information on financial needs and condition of municipality and its board of education
11. In consultation with the municipality, may retain such staff and hire consultants experienced in municipal finance, municipal law, governmental operations accounting as it deems necessary

**(NOTE:** The Act indicates that, with respect to Tier III and IV municipalities, expenses may be charged to the municipality by the MARB and be paid from proceeds of any deficit obligation or debt restructuring bonds)

**Term of Designation:** Three years of balanced budget, MARB approval of 3-year plan, no fund balance deficit, no drop in bond rating or below investment grade rating; remain undesignated unless below investment grade rating or having certain operating deficits.

*Overview of Public Act 17-2 Provisions Regarding Assistance and Accountability for Distressed Municipalities*

### Tier III (& IV) Features

- A designated Tier IV municipality is eligible to apply for Municipal Restructuring Funds
- A designated Tier IV municipality is eligible to enter into an enter into a contract with the Secretary of OPM and the State Treasurer for contract assistance related to refunding bonds

## ***Overview of Public Act 17-2***

### **Designated Tier IV Municipality**

- Application process for designation same as for Tier III
- In addition, the MARB may, starting on April 1, 2018, designate a Tier III municipality as Tier IV based on a finding that the municipality's fiscal condition warrants such a designation.
- For making such a finding, MARB membership shall also include the municipality's chief elected official and a member of the legislative body as voting members
- The MARB shall submit such finding and recommendation to the Secretary who, after a 30 day public comment period, forwards the MARB's recommended designation to Governor for approval or disapproval. Following the receipt recommendation and public comments, the Governor may approve or disapprove MARB's recommendation.

## *Overview of Public Act 17-2*

### **Tier IV-MARB Powers & Responsibilities**

- Review and approve the annual budget and mill rate; if no approved budget, MARB sets interim budget. MARB budget operative until it approves a budget submitted by municipality.
- Review and approve all bond ordinances and resolutions
- Monitor compliance with the municipality's three-year plan and annual budget and require changes it deems necessary.
- Approve or reject all collective bargaining agreements, amendments or modification of the municipality or its board of education and make modifications following the process indicated in the Act.
- Impose binding arbitration re collective bargaining agreements subject to binding arbitration. MARB submits names of potential arbitrators to the Governor, who selects one to serve as single arbitrator. MARB not be limited by the issued negotiated by the parties or last best offers in determining arbitration issues. Some limits re teacher/administrator contracts.
- Require its approval of proposed municipal budget transfers over \$50,000.
- Review and approval of the BOE budget on a line-item basis.
- Appoint a financial manager.
- Review and approval non-labor contracts over a certain amount.

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## ***Municipal Restructuring Funds (\$27.2m in FY18; \$28m in FY19)***

### **Eligibility for Funding; Submittal of Plan:**

- Any designated tier II, III or IV municipality is eligible
- Municipality seeking funds shall submit, to the Secretary of OPM, a plan detailing its overall restructuring plan, including local actions to be taken and its proposed use of the funds.
- A municipality may, as part of its plan and in consultation with its BOE, submit a proposed reduction in the minimum budget requirement. The Secretary shall consult with the Commissioner of SDE.

### **B. Review of Plan, Distribution Decisions and Conditions Related to Funding**

- Secretary to consult with MARB in making decisions & attaching conditions.
- Distribution of funds based plans submitted and relative fiscal needs of the requesting municipalities.

### **C. Monitoring the Use and Expenditures of Funds**

- MARB shall assist Secretary in monitoring the use of the funds and adherence to the conditions.
- Any municipality receiving funds required to receive MARB approval of their annual budgets.

### **D. Guidance-on OPM's website**

## ***Contract Assistance***

### **Eligibility for Contract Assistance; Description of Contract Assistance:**

- Secretary and State Treasurer may enter into a contract with a designated Tier III or IV municipality for the provision of contract assistance
- Any such contract assistance shall be limited to an amount equal to the annual debt service on the outstanding amount of refunding bonds issued under the Act
- Contract assistance shall be paid directly by the state to the municipality, trustee, paying agent or holder of the refunding bonds, other bonds or notes that are the subject of the contract
- Contract assistance shall constitute a full faith and credit obligation of the State and the amounts necessary to timely meet the terms of this contractual obligation is deemed appropriated
- Issuance of refunding bonds requires MARB approval
- In lieu of contract assistance, the Secretary and State Treasurer may agree to provide other forms of credit support to a designated tier III or IV municipality, provided that such credit support shall not exceed the amount otherwise available to the municipality for contract assistance.
- Secretary and the State Treasurer shall not enter a contract for contract assistance with any municipality that files for bankruptcy