

CHAPTER 176

AN ACT concerning urban revitalization and amending and supplementing P.L.2002, c.43.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27BBB-2.2 Findings, declarations relative to urban revitalization.

1. The Legislature finds and declares:

a. The “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), provides for the appointment of a chief operating officer in a qualified municipality for a five-year period, referred to in that law as the rehabilitation term;

b. As of the effective date of P.L.2007, c.176 (C.52:27BBB-2.2 et al.), that 2002 act has been implemented in one municipality in the State;

c. The fourth-year report of the chief operating officer appointed in that municipality, required pursuant to section 8 of P.L.2002, c.43 (C.52:27BBB-8), recommended an extension of the rehabilitation term to allow for the implementation of the reforms anticipated by P.L.2002, c.43; and

d. Given the detailed assessment and recommendation in that fourth-year report, it is apparent that under certain circumstances a 10-year rehabilitation term is a more realistic period within which government reform may be effectuated in a qualified municipality.

2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read as follows:

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services.

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by a qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New

Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) and secured by a right of first refusal on municipally-owned property as of 10 days following a determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

During the rehabilitation term, the chief operating officer shall be responsible for entering into any memorandum of understanding on behalf of the qualified municipality that is required as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.), or any other law; provided, however, that those memoranda of understanding shall be consistent with the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176 (C.52:27BBB-2.2 et al.), and the powers of the chief operating officer granted pursuant thereto. Any such memoranda of understanding shall be executed between the chief operating officer and the Director of the Division of Local Government Services in the Department of Community Affairs. Whenever the powers and duties of the chief operating officer have devolved upon the director pursuant to subsection b. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), the memorandum of understanding shall be executed between the director, on behalf of the qualified municipality, and the State Treasurer, on behalf of the State.

3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read as follows:

C.52:27BBB-7 Appointment of chief operating officer; term.

7. a. Upon receiving notification by the Commissioner of Community Affairs pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities, three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the initial chief operating officer first appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or 10 years thereafter if the fourth-year report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8) recommends an extension of that term, provided that the extension is approved by the Commissioner of Community Affairs.

The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

d. Subject to the approval of the State Treasurer, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State and paid through the Department of the Treasury.

4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to read as follows:

C.52:27BBB-8 Submission of report by chief operating officer.

8. a. At the end of four years following the commencement of duties by the chief operating officer and at the end of eight years, in the event of an extension of the term of the chief operating officer, as provided in subsection c. of section 7 of P.L.2002, c.43 (C.52:27BBB-7) (as amended by section 3 of this bill), the chief operating officer or his or her successor shall submit a report to the Governor, each member of the State Economic Recovery Board, each member of the Senate and General Assembly, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, the mayor, and each member of the governing body of the qualified municipality. The report shall evaluate progress made in rehabilitating the qualified municipality and the status of economic recovery efforts. The report shall include an enumeration of any problems or hurdles encountered in rehabilitation and economic recovery and, where applicable, recommendations for any amendments to State law which would promote and encourage rehabilitation and economic recovery. If the chief operating officer anticipates that the rehabilitation term will be insufficient to achieve rehabilitation goals, the chief operating officer shall include in the report a detailed analysis of the causes for the municipality's inability to reestablish local control and an assessment of the amount of time necessary for the continuation of the period of the rehabilitation term.

In addition to the foregoing, the report shall include detailed information as to how those funds appropriated pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those expenditures are serving to promote the economic revitalization of the qualified municipality.

b. Within 30 days of receipt of each report by members of the Legislature, a hearing shall be held by the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government Committee, or their successors, to provide an opportunity for public comment and discussion.

5. Section 9 of P.L.2002, c.43 (C.52:27BBB-9) is amended to read as follows:

C.52:27BBB-9 Reallocation of functions, powers, duties to chief operating officer.

9. a. Upon the appointment of the chief operating officer pursuant to subsection a. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), all the functions, powers and duties heretofore or hereafter assigned by any statute, regulation, ordinance, resolution, charter or contract for municipal operations, municipal organization and reorganization, development and implementation of workforce training programs, and the hiring and firing of department heads, managers and supervisory employees shall be reallocated to the chief operating officer. The chief operating officer shall exercise those functions, powers and duties in consultation with the mayor as are hereinafter provided.

b. Except as otherwise provided in P.L.2002, c.43 (C.52:27BBB-1 et al.), the chief operating officer shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance, rehabilitation and supervision of the qualified municipality. The chief operating officer may propose ordinances, resolutions, rules, policies and guidelines, not inconsistent with law, for the proper conduct, maintenance and supervision of the municipality.

Ordinances and resolutions shall be adopted or amended as provided by law except that the chief operating officer shall exercise the functions, powers and duties of the mayor.

A proposal introduced by the chief operating officer shall be deemed approved if the mayor or governing body fails to act upon the proposal within 45 days following the chief operating officer's submission of the proposal to either the mayor or the governing body, or both, as appropriate. Disapproval by the mayor or governing body of any proposal introduced by the chief operating officer shall constitute an impasse and shall be subject to the dispute resolution procedures set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

c. Notwithstanding the provisions of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), the chief operating officer may negotiate financial agreements and otherwise exercise the powers of the governing body pursuant thereto, including making available municipal land in order to facilitate a project pursuant to section 17 of P.L.1991, c.431 (C.40A:20-17). Any such agreements negotiated by the chief operating officer shall be presented to the governing body for the information of the members of the governing body.

d. Notwithstanding any provisions of P.L.2001, c.310 to the contrary, the chief operating officer may, in consultation with the mayor and governing body, negotiate bond financing pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 through 73) and revenue allocation financing pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 through 489).

e. The functions, powers and duties reallocated to the chief operating officer pursuant to this section shall include, but not be limited to those powers allocated to the mayor which are found in the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws necessary to the governance and administration of a municipality, the control of litigation, and the determination of service levels as provided in this section.

Subject to the approval of the State Treasurer, the chief operating officer may appoint staff necessary to assist the chief operating officer in carrying out those responsibilities set

forth in P.L.2002, c.43 (C.52:27BBB-1 et al.). The salary and benefits of persons so appointed and persons designated pursuant to subsection g. of this section shall be included in the budget request prepared by the chief operating officer pursuant to subsection b. of section 27 of P.L.2002, c.43 (C.52:27BBB-27). Persons appointed pursuant to this subsection shall serve at the pleasure of the chief operating officer.

f. During the rehabilitation term, the chief operating officer shall exercise the veto power of the mayor with respect to municipal ordinances; provided, however, that the chief operating officer may delegate the veto power to the mayor. In addition, during the rehabilitation term, the chief operating officer shall have the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

During the rehabilitation term, the chief operating officer may refer any matter involving any action or failure to act to the special arbitrator.

g. Subject to the approval of the treasurer, the chief operating officer may appoint a confidential secretary and executive assistant who shall be State employees and serve in the unclassified service of the Civil Service. The salary and benefits of these appointees shall be fixed by the treasurer and adjusted from time to time as the treasurer deems appropriate. The salary, benefits, and costs of these appointees shall be an expense of the State and shall be paid by the treasurer.

These appointees shall serve at the pleasure of the chief operating officer.

6. Section 25 of P.L.2002, c.43 (C.52:27BBB-25) is amended to read as follows:

C.52:27BBB-25 Governing body to retain functions, powers, duties.

25. Unless otherwise provided pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the governing body shall retain all functions, powers and duties prescribed to it pursuant to the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., the "Local Budget Law," N.J.S.40A:4-1 et seq., the "Local Fiscal Affairs Law," N.J.S.40A:5-1 et seq., the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "New Jersey Water Supply Public-Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws which govern municipal operation or administration.

The governing body shall set the schedule and agenda for meetings of the governing body, which shall be duly advertised pursuant to the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). Meetings of the governing body shall be presided over by the president of the governing body.

The governing body and any other entity created by the municipality, including the planning board, zoning board of adjustment, personnel board, and any commission, council, redevelopment agency, or corporation, shall include in its agenda for meetings, all agenda items submitted by the chief operating officer.

C.52:27BBB-51.1 Two-year commitment for moneys made available.

7. Notwithstanding the provisions of subsection a. of section 52 of P.L.2002, c.43 (C.52:27BBB-51), moneys made available pursuant thereto may be committed for a period not to exceed two years following the effective date of P.L.2007, c.176 (C.52:27BBB-2.2 et al.).

8. This act shall take effect immediately.

Approved September 16, 2007.