

## CHAPTER 60

AN ACT concerning municipal rehabilitation and economic recovery and amending P.L.2002, c.43.

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

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

C.52:27BBB-3 Definitions relative to municipal rehabilitation and economic recovery.

3. As used in this act:

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

"Board" means the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36).

"Chief operating officer" means that person appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) responsible for reorganizing governmental operations of a qualified municipality in order to assure the delivery of essential municipal services and the professional administration of that municipal government.

"Commissioner" means the Commissioner of Community Affairs.

"Contiguous with" means within.

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

"Economic recovery term" means the period commencing with the expiration of the term of the chief operating officer and terminating 10 years thereafter.

"In consultation with" means with consideration of the input of, or the advice of, the mayor, governing body, chief operating officer or director, as the case may be, without regard to the form or manner of the consultation.

"Local Finance Board" means the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs.

"Mayor" means the mayor or chief executive officer of the municipality, as appropriate to the form of government.

"Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d)

acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: reimbursement to any person for costs in connection with any project, or the refinancing of any project or portion thereof, if such actions are determined by the authority to be necessary and in the public interest to maintain employment and the tax base of any political subdivision and likely to facilitate improvements or the completion of the project; and developing property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13). "Project" shall not include a school facilities project.

"Qualified municipality" means a municipality: (1) that has been subject to the supervision of a financial review board pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) for at least one year; (2) that has been subject to the supervision of the Local Finance Board pursuant to the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.) for at least one year; and (3) which, according to its most recently adopted municipal budget, is dependent upon State aid and other State revenues for not less than 55 percent of its total budget.

"Regional Impact Council" or "council" means that body established pursuant to section 39 of P.L.2002, c.43 (C.52:27BBB-39).

"Rehabilitation term" means that period during which the qualified municipality is under the direction of the chief operating officer appointed pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7).

"Special arbitrator" means that judge designated by the Chief Justice pursuant to section 5 of P.L.2002, c.43 (C.52:27BBB-5).

"State supervision" means supervision pursuant to Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.).

"Treasurer" or "State treasurer" means the Treasurer of the State of New Jersey.

"Under rehabilitation and economic recovery" means that period which coincides with the rehabilitation term and the economic recovery term.

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 10 years thereafter shall be referred to hereinafter as the economic recovery term.

b. (1) 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. No action taken at any meeting of any independent board or authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been delivered to the mayor. If, in that 10-day period, the mayor returns the copy of the minutes with a veto of any action taken by the board or authority at the meeting, that action shall be null and void and of no force and effect. Following the completion of the 10-day period, those actions not vetoed shall be considered approved.

(2) During the first 18 months of the economic recovery term, the mayor shall have the power to veto or terminate any employment contract not subject to a collective bargaining agreement, whether or not subject to Title 11A, Civil Service, of the New Jersey Statutes. This shall not apply to employment contracts under extension pursuant to terms under the expired contract.

(3) The mayor shall cause to be issued a final report on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 8 of P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery term.

(4) The mayor shall authorize the municipal planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto. The program may include current and future major projects being, or to be, undertaken with federal, State, county, or other public funds, or under federal, State, or county supervision. The first year of the program shall, upon adoption by the governing body, constitute the capital budget of the municipality as required by N.J.S.40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds, or the need for additional sources of funds, for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of

the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

(5) 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 during the rehabilitation term.

(6) The Director of the Division of Local Government Services in the Department of Community Affairs shall annually conduct a compliance audit of the activities of a qualified municipality during the economic recovery term to ensure compliance with P.L.2002, c.43 (C.52:27BBB-1 et al.) and other relevant State laws and shall report the findings to the Local Finance Board and the mayor.

(7) The financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-53 through 55) shall remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

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. This act shall take effect immediately.

Approved September 10, 2014.