

HB2575



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2575

by Rep. David Harris

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Local Government Protection Authority Act. Provides findings of the General Assembly and establishes the Authority with the purpose of achieving solutions to financial difficulties faced by units of local government. Defines terms and creates a board of trustees. Sets forth the Authority's duties and powers, including the ability to obtain the unit of local government's records and to recommend revenue increases. Provides for a petition process, whereby certain entities may petition the Authority to review a unit of local government. Sets forth participation requirements.

LRB100 10391 AWJ 20588 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Local Government Protection Authority Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds that:

8 (1) The State and units of local government are in
9 financial distress, evidenced by reductions in government
10 services. These reductions have been spurred by the
11 escalating costs of promised services, salaries,
12 retirement annuities, and healthcare benefits.

13 (2) Certain goods, services, pensions, and retiree
14 health care costs are expected to grow at a faster rate of
15 inflation in the coming years.

16 (3) Illinois taxpayers have supported tax caps in the
17 past, compelling units of local government to manage within
18 existing tax and revenue limitations.

19 (4) If sufficient revenue is not raised to pay for
20 services and costs or, in the case of pensions, irrevocably
21 set aside and prudently invested, local governments'
22 unfunded liabilities including pension and Other Post
23 Employment Benefit (OPEB) obligations shall continue to

1 grow at a staggering rate;

2 (5) As a matter of law, demands from retirees for both
3 pension and OPEB payments may have the same priority for
4 payment as those of ordinary suppliers of goods and
5 services, employees necessary for normal operations, and
6 perhaps many bondholders.

7 (6) A cooperative effort between the State and a
8 financially challenged unit of local government that
9 involves local elected officials and local governmental
10 bodies and taxpayers, workers, and business entities
11 developing a plan of financial recovery is the best way to
12 find a permanent solution to current financial challenges.

13 (b) Therefore, the purpose of this Act is to:

14 (1) provide voluntary resolution and assist units of
15 local government to find affordable solutions so that basic
16 services can be provided on a long term basis;

17 (2) aid in achieving solutions to the problems set
18 forth in this Section and aid units of local government to
19 fully fund essential government services and make
20 sustainable contributions to pensions and OPEB obligations
21 to maintain the credibility of Illinois units of local
22 government;

23 (3) provide a forum in which taxpayers, elected
24 officials, public employers, and employees can address
25 issues relating to essential government services,
26 financial difficulties relating to costs, judgments,

1 liabilities and post-employment benefit rates, and payment
2 structures and provide transparency to the public as to the
3 affordability and sustainability of these services and
4 benefits; and

5 (4) offer an alternative to bankruptcy.

6 Section 10. When used in this Act:

7 "Significant Past Due Creditor" means a creditor that has
8 not been paid on a liquidated debt obligation (unpaid for 6
9 months or more) of \$5,000,000 or 10% of the annual revenues of
10 the unit of local government, whichever is greater.

11 "Uniform Calculation Method" means the funding ratio for
12 pension plans determined based on uniform actuarial
13 methodology, including assumptions based on comparable returns
14 on investment (such as the discount rate) from information
15 annually required to be provided to the Authority.

16 "Unit of local government" means all local governmental
17 entities with funding responsibilities for operating costs,
18 such as contract costs for goods and services, labor, and the
19 pensions and other benefits for their employees. "Unit of local
20 government" does not include school districts.

21 Section 15. Creation. There is created a political
22 subdivision to be known as the Illinois Local Government
23 Protection Authority for the purposes set forth in Section 5 of
24 this Act.

1 Section 20. Board of Trustees. The Authority shall consist
2 of a 9-member board of trustees, who shall be appointed as
3 follows:

4 (a) Four trustees shall be appointed by the Illinois
5 Municipal League.

6 (b) One trustee shall be appointed by the Governor.

7 (c) One trustee shall be appointed by the Speaker of the
8 House of Representatives.

9 (d) One trustee shall be appointed by the President of the
10 Senate.

11 (e) One trustee shall be appointed by the Minority Leader
12 of the House of Representatives.

13 (f) One trustee shall be appointed by the Minority Leader
14 of the Senate.

15 After the first appointment of trustees under this Act, the
16 trustees shall determine, by lot, 2 trustees to serve for terms
17 of 2 years, 2 trustees to serve for terms of 4 years, and 3
18 trustees to serve for terms of 6 years. All trustees appointed
19 under this Act thereafter shall serve for 6-year terms and
20 until their respective successors are appointed and qualified.

21 Section 25. Funding; fees. The Authority shall accept and
22 expend appropriations for the purposes set forth in this Act.
23 The Authority shall establish and implement a fee schedule that
24 shall be paid by participating units of local government. The

1 Authority may alter the fee schedule at any time. The State
2 Comptroller's Office shall collect local government reports
3 required by the Authority and provide administrative and
4 operational support for Authority and its functions.

5 Section 30. Duties. The Authority shall provide a
6 supervised forum to assist with the determination of the
7 following issues resulting from underfunded government
8 services and unaffordable costs and liabilities for local
9 government:

10 (a) what essential government services and post-employment
11 benefits are affordable and sustainable;

12 (b) what cost-cutting measures are necessary to achieve
13 affordable services and benefits;

14 (c) whether a tax increase is necessary to provide
15 additional funding;

16 (d) what contribution increases, by both public employers
17 and employees, are necessary to maintain the viability of
18 pensions or other employee benefit programs;

19 (e) what amount of State revenue is necessary to pay for
20 required services, indebtedness, and benefits so that
21 essential governmental services can be provided and the unit of
22 local government can maintain access to the unit of local
23 government's debt market at relatively low cost;

24 (f) whether the unit of local government should engage in
25 voluntary or mandatory arbitration regarding contractual or

1 labor disputes;

2 (g) whether services or costs of the unit of local
3 government should be transferred to other governmental bodies;

4 (h) whether certain services should be consolidated with
5 other governmental bodies or transferred to a regional or
6 multi-jurisdictional authority;

7 (i) whether the unit of local government should be
8 authorized to file for Chapter 9 proceedings under the Federal
9 Bankruptcy Code;

10 (j) whether, given the findings of Authority, the unit of
11 local government's plan of a debt adjustment can be prepackaged
12 or prenegotiated;

13 (k) whether consolidation with other governmental bodies
14 by public-private partnerships or by leasing, sale of assets,
15 or granting the rights to provide the services within defined
16 parameters of costs and services is an effective option to cut
17 costs; and

18 (l) whether popular solutions from private industry to
19 solve post-employment benefit funding problems may have some
20 applicability to situations facing local governments,
21 including:

22 (1) changing retirement promises for new hires from
23 defined benefit plans to reduced defined benefit plans,
24 cash balance plans, or defined contribution plans and
25 variations thereto, whereby the public employer's
26 contribution is fixed and the employee's contribution can

1 vary based on the benefit desired by the employee subject
2 to State and federal law;

3 (2) transferring OPEB obligations from employers to
4 trusts administered by employees, funded with a one-time
5 employer contribution and ongoing employee contributions
6 or transfer retirees to an exchange created under the
7 Affordable Care Act; and

8 (3) requiring representatives of public employees and
9 employers negotiate affordable cost reductions to existing
10 plans.

11 In addition, the Authority shall develop criteria for
12 measuring the financial health of local governments and make
13 public comment on whether costs of operation, including
14 services, labor, and pension and Other Post Employment Benefits
15 obligations, can be paid from reasonably available sources
16 without impairing a unit of local government's primary mission
17 of providing essential services.

18 Section 35. Powers. The Authority shall have the power to:

19 (a) Provide recommendations consistent with the purposes
20 of funding and enforcing reasonable and affordable government
21 services and costs of operation, labor and post-employment
22 benefits for employees of a local government.

23 (b) Obtain information required under this Section and
24 Section 45 from all participating units of local government.

25 (c) Create a funding target and set an acceptable level of

1 essential governmental services and increasing percentage
2 targets for an appropriate level of annual funding for pension
3 funds so that by a specified date, full or appropriate funding
4 is realized by the participating funds.

5 (d) Encourage units of local government that fail to meet
6 the Authority's annual funding targets to enter into cost
7 reduction negotiations between public employers and their
8 employees. The Authority shall provide assistance with these
9 cost reduction efforts, including employer-employee benefit
10 adjustment discussions.

11 (e) Mediate discussions regarding appropriate levels of
12 local government services, costs, taxes, pension funding, and
13 benefits to ensure that they are within an acceptable range of
14 the funding target.

15 (f) Make findings regarding affordable levels of services
16 and costs, including labor costs and employee benefits, that
17 allow adequate funding for essential governmental services.

18 (g) Approve settlements.

19 (h) Recommend a tax increase that requires a vote by the
20 unit of local government on the tax increase. Home rule local
21 governments shall have their representative body vote on the
22 recommended tax increase. The Authority may require a
23 referendum regarding the tax increase for non-home rule local
24 governments.

25 (i) Recommend a diversion of State revenues in order to
26 fund specified costs of operation, labor, and post-retirement

1 benefits.

2 (j) Recommend voluntary mediation.

3 (k) Require annual work plans, along with quarterly
4 progress reports, from local governments that have not met the
5 cost reductions or pension funding target.

6 (l) Require participating units of local government that
7 have individual budgets that are not affordable or specific
8 pension plans with funded ratios below a level determined by
9 Authority and have not met the funding target for 2 consecutive
10 years to submit an explanation to their electors. The
11 affordability of the budget and acceptable levels for essential
12 governmental services shall be determined by standards
13 established by General Assembly based on recommendations by
14 Authority. The funding ratio for pension plans shall be
15 determined according to the Uniform Calculation Method. The
16 required explanation to the electors shall include a Statement
17 of the impact of the underfunding of obligations and pensions
18 on the provision of essential governmental services and shall
19 be published in a newspaper of general circulation. The
20 Authority shall establish rules and guidelines for the
21 reporting and publication by units of local government.

22 (m) Consider and make recommendations to the General
23 Assembly legislation regarding an economic safety net whereby
24 the State shall provide a set of fallback post-employment
25 benefits for employees in the event that a public employer has
26 not resolved the underfunding of its pension plan and

1 thereafter is unable to pay its retirees. The program shall use
2 the federal Pension Benefit Guaranty Corporation as its model.
3 Contractual benefits would have to meet affordability tests
4 prior to being approved for safety net funding. The outcomes of
5 the affordability tests may result in smaller benefit payments
6 than were initially promised to the employees by the defaulted
7 employer.

8 Section 40. Petition and criteria. The Authority may
9 exercise its authority over a unit of local government under
10 this Act if the Authority is petitioned and the Authority
11 accepts the participation of the unit of local government
12 identified in the petition. The Authority has absolute
13 discretion regarding acceptance or denial of any petition and
14 participation of a unit of local government. The Authority
15 shall create rules regarding the petition, procedure, format,
16 and required documentation.

17 (a) The following parties may petition the Authority:

- 18 (1) the Illinois Comptroller;
19 (2) a unit of local government;
20 (3) a Significant Past Due Creditor; or
21 (4) a pension fund.

22 If the Illinois Comptroller, a Significant Past Due
23 Creditor, or a pension fund petitions the Authority, their
24 petition shall include documentation of the unit of local
25 government's approval of the petition and participation.

1 (b) The Authority may seek declaratory and injunctive
2 relief regarding the exercise of its powers and implementation
3 of its findings and recommendations.

4 (c) Trigger Criteria. The Authority may consider any of the
5 following criteria regarding the unit of local government or
6 its individual pension plan in its determination to accept or
7 deny the party's petition:

8 (1) past due debt obligations or judgments of more than
9 a specified percentage of the annual revenues of the unit
10 of local government that have been unpaid for more than 6
11 months without an agreement by the creditors to forbear or
12 standstill as to prosecution of the claims;

13 (2) failure to make statutory or Annual Required
14 Contributions (or a suitable similar substitute concept)
15 to pension funds from existing operating revenues for 2
16 consecutive years;

17 (3) funded ratio for an individual pension plan falls
18 below a threshold set by Authority;

19 (4) failure to pass a budget by a date established by
20 Authority after the start of the fiscal year;

21 (5) bills of a specified percentage of annual current
22 revenues are left unpaid for a period greater than 180
23 days, as defined by a payment period;

24 (6) failure to maintain at least 30 days cash on hand
25 in the General Fund at end of the fiscal year for 2
26 consecutive years;

1 (7) debts or judgments that are past due for more than
2 6 months or pension liabilities exceed a given percent of
3 the fair market value of taxable real property in the
4 taxing district;

5 (8) financial statements are not published within 6
6 months of the close of the fiscal year;

7 (9) the unit of local government has defaulted on debt
8 securities;

9 (10) the sum of the Annual Required Contributions and
10 the annual debt service on any outstanding pension
11 obligation bonds has exceeded a thresholds set by the
12 Authority for the last 3 consecutive years; and

13 (11) any other criteria that the Authority determines
14 is necessary to accomplish its mission.

15 The Authority shall develop standards for interpreting
16 these criteria and how it shall grant participation to a unit
17 of local government.

18 Section 45. Participation requirements. If a unit of local
19 government is selected, it must fully cooperate with the
20 requests of the Authority, including, but not limited to: (a)
21 submitting any documents required under Section 35; (b)
22 providing information regarding its budget, revenue sources,
23 and liabilities, including pension funds; (c) annually filing
24 information with the Authority demonstrating their budgets,
25 revenues, costs, liabilities, and funding level for their

1 actuarially determined pension and other post employment
2 benefit liabilities; and (d) providing access to the records of
3 the pension funds for each participating local government for
4 the purpose of confirming this information.