



Rep. LaToya Greenwood

Filed: 3/1/2022

10200HB0726ham001

LRB102 10072 AWJ 37006 a

1 AMENDMENT TO HOUSE BILL 726

2 AMENDMENT NO. _____. Amend House Bill 726 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 8-12-2, 8-12-3, 8-12-4, and 8-12-23 and by
6 adding Sections 8-12-4.5, 8-12-10.5, and 8-12-21.5 as follows:

7 (65 ILCS 5/8-12-2) (from Ch. 24, par. 8-12-2)

8 Sec. 8-12-2. (a) Pursuant to the authority of the General
9 Assembly to provide for the public health, safety and welfare,
10 the General Assembly hereby finds and declares that it is the
11 public policy and a public purpose of the State to offer
12 assistance to a financially distressed city so that it may
13 provide for the health, safety and welfare of its citizens,
14 pay when due principal and interest on its debt obligations,
15 meet financial obligations to its employees, vendors and
16 suppliers, and provide for proper financial accounting

1 procedures, budgeting and taxing practices, as well as
2 strengthen the human and economic development of the city.

3 (b) It is the purpose of this Division to provide a secure
4 financial basis for the continued operation of a financially
5 distressed city. The intention of the General Assembly, in
6 enacting this legislation is to establish sound, efficient and
7 generally accepted accounting, budgeting and taxing procedures
8 and practices within a financially distressed city, to provide
9 powers to a financial advisory authority established for a
10 financially distressed city, and to impose restrictions upon a
11 financially distressed city in order to assist that city in
12 assuring its financial integrity while leaving municipal
13 services policies to the city, consistent with the
14 requirements for satisfying the public policy and purposes
15 herein set forth.

16 (c) It also is the purpose of this Division to authorize a
17 city which has been certified and designated as a financially
18 distressed city under the procedure set forth in Section
19 ~~8-12-4, and which has by ordinance requested that a financial~~
20 ~~advisory authority be appointed for the city and that the city~~
21 ~~receive assistance as provided in this Division, and which has~~
22 ~~filed certified copies of that ordinance in the manner~~
23 ~~provided by Section 8-12-4,~~ to enter into such agreements as
24 are necessary to receive assistance as provided in this
25 Division and in applicable provisions of the Illinois Finance
26 Authority Act.

1 (Source: P.A. 93-205, eff. 1-1-04.)

2 (65 ILCS 5/8-12-3) (from Ch. 24, par. 8-12-3)

3 Sec. 8-12-3. As used in this Division:

4 (1) "Authority" means the "(Name of Financially Distressed
5 City) Financial Advisory Authority".

6 (2) "Financially distressed city" means a home rule ~~any~~
7 municipality which is ~~a home rule unit and which (i) is~~
8 certified and designated by the Department of Revenue as being
9 ~~in the highest 5% of all home rule municipalities in terms of~~
10 ~~the aggregate of the rate per cent of all taxes levied pursuant~~
11 ~~to statute or ordinance upon all taxable property of the~~
12 ~~municipality and as being in the lowest 5% of all home rule~~
13 ~~municipalities in terms of per capita tax yield, and (ii) is~~
14 ~~designated by joint resolution of the General Assembly as a~~
15 financially distressed city under Section 8-12-4.

16 (3) "Home rule municipality" means a municipality which is
17 a home rule unit as provided in Section 6 of Article VII of the
18 Illinois Constitution.

19 (4) "Budget" means an annual appropriation ordinance or
20 annual budget as described in Division 2 of Article 8, as from
21 time to time in effect in the financially distressed city.

22 (5) "Chairperson" means the chairperson of the Authority
23 appointed pursuant to Section 8-12-7.

24 (6) "Financial Plan" means the financially distressed
25 city's financial plan as developed pursuant to Section

1 8-12-15, as from time to time in effect.

2 (7) "Fiscal year" means the fiscal year of the financially
3 distressed city.

4 (8) "Obligations" means bonds, notes or other evidence of
5 indebtedness issued by the Illinois Finance Authority in
6 connection with the provision of financial aid to a
7 financially distressed city pursuant to this Division and
8 applicable provisions of the Illinois Finance Authority Act.

9 (Source: P.A. 93-205, eff. 1-1-04.)

10 (65 ILCS 5/8-12-4) (from Ch. 24, par. 8-12-4)

11 Sec. 8-12-4. Certification and designation as financially
12 distressed city.

13 (a) In order to be certified as a financially distressed
14 city and receive assistance as provided in this Division:

15 (1) a home rule municipality shall first, by ordinance
16 passed by its corporate authorities, request (i) that the
17 Department of Revenue certify that it is in the highest 5%
18 of all home rule municipalities in terms of the aggregate
19 of the rate per cent of all taxes levied pursuant to
20 statute or ordinance upon all taxable property of the
21 municipality and in the lowest 5% of all home rule
22 municipalities in terms of per capita tax yield, and (ii)
23 that the General Assembly by joint resolution designate it
24 as a financially distressed city. A home rule municipality
25 which is so certified and designated as a financially

1 distressed city and which desires to receive assistance as
2 provided in this Division shall, by ordinance passed by
3 its corporate authorities, request that a financial
4 advisory authority be appointed for the city and that the
5 city receive assistance as provided in this Division, and
6 shall file a certified copy of that ordinance with the
7 Governor, with the Clerk of the House of Representatives
8 and with the Secretary of the Senate; ~~or-~~

9 (2) the State Treasurer may conduct a preliminary
10 review to determine the existence of probable financial
11 stress within a home rule municipality if one or more of
12 the following occur:

13 (A) the State Treasurer requests that the
14 Department of Revenue certify that the municipality is
15 in the highest 5% of all home rule municipalities in
16 terms of the aggregate of the rate per cent of all
17 taxes levied pursuant to statute or ordinance upon all
18 taxable property of the municipality and in the lowest
19 5% of all home rule municipalities in terms of per
20 capita tax yield, and the Department certifies the
21 same;

22 (B) the city council or the mayor of a
23 municipality or school board makes a written request
24 for a preliminary review and that request identifies
25 the existing or anticipated financial conditions or
26 events that make the request necessary;

1 (C) the State Treasurer receives a written request
2 from a creditor with an undisputed claim against the
3 municipality that exceeds the greater of \$10,000 or 1%
4 of the annual general fund budget of the municipality
5 and that remains unpaid 6 months after its due date
6 provided that the creditor notifies the municipality
7 in writing at least 30 days before its request to the
8 State Treasurer of its intention to submit a written
9 request under this paragraph;

10 (D) the State Treasurer receives, not earlier than
11 60 days before the next municipal election, a petition
12 containing specific allegations of municipal financial
13 distress signed by at least 25% of the electors within
14 the municipality who voted at the last general
15 election at which a Governor was elected;

16 (E) the State Treasurer receives written
17 notification that a municipality has not timely
18 deposited its minimum obligation payment to the
19 municipality's pension fund as required by law;

20 (F) the State Treasurer receives written
21 notification that the municipality has failed for a
22 period of 7 days or more after the scheduled date of
23 payment to pay wages and salaries or other
24 compensation owed to employees or benefits owed to
25 retirees;

26 (G) the State Treasurer receives written

1 notification from a trustee, paying agent, bondholder,
2 or auditor engaged by the municipality of a default in
3 a bond or note payment or a violation of one or more
4 bond or note covenants;

5 (H) the State Treasurer receives a resolution from
6 either chamber of the General Assembly requesting a
7 preliminary review;

8 (I) the municipality is delinquent in the
9 distribution of tax revenues, as required by law, that
10 it has collected for another taxing jurisdiction, and
11 that taxing jurisdiction requests a preliminary
12 review;

13 (J) the municipality has been assigned a long-term
14 debt rating within or below the BBB category or its
15 equivalent by one or more nationally recognized credit
16 rating agencies; or

17 (K) the existence of other facts or circumstances
18 that, in the State Treasurer's sole discretion, are
19 indicative of probable financial stress.

20 Before commencing the preliminary review under this
21 paragraph (2), the State Treasurer shall provide the
22 municipality written notification that he or she intends
23 to conduct a preliminary review. Elected and appointed
24 officials of the municipality shall promptly and fully
25 provide the assistance and information requested by the
26 State Treasurer for that municipality in conducting the

1 preliminary review. The State Treasurer shall provide a
2 preliminary report of his or her findings to the
3 municipality within 20 days after the date the preliminary
4 review begins. A copy of the preliminary report shall be
5 provided to each State Senator and State Representative
6 who represents that municipality. The municipality may
7 provide comments to the State Treasurer concerning the
8 preliminary report within 5 days after the preliminary
9 report is provided to the municipality.

10 If the State Treasurer believes there is probable
11 financial stress after his or her preliminary review and
12 any input from the municipality, the State Treasurer shall
13 establish a review team under Section 8-12-4.5. A copy of
14 the preliminary report shall be provided to the review
15 team and each State Senator and State Representative who
16 represents that municipality, and the review shall be
17 posted on the State Treasurer's website. The review team
18 shall examine the financial situation of the municipality
19 and complete a final report as provided in Section
20 8-12-4.5.

21 If the Governor believes that probable financial
22 stress exists for the municipality to be certified as a
23 financially distressed city under this Section after
24 reviewing a final report prepared under Section 18-12-4.5,
25 the Governor may, by proclamation, certify and designate
26 the municipality as a financially distressed city and

1 authorize appointment of the municipality's Authority
2 under Section 8-12-7. The proclamation shall be filed with
3 the Secretary of State and the corporate authorities of
4 the municipality.

5 (b) Upon the filing of the certified copies of ~~the that~~
6 ordinance under paragraph (1) of subsection (a) or upon the
7 written proclamation by the Governor filed with the Secretary
8 of State and corporate authorities of a municipality under
9 paragraph (2) of subsection (a), ~~as required by this Section~~
10 this Division and all of its provisions shall then and
11 thereafter be applicable to the financially distressed city,
12 shall govern and control its financial accounting, budgeting
13 and taxing procedures and practices, and, subject to the
14 limitations of subsection (a) of Section 8-12-22, shall remain
15 in full force and effect with respect thereto until such time
16 as the financial advisory authority established under Section
17 8-12-5 is abolished as provided in subsection (c) of Section
18 8-12-22.

19 (Source: P.A. 86-1211.)

20 (65 ILCS 5/8-12-4.5 new)

21 Sec. 8-12-4.5. Review team powers and duties.

22 (a) If the State Treasurer believes there is probable
23 financial stress after his or her preliminary review and any
24 input from the municipality under Section 8-12-4, the State
25 Treasurer shall establish a review team for the municipality

1 consisting of: the State Treasurer, or his or her designee;
2 the Director of the Governor's Office of Management and
3 Budget, or his or her designee; a member appointed by the
4 Senate President; a member appointed by the Minority Leader of
5 the Senate; a member appointed by the Speaker of the House of
6 Representatives; and a member appointed by the Minority Leader
7 of the House of Representatives. The State Treasurer may
8 appoint other State officials or other persons with relevant
9 professional experience to serve on the review team. The State
10 Treasurer shall provide administrative support and other
11 support to a review team established under this Section.

12 (b) In conducting its review, the review team may:

13 (1) examine the books and records of the municipality;

14 (2) use the services of other State agencies and
15 employees in conducting the financial review; or

16 (3) both examine the books and records of the
17 municipality and use the services of other State agencies
18 and employees in conducting the financial review.

19 The review team shall meet with city council and employees
20 of the municipality as part of its review. At this meeting, the
21 review team shall receive, discuss, and consider information
22 provided by the municipality concerning the financial
23 condition of the municipality. In addition, the review team
24 shall hold at least one public meeting in the jurisdiction of
25 the municipality at which the public may provide comment.

26 (c) The review team shall submit a written final report of

1 its findings to the State Treasurer within 60 days following
2 its establishment or earlier if required by the State
3 Treasurer. Upon request of a majority of the review team, the
4 State Treasurer may grant one 30-day extension to the 60-day
5 limitation. A copy of the final report shall be forwarded by
6 the State Treasurer to the Governor, mayor and city council of
7 the municipality, the Speaker of the House of Representatives,
8 the Senate President, and each State Senator and State
9 Representative who represents the municipality. The final
10 report shall be posted on the State Treasurer's website within
11 7 days after the final report is submitted to the Governor. The
12 final report shall identify the existence, or an indication of
13 the likely occurrence, of any of the following if found:

14 (1) a default in the payment of principal or interest
15 upon bonded obligations, notes, or other municipal
16 securities for which no funds or insufficient funds are on
17 hand and, if required, segregated in a special trust fund;

18 (2) a failure for a period of 30 days or more beyond
19 the due date to transfer one or more of the following to
20 the appropriate agency:

21 (i) taxes withheld on the income of employees;

22 (ii) taxes collected by the municipality as agent
23 for another unit of local government; and

24 (iii) a contribution required by a pension,
25 retirement, or benefit plan;

26 (3) a failure for a period of 7 days or more after the

1 scheduled date of payment to pay wages and salaries or
2 other compensation owed to employees or benefits owed to
3 retirees;

4 (4) the total amount of accounts payable for the
5 current fiscal year, as determined by the State Treasurer,
6 is in excess of 10% of the total expenditures of the
7 municipality in that fiscal year;

8 (5) a failure to eliminate an existing deficit in any
9 fund of the municipality within the 2-year period
10 preceding the end of the municipality's fiscal year during
11 which the review team final report is received;

12 (6) a projection of a deficit in the general fund of
13 the municipality for the current fiscal year in excess of
14 5% of the budgeted revenues for the general fund;

15 (7) a failure to comply in all material respects with
16 the terms of an approved deficit elimination plan or an
17 agreement entered into pursuant to a deficit elimination
18 plan;

19 (8) the existence of material loans to the general
20 fund from other municipal funds that are not regularly
21 settled between the funds or that are increasing in scope;

22 (9) the existence after the close of the fiscal year
23 of material recurring, non-budgeted subsidies from the
24 general fund to other major funds;

25 (10) the existence of a structural operating deficit;

26 (11) the use of restricted revenues for purposes not

1 authorized by law;

2 (12) the likelihood that the municipality is or will
3 be unable to pay its obligations within 60 days after the
4 date of the review team's final report; and

5 (13) any other facts and circumstances indicative of a
6 municipal financial emergency.

7 (d) The review team shall include one of the following
8 conclusions in its final report:

9 (1) a financial emergency does not exist within the
10 municipality; or

11 (2) a financial emergency exists within the
12 municipality.

13 (e) The review team may, with the approval of the State
14 Treasurer, appoint an individual or firm to carry out the
15 review and submit a report to the review team for approval. The
16 State Treasurer may enter into a contract with an individual
17 or firm respecting the terms and conditions of the
18 appointment.

19 (f) For purposes of this Section:

20 (1) A financial emergency does not exist within a
21 municipality if the final report concludes that none of
22 the factors in subsection (c) exist or are likely to occur
23 within the current or next fiscal year or, if they occur,
24 do not threaten the municipality's capability to provide
25 necessary governmental services essential to public
26 health, safety, and welfare.

1 (2) A financial emergency exists within a municipality
2 if any of the following occur:

3 (A) the final report concludes that one or more of
4 the factors in subsection (c) exist or are likely to
5 occur within the current or next fiscal year and
6 threaten the municipality's current and future
7 capability to provide necessary governmental services
8 essential to the public health, safety, and welfare;

9 (B) the municipality has failed to provide timely
10 and accurate information enabling the review team to
11 complete its final report; or

12 (C) the mayor of the municipality concludes in
13 writing to the review team that one or more of the
14 factors in subsection (c) exist or are likely to occur
15 within the current or next fiscal year and threaten
16 the municipality's current and future capability to
17 provide necessary governmental services essential to
18 the public health, safety, and welfare, and the mayor
19 recommends that a financial emergency be declared and
20 the State Treasurer concurs with the recommendation.

21 (65 ILCS 5/8-12-10.5 new)

22 Sec. 8-12-10.5. State grants. If a financially distressed
23 city or Authority is awarded a State grant, any moneys the
24 financially distressed city or Authority would be required to
25 match under the grant are waived unless the moneys under the

1 grant come from federal moneys that require the match. A
2 municipality's status as a financially distressed city may not
3 negatively impact a decision of whether or not to award a State
4 grant to the municipality or negatively impact the amount of
5 moneys received by the municipality from a State grant.

6 (65 ILCS 5/8-12-21.5 new)

7 Sec. 8-12-21.5. Noncompliance by corporate authorities or
8 employees of a municipality. If a financially distressed city,
9 including its corporate authorities or employees, materially
10 violates the requirements of this Division, the Authority may
11 commence action in the circuit court within any county in
12 which the municipality is located if the Authority has given
13 the corporate authorities of the city written notice that
14 includes: a detailed explanation of the material violation; a
15 statement of the Authority's intention to enforce the
16 provisions of this Division by commencing an action; a
17 statement giving the corporate authorities at least 15 day to
18 correct the violation before the Authority may commence an
19 action.

20 (65 ILCS 5/8-12-23) (from Ch. 24, par. 8-12-23)

21 Sec. 8-12-23. A financially distressed city to which this
22 Division applies shall remain subject to all other applicable
23 provisions of law ~~this Act~~, except as limited by this
24 Division; provided, however, that in case of a conflict

1 between the provisions of this Division and any other
2 provision of law ~~this Act~~, the provisions of this Division
3 shall control.

4 (Source: P.A. 86-1211.)".