

**5:30 –13**  
**LOCAL FINANCE BOARD - FINANCIAL REVIEW BOARDS**

**5:30-13.1 Definitions**

The following words, as used in this subchapter, shall have the following meanings:

*"Board"* means the financial review board, created pursuant to N.J.S.A. 52:27D-118.30a for a municipality;

*"Municipality"* means a local unit whose fiscal condition is determined by the Director, the board and the State Legislature to be distressed and in need of special State oversight.

**5:30-13.2 Powers and responsibilities**

- (a) The board shall have the power and responsibility to:
1. Approve, implement and enforce a financial plan of the municipality, including monitoring compliance;
  2. Approve the annual budget of the municipality;
  3. Approve the issuance of debt by the municipality;
  4. Approve labor and other contracts entered into by the municipality;
  5. Obtain information regarding the financial condition and needs of the municipality, including such financial statements and projections, budgetary data, and information and management reports and materials as the board may deem necessary or desirable;
  6. Inspect, copy and audit such books and records of the municipality as the board shall determine necessary or desirable;
  7. Require the appearance of any municipal official or employee before the board to answer questions concerning the finances of the municipality;
  8. Adopt policies and procedures for the conduct of the board's activities; and
  9. Provide the Local Finance Board, the Governor and the Legislature with an evaluation of the municipality's financial condition, and recommendations for legislative actions that, in the opinion of the board, are necessary to assure economic redevelopment that will lead to the fiscal recovery of the municipality.

**5:30-13.3 Financial review board**

- (a) The board shall consist of seven members appointed by the Governor.
- (b) The board shall meet as soon as possible after the appointment of a majority of the members for the purpose of organizing and undertaking its responsibilities.
- (c) The Governor shall appoint the chair of the financial review board.
- (d) The chair shall preside at all meetings of the board.
- (e) A majority of the voting members of the entire board shall constitute a quorum for the conduct of business. Attendance shall be taken.
- (f) The board shall act by majority vote of the membership of the board. Roll call votes shall be recorded.
- (g) All meetings of the board shall be subject to the "Open Public Meetings Act," P.L. 1975, c.231 (N.J.S.A. 10:4-6 et seq.).
- (h) The heads of departments of the executive branch of the State government, if appointed to the board, may be represented by an official designee. The names of these designees shall be filed with the board.
- (i) Vacancies in the membership of a board shall be filled for the unexpired terms only in the same manner as the original appointments were made.
- (j) The Director of the Division of Local Government Services may assign members of the Division staff to assist the board, as the board may require.
- (k) The municipality shall provide the board with office space and support facilities as the board may determine to be necessary to conduct its activities.

**5:30-13.4 Report**

- (a) Upon request by the Director of the Division of Local Government Services, the financial review board shall make and report its recommendations for economic development legislation to the Local Finance Board, the Governor and the Legislature.
- (b) Upon request by the Director of the Division of Local Government Services, the board shall prepare and file a report of its activities with, and shall provide its assessment of the fiscal condition and progress of the municipality to, the Local Finance Board, the Governor and the Legislature.

**5:30-13.5 Financial plan preparation**

- (a) Within 45 days after the appointment of the majority of the members to the board, the mayor of the City, in consultation with the municipality's governing body, shall

develop a proposed financial plan covering the three-year period beginning with the municipality's current fiscal year.

- (b) The financial plan shall be composed of the following sections: a budgetary plan, an operations plan, an economic development plan and a capital improvement plan.
  - 1. The budgetary plan shall be general in nature and shall include revenue and spending targets that must be met by the municipality through its annual budget. Spending targets may be set by budgetary line item. If, in the opinion of the board, the municipality does not have an adequate cash management plan or cash flow analysis, the board may require that the plan include such matters. The board shall ensure that the provisions of the plan comply with all applicable provisions of State law.
  - 2. The operations plan shall identify and describe opportunities to reduce the costs of providing municipal services through general reductions of municipal expenditures; sales of surplus municipal assets; changes in staffing patterns; development of new sources of revenues; implementation of shared services with other government agencies; contracting of services to other providers; modifications in municipal service levels; improved or lower cost operating methods and practices; and any other measures which would serve to reduce the costs of providing municipal services as may be developed by the municipality or the board.
  - 3. The capital improvement plan shall follow and reflect the capital improvement plan adopted pursuant to the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., and any applicable rules adopted by the Local Finance Board.
  - 4. The economic development plan shall identify and describe appropriate actions for the economic development of the municipality planned by all government agencies, non-profit and private sector organizations engaged in the economic development of the municipality.
- (c) Within 30 days of developing the financial plan, the governing body shall conduct a public hearing on the proposed financial plan and may then adopt it in full or with amendments.
- (d) Not later than 120 days after the date that the financial review board has its first meeting, the governing body of the municipality shall submit the proposed financial plan to the board for the board's review and approval.
- (e) Not more than 60 days after submission of the proposed financial plan or recommendations for modification of an approved financial plan to the board, the board shall determine whether the proposed plan or the proposed plan modification is complete and complies with all necessary statutes and regulations.
  - 1. If the board determines that the proposed plan, or the proposed plan modification, is complete and complies with all necessary statutes and regulations, the board shall, by resolution, approve the financial plan or the financial plan modification.

2. If the board determines that the proposed plan or proposed plan modification is incomplete; that the budget plan therein fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation; that the proposed plan or proposed plan modification fails to demonstrate that the operations of the municipality will be conducted within the cash resources available to the municipality according to reasonable and appropriate assumptions and methods of estimation; or that the proposed plan or proposed plan modification fails to comply with the provisions of these rules, the board shall, by resolution, disapprove the plan.
- (f) In the event that the governing body of the municipality either fails to submit a financial plan as required or fails to submit a financial plan that receives the approval of the board, the board shall, by resolution, formulate and adopt a financial plan to be effective until the governing body of the municipality submits a financial plan that is approved by the board.
  - (g) Once adopted by the board, the provisions of the financial plan shall be binding on the municipality.
  - (h) The municipality shall submit a copy of the adopted financial plan to the Local Finance Board.

### **5:30-13.6 Financial plan modification**

- (a) Following approval of a financial plan, the board shall examine the financial plan on a regular basis, in consultation with the mayor and governing body of the municipality.
- (b) The municipality shall establish a system for reporting on its progress in complying with the various components of the plan. These reports shall be prepared in a form and with such contents as shall be prescribed by the board.
- (c) Reports regarding the municipality's compliance with the budget plan component shall be made monthly.
- (d) Reports regarding the municipality's compliance with the other components of the financial plan shall be made quarterly.
- (e) In the event that the reports provided to the board indicate that expenditures made by the municipality are not consistent with the approved financial plan, the board shall be authorized to issue orders and directives as it believes necessary to ensure compliance with the plan.
- (f) If, in the board's judgment, it appears at any time that the amount of revenues which the municipality is reasonably likely to realize in cash during any fiscal year will be less than the amount of anticipated revenues in the municipality's annual budget, or that the expenditures for the municipality during any fiscal year will exceed the amount of revenues that the municipality is reasonably likely to realize in cash during that fiscal year, the board may direct the municipality to submit a

financial plan modification to the board describing how the municipality shall adjust revenue estimates and reduce expenditures to conform the expenditures of the municipality to such revised revenue estimates.

- (g) The board shall approve a financial plan modification so long as the modification complies with the requirements of these rules.
- (h) Following approval by the board, the municipality shall implement that financial plan modification.
- (i) If the municipality fails to submit a plan modification within the time period specified by the board, the board, upon adoption of a resolution, may formulate and approve a financial plan modification as may be necessary to achieve the purposes of the board and thereafter direct its implementation by the municipality.

### **5:30-13.7 Annual municipal budget approval**

- (a) The governing body shall provide a copy of its introduced budget and all related documents to the financial review board.
- (b) Following receipt of the introduced budget and the introduction of any amendments by the governing body, the board shall review the budget and approve the budget either as submitted or with such modifications as to anticipated revenues or budget appropriations as the board may deem appropriate.
- (c) The governing body of the municipality shall incorporate any modifications required by the board into the budget and shall then proceed to adopt the budget in accordance with the "Local Budget Law," N.J.S.A. 40A:4-1 et seq.
- (d) Notwithstanding the provisions of the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., actions of the board that result in budget changes shall, if necessary, extend otherwise binding statutory time periods to an appropriate date set by the board.
- (e) If the mayor or the governing body, or both, fail to comply with their statutory responsibilities regarding the preparation and adoption of a budget for the municipality by the times set forth herein or in the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., the board may request that the Local Finance Board authorize the financial review board to exercise those responsibilities on behalf of the municipality.
  - 1. The Local Finance Board must provide the mayor or the governing body, or both, an opportunity to be heard on this matter.
  - 2. Following this hearing and a determination by the Local Finance Board that the mayor or the governing body, or both, failed to comply with their statutory responsibilities, the board shall be authorized to exercise these responsibilities on behalf of the municipality.

**5:30-13.8 Issuance of debt**

- (a) The municipality shall not authorize the issuance of bonds or notes without the prior approval of the board.
- (b) Any bond ordinance proposed to be adopted, together with such other information as the board may require, shall be submitted to the board for review and approval prior to introduction of the ordinance.
- (c) If the board is satisfied that the purpose or purposes to be funded by the proposed ordinance are consistent with the approved financial plan for the municipality, it shall approve the proposed ordinance.
- (d) Upon receipt of such approval, the governing body of the municipality may proceed with the introduction and adoption of the ordinance. The financial review board must approve any amendments to the ordinance before these amendments are adopted by the governing body of the municipality.
- (e) The procedures set forth in this section shall be in addition to, and not in lieu of, any procedures which the municipality would be required to follow in seeking the issue of debt in accordance with the provisions of the "Municipal Qualified Bond Act," P.L. 1976, c.38 (N.J.S.A. 40A:3-1 et seq.).

**5:30-13.9 Emergency appropriations, budget amendments, transfer of appropriation**

- (a) The governing body of the municipality shall adopt no emergency appropriation or other budget amendment for any purpose until the board has reviewed and approved the emergency appropriation or other budget amendment.
- (b) In reviewing any proposed emergency appropriation or other budget amendment, the board shall consider such factors as may be appropriate, including, but not limited to, the need for the appropriation and the existence of alternative sources to meet the need for the appropriation. Any request for approval of a proposed emergency appropriation or other budget amendment shall be accompanied by a document prepared by the municipality explaining the need for the action.
- (c) The governing body of the municipality shall neither authorize nor approve a transfer of appropriation or change in text or title of an appropriation until the transfer of appropriation or change in text or title of an appropriation has first been reviewed and approved by the board. Any request for approval of a proposed transfer of appropriation or change in text or title of an appropriation shall be accompanied by a document prepared by the municipality explaining the need for the transfer.

**5:30-13.10 Contracts**

- (a) The governing body shall provide to the chair of the board a summary of all pending resolutions for contracts for goods and services at least five business days

before these resolutions are considered by the governing body. Each summary shall include the contract's purpose, vendor, projected costs, justification of the award, and a certification by the municipality's chief financial officer that the performance of the contract will be in accordance with the financial plan.

- (b) The chair of the board shall have the authority to order the governing body not to consider any pending resolution regarding contracts.
- (c) The board shall promptly review the terms of the contracts held by the chair in order to determine whether the contract complies with the financial plan.
  - 1. The board shall approve the contract if it determines that the execution and the performance of the contract will be consistent with the financial plan.
  - 2. In approving a contract, the board may establish appropriate terms and conditions to achieve the purposes of the financial plan, provided that the terms and conditions are not otherwise inconsistent with other requirements of law, including, but not limited to the "Local Public Contracts Law," P.L. 1971, c.198 (N.J.S.A. 40A:11-1 et seq.).
- (d) Upon receipt of notice of approval of a contract, the municipality may proceed to enter into the contract subject to the terms and conditions as may have been established by the board.

#### **5:30-13.11 Orders and directives**

- (a) The board shall be authorized to issue orders and directives to any officer or employee of the municipality that it deems necessary to accomplish the board's purposes; including, but not limited to, timely and satisfactory implementation of the provisions of the approved financial plan of the municipality.
- (b) Any order or directive shall be binding upon the officer or employee to whom it is issued.
- (c) No officer or employee of the municipality shall:
  - 1. Take any action in violation of any valid order or directive of the board;
  - 2. Fail or refuse to take any action required by any such order or directive; or
  - 3. Prepare, present or certify any information or report, including any projections or estimates, for the board or any of its agents that are willfully false or misleading.
- (d) In addition to any penalty or liability under any other law, any officer or employee of the municipality who shall violate the provisions of this section shall be subject to appropriate administrative discipline including, when circumstances warrant,

suspension from duty without pay or removal from office by order of the mayor or the board.

- (e) In the case of a violation of the provisions of this section by an officer or employee of the municipality, the mayor shall immediately report to the board all pertinent facts together with a statement of the action taken thereon.
- (f) Orders and directives issued by the board may be enforced by a proceeding in lieu of prerogative writ, by an action for injunctive relief in appropriate cases, or by a mandamus action to compel performance by the governing body or by any officer or employee of the municipality.