

HOUSE 4516:

AN ACT PROVIDING FOR THE FINANCIAL STABILITY OF THE CITY OF LAWRENCE

(summary reflects bill as amended by Senate Committee on Ways and Means, and as amended in the March 9, 2010 Senate formal session)

SPONSOR:

Governor Patrick

BILL HISTORY:

02/22/10 Reported from House Committee On Ways and Means
03/03/10 House further amendment adopted (101 – 56)
03/03/10 House amendment 3 adopted
03/03/10 House passed to be engrossed (106 - 51)
03/04/10 Senate read; referred to the Senate Committee On Ways and Means

LEGISLATION:

· **Senate Ways and Means Chairman Panagiotakos's floor amendment strengthened state oversight by making several changes to the bill that was reported from Senate Ways and Means:**

- Establishes a department of administration and finance upon the abolition of the control board, or upon abolition of the overseer. In the original bill, the department would only be established upon abolition of a control board.
- Requires the mayor to select a chief administrative and financial officer from a list of names submitted by the secretary of ANF. In the original bill, the mayor selected the officer.
- Increases oversight of negotiations over collective bargaining agreements.

§ No collective bargaining agreement can be approved unless the fiscal overseer or control certify to the Executive Office of Administration and Finance that the city has adequate resources to meet its current and future obligations.

- If the control board concludes that its powers are insufficient to restore fiscal stability, it shall notify the secretary of A&F. The secretary shall recommend to the governor that the governor file legislation to terminate the board and appoint a receiver.

§ The receiver shall exercise all powers of the control board, and may exercise the power of any city official, elected or otherwise.

§ Upon appointment of a receiver, the office of mayor shall be abolished. Thereafter, the receiver shall exercise all of the mayor's statutory powers.

§ The receiver shall have other powers relative to building and zoning, including the construction of new buildings and roads, and the ability to implement changes to zoning ordinances

The Senate Committee on Ways and Means reported the bill out of the committee with an amendment that increased state oversight:

- Required approval of the commissioner of DOR and the secretary of ANF to borrow. The versions reported from the House, and the original bill filed by the governor, required only approval from the commissioner.

- Required the fiscal overseer to report to the secretary of ANF and the house and senate committees on ways and means on the city's progress towards reducing its deficit. Neither the House version, nor the bill filed by the governor, included the legislative reporting requirement.

- Requires quarterly reports from the overseer to ANF and the ways and means committees on expenditures from the loan. This requirement was not included in the House version, or the version filed by the governor.

- Control Board:

§ Under the governor's bill, a control board could be appointed no earlier than January 31, 2011.

§ The House version allows for a control board at any time, if the overseer concluded the city could not balance its budget.

§ In the SWM version, a finance control board will be appointed if the overseer reports, in writing to the Secretary, that that the city: (i) is unable to achieve a balanced budget; (ii) faces a fiscal crisis that poses an imminent danger to the safety of the citizens of the city and their property; or (iii) will not achieve fiscal stability without the assistance of a finance control board.

· **The legislation authorizes the city of Lawrence to borrow, in the aggregate, up to \$35 million in fiscal years 2010 and 2011. This is NOT a loan from the commonwealth.**

○ The director of accounts within the Division of Local Services will certify the city's FY 2010 deficit.

○ In FY 2011, the city cannot borrow more than ½ of its FY 2010 deficit.

· The commissioner of DOR may limit borrowing to amounts less than those authorized by the city council.

○ Bond or notes shall not be issued for a term in excess of 20 years.

○ While the loan is outstanding, the city is prohibited from issuing any other debt without DLS approval.

· Loan proceeds will be deposited into the City of Lawrence Financial Stability Fund.

○ The city council may authorize disbursements, with the approval of the commissioner of DOR.

○ The director of DLS will establish rules and procedures relative to disbursements from the fund.

· Within 30 days of the act's effective date, the Secretary must appoint an overseer. The overseer shall:

○ Recommend sound fiscal policies;

○ Supervise financial services and activities, including the school department;

○ Advise city officers whose job duties include oversight of city revenues and expenditures;

○ Provide assistance in municipal financial affairs;

- Assist in the development of department budgets;
 - Review proposed contracts in excess of 1 year;
 - Monitor the expenditure of all funds;
 - Approve annual and supplemental budgets of the city and school committee;
 - Make monthly reports to the Secretary and house and senate committees on ways and means on progress towards reducing deficits;
 - Report quarterly to the Secretary and house and senate committees on ways and means on expenditures made from the loan fund.
- All budgets shall be submitted to the overseer for review, prior to submission to the mayor and city council.
 - The city shall pay for the overseer and the overseer's staff.
 - The city shall be deemed to have accepted the provisions of G.L. c. 71, 37M, requiring the consolidation of city and school department administrative functions.
 - Within 120 days of appointment, the overseer shall develop a 3-year plan to achieve fiscal stability, including a preliminary analysis of the city's financial situation, and initial recommendations for addressing deficits.
 - Within 60 days of appointment, the overseer shall analyze the impact of the following changes to its health care benefits:
 - Acceptance of G.L. c. 32B, § 18, transferring retirees to Medicare;
 - Termination of the city's own health insurance plan; and
 - Acceptance of G.L. c. 32B, § 19, transferring employees to the Group Insurance Commission, or participation in a joint purchasing agreement.
 - If the overseer concludes that cost-savings will result, the city shall be deemed to have accepted sections 18 and 19; transfer to the GIC would not be subject to union approval.

- Or, if the overseer concludes that cost-savings will result from entering into a joint purchasing agreement, the overseer shall take all necessary steps to enter into such an agreement.

- Before setting the FY 2011 tax rate, and for every subsequent year in which the loan is outstanding, the city must submit a pro forma tax rate for the next fiscal year.

- In any year where the loan is outstanding, the commissioner of DOR shall not certify the city's annual tax rate until the DLS has completed an audit.

- In any year where the loan is outstanding, the city must submit quarterly reports to DLS comparing revenues and expenses.

- The Secretary will immediately appoint a finance control board if the overseer reports to the Secretary, at any time, that a finance control board should be appointed

- The Secretary can abolish the overseer if no control board has been established by July 1, 2011, only if the city has achieved fiscal sustainability.

- The 5-member control board shall consist of 3 appointees of the Secretary, the mayor and the president of the city council; the board shall continue until abolished by the Secretary.

- All spending must be approved by the board.

- Other powers include:

- § Formulate and amend annual and supplemental budgets of the city and school committee;

- § Implement uniform budget guidelines;

- § Formulate and amend capital budgets;

- § Amortize operational deficits;

- § Develop a uniform system for financial planning;

- § Approve all contracts for goods or services;

- § Establish new rates, or adjust existing rates for fees and permits;

- § Personnel matters, including hiring and firing;
- § Alter elected officials' compensation;
- § Reorganize, consolidate, abolish or establish departments;
- § Fill vacancies on advisory boards;
- § Dispose of and acquire property;
- § Adopt or suspend rules and regulations;
- § Seek voter approval of ballot questions;
- § Approve allocation of the tax levy;
- § Alter or rescind decisions of municipal officers within 14 days;
- § Exercise all powers otherwise held by elected officials.

- Establishes a department of administration and finance upon the abolition of a control board.

- A chief administrative and financial officer, appointed by the mayor, will oversee the department.

- The CAFO's duties and powers shall include:

- implementing controls and procedures for financial activities;
- implementing uniform budget guidelines and procedures;
- assisting in the development and preparation of all budgets;
- reviewing proposed contracts with a term in excess of 1 year;
- monitoring the expenditure of funds;
- reviewing department spending plans.

- Budgets and requests for budget transfers shall be submitted to the officer for review and recommendation before submission to the mayor, city council or school committee.

- The officer will certify that the city's financial resources and revenues can support certain proposed expenditures, including:

- proposed appropriation order, lease or contract;
- collective bargaining agreements;

- city council vote which may require the expenditure of funds for more than 1 year; or
 - a vote to authorize borrowing.
- Annually, the officer must submit a 4-year financial plan and a 5-year capital plan that includes all capital needs.
- Beginning in fiscal year 2012, the city shall appropriate at least 1.5% of the amount of property taxes committed for the preceding fiscal year in a capital reserve fund; fund may only be used for borrowing over 10 or more years.
- No city official, except in the case of an emergency, shall knowingly spend in excess of an appropriation.