

DRAFT
State of Connecticut
Municipal Accountability Review Board (MARB)
Organizational Meeting
450 Capitol Avenue, Hartford, CT

Meeting Minutes--December 8, 2017

Members in attendance: Secretary Benjamin Barnes, Treasurer Denise Nappier, Scott Jackson, Patrick Egan, Mark Waxenberg, Thomas Hamilton.

Members not in attendance: John Nolan (unable to attend due to travel issues)

Staff: Robert Dakers

I. Call to Order

The meeting was called to order by Co-Chair Secretary Barnes at 10:12 am. Secretary Barnes thanked the members for agreeing to serve on Board. He noted that this organizational meeting and that no official actions are anticipated. During the meeting, an overview of the provisions of Public Act 17-2 (the "Act") that created the board will be provided and other organizational matters discussed. Secretary Barnes believes that public input will be vital to the board's work and hopes that the public and those from referred communities will remain engaged and voice their opinions as the Board moves forward.

State Treasurer and Co-Chair Denise Nappier also offered her welcome and some opening comments. Treasurer Nappier noted that her agency has served on prior financial oversight boards in Bridgeport, Waterbury and West Haven, which boards helped achieve positive results for municipalities. She and her office looks forward to serving on and working with this Board and helping to achieve positive results for the municipalities involved and for the State.

II. Introduction of Appointed Members.

The other members appointed to date and in attendance were then asked to introduce themselves

- Scott Jackson, Commissioner of the Connecticut Department of Labor, former Mayor of the Town of Hamden and former Chief Administrative Officer to the Town of Hamden.
- Patrick Egan, former President of the New Haven Fire Fighters Union followed by position as Department/s Assistant Chief/Executive Officer.
- Mark Waxenberg, former Executive Director of the Connecticut Education Association; served as Policy Director to Governor Weicker.
- Thomas Hamilton, Chief Financial Officer for the Norwalk Public Schools, former Director of Finance for City of Norwalk, former Director of Administration for the City of Stamford, and former Director of Finance for the City of West Haven.

III. Overview of Statutory Provisions in Public Act 17-2 Re Municipal Assistance and Accountability

Mr. Dakers of OPM staff was then asked to provide an overview of the provisions of the Act that created the board. He noted that members had received, via email, Sections 349 to 376 the Act. Copies were made available to members of the public. The most pertinent sections of the Act for the Board commence with Section 360.

Mr. Dakers stated that the provisions of the Act that relate to the board and municipal fiscal distress involved amendments and additions to existing statutory sections 7-560 to 7-577, which sections were passed in 1993 and had been worked on by OPM and Office of the Treasurer at that time. The 1993 Bill authorized municipalities to establish a property tax intercept, a debt service reserve fund to help secure debt, and issue deficit bonds if the municipality had no outstanding deficit bonds or had not issued such within the past five years. Prior to the 1993 bill, all deficit borrowing was by Special Act. It also allowed municipalities, under certain circumstances, to issue debt backed by State Special Capital Reserve Fund (SCRF) and indicated that a municipality could not file for Title 9 without the express written consent of the Governor.

Mr. Dakers noted that a one page description of the pertinent provisions of Public Ac 17-2 was provided via email, and copies have be provided for the public in attendance. Mr. Dakers then reviewed with the Board the document entitled "Summary of Distressed Municipality Assistance & Accountability Provisions of Public Act 17-2 (DRAFT 12-1-17)".

The Act provides for eligible municipalities to seek designation in one of four tiers. The higher numbered tiers are associated with higher levels of fiscal distress, with Tiers III and Tier IV involving the highest level of distress and oversight. The eligibility criteria for designation include bond ratings, fund balance, percentage of revenues that are State aid, equalized mill rate and increase in state aid. Based on these criteria, a municipality would be in one of four Tiers. A large number of municipalities do not meet any criteria and would not be eligible to apply. A municipality can only apply to the tier for which they meet the criteria. Mr. Dakers went on to describe each of the tiers.

Tier I for municipalities exhibiting fiscal distress, but lower levels of distress.

- The municipal Chief Executive Officer can apply for Tier I designation. Designated Tier I municipalities are referred to the Municipal Finance Advisory Commission (MFAC)
- The MFAC may require the municipality to submit remedial plans related to their finances and require the local chief executive officer to report on those plans
- A Three Year plan is required to be submitted to the MFAC.
- Designation as a Tier I municipality typically would last until the municipality has two consecutive operating surpluses, no general fund deficit and the MARB approves the municipality's most recent three-year plan.

Tier II. The Chief Elected Official or Chief Executive Officer may apply, if eligible, for designation as a Tier II municipality. Tier II municipalities are referred to the MARB.

- Tier II municipalities are required to file monthly financial reports to the MARB, submit a three year plan and have to have the assumptions regarding state revenues and property taxes collections used in their annual budget approved by MARB. Mr. Hamilton asked how the MARB would enforce the use of only MARB approved assumptions regarding State revenue and property

taxes in local budgets. Mr. Dakers indicated that the Secretary or the MARB could seek the Attorney General's help in enforcing these provisions in Superior Court. In addition, if a municipality receives Municipal Restructuring Funds under the Act, the MARB would have to approve their annual budget.

- Term (length) of designation is the same as Tier I.
- Tier II is eligible to apply for Municipal Restructuring Funds under the Act.

Prior to describing Tiers III and IV, Mr. Dakers described the composition of the MARB according to the Act. The MARB is located in OPM for administrative purposes only and is comprised of 11 members, appointed as follows:

- Secretary of OPM or designee, Chairperson (Ex-Officio)
- State Treasurer, or designee, Co-chairperson (Ex-Officio)
- Five members appointed by the Governor, including
 - > a municipal finance director
 - > a municipal bond or bankruptcy attorney
 - > a town manager
 - > a member with experience representing organized labor from a list of three recommendations by AFSCME
 - > a member having experience as a teacher or representing a teacher's organization selected from a list of three recommendations submitted jointly by CEA and AFT-CT.
- One member appointed by the President Pro Tempore of the Senate, one member appointed by the Speaker of the House, one by Minority Leader of the Senate and one member appointed by the Minority Leader, each of whom must have experience in business, finance or municipal management.
- Terms are six years, with the exception of two of the Governor's appointees, which are for three years.
- MARB members serve without compensation but can be reimbursed for expenses.
- For Tier III and Tier IV municipalities, staff, consultants and other expenses may be charged to the municipality. Expenses may be funded through a municipality's re-funding bonds or deficit bonds. These costs would be determined in consultation with the affected municipality.
- The Act also states that designated municipalities must provide audits, budgets, actuary reports, debt service schedules and such other relevant information the MARB may reasonably require in order to carry out its duties.

TIER III. Mr. Dakers then described Tier III. Either the local chief elected official or the legislative body, by majority vote, can apply for Tier III designation. If the Chief elected official applies, such official must inform the legislative body and give the body 30 days to approve or reject the application. If the 30 days expires, the application is deemed approved. The Secretary of OPM has the ability, as of July 1, 2018, to designate a municipality as Tier III if they meet the designation criteria and other conditions, as outlined in the Act. The issuance of a deficit obligation involves an automatic designation as a Tier III municipality. MARB powers in regard to Tier III municipalities powers include:

- Review and comment on annual budget prior to its adoption by legislative body.
- Municipalities shall only include assumptions regarding state revenues and property tax revenues and a mill rate that are approved by the MARB.
- Approve debt service obligations involving a State SCRF or the issuance of refunding bonds by a vote of five or more of its members.
- Review and comment on proposed debt obligations not involving refunding bonds or use of the SCRF.

- Can require municipality or its Board of Education (BOE) to submit to the Board for its review and comment proposed non-collective bargaining contracts over \$50,000 for municipalities with a population under 70,000 and over \$100,000 for municipalities with a population 70,000 or more.
- Authority to approve or reject, on not more than two occasions, proposed collective bargaining agreements or arbitration awards related to the municipality or its board of education, with the exception of arbitration awards involving a teachers' unit.
- Monitor the municipality's compliance with a three-year financial plan and annual budget and to recommend any changes necessary to ensure balance.
- Recommend the municipality and its BOE implement measures related to efficiency and productivity of operations as deemed appropriate to reduce costs and improve services.
- Obtain information on the financial needs and condition of municipality and its BOE.
- MARB, in consultation with the municipality, may retain such staff and hire consultants experienced in municipal finance, municipal law, and governmental operations and administration.
- Require municipality and its BOE to apply LEAN practices.
- The MARB may consult with federal, state, quasi-public and nongovernmental agencies to accomplish its purposes.
- Establish written procedures deemed necessary to carry out responsibilities and purposes under the act.
- Tier III municipalities are also required to submit monthly reports.
- Term of designation is similar to other tiers, but would have to have 3 consecutive years of positive surplus.
- Designated Tier III and Tier IV municipalities are eligible to enter into a contract with the Secretary of OPM and the State Treasurer for contract assistance in regard to refunding bonds in accordance with Section 376 of the Act. The contract to provide such contract assistance would be binding on the State for the term of those bonds and the funds shall be deemed appropriated.

Secretary Barnes said it would be his intention to seek advice from the MARB related to contract assistance in order to assist the Secretary and the Treasurer with their roles in this regard. Further, Secretary Barnes believes that, in addition to the \$20 million that was budgeted exclusively for contract assistance, a portion of the \$28 million for municipal re-structuring might be appropriate, with MARB input, to use to provide additional contract assistance. State Treasurer Nappier stated she also believes board should have access to and be provided information regarding financial issues that a distressed municipality is facing. On contract assistance, the Treasurer also agrees the Secretary and the Treasurer should seek MARB input in regard to these matters.

TIER IV. A local chief elected official of a Tier III municipality or its legislative body can seek Tier IV designation. The same 30 day local notification process related to Tier III designation also applies to Tier IV designation. There is also a process in the Act for the MARB to recommend that a Tier III municipality be designated as a Tier IV municipality, which recommendation shall be forwarded to the Secretary. The Secretary, after receiving public input, shall forward the MARB's recommendation and a report on the public input received to the Governor for his/her final approval or disapproval of the recommended Tier IV designation. The Mayor and local legislative body leader shall be voting members for the purposes of the MARB's vote on designation. Such a designation cannot happen prior to April 1, 2018. There are also provisions related to certain local officials being non-voting ex-officio members of the MARB related to a designated Tier IV municipality. Mr. Dakers indicated that Tier IV MARB responsibilities, in addition to those related to Tier III, include:

- Review and approval of the municipality's annual budget
- Review and approval of all bond ordinances and resolutions.
- Monitor compliance with municipality's three-year plan and annual budget and require changes as needed.
- Approve or reject all collective bargaining agreements, amendments or modifications of the municipality or its BOE.
- Impose binding arbitration with respect to collective bargaining agreements of the municipality and its BOE that are subject to or in binding arbitration and submit recommendations to the Governor for the his/her selection of a single arbitrator.
- Require its approval of proposed budget transfers in excess of \$50,000.
- Like Tier III municipalities, Tier IV municipalities would be eligible for Municipal Restructuring Funds and Contract Assistance.

IV. Organizational matters

Bylaws. Mr. Dakers noted that Draft Bylaws had been sent to members for their review. Any specific issues with bylaws may be submitted to the Mr. Dakers over the next few weeks for revisions in advance of the next meeting. Treasurer Nappier questioned if the quorum should be a majority of the members appointed or the 11 positions on the MARB, whether appointed or not, included in the Act. Treasurer Nappier noted that the appointments envisioned in the Act are important since each member represents certain constituencies or areas of expertise. Secretary Barnes stated an early read was that the statute does not address the quorum issue, but that FOI laws would have to be looked further to see if they speak to it. Meanwhile, inquiries will go out to remaining appointing authorities to encourage them to move on their appointees/designees. New draft of bylaws will be sent out reflecting any feedback prior to the January 4th meeting.

FOI and Ethics Training. It was indicated that staff for the State Ethics Office and from the State Freedom of Information will provide the MARB with background and training on ethics and FOI laws at a future meeting.

V. Information Requests from Member

Treasurer Nappier requested that documents regarding municipalities that are in distress and may or will be coming before this board be provided to the MARB. Mr. Dakers indicated that members will receive OPM's document entitled Municipal Fiscal Indicators and other documents related to the fiscal condition of Connecticut's municipalities. Mr. Dakers also stated that once a municipality is designated, there will be a series of documents about the municipality made available to the Board. Board members were encouraged to also submit any information requests that they may have in this regard.

Secretary Barnes stated the first community, the City of West Haven has been notified that they have been designated as a Tier III designation under the Act's requirements related to their recent deficit borrowing. Secretary Barnes met the City's new Mayor to discuss the designation and the city's fiscal condition. Copies of correspondence to the Mayor of West Haven regarding their designation will be sent to the members as will any future similar correspondence related to the City of Hartford or other communities.

Secretary Barnes noted that OPM had entered into an agreement with the City of Hartford and funds were committed by OPM to assist the City in retaining a financial advisor, which the City has done. The advisor is developing plans for the City for debt restructuring and related matters. Secretary Barnes expects that Hartford will be approaching the MARB in regard to assistance in the near future.

Mr. Waxenberg asked, with respect to municipal restructuring plans related to designated municipalities and any requests for funding and assistance, if impact statements and longer term plans will be submitted or required. Mr. Dakers said that based on the Act and the operating procedures now being developed by board staff for the MARB's consideration, such plans and information will be required.

VII - Meeting schedule

A draft proposed meeting schedule for twice a month meetings beginning on January 4, 2018 had been sent to members. The Board of Regents Boardroom is being suggested for future meetings. There was discussion about holding some meetings in the evenings to provide the public with more ability to attend meetings. Scheduling certain meetings within designated municipalities was also raised.

The meeting schedule will be discussed and potentially voted on at the next meeting. Members are welcome to submit any suggestions regarding other locations for regular meetings. Agendas, containing meeting dates, times and locations for all meetings, will be posted on Secretary of State's website and OPM's website.

VIII –Adjournment. The meeting adjourned at approximately 11:50 AM.