

Frequently Asked Questions:

City of Detroit Financial Stability Agreement

» Why is there a need for the Financial Stability Agreement?

The need is expressed in the opening of the document. The city has undergone decades of population loss and economic dislocation, which has helped create a cash flow crisis and the city may soon be out of money soon. Thus, it was determined there was a need for such an agreement.

» Have all parties signed the agreement?

Yes, the city council, mayor of Detroit, financial review team and the governor have signed the agreement as of April 5, 2012.

» What is the legal basis for this agreement?

The agreement, signed by the state and city, recognizes several separate legal authorities. The main basis for the agreement is Public Act 4 of 2011, known as the School District and Local Government Fiscal Accountability Act. However, this is not the only basis for the agreement. The agreement also cites several other laws in case a petition drive to suspend PA 4 of 2011 is successful.

» What is Public Act 4 of 2011?

Public Act 4 of 2011 is designed to provide the state with tools to oversee the fiscal affairs of local governments and school districts. In Michigan, there is a balancing act that must be weighed addressing the fiscal affairs of local government. Home rule is a concept that means a local government, particularly a city, has the right to self-determination of its own affairs.

» What is the PA 4 of 2011 process?

PA 4 is a three-step process. The first step, if certain triggers are hit, calls for the state to begin a preliminary review. The preliminary financial review is completed by the Michigan Department of Treasury and is generally done within 30 days. This review will determine whether or not a potential financial crisis

exists. If a potential crisis is deemed to exist, the next step calls for the state to appoint a financial review team. This team assesses the extent of financial crisis and what type of solutions might be possible. The financial review team may find:

- ▶ No financial crisis exists
- ▶ A financial crisis exists, but a consent agreement has been worked out or an Emergency Manager must be appointed

» What was the finding in the case of the City of Detroit?

The city of Detroit was found to be in a state of financial crisis. The city and state government have been able to work out what is known as a consent agreement. The consent agreement is being referred to as a financial stability agreement. At this time, no Emergency Manager will be appointed.

» What is a consent agreement?

A consent agreement is a contract between a local government and the state of Michigan. This agreement states that a local government will undertake certain actions to address a fiscal emergency or crisis. The state will provide oversight in this agreement. Each consent agreement may have a different structure.

» What is the basic structure of the consent agreement?

The agreement states that the mayor and city council will remain in charge of the city but will be monitored and have additional staff in place to implement reforms. These staff members will report to the mayor. There also will be stringent financial controls over any budget and budget changes proposed or adopted by the city. If the city fails to live up to any or all parts of the agreement, the additional staff members could be given Emergency Manager-type authority to continue to implement the reforms in the agreement. Wholesale failure to live up to the agreement could lead to the appointment of an Emergency Manager as provided by PA 4 of 2011.

» **What is the Financial Advisory Board?**

The Financial Advisory Board (FAB) is a seven-member public body that is part of the agreement between the city and the state. Unlike the first proposed consent agreement, the FAB will serve in more of an advisory and monitoring capacity. Its role is to ensure the city is living up to the agreement and to provide the city with assistance in the areas of information technology, financial management and other needed areas.

» **Who will be on the FAB?**

The governor will appoint three individuals, the mayor will appoint two individuals, one will be appointed by the mayor and city council with council confirmation, and one appointed by the state treasurer.

» **Are there restrictions on members of the FAB?**

Yes, individuals appointed to the FAB must have 10 years of experience with municipal finance of governments with more than \$250 million in revenue, experience with complex financial transactions and these individuals must be certified by the Michigan Government Finance Officers Association or the Michigan Association of Certified Public Accountants.

» **Who will pay the FAB members?**

Members will be paid \$25,000 annually and shall be paid one half by the city government and one half by the Michigan Department of Treasury.

» **How can a FAB member be removed?**

The FAB members could be subject to removal for several reasons, including three unexcused absences, a conflict of interest, conviction of a felony or other serious causes. The board chair will serve at-will with respect to the governor and state treasurer.

» **What is the Boards Authority?**

The Board Authority can recommend the financial metrics by which the city should be monitored. Following these metrics and the overall budget process, the board can monitor progress toward financial metrics and budget implementation. The board also has the power to review, advise and assist the mayor regarding any capital market transactions. In regard to the three-year budget, the board can provide assistance with budget preparation. The board can review and advise on judgment levies, material contracts and organizational structure changes.

» **Who is the Chief Financial Officer in the agreement?**

The Chief Financial Officer (CFO) is a new member of city staff named in the agreement and serves as the key financial strategist for the city. The CFO shall report to the mayor and assist all other department heads in budget development, financial analysis, budget examination and strategic initiatives. The budget department and finance department shall report to the CFO.

» **What are the qualifications for the CFO?**

The CFO must have experience with complex financial transactions, governmental issues and experience with a governmental entity with more than \$250 million in revenues.

» **Who hires, supervises and fires the CFO?**

The mayor and the state treasurer shall jointly hire the CFO. The CFO shall be a constitutional appointee of the governor. Only the governor may remove the CFO.

» **Who is the Program Management Director?**

The office of Program Management will be housed in the mayor's office. The Program Management Director will oversee the office and implement the reform initiatives as stated in the appendix of the agreement.

» **Who hires and removes the Program Management Director?**

The mayor will appoint a Program Management Director from a list of three as agreed to by the mayor and state treasurer. The Program Management Director will also be a constitutional appointee of the governor and can be removed by the mayor for cause only. The mayor's removal power is subject to affirmation by the FAB and city council as well.

» **What are the qualifications for the Program Management Director?**

The Program Management Director must have 15 years of experience in areas such as complex financial transactions, government affairs and issues and local government management experience.

» **What are the powers of a Program Management Director?**

The Program Management Director is tasked with carrying out the various city reform initiatives. The Director will work with and assist the COO, CFO and other executives.

» **What is a revenue conference?**

A revenue conference is a meeting where city and FAB officials meet to determine how much money the city will have to spend over several years. The board chair and CFO will preside over the revenue conference.

» **What revenues have to be considered in a conference?**

Each of the major revenue components must be considered, including income taxes, casino taxes, state revenue sharing, federal grants, licenses and fees, operating transfers and other funds as required.

» **Who will participate in the revenue conference?**

The finance director, budget director, auditor general, and city council fiscal analysis division shall all be involved per the city charter along with the board chair of the FAB and the CFO.

» **How is agreement reached on a revenue estimate?**

The agreement calls for a consensus of all members of the revenue conference. If conference members fail to reach a consensus within 14 days, the FAB board chair must report to the state treasurer and the state treasurer will have the power to set a binding revenue estimate.

» **What are the new limits on the mayor’s budget proposal?**

The mayor cannot propose a budget that is inconsistent with rulings of the FAB or inconsistent with the revenue estimate as approved at the revenue conference or by the state treasurer.

» **What are the new limits on the city council’s budget approval process?**

The city council may not approve a budget that is inconsistent with the revenue conference or FAB rulings and must comply with all Michigan local government budgeting laws.

» **Are there other budget rules the city must follow under the agreement?**

Yes, most importantly, the city must change the budget plan if it is found that expenditures will exceed the revenue estimate. The CFO has the obligation to certify any budget modifications to ensure consistency with the three-year budget plan before they are considered in effect. Further, the budget plan must ensure that no government fund will end the year with an operating deficit.

» **Who determines how much and what of the budget to cut?**

It is the responsibility of the CFO to report a budget shortfall to city council and the mayor. If a budget shortfall is identified, the mayor is required to submit a budget amendment to city council. If the council fails to act on that budget amendment, the mayor’s requests become law after 30 days. If the mayor fails to act, the council has 30 days to act of its own accord.

» **What is the triennial budget?**

Beginning in FY 2013, the city must propose and approve three-year budget plans going forward. The CFO will have the responsibility for developing and ensuring the city lives up to the three-year budget plans.

» **What are the proposed city reforms?**

The reforms are not completely spelled out in the agreement but include public safety changes, changes to public lighting department, changes to the Detroit Department of Transportation, implementation of changes to payroll systems, a new grants management system, a new financial transactions system, demolition of existing structures, implementation of changes to employee compensation including pensions and health care, human services department changes, employee training, new permitting and long-term liability restructuring.

» **What is the state’s role in city reforms?**

The state has agreed to provide assistance in several areas. The state has agreed to continue to play a major role in the Detroit education system and ensure a quality education for Detroit’s children. The state also has agreed to assist with state trooper placement in Detroit, assistance with the demolition process,

working with the Department of Human Services on individual assistance and with street lighting and auto insurance rates.

» **Has the state agreed to provide any money?**

No, the state will not provide any direct money to the city. The state has agreed to assist with the refinancing of city debt that will provide some debt payment relief and thus extra cash to the city government. This could provide up to \$137 million according to the agreement.

» **What is the city’s current deficit?**

According to the latest audit from FY 2011, the city general fund has a nearly \$200 million accumulated deficit, up from the fiscal year 2010 audit. When all assets and liabilities are considered, the city currently has a negative \$1.3 billion dollar in net assets.

» **What is a reform default?**

The agreement states that certain reforms must be addressed by the city and if they are not addressed the city might be found to be in a reform default.

Who can determine if a reform default occurs?

Any one of the parties to the agreement, including the state treasurer, Financial Advisory Board, Program Management Director, city council or the mayor can declare that part of the agreement is not in compliance.

» **What happens if one of the parties declares a reform default?**

First, the mayor and city council will have 30 days to address the reform default or report to the FAB why it will take more than 30 days to address. The mayor and council will then report to the FAB as to whether the compliance issue has been addressed. The FAB can then vote and determine if a reform default has been fixed or remains unaddressed.

» **What if the FAB determines that a reform default remains unaddressed?**

The Program Management Director will be given full executive and legislative authority to address the specific reform initiative. These powers would include the ability to make, approve or disapprove any appropriation, contract, expenditure or fill any vacancy. This would include the powers inherent under the Home Rule City Act and the city charter.

» **How does a reform default get resolved?**

The Program Management Director can recommend to the FAB or the FAB can determine on its own to vote to declare an end to the reform default. The mayor or city council can also petition the FAB for such a finding.

» **Some of the biggest changes in the agreement are with respect to labor unions; what are those changes?**

The process of labor negotiations will be different under this agreement. One, labor negotiations are addressed through the city’s Labor Relations Division, the FAB, in consultation with the Program Management Director, must sign off on any proposed agreements before they are sent to the mayor or city council. The mayor and council cannot sign off on any new union contracts that do not meet strict criteria as spelled out in the agreement.

» **What are these criteria?**

The city must have new union agreements in place by July 16, 2012. Any committees proposed in the agreements must be similar to those established by the state government and state employees. Outsourcing and departmental consolidation must be permitted in any new agreements. Other provisions include that new hires will have a defined contribution retiree health care plan, merit-based promotions shall be allowed in some cases, existing favorable concessions will remain, dispute resolution will be made simpler, and any new agreements must be consistent with the city’s multi-year financial plans.

» **Does the city have to bargain with unions?**

No, the state has determined that within 30 days of the agreement, the city does not have to negotiate with unions and may unilaterally impose a new agreement. If the city chooses to negotiate, the criteria spelled out above must be met in those negotiations.

» **How will the pending lawsuits affect this agreement?**

There remain several outstanding lawsuits, including one challenging that there was a violation of the Open Meetings Act, and violations related to state and federal labor laws. If the review team was found to be a public body and was in violation of the Open

Meetings Act, the state could potentially have to redo the financial review process. It is unclear as to the potential implications of other lawsuits at this time.

» Is this approach similar to what happened to New York City in the 1970s or Philadelphia in the 1990s?

Yes, it is a similar approach particularly with the Financial Advisory Board and the ability to oversee and monitor the city budget and city revenues. There are some differences. The Financial Advisory Board does not have the power to veto a proposed or adopted city budget under this agreement, which was possible in New York City. Also in New York City, the Emergency Financial Control Board played a more active role in labor negotiations as opposed to the Financial Advisory Board. New York and Philadelphia did not have anything like the Program Management Director or the Program Management office and did not have the backing of a law like PA 4 of 2011.

New York City was in a control period from 1975 through 1986. In 1987, the city of New York was found to be out of the emergency period, and has not returned to a period of financial emergency since. Every July, the New York Emergency Financial Control Board determines if a period of a financial emergency is in effect or not. The city of New York is required to put forward and maintain a four-year financial plan on an ongoing basis.

» Is this agreement likely to work and restore the city’s fiscal health?

It is difficult to say whether this path will lead to financial sustainability for the city of Detroit. Other cities have followed a similar path and have been successful. However, a plan is just the beginning. The plan will now have to be successfully executed by all parties. It should also be remembered that 30 years later the city of New York still has in place an Emergency Financial Control Board, albeit with diminished powers.

» Does the agreement address both short- and long-term financial problems?

The agreement does discuss addressing both short- and long-term problems. However, it is fair to say the reform plans are more heavily weighted toward addressing the short-term cash and fiscal problems the city faces.

» What are Detroit’s long-term financial problems?

The main issue facing city government is what is known as legacy costs. Legacy costs are those expenses associated with employee retirement, including pensions and health care coverage. These costs are adding an enormous burden to the city’s long-term financial outlook. These problems will have to be addressed through spending cuts or increasing revenue to fully address the city’s long-term financial problems.

» What is going to Happen to Belle Isle?

The state has agreed to maintain city ownership of Belle Isle while providing some new funding sources to help maintain and revitalize the park.

» What will happen to the state fairgrounds?

The fairgrounds will be transferred to the State Land Bank where it will be processed for neighborhood redevelopment opportunities.

» Who will do property assessment in the city of Detroit under the agreement?

The state has agreed to assist in the transfer of property assessment from the city of Detroit to Wayne County to seek new efficiencies and a better assessing process.

» How will the agreement finally be terminated?

There are three paths to the end of the agreement. The city must have either three consecutive years with no deficit, two calendar years of acceptable bond ratings or the state treasurer must affirm there is no need for a deficit elimination plan.

For More Information

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