2023 Session

Budget Bill - HB1400 (Introduced)

Item 4-8.03

§ 4-8.03 LOCAL GOVERNMENTS

a.1. The Auditor of Public Accounts shall establish a workgroup to develop criteria for a preliminary determination that a local government may be in fiscal distress. Such criteria shall be based upon information regularly collected by the Commonwealth or otherwise regularly made public by the local government. This information includes expenditure reports submitted to the Auditor, budget information posted on local government websites, and reports prepared by the Commission on Local Government on revenue fiscal stress. Information provided by the Virginia Retirement System, the Virginia Resources Authority, the Virginia Public Building Authority, and other state and regional authorities concerning late or missed debt service payments shall be shared with the Auditor. Fiscal distress as used in this context shall mean a situation whereby the provision and sustainability of public services is threatened by various administrative and financial shortcomings including but not limited to cash flow issues; inability to pay expenses; revenue shortfalls; deficit spending; structurally imbalanced budgets; billing and revenue collection inadequacies and discrepancies; debt overload; failure to meet obligations to authorities, school divisions, or political subdivisions of the Commonwealth; and/or lack of trained and qualified staff to process administrative and financial transactions. Fiscal distress may be caused by factors internal to the unit of government or external to the unit of government and in various degrees such conditions may or may not be controllable by management, or the local governing body, or its constitutional officers.

2. Based upon the criteria established by the workgroup and using information identified above, the Auditor of Public Accounts shall establish a prioritized early warning system. Under the prioritized early warning system, the Auditor of Public Accounts shall establish a regular process whereby it reviews data on at least an annual basis to make a preliminary determination that a local government is in fiscal distress.

3. For local governments where the Auditor of Public Accounts has made a preliminary determination of fiscal distress based upon the early warning system criteria, the Auditor of Public Accounts shall notify the local governing body of its preliminary determination that it may meet the criteria for fiscal distress. Based upon the request of the local governing body or chief executive officer, the Auditor of Public Accounts may conduct a review and request documents and data from the local government. Such review shall consider factors including, but not limited to, budget processes, debt, borrowing, expenses and payables, revenues and receivables, and other areas including staffing, and the identification of external variables contributing to a locality's financial position, and if so, the scope of the issues involved. Any local governing body that receives requests for information from the Auditor of Public Accounts pursuant to such preliminary determination based on the above described threshold levels shall acknowledge receipt of such a request and shall ensure that a response is provided within the time frames specified by the Auditor of Public Accounts. After such review, if the Auditor of Public Accounts is of the opinion that state assistance, oversight, or targeted intervention is needed, either to further assess, help stabilize, or remediate the situation, the Auditor shall notify the Governor and the Chair~~men~~ of the House Appropriations and Senate Finance and Appropriations Committees, and the governing body of the local government in writing outlining specific issues or actions that need to be addressed by *state assistance or* intervention.

4. The notification issued by the Auditor of Public Accounts pursuant to paragraph 3 above shall satisfy the

notification requirement necessary to effectuate the provisions of this *section* ~~act~~ in paragraph b.3 below.

5. If a locality has not completed its audit and has not submitted its audited annual financial report, pursuant to § 15.2-2510 and § 15.2-2511, Code of Virginia, within 18 months of the required deadline of December 15, the Auditor of Public Accounts shall notify the Governor, the Secretary of Finance, and the Chairs of the House Appropriations Committee and the Senate Finance and Appropriations Committee, that the Auditor is unable to review the locality's financial data as part of the prioritized early warning system or evaluate the locality's financial condition due to the delay with submitting its audited annual financial report. Once the Auditor of Public Accounts has issued such notification, if (i) the locality has outstanding debt or payments owed to the Commonwealth, Virginia Resources Authority, any other Commonwealth entity or Commonwealth political subdivision; or (ii) the locality received federal funds through the Commonwealth during fiscal years that the locality has not completed its audit, the Secretary of Finance shall determine whether a plan for state technical assistance is necessary to help remediate the situation and address the factors contributing to the locality's delay with completing its audit and financial report. If such plan for state technical assistance is determined necessary, the Governor and the Secretary of Finance shall effectuate the provisions of this section in paragraphs b.2, b.3, and b.4 below.

b.1. The Director of the Department of Planning and Budget shall identify any amounts remaining unexpended from general fund appropriations in this Act as of June 30 of each year, which constitute state aid to local governments. The Director shall provide a listing of such amounts designated by item number and by program on or before August 15 of each year, to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance and Appropriations Committee.

2. From such unexpended balances identified by the Director of the Department of Planning and Budget, the Governor may reappropriate up to $750,000 from amounts which would otherwise revert to the balance of the general fund and transfer such amounts as necessary to establish a component of fund balance which may be used for the purpose of providing technical assistance and intervention actions for local governments deemed to be fiscally distressed and in need of *assistance or* intervention to address such distress*, and for the purpose of providing technical assistance for a locality pursuant to paragraph a.5 of this section*. Any such reappropriation approved by the Governor, shall be separately identified in the commitments specified on the balance sheet and financial statements of the State Comptroller for the close of each fiscal year, to the extent that such reserve is not used or added to by future appropriation actions.

3. Prior to any expenditure of the reappropriated reserve, the Governor and the Chair~~men~~ of the House Appropriations Committee and the Senate Finance and Appropriations Committee must receive a notification from the Auditor of Public Accounts that a specific locality is in need of *technical assistance or* intervention because of a worsening financial situation. The Auditor of Public Accounts may issue such a notification upon receipt of audited financial statement or other information that indicates the existence of fiscal distress. But, no such notification shall be made until appropriate follow up and correspondence ascertains that, in the opinion of the Auditor of Public Accounts, such fiscal distress indeed exists. Such notification may also be issued by the Auditor of Public Accounts if written concerns raised about fiscal distress are not adequately addressed by the locality in question. *Such notification may also be issued by the Auditor of Public Accounts pursuant to paragraph a.5 of this section.*

4. Once the Governor has received a notification from the Auditor of Public Accounts indicating fiscal distress in a specific local government*, or notification that a locality has not submitted its audited financial report pursuant to paragraph a.5 of this section*, the Governor shall consult with the Chair~~men~~ of the House Appropriations Committee and the Senate Finance and Appropriations Committee about a plan for *state technical assistance or* state intervention prior to any expenditure of funds from the cash reserve. Any plan approved by the Governor for *assistance or* intervention should, at a minimum, specify the purpose of such *assistance or* intervention, the estimated duration of the *assistance or* intervention, and the anticipated resources (dollars and personnel) directed toward such effort. The staffing necessary to carry out the *assistance or* intervention plan may be assembled from either public agencies or private entities or both and, notwithstanding any other provisions of law, the Governor may use an expedited method of procurement to secure such staffing when, in his judgment, the need for

assistance or intervention is of an emergency nature such that action must be taken in a timely manner to avoid or address unacceptable financial risks to the Commonwealth.

5. The governing body and the elected constitutional officers of a locality subject to *technical assistance or* an intervention plan approved by the Governor shall assist all state appointed staff conducting the *assistance or* intervention regardless of whether such staff are from public agencies or private entities. Intervention staff shall provide periodic reports in writing to the Governor and the Chair~~men~~ of the House Appropriations Committee and the Senate Finance and Appropriations Committee outlining the scope of issues discovered and any recommendations made to remediate such issues, and the progress that is made on such recommendations or other remediation efforts. These periodic reports shall specifically address the degree of cooperation the intervention team is receiving from locally elected officials, including constitutional officers, city, county, or town managers and other local personnel in regard~~s~~ to their intervention work.

6. The Department of General Services is hereby encouraged to develop a master contract of qualified private sector turnaround specialists with expertise in local government *technical assistance and* intervention that the Governor can use to procure *technical assistance or* intervention services in an expeditious manner when he determines that state intervention is warranted in situations of local fiscal distress *or that state assistance is warranted if a locality has not submitted its audited financial report pursuant to paragraph a.5 of this section*.

c. No locality that has been previously authorized as an eligible host city pursuant to § 58.1-4107, Code of Virginia, to conduct casino gaming which held a local referendum on November 2, 2021, that failed, shall be eligible to hold a subsequent local referendum until November 2023.