PA 24-132—sHB 5273
Planning and Development Committee

AN ACT CONCERNING THE RECOMMENDATIONS OF THE INTERGOVERNMENTAL POLICY AND PLANNING DIVISION WITHIN THE OFFICE OF POLICY AND MANAGEMENT, AUDITS AND MUNICIPAL FINANCE

SUMMARY: This act:

1. makes various changes to the Municipal Accountability Review Board (MARB) law, including changing the procedure for designating municipalities referred by the Office of Policy and Management (OPM) to the Municipal Finance Advisory Commission (MFAC) as tier I municipalities and modifying the criteria and procedure used for determining whether a municipality retains its tier designation (§§ 13-16);
2. makes various changes to the regional performance incentive program (RPIP), including its application requirements and selection criteria (§ 7);
3. changes the renters' rebate program's deadlines for filing and processing applications and eliminates the ability to apply to OPM for an extension (§§ 8 & 9);
4. reduces, from 25% to 20%, the minimum revaluation phase-in factor for municipalities opting to phase in a portion of a revaluation increase, which allows them to phase-in up to 80%, rather than 75%, over a maximum of five assessment years (§ 5);
5. limits the discretionary state funding applications to which municipalities must attach a letter if they have not updated their local plans of conservation and development (C&D) (§ 6); and
6. amends the law on municipal audits to, among other things, (a) increase the maximum civil penalty the OPM secretary can assess a municipality, regional school district, audited agency, or auditor that misses the audit filing deadline and (b) allow him to assess the penalty by reducing state grants awarded to the entity (§ 17).

The act also makes the following changes to conform to existing OPM practice:

1. shifts, from municipal tax collectors to assessors, the requirement to certify to OPM the revenue loss associated with the property tax exemption for totally disabled homeowners (§ 1) and
2. requires the annual statements municipal and special taxing district tax collectors provide to OPM on their mill rate and tax levy to be based on data for the ensuing, rather than preceding, fiscal year, beginning with the FY 25 statements (§§ 2 & 3).

It also extends this annual mill rate and tax levy reporting requirement to municipal special services districts and subjects them to the same $100 fine for failing to file a true and correct statement that applies to special taxing districts

under existing law (§ 4).

Lastly, the act eliminates an obsolete (1) state grant program designed to provide formula grants to municipalities to address urban problems and (2) provision on allocating payment in lieu of taxes grants for the Torrington courthouse (§§ 10 & 18).

EFFECTIVE DATE: July 1, 2024, except that the provisions on annual mill rate and tax levy reporting to OPM are effective upon passage and the revaluation phase-in provisions are applicable to assessment years beginning on or after October 1, 2024.

§ 5 — REVALUATION PHASE-INS

State law allows municipalities to phase in post-revaluation assessment increases in property values over a period of up to five years. When a revaluation is phased in, the real property assessment represents less than 70% of the property's revalued fair market value for each year of a phase-in term. Phase-ins give taxpayers time to adjust to assessment increases after a revaluation.

Existing law gives municipalities four options for phasing in revaluations, including one option that phases-in just a portion of the increase in values or the overall rate at which they increased. Under prior law, if a municipality chose this option, it could phase in no more than 75% of either increase. The amount or portion the town phases in is called the "phase-in factor," and the town must uniformly apply it to all types of property. The act reduces the minimum phase-in factor from 25% to 20%, which in turn allows municipalities to phase in up to 80%, rather than 75%, of either increase over a maximum of five assessment years.

In practice, OPM applies this factor to all revaluation phase-ins, regardless of whether they phase in all or part of the revaluation increase. Based on this practice, municipalities may only phase in revaluation increases for up to four years with a minimum phase-in factor of 25% per year. So, reducing the phase-in factor from 25% to 20% allows towns to phase in a revaluation for up to five years. The law, however, already allows towns to phase in revaluation increases for up to five years.

§ 6 — DISCRETIONARY STATE FUNDING APPLICATIONS

Under prior law, any municipality that failed to update its plan of C&D every 10 years had to (1) submit a letter to specified state officials explaining why it was not amended and (2) include a copy of this letter in each application for discretionary funding it submits to any state agency. The act limits the funding applications for which municipalities must attach this letter to those that exceed $25,000.

By law, unchanged by the act, municipalities that fail to update their plans of C&D or submit the letter described above are disqualified from receiving discretionary state funds unless the OPM secretary waives this provision.

§ 7 — RPIP

Eligible Purposes

The act expands the eligible purposes for which OPM may award RPIP grants to include services that two or more participating municipalities or boards of education can provide on a regional and ongoing basis, rather than services that one or more of these entities currently provide but not on a regional basis. By law, eligibility for RPIP grants is limited to councils of governments (COG) and regional educational services centers (RESC).

As under existing law, OPM may also award the grants for (1) redistributing specified state grants to municipalities according to regional priorities, (2) regional revenue sharing among municipalities that have entered certain agreements to do so, and (3) qualifying regional special education initiatives.

Application Requirements

By law, applicants must include certain information about the proposal and its projected benefits and implementation plan as part of their RPIP applications. The act makes the following changes to this required information:

1. requires applicants to include an estimate of the proposal's anticipated savings or costs that will be avoided during the grant award period and in future fiscal years, rather than the amount by which participating municipalities will reduce their mill rates as a result of these savings;
2. requires that the implementation plan for the proposed regional service or initiative address any potential growth or reduction in participation rates during the grant award period; and
3. specifies that it include a copy of an acknowledgment, rather than an acknowledgment itself, from any employee organization (e.g., labor union) potentially impacted by the proposal that it was informed and consulted about it.

By law, the proposal must also include a resolution endorsing the proposal from the COG's or RESC's governing body. Under prior law, this resolution had to state that the entity would fund at least 25% of the proposal's first year costs and all of its costs by the fourth year. The act instead requires that the resolution affirm that the entity will fund an increasing proportion of the proposal's costs during the grant award period, including 50% of the proposal's costs by the end of this period and all of its costs afterwards.

Selection Criteria

Prior law required the OPM secretary to award grants to proposals that he determined best met specified criteria, including that the project demonstrate, compared to existing service delivery, increased capacity and efficiency, a cost benefit to members, increased cost savings, and a diminished need for state funding. The act instead requires that the secretary award grants to proposals that best reduce municipal and state costs, enhance service delivery capacity, or improve the level of service provided compared to having it delivered at the local level.

Required Report to the Legislature

The act requires the OPM secretary, in his annual report to the legislature on RPIP, to describe the local or state cost savings, rather than property tax reductions, achieved by the program.

§§ 8 & 9 — RENTERS' REBATE PROGRAM

The act advances the application deadline for the renters' rebate program by one day, from October 1 to September 30, and eliminates the ability to apply to OPM for an extension by November 15 of the claim year. Under prior law, the OPM secretary could grant an extension (1) for good cause or (2) if the applicant provided a certificate (signed by a qualifying medical professional) that he or she was ill or incapacitated because of extenuating circumstances.

By law, unchanged by the act, local officials must forward the rebate applications to the OPM secretary by the end of the month following the month in which the renter applied. By advancing the application deadline to September 30, the act also pushes up the deadline for towns to forward applications to OPM from November 30 to October 31.

The act correspondingly pushes back, from October 15 to November 15, the date by which OPM must make a list of approved applications and forward them to the comptroller for payment. By law, unchanged by the act, the comptroller must draw an order on the state treasurer within 15 days after receiving the list of approved payments from OPM.

Lastly, the act makes a conforming change by eliminating a requirement that renters apply for the rebate within a year after the year for which they are requesting the grant.

§§ 11 & 12 — AUDITS OF NONSTATE ENTITIES

By law, municipalities and other nonstate entities that spend substantial amounts of state funding during a fiscal year must undergo a single audit (i.e., an audit that generally covers the entity's financial statements and state assistance) or a program-specific audit (i.e., an audit of a single state program). The act increases, from \$300,000 to \$500,000, the amount of state financial assistance a nonstate entity can spend in its fiscal year before it becomes subject to this audit requirement and related laws. The increased threshold applies to fiscal years starting on or after July 1, 2024.

By law, state agencies assigned to oversee these audits may extend the deadline for nonstate entities to file copies of their audits under certain conditions. The act limits the maximum extension they can approve to 12 months after the end of the fiscal year to which the audit applies. By law, the OPM secretary can assess a civil penalty of between \$1,000 and \$10,000 for failing to file an audit report by the deadline (six months after the entity's fiscal year-end or within the time granted by the agency), but he can waive all penalties if he determines there is reasonable cause.

By law, the audit requirements for recipients of state financial assistance apply to municipalities, tourism districts, nonprofit agencies (including private colleges and universities), special taxing districts, the Metropolitan District Commission, local and regional school boards, COGs, and other political subdivisions or municipally created or designated agencies receiving more than $1 million in annual revenue (CGS § 4-230).

§§ 13-17 — MFAC AND MARB

Designation as Tier I Municipality

The act gives MFAC discretion to designate a municipality referred to it by OPM as a tier I municipality, rather than automatically designating these referred municipalities as tier I. Under the act, MFAC must base its decision on an evaluation of the municipality's financial condition and practices. As under existing law, designated tier I municipalities must prepare and present a five-year financial plan to MFAC for its review and approval.

By law, OPM must refer a municipality to MFAC if it (1) was not referred previously (e.g., because of evidence of unsound or irregular financial practices or specified deficiencies in its audit report) and (2) meets one of several fiscal distress criteria (e.g., if it has a negative fund balance, reported a fund balance percentage of less than 5% in the three immediately preceding fiscal years, or received a bond rating below A).

Conditions for Retaining Tier Designation

The act changes the criteria for determining whether a municipality retains its tier designation. Under prior law, a municipality in any tier retained its designation (regardless of any positive changes in the factors that led to its designation) until it met the following four criteria in the fiscal years after its designation:

1. it had no audited general fund operating deficits for two consecutive fiscal years;
2. its bond rating either improved or remained unchanged since its most current designation;
3. it presented, and either MFAC or MARB approved, a financial plan that projects a positive fund balance for the next three fiscal years, with a positive fund balance of at least 5% projected for the third fiscal year; and
4. its audits for these three years have been completed and have no general fund deficit.

The act eliminates these requirements for tier I municipalities and instead requires that they retain their designation until MFAC unanimously votes to end it based on its evaluation of the municipality's financial condition and practices.

For tier II, III, and IV municipalities, the act authorizes MARB to determine whether a municipality must retain its designation, and allows MARB to do so at its own discretion or at a municipality's request. MARB must do so using the criteria described above, with the following changes:

1. additionally requires that the municipality have a long-term bond rating from one or more rating agencies that is investment grade or higher,
2. additionally requires that (a) each fiscal year of the municipality's approved financial plan be based on recurring revenue and expenses and (b) the plan exclude funding received as contract assistance or from the Municipal Restructuring Fund,
3. requires the audits to report an audited fund balance for the municipality's general fund of at least 5%, and
4. additionally requires that there be no evidence that the municipality has engaged in unsound or irregular financial practices related to commonly accepted municipal finance standards.

Under the act, if MARB determines that a municipality meets these criteria, the OPM secretary must end the municipality's designation or redesignate it to a lower tier, but not tier I. (This effectively allows MARB to redesignate only tier III and IV municipalities to a lower tier.) The secretary must do this at his discretion and considering the municipality's fiscal condition and state's best interests. Within 60 days after MARB's determination, the OPM secretary must notify the municipality about his decision to redesignate or end the municipality's designation. A municipality must keep its existing designation until it receives this notice. If the secretary does not provide it within the 60-day period, the municipality's tier designation terminates on the next day.

Any tier III or IV municipality redesignated to a lower tier (1) must meet the statutory requirements for that tier and (2) may only ask MARB to determine whether it should be ended after a year has passed.

Municipal Restructuring Fund

By law, the Municipal Restructuring Fund gives financial assistance to designated tier II, III, and IV municipalities. To receive assistance, an eligible municipality must submit a plan for approval to the OPM secretary that details the municipality's overall restructuring plan, including the local actions it will take and how it will use the funds.

The act authorizes (1) the OPM secretary to distribute money from the Municipal Restructuring Fund to a third party on behalf of a designated tier II, III, or IV municipality and (2) these funds to be used to pay an arbitrator selected under MARB's existing binding arbitration requirements.

Tier IV Designation

The act expands the criteria MARB must use in determining whether to designate a tier III municipality as a tier IV municipality to include whether there is evidence of unsound or irregular financial practices related to commonly accepted municipal finance standards that MARB believes may materially affect the municipality's financial condition.

As under existing law, MARB may designate a tier III municipality as a tier IV municipality based on its finding that the municipality's fiscal condition warrants

it, based on its evaluation of specified criteria (e.g., the municipality's reserve fund balance, liabilities, economic outlook, access to capital, and budget projections for the next five years).

§ 17 — MUNICIPAL AUDITING ACT

By law, municipalities, regional school districts, and other local and regional entities (i.e., audited entities) must have their financial statements and accounts audited by an independent auditor at least once every year and submit the audit reports to various local officials and the OPM secretary. (These audited entities include special taxing districts, municipal utilities, the Metropolitan District Commission, regional councils of government, and other local entities with more than $1 million in annual revenues.) The act makes the following changes to these auditing requirements:

1. limits the amount of additional time the OPM secretary may grant an audited entity to file its required audit report to six months from the date it was due;
2. increases, from three to five years after the filing date, the length of time auditors must preserve the working papers they used to prepare the audit and make them available to OPM for inspection;
3. increases, from $10,000 to $50,000, the maximum civil penalty the OPM secretary can assess an entity or auditor that misses the filing deadline; and
4. allows the secretary to assess the penalty as a reduction in one or more grants he awards to the entity, including a payment in lieu of taxes (PILOT) grant.

Under prior law, this civil penalty had to be between $1,000 and $10,000. By law, unchanged by the act, the secretary can waive the penalty for reasonable cause if the auditor or an official of the audited entity request it in writing.