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ICA: Ready to Go Solo?

The residual effects of Hurricane Sandy postponed until Thursday, November 8th, a hearing to decide if Pittsburgh has satisfied the requirements to be released from Act 47 distressed status, a status that was granted to the City in December of 2003. Pittsburgh petitioned the Department of Community and Economic Development (DCED) once before to be released: that was in 2007, the year when the last community to come out of Act 47 (Homestead) was released from distressed status.

It probably won't be known immediately what DCED's verdict will be. But this much is known: unlike other Act 47 communities, a removal of distressed status in Pittsburgh does not leave it free from oversight.

Not long after the distressed declaration for Pittsburgh was made, legislation (Act 11 of 2004) was signed to create the Intergovernmental Cooperation Authority (oversight board) for Cities of the Second Class—of which Pittsburgh is the only one. The oversight board was largely modeled upon the Pennsylvania ICA (PICA) serving the City of Philadelphia, though that agency was primarily responsible for issuing debt in the early 1990s to help the City. The oversight board legislation intended the Act 47 team and the board to "operate concurrently and equally". That means removing Act 47 will place the oversight board front and center in charge of steering Pittsburgh to a future where it will no longer need a state appointed financial overseer.

There are some very strong aspects to the oversight board law currently in effect. There are also possibilities for greatly improving the law that the General Assembly should consider adopting.

For instance, Act 11 already grants the oversight board the specific power to make recommendations to the City and the General Assembly on consolidation and merger of services with the County, nearby municipalities, or Pittsburgh schools; consolidation of public safety services within the City; appropriate staffing levels for City departments; and twenty nine other areas ranging from collective bargaining to tax exempt properties. There are plenty of places to focus and the oversight board has, over the years, commissioned reports on fire, building inspection, workers' compensation, and police among many other areas.

In addition, the law has more stringent requirements for arbitration awards for police and fire personnel including the requirement that the arbitration panel take into consideration the condition of Pittsburgh's finances, inflation, and work force and compensation levels in comparable municipalities before arriving at an arbitration award or settlement. The oversight board must sign off on the City's annual operating and capital budgets and five-year financial forecasts and can ask the state to withhold money if the City is in non-compliance.

But there is room for improvement if the oversight board becomes the sole overseer. It would be an opportune time to establish specific targets/goals/mileposts for what the state wants and expects the City to look like in five years in several key areas including per capita municipal spending, per capita debt, pension funded ratio, and staffing per 1,000 residents. The City must also be compelled to explore outsourcing, competitive bidding and consolidation of functions to dramatically lower expenses and employee count. Getting specific on goals, mileposts, metrics, or whatever the terminology may be and a specified time frame for achievement sends a clear message to the City what it is expected to accomplish and allows all parties to see how well things are progressing toward the five year objectives.

Consider that when the City made its 2007 petition for Act 47 release it was denied but the denial came with a response (per the City's request) from DCED as to what it needed to do. The focus was on legacy costs (pensions, debt, retiree health care) but there were no specific targets set. It was only the subsequent Act 44 telling the City if it did not get pensions funded at 50 percent or higher the pension plan management would be taken over by the state that got the City to act.

The ICA might be given the flexibility to amend the targets over time as justified or necessitated by developments that cannot be foreseen. Amending the five year goals would require a vote of four of the five members of the board and no amendments could be considered for at least two years after the goals are adopted.

A rewrite of Act 11 also needs to clear up one last bit of ambiguity: to wit, the life span of the oversight board. The statute currently says that the term of existence is for at least seven years (already passed) and if the oversight board has approved the three immediate preceding budgets and financial plans, the Secretary of DCED (the same official who will make the Act 47 decision) will certify that the oversight board is no longer needed. Right now, those terms seem to be satisfied. But clearly, the oversight board needs to remain in place. Thus, some new language is necessary.

The PICA law for Philadelphia might provide some guidance. That statute says that the board will be in place for one year past the year all of its liabilities have been fully paid off. Perhaps Act 11 could be rewritten to ensure the oversight board will be in place for a definite period of time after the specific goals have been achieved, expressed by formal, written communication from the oversight board to DCED that the City has met the statutory targets. The guiding principle must be that the oversight board will be continued until the City is on a sustainable financial path and has passed the point where it is likely to slip back into old habits and fall into the poor fiscal condition it faced in 2003.

Pittsburgh is going to be pleased if it gets out of Act 47. But it should have no illusions that the state is ready to give it free rein over its finances until important further improvements in its underlying fiscal health are achieved.

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