



When Will the ICA's Lights Go Out?

Summary: In December a hearing was held by the Department of Community and Economic Development (DCED) to decide whether or not to rescind Act 47 distressed status for the City of Pittsburgh. If rescinded, the separate Intergovernmental Cooperation Authority (ICA or oversight board) would still be in place. The current state budget provides no funding for the ICA to pay its bills, threatening its viability.

Recently we wrote about the much improved practices of the oversight board, especially pertaining to the auditing and reporting requirements under the terms of Act 11 of 2004, which was amended by Act 99 of 2016. These requirements include the completion of an audit and sending it to legislative committees that deal with appropriations.

The appropriations process was not kind to the ICA as the Legislature provided no funding for the oversight board in the \$31 billion state budget. As noted by the executive director of the ICA at the September 28 board meeting "...our appropriation request for the fiscal year '18 was zeroed out before the budget was approved by the House and the Senate." Under Community and Economic Development the line for Intergovernmental Cooperation Authority—2nd Class Cities shows a 100 percent reduction from the year earlier appropriation of \$250,000.

With reserves exhausted and no state funding, the ICA board, having fulfilled the 2016 requirements regarding record keeping and transparency and facing the strong possibility that Pittsburgh's Act 47 distressed status will soon be lifted, passed a resolution on January 8 that makes two very substantial requests.

First, it asks the General Assembly to amend language that stipulates the ICA continue until Act 47 status for Pittsburgh is rescinded or June 30, 2019, whichever is later. The ICA wants the law changed to allow the DCED Secretary to certify dissolution of both financial overseers at the same time. The details contained in the resolution of the oversight board's activities would serve as the final report to be delivered to state officials as required by authority law.

Second, the ICA requests the City of Pittsburgh execute a written agreement that will provide the ICA with \$37,000 of the gaming money paid to the city as its local share assessment from slots revenue. The board believes this would fund the ICA's obligations until it is dissolved in the very near future. Moreover, receiving the funding from the city would be a condition of the city getting its gaming money appropriation. Act 11 states that the authority can ask for funding that exceeds state funding (which in this year's case would be any amount above zero) from the assisted city for "...reasonable and necessary expenses and costs incurred for consultants engaged by the

board to carry out its duties.” By law, the city “shall” provide the funding. On January 16 Pittsburgh City Council took up a resolution to provide the money. Once the agreement is executed the funds would be distributed according to the law until the ICA’s dissolution or February 28, 2018, whichever is later. If the ICA has not been dissolved by February 28, then there might have to be more funding requests to the city.

All this begs the question: why was the ICA not funded in the state budget appropriations in light of the fact that it was statutorily mandated to continue through at least June 30, 2019? Perhaps the Legislature anticipated the City of Pittsburgh would be coming out of Act 47 distressed status and that the oversight board could also go. But that is not what the law as amended in 2016 provides.

If the state does not amend the statute to permit concurrent dissolution of Act 47 and the ICA as the resolution requests, is the ICA supposed to struggle along with no funding as best it can until it reaches the current statutory end date? It is not clear how the board and its employee are supposed to function for the next year and a half with expenses to be paid, meeting minutes to be typed up, records to be maintained, audits to be conducted and submitted to the Legislature and financial summaries to be prepared and submitted to the Pennsylvania Bulletin. Maybe the state anticipated the city’s gaming money would be requested by the ICA and diverted to pay the ICA’s bills for the year. All of which depends on a timely agreement by the city to provide the funds.

Imagine a scenario wherein the General Assembly approves of the ICA resolution on concurrent dissolution with Act 47 but the Act 47 rescission fails to occur for many months, if at all, and the city resists handing over any gaming money to fund the ICA’s operations. Then what?

Unless the requests from the oversight board to the General Assembly and the city are honored, and the dissolution happens quickly, the board members will have limited alternatives. They cannot be expected to pay out of their own pockets the expenses necessary to carry out the ICA’s legally mandated activities. Rather than face legal action or sanctions for failing to perform their duties, the board might well decide to resign en masse. And they would be justified in doing so. The General Assembly and the governor need to determine whether the ICA is to go or stay and find the money to fund it until it is dissolved. If it is to go, the General Assembly should set a date certain within the next couple of months for the ICA to be dissolved.

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