ALLEGHENY INSTITUTE FOR PUBLIC POLICY

February 21, 2018 **Policy Brief: Volume 18, Number 8**

Act 47 in Pittsburgh: What Was Accomplished?

Summary: Pittsburgh has been officially removed from Act 47 municipal financial distressed status, a designation that lasted from December 29, 2003 to February 12, 2018, just over 14 years.

As described by the purpose and legislative intent of the 1987 statute, a municipality is placed in Act 47 financial distressed status when its fiscal integrity is jeopardized and threatens its ability to provide for the health, safety and welfare of its citizens. Following layoffs, having its credit rating lowered to junk bond status and operating deficits, Pittsburgh petitioned the Department of Community and Economic Development (DCED) for, and was granted, distressed status in 2003. Pittsburgh was the 20th municipality to enter Act 47.

A recovery plan was written by state-appointed Act 47 coordinators and adopted by the city in 2004 with amendments in 2009 and 2014. Along with the close to 390 initiatives contained in the three recovery plans addressing nearly all facets of city finance, collective bargaining and budgeting, additional events occurred which have had major impacts on the city. To wit: the creation of a separate overseer by the state with its own broader powers that was to work alongside the recovery coordinators; tax reforms affecting nearly all city levies but prohibiting commuter taxes often used in Act 47 communities; a municipal pension reform law that included the possibility of a state takeover of Pittsburgh's pensions; two requests to take Pittsburgh out of Act 47, one by the city and one by its coordinators, both of which were overruled; and, finally, amendments to the Act 47 statute by the General Assembly.

Pittsburgh's tax structure was a much-complained-about topic leading up to the Act 47 declaration. The year following Pittsburgh's designation as financially distressed under Act 47 it levied taxes on real estate, real estate transfers, parking, earned income, business gross receipts (business privilege and mercantile), occupational privilege and amusements. The General Assembly enacted tax reforms in 2004 giving the city authority to levy a payroll preparation tax in exchange for the immediate elimination of the mercantile tax and the phase out of the business privilege tax. The tax reforms increased the amount of the occupational privilege tax from $10 to $52 (this is today known as the local services tax and all municipalities outside of Philadelphia levy it and could raise it thanks to the change for Pittsburgh). The amended tax laws also shifted a portion of the Pittsburgh Public Schools share of the earned income tax to the city and reduced the maximum allowable parking tax rate in steps from its 50 percent rate in 2004 (the 2009 pension reform law stopped the reduction at 37.5 percent). The coordinators recommended an increase in the deed transfer tax, which occurred in late 2004 (it was just increased again by City Council) and in the real estate tax, which increased in 2015. Only the amusement tax was untouched, neither by state nor city action, in the years 2003 to 2018.

One major tax that was never put in place was a non-resident earned income tax (commuter tax) on people working in the city that is permitted with court approval for municipalities in distressed status. The little known catch of such a tax is that the rate imposed on non-residents has to be accompanied by an increase of the same magnitude on residents of the Act 47 municipality. Moreover, non-residents subject to a commuter tax would be credited with the income tax they pay to in their home community. For Pittsburgh the commuter tax was a moot point as the General Assembly disallowed the tax in the city as long as the Intergovernmental Cooperation Authority (ICA) was in place Pittsburgh.

Legacy costs, principally debt and underfunded pensions, were the primary focus of the 2009 amended recovery plan. The city's pension funded ratio has increased significantly from where it stood a decade ago, rising from the mid-30 percent range to over 60 percent at last measurement. The city is putting money in the pension plans beyond its minimum obligation and is nearly a decade into a pledge of parking tax revenues toward the plans. And the city's so called "debt cliff" will happen this year resulting in a significant reduction in annual debt service. Some of the reduction must be put toward capital needs as recommended by the coordinators and acknowledged by the city. The city ended post-retirement health care for new hires after 2005 and began a trust fund to start setting aside money for this benefit. Outsized workers' compensation claims have also been lowered.

It is instructive to note that the General Assembly's amendments to the Act 47 law (through Act 199 of 2014) placed a time limit on how long a municipality could remain in distressed status (five years from the adoption of a recovery plan or amendment of the plan) and slightly changed the factors DCED was to consider in making a rescission determination.

DCED will now utilize the following: first, operational deficits have been eliminated and there is a reasonable probability of maintaining balanced budgets; second, obligations issued for the municipality's deficit have been retired, reduced or reissued; third, claims and judgments that would have placed the municipality in imminent jeopardy of default have been addressed; and fourth, for the next five years following distressed status rescission positive operating balances are forecast.

In considering whether Pittsburgh was qualified for rescission, the coordinators determined the city had positive operating results (revenues greater than expenditures) in all years under Act 47 with the exception of 2008, 2010, and 2014. And while it did secure a line of credit from local banks the city did not utilize it. There were $20 million in recent claims and judgments against Pittsburgh but that will not mean immediate default. The projections for fiscal years 2018 through 2022 as examined by the coordinators and submitted to the ICA as part of the 2018 budget approval process show operating surpluses in each year. Per the statute the rescission determination can be appealed by a variety of parties.

Even with the unresolved issue of what happens to the ICA (legislation has been introduced to put it out of business) the city will be budgeting for the start of next year without a recovery plan or coordinators involved in the process. In its rescission report the coordinators made their recommendations of what the city should do (don't spend more than is taken in, plan to keep doing a five-year forecast, put more into pensions and capital needs and maintain sufficient reserves). The mayor introduced four ordinances in November of last year for adoption to continue some of the practices adopted while in distressed status. These include a budgeting process that includes submission of the budget by the mayor to council on September 30, review of the forecasts by city financial officials, with a 10 percent annual fund balance, and quarterly reports on the status of the budget. Also included are a 12 percent debt limit (debt service as a

percentage of general fund expenditures) and debt principal to 3.5 percent of total assessed property value in the city and no city initiated enhancements to pensions.

Overall, at the close of 2003 when the city was a newly designated distressed community, the audited results for the general fund showed an operating deficit of $35 million with $349 million in revenues and $384 million in expenditures and for the year. For 2018 the city budget expects $566.4 million in revenues and $556.4 million in expenditures for a $10 million operating surplus. Both revenues and expenditures grew faster than inflation (40 percent for the Pittsburgh area consumer price index) but the growth in revenues was greater (62 percent) than expenditures (44 percent). Revenues have been bolstered by the payroll preparation tax, the higher local services tax, the shifting of revenue from the school district and the property reassessments. Meanwhile, city employee headcount fell 15 percent from January 2004 to January 2017, but with population also declining the employee count per 1,000 residents fell only 7 percent. As reported in a 2016 survey of how well cities are run Pittsburgh ranked 144th out of 150 cities on financial stability and 117th on per capita spending.

The obvious question? Will the city stick to the steps taken to improve financially and avoid slipping back into distressed status? If Pittsburgh once stood "on the precipice of full-blown crisis," as described in the first recovery plan, hopefully it won't return to that position. That's not only a responsibility for the current elected and appointed leaders but their successors. And perhaps a role for the commonwealth as well, which added an early intervention component to Act 47 to monitor municipalities and work to ensure stability before they get to the point of distress. That probably should be paired with some special attention to the municipalities that have exited distressed status.

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