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Are Changes Coming to the Makeup of the Oversight Board?

The Intergovernmental Cooperation Authority for Cities of the Second Class—commonly known as the ICA and more commonly as the oversight board—was created in 2004 to help prevent a fiscal calamity in Pittsburgh. The statute creating the board (Act 11) states that “the inability of a city of the second class to provide essential services to its citizens as a result of a fiscal emergency is hereby determined to affect adversely the health, safety, and welfare not only of the citizens of that municipality but also of other citizens in this Commonwealth”.

Within a day of signing the legislation creating the ICA in February of 2004, Governor Rendell said “the sooner significant improvements are made to Pittsburgh's financial situation, the sooner our second-largest city can begin to refocus its resources and energy on growing its economy and creating new jobs for the region.” Put that quote in the context over the City's continued resistance to adopt a unified financial management system at the direction of the ICA and it is easy to see why the former Governor's hopes for the City seem quite misplaced.

To correct the City's fiscal trajectory, the oversight board is governed by appointees of the Governor and the legislative leaders of the state House and Senate. The five board members “must have substantial experience in finance or management” and must either live in the City of Pittsburgh or “have their primary places of business or employment in that City”. The state Secretary of the Budget and the City Finance Director serve in an ex-officio capacity.

Pittsburgh's ICA was closely modeled on Philadelphia's PICA, an agency created in 1991 that has a similar board appointment method. Like appointments to that board, ICA members serve at the pleasure of the official that appointed them. PICA is noteworthy inasmuch as just this week the Governor announced his appointment to the board. According to the executive director of PICA, House and Senate Democrats have yet to make their appointments to the board (meaning there are currently three members on the five member board). As boards where the Governor and General Assembly have appointment authority are reviewed, Pittsburgh's oversight board will almost certainly get a close look.

In the case of the Pittsburgh oversight board the need for expeditious review is obvious. For one thing, until the new Governor makes an appointment the ICA board makeup will consist of three members appointed by Democrats and two appointed by Republicans. But the partisan shift in the Governor's office makes the logical arrangement three to two in favor of the Republicans. Moreover, there are current appointees on the board who were appointed by legislative leaders as far back as 2005 and 2006 for whom the appointing legislators are either no longer in office or have no appointment authority.

For example, the appointee of Speaker Perzel has been on the board since 2006. Since that time Republicans have lost the House majority, won it back and Mr. Perzel is no longer a member of the House. Even more interesting is that the Perzel appointee is a labor union leader and almost certainly a Democrat, which means there are currently four Democrats (Democrat or appointed by Democrats) serving on the board. With Republicans having authority to make three appointments to the board, it seems unlikely they will be content to leave the situation as it is.

The only plausible reason for House Republicans and the Governor not to make new appointments would be if they are planning to let the ICA expire under the provisions of the enabling legislation. Specifically, after seven years, which would be 2011, the state has to certify that the City has had budgets and financial plans approved by the board for at least the preceding three years. If that certification is awarded, the ICA would begin the process of shutting down—unless the General Assembly finds the original targeted improvement to be inadequate in light of current and near term realities facing the City.

As we have pointed out in earlier reports, there are many areas in which the oversight board can have a salutary impact on the City's financial picture. The statute creating the ICA and specifying its powers says the board can consider and make recommendations to the General Assembly on topics such as merger of services, staffing levels, collective bargaining agreements, privatization and outsourcing, asset sales, and elimination or reorganization of authorities and departments. If the board determines that the City is not in compliance with its financial plan it can inform the Secretary of the Budget who then withholds money from the City so long as the money is not tied to pensions, debt repayment, capital projects, or disaster cleanups. The ICA statute also gives the board authority to set economic and financial parameters on binding arbitration in labor contract disputes—a very good reason to keep the oversight board, but only if members are willing to exercise their authority.

Further, if the ICA is to be continued, there can be improvements to make the board membership appointment system better. Fixed terms are a good place to start. Six years at a stretch seems too long for such a board. It would also be very useful to clean up the legislative language that assigns legislative appointments to the four respective caucuses instead of specific leadership positions so that, in the event of change in the party having the majority of seats, the appointment thread is intact and there is less confusion about who is responsible for whom.

Eric Montarti, Senior Policy Analyst

Jake Haulk, Ph.D., President

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd. * Suite 208 * Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
