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Fiscal Caution, Watch and Emergency

Presented by:
Local Government Services
Northeast Section

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Fiscal Caution

- Creates a “fiscal caution” designation for counties, townships and municipal corporations struggling to make ends meet.
- Allows the Auditor of State to develop guidelines for identifying fiscal practices and budget conditions that, if uncorrected, could result in declaration of fiscal watch or emergency.
- The current guidelines are found on the Auditor of State’s website



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Fiscal Caution

- **Potential** Triggers for Fiscal Caution
 - Unauditable Financial Records
 - Significant deficiencies, material weaknesses, direct and material noncompliance as disclosed in the financial audit
 - Deficit fund balances
 - Carryover fund balance of less than one month’s average expenditures for two or more consecutive years
 - Failure to reconcile accounting journals and ledgers with the treasury



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Fiscal Caution

- AOS must notify an entity being declared in fiscal caution and must request written proposals to correct the condition prompting the declaration.
- If no reasonable proposal is provided, or no action is taken to correct the condition, AOS may declare the entity in fiscal watch.



Request for a Fiscal Watch Review

- Made by a written request to the Auditor of State from:
 - Mayor of the municipal corporation
 - Presiding officer of the legislative authority
 - Board of county commissioners
 - Board of township trustees
- Once the request comes in to do an analysis, the Auditor of State must reply by certified letter that it has been received



Grounds for Fiscal Watch

- Anyone of four conditions constitutes grounds for a fiscal watch:
 - Accounts Payable
 - Deficit Fund Balances
 - Deficit in the Treasury
 - Forecasted General Fund Deficit.



Fiscal Watch Conditions

Accounts Payable – two calculations

- Accounts payable in the general fund at year-end that had been due and payable for at least 30 days less the year-end balance in the general fund, exceeds 1/12 of the general fund budget for that year
- Accounts payable in all funds at year-end that had been due and payable for at least 30 days less the year-end balance in the general fund and in the respective special funds available to pay such accounts, exceeds 1/12 of the available revenues of the prior year, excluding non-recurring receipts.



Fiscal Watch Conditions

Accounts Payable

Funds	Payables	Fund	Payables	One-Twelfth of	Accounts
	Over 30 Days Past Due	Balance Available	In Excess of Available Balance	the Revenues Lawfully Available	Payable in Excess of Available Revenues
General	\$997,568	\$0	\$997,568	\$3,457,137	\$0
Permanent Improvement	89,138	0	89,138	88,506	(632)
Police Relief Pension	182,727	0	182,727	137,663	(45,064)
Firemens Relief Pension	170,190	0	170,190	122,482	(47,708)
Federal Nutrition	10,006	0	10,006	5,487	(4,519)
Totals	\$1,444,629	\$0	\$1,444,629	\$3,811,270	(\$97,923)



Fiscal Watch Conditions

Deficit Fund Balances

- The aggregate of deficit amounts of all deficit funds at the end of the preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in section 5705.14 of the Revised Code to meet that deficit, exceeded one-twelfth of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.



What happens when an entity is in Fiscal Watch?

- Auditor of State is available to provide technical and support services
- Nature of the services are agreed to by the Auditor of State and the Entity
- The State provides funding for the cost of the services with a line item appropriation within the Auditor of State's Office

Fiscal Watch

- Change in the Code requires that local governments in "fiscal watch" adopt a financial recovery plan within 120 days of the declaration.
- The plan must include a five-year forecast.
- If no feasible plan is adopted within the required timeframe, the AOS shall declare the entity into fiscal emergency.

How does an entity get out of Fiscal Watch?

- Auditor of State does another financial analysis to determine if the fiscal watch conditions no longer exist and cancels the watch
- Analysis is done at fiscal year end

Fiscal Emergency Analysis

A request for determination of fiscal emergency may be made by:

- The governor
- The county budget commission
- The mayor of a municipal corporation
- The presiding officer of the legislative authority of a municipality when authorized by a majority of the members
- The board of county commissioners
- The board of township trustees

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Grounds for Fiscal Emergency?

Any one of six conditions constitutes a fiscal emergency:

- A default on any debt obligation
- A failure to make payroll to employees
- An increase in the minimum levy - inside millage
- Accounts Payable
- Deficit Fund Balances
- Deficit in the treasury

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The Fiscal Emergency Analysis

- The analysis is performed at year-end and at the time of determination – generally, at least 4 months after year end.
 - The first three criteria are performed only at the date of determination.
 - The later three criteria are performed at both dates.
- If the analysis is performed within four months of year-end, the entity may request a delay till after 4/30 with a substantial showing that steps have been taken to remove the fiscal emergency conditions.

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Declaration of Fiscal Emergency

- The Auditor of State issues a written declaration of the existence of fiscal emergency
- Only the Auditor of State can declare a fiscal emergency – NOT the entity

What happens when an entity is in Fiscal Emergency?

- Financial Planning and Supervision Commission (FPSC) is established
- Recovery plan is prepared by the executive and legislative authorities of the entity and presented to the FPSC
- AOS serves as the Fiscal Supervisor
- Auditor of State prepares an accounting report

Financial Planning and Supervision Commission (FPSC)

- A FPSC shall consist of the following seven voting members:
 - Representative of the Treasurer of State
 - Representative of the Director of the Office of Budget and Management
 - Mayor of the municipal corporation or president of the board of county commissioners
 - President of council of the municipal corporation or the county auditor
 - Three members of the community appointed by the Governor of Ohio
 - AOS serves as the sole financial supervisor (in lieu of a Commission) for villages or townships with a population under 1,000.

Financial Planning and Supervision Commission

- Immediately upon appointment of the FPSC members, the Governor calls the first meeting
- Director of the Office of Budget and Management representative shall serve as chairperson of the FPSC
- Quorum is four members

Powers and Duties of FPSC

- Instrumental in approving the Financial Recovery Plan
- Review all tax budgets, tax levy ordinances, bond and note ordinances, appropriation measures, certificates of estimated resources to require that they are consistent with the financial plan and a balanced appropriation budget is in place
- Inspect any documents pertaining to the financial accounting and reporting system, debt obligations and limits, financial plan, balanced appropriation budgets and measures, audit reports, statements, invoices or records of the entity.
- Inspect documents from the county budget commission, county auditor or any official or employee of the entity
- Review, revise and approve certifications affecting the entity made by the county budget commission or county auditor

Powers and Duties of the FPSC

- Bring civil actions, including mandamus to enforce this chapter
- Approve the amount and purpose of any issue of debt obligations
- Authenticate and assist the officers of the entity in the delivery of debt obligations
- Consult with entity officials and the Auditor of State to bring the accounting records, systems or financial procedures and reports into compliance with requirements prescribed by the Auditor of State
- Enter into all contracts and agreements necessary to the performance of its duties
- Consult with officials of the entities and make recommendations for cost reductions or revenue increases
- Annually on or before the first day of April make reports and recommendations to the speaker of the house and the president of the senate concerning each respective fiscal emergency entity

AOS as Financial Supervisor

- Provide guidance to management in correcting the issues addressed in the Auditor of State's Report on Accounting Methods
- Provide training and assistance when necessary
- Review of the revised Financial Recovery Plan to ensure compliance with ORC Section 118
- Monitor the entity monthly to ensure compliance with Ohio Budgetary Law and progress with items addressed in the revised Financial Recovery Plan and provide periodic updates to the Commission

AOS as Financial Supervisor

- Review budgetary documents including ensure compliance with Ohio law
- Provide guidance to the entity in the development of a five year forecast that is in line with its recovery plan which will be required for the termination of fiscal emergency
- Attend monthly commission meetings and any other meeting with the entity in connection with the fiscal emergency and assist in the completion of any and all requirements of the fiscal emergency law as requested by the Commission

Financial Recovery Plan

- Plan needs to have been approved by the city council or the board of county commissioners or township trustees before submission to the FPSC
- Plan should be presented by the mayor or the board of county commissioners or township trustees to the FPSC within 120 days after the first meeting of the FPSC

Financial Recovery Plan

Plan should include the following:

- Eliminating all fiscal emergency conditions determined to exist at declaration of fiscal emergency
- Satisfying any judgments, past due accounts payable and all past due and payable payroll and fringe benefits
- Eliminating the deficits in all deficit funds
- Restoring to other funds moneys from those funds that were used for purposes not within the purposes of such funds
- Recovery plan must now include a five-year forecast and must be updated annually

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Financial Recovery Plan

- Balancing the budgets, avoid future deficits in any funds and maintain current payments of payroll fringe benefits and all accounts
- Avoiding any fiscal emergency condition in the future
- Restoring the ability of the entity to market long-term general obligation bonds
- Enumerating the legal authorities permitting the entity to take the actions listed in the plan
- Detailing the approximate dates of the commencement, progress upon and completion of the actions enumerated to eliminate the fiscal emergency

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Financial Recovery Plan

- Detailing the amount and purpose of any issue of debt
- Assurances that the entity will establish monthly levels of expenditures that guarantee a balanced budget and reduce the deficit balances
- Assurances that the entity will conform to statutes with respect to tax budgets and appropriation measures
- Impounds State funding (except benefit assistance) if a fiscal emergency entity fails to adopt and substantially adhere to an approved financial recovery plan.

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Termination of Fiscal Emergency

FPSC should have done all of the following:

- Planned an effective financial accounting and reporting system
- Corrected and eliminated all of the fiscal emergency conditions that put them in fiscal emergency and that no new conditions have occurred.
- Met the objectives of the financial plan
- The entity should prepare a five year financial forecast in accordance with the standards issued by the Auditor of State and receive a nonadverse opinion from the Auditor of State

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Fiscal Emergency – Related Dissolutions

- Last resort process in place for the dissolution of governments with a population of less than 5,000 (the AOS petitions the AG and the AG files court action)
- Applies when:
 - Entity has been in fiscal emergency for four years and
 - Its financial forecast/recovery plan does not demonstrate an ability to remedy its fiscal condition within five years.

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