

***House Bill 2086***  
***Testimony and Materials***

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# House Bill 2086 Overview

- To provide municipalities in Oregon with a mechanism that achieves the following goals:
  - *First*, to identify “fiscal distress” (i.e. insolvency) in our local government entities as quickly as possible;
  - *Second*, to provide a mechanism/process for investigating fiscal distress, proposing creative solutions to resolve the financial condition, and implementing the solutions; and
  - *Third*, when necessary, to implement creative solutions through the Bankruptcy Court.

# Why do we need House Bill 2086?

- Currently, there is no statutory mechanism in Oregon to effectively and collaboratively respond to fiscal distress.
- There is no mechanism to resolve problems that require concessions from multi-parties. State law is cabined by the constitutional prohibition on impairment of contracts.
- HB 2086 sets forth a process, through the creation of a Fiscal Emergency Oversight Board ("**Board**"), to bring taxpayers, creditors, retirees, public employees, and the state to the table to resolve the fiscal distress.
- The Board steps into the shoes of local leaders to investigate problems and propose solutions for the particular municipal or special purpose entity.
- All parties negotiate against the backdrop of bankruptcy, and a municipal employer's power to restructure existing contractual obligations through a plan of debt adjustment pursuant to title 11 of the United States Code (the "**Bankruptcy Code**").

# House Bill 2086: Insolvency Defined

- An event of insolvency includes:
  - Failure to make payments to financial creditors, vendors, employees, and other creditors when due or upon presentment;
    - Service level insolvency, or going concern insolvency
  - Failure to make employer/employee contributions to pension, retirement or benefit plan
  - A determination by the local government that the fiscal condition of the municipality compromises its ability to provide services

# House Bill 2086: Process Triggers

Local government notifies the Governor of the insolvency event;

OR

Petition signed by 5% of voters notifying local government and Governor of insolvency event,

# House Bill 2086: State/Local Cooperation

- Upon notification of fiscal distress, the Governor must request information from the local government on its action plan for resolving the insolvency event.
- Local government must respond in writing within 45 days of the request for information/plan of action.
- Governor, in consult with Secretary of State and Treasurer, shall determine whether the local government needs state assistance to resolve fiscal distress/insolvency event.

# House Bill 2086: State/Local Cooperation

- State may loan funds to municipality.
- Governor may establish a Fiscal Emergency Oversight Board.
  - The FEOB shall be comprised of members with expertise in the areas relevant to the fiscal emergency.
  - The FEOB shall have the authority to run the affairs of the local government, subject to constitutional limitations.
  - The FEOB may prepare a plan of resolution.
  - A plan of resolution may recommend that the municipality file a bankruptcy petition under Chapter 9 of the Bankruptcy Code.

# House Bill 2086: Key Takeaways

- Costs of administering this process, including the FEOB, shall be incurred by the state.
- This is not a bankruptcy bill. HB 2086 only provides distressed municipalities and special government entities with *leverage* to negotiate for meaningful concessions *in the shadow of bankruptcy*. Only in the event, special interests do not negotiate in good faith, the municipality has the power to file for bankruptcy and propose a plan of debt adjustment over the objection of interested parties in accordance with Chapter 9 of the Bankruptcy Code.
- Chapter 9 empowers the municipal entity to reject certain existing contractual obligations of the municipality or otherwise impair such obligations over the objections of creditors and interested parties.
- Municipalities cannot file for Chapter 9 without the express authorization of the State. HB 2086 gives municipalities that authorization.