



Ohio Revised Code

Section 118.03 Fiscal emergency conditions.

Effective: October 3, 1996

Legislation: House Bill 462 - 121st General Assembly

(A) Any one of the following constitutes a fiscal emergency condition of a municipal corporation, county, or township:

(1) The existence, at the time of the determination by the auditor of state under section 118.04 of the Revised Code, of a default on any debt obligation for more than thirty days.

(2) The existence, at the time of the determination by the auditor of state under section 118.04 of the Revised Code, of a failure for lack of cash in the funds to make payment of all payroll to employees of the municipal corporation, county, or township in the amounts and at the times required by law, ordinances, resolutions, or agreements, which failure of payment has continued:

(a) For more than thirty days after such time for payment, or

(b) Beyond a period of extension, or beyond the expiration of ninety days from the original time for payment, whichever first occurs, if the time for payment has been extended for more than thirty days by the written consent of at least two-thirds of the employees affected by such failure to pay, acting individually or by their duly authorized representatives. The failure of one county office, board, or commission to meet payroll does not in itself constitute a fiscal emergency.

(3) An increase, by action of the county budget commission pursuant to division (D) of section 5705.31 of the Revised Code, in the minimum levy of the municipal corporation, county, or township for the current or next fiscal year which results in a reduction in the minimum levies for one or more other subdivisions or taxing districts.

(4) The existence of a condition in which all accounts that, at the end of its preceding fiscal year, were due and payable from the general fund and that either had been due and payable for at least thirty days at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, including, but not limited to, final judgments, fringe benefits payments due



and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon, less the year-end balance in the general fund, exceeded one-sixth of the general fund budget for that year, or in which all accounts that, at the end of its preceding fiscal year, were due and payable from all funds of the municipal corporation, county, or township and that either had been due and payable for at least thirty days as at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds lawfully available to pay such accounts, exceeded one-sixth of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts lawfully are payable. Accounts due and payable shall not include any account, or portion thereof, that is being contested in good faith.

(5) The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its 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 such deficit, exceeded one-sixth 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.

(6) The existence of a condition in which, at the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county, or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded one-sixth of the total amount received into the unsegregated treasury during the preceding fiscal year.

(B) Any year-end condition described in division (A)(4), (5), or (6) of this section shall not constitute a fiscal emergency condition if the municipal corporation, county, or township clearly demonstrates to the satisfaction of the auditor of state prior to the time of the auditor of state's determination that such condition no longer exists at the time of the determination pursuant to section 118.04 of the Revised Code. For the purpose of such demonstration, there shall be taken into account all accounts payable past due for sixty days or subject to penalty, deficit amounts of deficit funds, and positive balances as at the time of such demonstration, rather than at the end of the fiscal year, and there shall be taken into account the moneys and marketable securities in the treasury of the municipal



corporation, county, or township at the time of such demonstration that are, in the case of division (A)(4) of this section, held for the general fund and those respective special funds that are lawfully available to pay such accounts, in the case of division (A)(5) of this section, held for the general fund or any special fund that may be transferred as provided in section 5705.14 of the Revised Code to meet such deficit, and in the case of division (A)(6) of this section, held to meet such positive balances, but in each case, that are not encumbered or held for other than such respective purposes; provided that changes from the year end condition resulting from transfers not authorized pursuant to Chapter 5705. of the Revised Code, borrowings or advances between funds, segregation of treasury moneys or investments, and similar adjustments, shall not be taken into account to demonstrate improvement in any fiscal emergency condition. Unless the determination by the auditor of state occurs more than four months following the end of such fiscal year, upon the request by and substantial showing of the municipal corporation, county, or township that it has taken steps to remove such condition within four months, the auditor shall postpone a determination as to a condition under division (A)(4), (5), or (6) of this section as to which such substantial showing is made until the expiration of four months following the end of such fiscal year, but the auditor of state shall not postpone the determination as to division (A)(1), (2), or (3) of this section.

(C) Neither the time periods nor the amounts used in division (A) of this section to determine what constitutes a fiscal emergency condition of a municipal corporation, county, or township for purposes of this chapter authorize actions otherwise contrary to law or any agreement of the municipal corporation, county, or township.