Pittsburgh Executive Summary

"We created a crisis." — Pittsburgh Mayor Tom Murphy

Pittsburgh's long-term structural economic and fiscal decline came to a head in 2003, when Mayor Tom Murphy applied for help under the Pennsylvania Municipalities Financial Recovery Act, or Act 47. This move came after the General Assembly failed to act on his package of proposed tax changes, forcing him to undertake mass layoffs and service cuts. The city was paying almost half of its budget on public safety, another 25 percent on debt service, and its employee pension funds were dismally underfunded. Over the next decade, the city worked with State-appointed Act 47 coordinators to develop a plan for recovery, under the close watch of a second form of state oversight – the Intergovernmental Cooperation Authority, a watchdog entity with the authority to approve budgets and five-year plans. Under the leadership of Mayors Murphy and Luke Ravenstahl, Pittsburgh has made substantial progress: turning years of deficits into positive fund balances every year since 2005, entering cost-saving agreements with labor, restructuring its crushing debt load, and avoiding state takeover of the pension system (though it still faces an unfunded liability of more than $380 million). But while Ravenstahl has petitioned for rescission from distressed status, other stakeholders—including the likely incoming Mayor-- think the city still has a long way to go.

If Pittsburgh remains in distressed status, it will remain along with 20 other municipalities in Pennsylvania currently under Act 47. While this is a miniscule share of the state's 2,562 municipalities, it is worth noting that 14 of these municipalities have been under Act 47 for more than 10 years, and ten of those for more than 20 years. In fact, only seven municipalities have exited the program – raising questions from many about the law's effectiveness in returning localities to fiscal sustainability. Earlier this year, a working commission was convened by the General Assembly's Local Government Commission to develop ways to improve the Act.

Whether Pittsburgh graduates from distress this year or continues under oversight, its progress yields several important lessons for other leaders facing fiscal crisis:

- **Know your state.** Restrictive state laws and a poor relationship between city officials and state lawmakers were a big part of the problem in Pittsburgh.

- **When necessary, create a crisis.** The State's intervention allowed for relief from certain laws and provided political cover for the much needed debt diet and benefit reductions.

- **Identify the problem.** The recovery plan laid bare the extent of the problem, and its causes.

- **Pick your battles.** The first recovery plan dealt with the immediate budget crisis, while the second confronted the more daunting long-term legacy costs.

- **Have a way out.** The story of Pittsburgh – like so many Act 47 cities – is still being written. Is the city's request for rescission to be honored by the State DCED? Should it be?

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Introduction

"This is Pittsburgh's Waterloo." –City Controller Tom Flaherty[1]

In November of 2003, Mayor Tom Murphy announced drastic steps to close a $42 million budget shortfall, representing over 10 percent of the $398 million budget. In addition to laying off some 446 workers, including all of the city's EMS workers and some police, Murphy closed senior centers, recreation centers, and 26 swimming pools, and cut services such as rodent control and mounted police. Murphy had submitted a budget that counted on help from the state in the form of approval for revenue changes and $12 million in aid for pensions. When the General Assembly adjourned for the summer without addressing his proposals, the city was set to run out of money by Christmas.

Murphy had been managing a city on the brink of fiscal crisis for most of his decade as mayor. Under his leadership, the city employed one-time fixes to address the growing deficits it faced throughout the 1990s and early 2000s. While these actions were cited in the city's first Act 47 recovery plan (the 300-page roadmap out of distress) as a big piece of the problem, at least one expert on Pittsburgh's economy and finances referred to them as "pretty smart stuff" in staving off an inevitable crisis. Indeed, as former Murphy-era finance director David Y. Miller put it, "It was only a matter of time" before the city ran out of solutions given the long-term regional economic decline and state laws which limit local officials' options in raising revenue or cutting labor costs. Murphy was far from the first Pittsburgh mayor to experience a budget crisis.[2]

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A City Cut in Half

Pittsburgh first earned its position as an economic anchor to Southwestern Pennsylvania in the late 18th Century, as a port city with prime shipping access to multiple states and territories along its three rivers and – later – canals and railroad. Located near a wealth of natural resources, the Steel City was the heart of a region that produced three-fourths of the coal consumed in the U.S. in 1877 and by 1911, its mills were producing half of all U.S. steel.[3] The city saw tremendous growth as immigrants – particularly Scotch-Irish – came in search of manufacturing and mining jobs. Organized labor and the Democratic Party rose simultaneously through 1900s; prior to the Great Depression, Pittsburgh had been a Republican stronghold. In 1950, Pittsburgh was the twelfth largest city in the U.S., with a population of 678,806.[4] Following the Second World War and the resulting decline in demand for steel, the city began to experience what many Midwest and Northeastern cities did: tremendous job losses and resulting population decline. In the 1970s alone, the U.S. lost 30 million factory jobs – many located in cities.[5] The Pittsburgh region lost over 100,000 factory jobs between 1950 and 2000. By then, the city's population had been cut in half to 334,562 and was back to where it had been at the turn of the 20th Century.

As middle-income whites left Pittsburgh for the surrounding suburbs and jobs elsewhere, they left behind the infrastructure and public sector workforce of a city built for a much larger and denser population. However, while Pittsburgh lost resident population, it was able to maintain its role as regional employment center. In 1970, the city's population grew by 50 percent during the daytime.[6] Despite the factory job losses, this trend continued, thanks largely to a public/private strategy

developed in the 1980s to pivot the economy away from manufacturing to tech, higher education, and healthcare.[7] Today the daytime population remains over 40 percent higher than the resident population. While the economic activity has kept the city alive during a period of deindustrialization, the influx of commuters costs more than it contributed in revenue. A 1982 study commissioned by then Mayor Dick Caligiuri found that non-residents contributed only three-fifths of the costs they imposed on the city – at the time, a $6 million hole.[8]

Outdated Tax Structure. The same 1982 study identified two other, even more troubling long-term trends facing the city. First, the city's tax structure – with its reliance on property taxes, business and mercantile taxes – was increasingly outdated due to the collapse of the steel industry and stagnation in property values. Second, given restrictive state laws, the city was unable to raise revenue to keep pace with growth in the cost of government. Pittsburgh' largest source of revenue is the property tax, which strained under the weight of stagnating property values and a growing share of tax-exempt property as the economy shifted from steel and coal toward research and healthcare. The earned income tax provides the next largest share of revenue to the city, but is largely limited to residents because a commuter's home jurisdiction has first claim on the EIT. Pennsylvania state law exempts many broad categories of businesses from paying the business privilege tax, including financial, securities, some manufacturing, and non-profits which are major employers in Pittsburgh; by the 2000s, some 45 percent of Pittsburgh businesses were exempt.[9] State laws also limited Pittsburgh's ability to annex in order to increase the tax base and to tax non-residents. Rates in the EIT, real estate transfer tax, the real estate tax, and the parking tax went up in the 1980s and 1990s. All of this led to higher burdens on residents, who were increasingly lower-income. Attempts to capture more money from the non-residents were insignificant (for example, the $10 Local Service Tax – a head tax which was supposed to cover use of city services and had not been changed since the 1960s). Other attempts led to decreased economic activity in the city. For example, in the 1970s and 1980s, the city imposed a 10-percent nuisance tax on amusement, which held down attendance at sports and entertainment events. Parking rates in the city were among the highest in the nation, at 50 percent. The 1982 study recommended that the city and State consider other revenue options – including the imposition of a local sales tax, user fees, and non-resident wage tax.[10]

Growth in Government. While the revenue rug was pulled out from under the city, the size and cost of government did not shrink accordingly. In the 1970s and early 1980s, expenditure growth was between 8.5 and 10.5 percent annually, compared to 3 percent growth in tax revenues. The one-year budget gap estimate for 1986 was $54 million on a $309 billion budget, with a cumulative deficit estimated at $197 million at then-current growth in expenditure levels between 1982 and 1986.[11] The largest share of growth came from public safety spending on police and fire, which operated with the same number of police and fire stations as they had prior to the population loss, while the largest non-departmental spending came from workers and unemployment compensation – growth of 17 percent compared to 10.5 percent for the rest of the budget. Given organized labor's political strength and residents' attachment to the neighborhood assets—the police and fire stations, libraries, schools and swimming pools -- local officials found it hard if not impossible to rightsize government throughout the contraction. Public works represented another burden to the city—particularly in maintaining and staffing costly capital assets such as the Pittsburgh Zoo, Phipps Conservatory, National Aviary, and museums and libraries. These cultural institutions were visited primarily by non-residents, but the financial burden of supporting them fell to the city. Relief came in 1994 with the General Assembly's passage of legislation enabling Allegheny County to create the county-wide Allegheny Regional Asset District, funded by a new local option sales tax. The District relieved Pittsburgh of the burden of maintaining the regional assets it hosted (saving the city $16 million annually), but also pumped $15 million in revenue into city coffers.

The city was required to use this revenue for property tax relief and to reduce the onerous amusement tax from 10 percent to 5 percent.[12] Though the relief helped, it was too little, too late -- by the 1990s, the city was experiencing a perpetual cash crisis.

Pension Liabilities. Like many cities in the Northeast and Midwest, Pittsburgh's pension liability built up over years of enhanced benefits and underfunding. As early as the 1930s, the firefighter pension fund went bankrupt and the police fund was close to state takeover. In the 1970s, the city's pension fund was completely unfunded.[13] Between 1983 and 1997, pensions were less than 20 percent funded.[14] The state's laws and political dynamic play a large role in the pension crisis. Between 1934 and 1975, the State either raised pensions or other benefits, or limited aid to local government pensions more than 15 times – everything from changing funding formulas, to increasing benefits, to lowering retirement ages.[15] Additionally, collective bargaining laws under Pennsylvania's Act 111 -- which calls for mandatory binding arbitration with public safety unions in the event of a failure to sign a contract, in exchange for no striking--complicate the city's ability to deal with unions (see Sidebar: The Tangled Web of Pennsylvania Local Governments). In 1984, Act 205 was created to help localities struggling with pension obligations; the act created a pool of state aid distributed via a complicated funding formula that initially allowed for Pittsburgh to receive $24 million in 1988, or 19 percent of the pool. Under the formula, Mayor Sophie Masloff (term in office 1988-1994) was actually able to lower taxes for the first time in decades by lowering the city contribution and taking advantage of high levels of state aid.[16] A loophole in the formula allowed more communities to enter and dilute the pool – followed by state changes that eliminated the formula and based aid strictly on the number of employees in the system regardless of local contribution to the plan (likewise creating disincentives both to fund pensions and to downsize workforces). By the late 1990s, the city's share was down to 7 percent, or around $12 million.[17] In the late 1990s, under Mayor Murphy, the city floated $265 million in non-callable pension bonds (meaning debt that cannot be refinanced to take advantage of lower interest rates) – a move that since has been referred to as "a tragic error."[18] While the issuance initially bumped the pension funding level above 50 percent, the city suffered two waves of reckoning for this decision – first, when interest rates fell to historic lows the city was stuck paying 6.5 cents on the dollar, and second, with the internet bust, the pension funds lost value dropping the city back to below 40 percent in the early 2000s.[19] In 2003, municipal pensions were 43 percent funded, police pensions were 32 percent funded, and firefighter pensions were 50 percent funded.[20]

Filling Holes. By the 1990s, though city managers had kept spending to a relatively modest growth rate of around 3 percent a year, the ever-shrinking tax base meant that revenues were growing even more slowly -- at less than 1 percent per year.[21] Police and fire were growing much faster than 3 percent a year, forcing the city to abandon or roll back other services and redirect them toward public safety. The Murphy Administration used a variety of strategies to chip away at the gap – taking one-time revenues including: sale of tax liens, refinancing debt, selling assets such as the Pittsburgh Water and Sewer Authority, and dipping into reserves and other separate funds.[22] Even the new revenue from the Allegheny Regional Asset District "only bought time, putting off the inevitable involvement from the State – whether through Act 47 or oversight."[23] According to a former finance director, each year during the 1990s the gap amounted to more than $3 million, compounding the problem facing officials -- from $3 million to $6 million the next to $9 million and so on.[24] Others have suggested a much larger gap, which seems likely given that by 2003, when Murphy applied for Act 47 status, the gap had widened to more than $42 million on a $398 million budget. In 2004, the gap was predicted to double to $81 million.

Course Correction

"We created an artificial crisis to force the issues." - Former Pittsburgh Mayor Tom Murphy[25]

In 2003, Mayor Murphy asked the General Assembly to authorize a 0.45 percent payroll tax on for-profit companies, a hike in the city's $10 occupation tax, an alcohol tax, closure of exemptions in the business tax for certain industries, and $12 million in new pension aid to save the city budget.[26] When the legislature adjourned in the summer of 2003 without considering his proposed tax changes, the city was out of options. Ratings agencies responded to the news with a series of credit downgrades, resulting in Pittsburgh's ignominy as (then) the only major city in America to hold bonds rated "junk" status.[27]

In applying for Act 47, Murphy forced the crisis the city needed to confront some of its most daunting challenges. The expanded use of a commuter tax by other jurisdictions in Act 47 had suburban legislators concerned about the burden their constituents might play in Pittsburgh's recovery; in response, they put together another law that would enable the formation of an oversight board – the Intergovernmental Cooperation Authority – modeled on similar legislation surrounding Philadelphia. The Pittsburgh legislation specifically prohibited the use of a commuter tax.[28]

Act 47 and State Oversight in Pennsylvania

Act 47 was created in 1987 in response to what was seen as a growing epidemic of distress among smaller communities, particularly in former coal and manufacturing towns whose economic lifeblood had dried up. The law calls for a municipality to meet one of 11 conditions for distressed status, at which point a coordinator appointed by the Pennsylvania Department of Community and Economic Development will work with elected officials to develop a plan for fiscal sustainability. These plans have two significant features that allow for relief from what many call onerous state laws: they allow for additional revenue raising capacity through expanded use of a non-resident wage tax (commuter tax), and they shelter distressed municipalities during binding arbitration. This latter feature of the law has been weakened in recent years. Until 2011, arbitrators could not grant labor awards that were out of compliance with Act 47 recovery plans, but a Supreme Court decision undid this aspect of the law in a case regarding the City of Scranton's agreement with its firefighters.[29] Action by the General Assembly in 2012 restored the requirement for neutral arbitrators to consider a municipality's fiscal condition in an arbitration award, but does not fully restore Act 47 recovery plan primacy over Act 111.

While these two features do offer fiscal relief, some critics of the law posit that communities become dependent on them. Some have called the law a "roach motel" that creates "zombie" municipalities that cannot exist outside of distressed status.[30] Critics complain that a key failure of the law is that it has no teeth when it comes to helping distressed localities do business smarter: while recovery plans frequently call for distressed communities to look into functional consolidation and shared services, there is nothing to force their more affluent neighbors to cooperate. Since the law was enacted, 28 municipalities have been declared distressed, and seven have had the distress declaration rescinded. A state official suggests that there are at least a handful of municipalities that meet the conditions for distress, but do not apply for Act 47 status because of the stigma it holds. According to an expert who has been the coordinator for a number of Act 47communities, many of the seven municipalities that have left Act 47 were in distress largely because of sudden shocks to their financial positions – for example, the tiny township of Westfall, in Pennsylvania's Northwestern corner, faced a legal judgment

of $21 million – a huge burden for a township with a $1 million annual budget. These contrast with the small cities and towns whose tax bases have been devastated by job loss and population decline.

Philadelphia, the only first-class city in Pennsylvania, was considered too large to enter Act 47 when its fiscal woes came to a head in 1991. In response to a cash crunch, local officials worked with the legislative delegation there to create a state oversight board that would have the power to access credit markets on behalf of the city. This power has since lapsed, but the board retains the authority to approve city budgets and require a five-year financial plan.

The Pittsburgh ICA is modeled on the Philadelphia experience, though the two differ in one significant way. Both are controlled by five member boards representing each legislative caucus and the governor. Both can approve budgets and require a five-year financial plan. However, the Pittsburgh ICA has control over gaming revenues that amount to around $7 million annually; critics contend this gives the suburban legislative delegations the ability to bend the city to their will by withholding aid and budget approval. The ICA's requirements are onerous to city officials; while Act 47 provides technical assistance and resources, the ICA has a staff of one. But others in the city feel the oversight is necessary given the city's fiscal legacy. As Controller Michael Lamb stated, the city "can use all the oversight that it can get."[31]

The city's petition for Act 47 cited three of the eleven Act 47 criteria:

- Criterion 2: Expenditures exceed revenues for three years;
- Criterion 5: the imminent and inevitable threat that the city would fail to pay judgment creditors for 30 days; and
- Criterion 4: the imminent and inevitable threat that the city would miss payroll for 30 days.

Independently, In addition to considering Criterion 2 which Pittsburgh had already addressed in its Petition, PFM added two other criteria:

- Criteria 1: Deficit of 1 percent or more for three years; and
- Criteria 7: Deficit of 5 percent or more for two successive years.

Dealing with these challenges fell to Mayor Luke Ravenstahl, the "accidental" mayor who assumed office at age 26 after Murphy's successor, Bob O'Connor, died in office nine months into his first term. (Ravenstahl had been City Council President.) Working closely with city Council, the Act 47 coordinators, the ICA, and state and regional leaders, the city's slog out of crisis came in two waves.

Recovery Plan 1: Closing the Gap

The bulk of the gap-closing would have to come through new revenues and new labor agreements. However, the city also needed to change the way it did business through cuts, intergovernmental cooperation, and privatization. But the first accomplishment of the 2004 Act 47 Recovery Plan was that it produced a set of numbers that all stakeholders could agree to, allowing for the complicated negotiations over revenue enhancements and cuts to begin. The challenge was daunting: the city faced a $70 million gap in 2005, a figure that would grow to $115 million in 2009 without corrective action.[32]

New Revenues. The first recovery plan called for a new revenue package that would have yielded over $40 million annually – consisting of an increase in the occupational privilege tax from $10 per year to $145 per year and a new payroll preparation tax on gross revenues, set at 0.85 percent. In exchange,

the plan called for reductions in the business privilege tax, the mercantile tax, and the parking tax. Because these tax changes required approval by the General Assembly, city officials, business leaders union representatives went to Harrisburg to lobby for the new package. Ultimately the package that passed did raise revenue – but not as much as was called for in recovery plan. The occupational privilege tax was enacted at only $52, and the payroll preparation tax was enacted at 0.55 percent. Additionally, though the plan called for reductions to the business and mercantile taxes, instead these taxes were eliminated. The plan also called for $6 million annually from non-profits, but ended up getting only $2.5 million annually. However between the enhancements that did pass and a 3 percent tax on wages earned by professional athletes and entertainers performing in Pittsburgh, the city had half the equation toward closing the budget gap.[33]

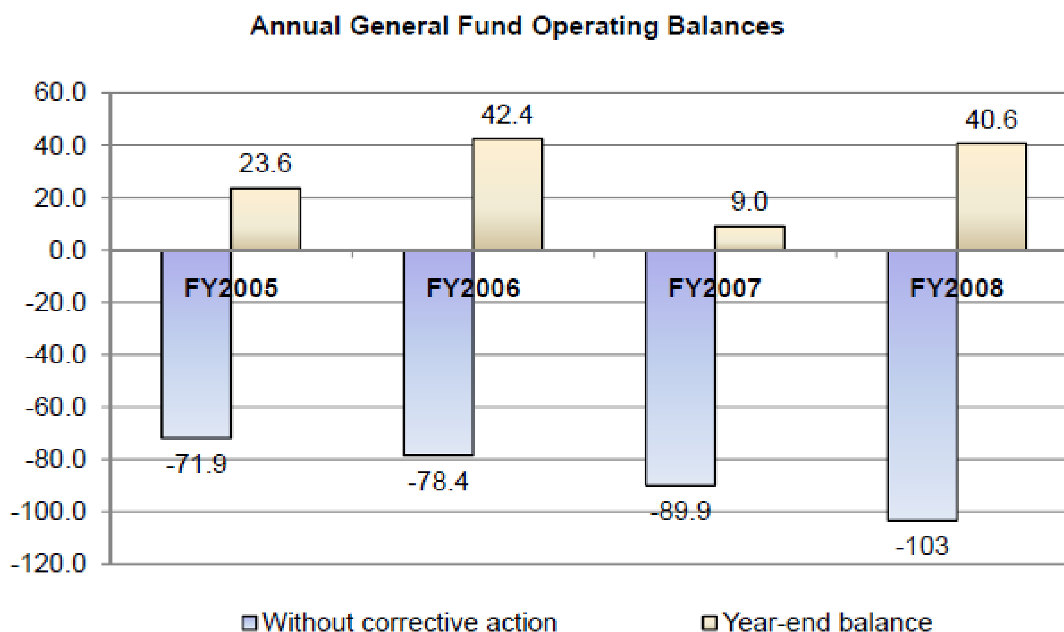
Cuts. Pittsburgh spends upwards of 85 percent on people – salaries, wages, benefits, overtime, workers compensation, retirement and other costs. Therefore cuts would affect employees in drastic ways. The 2005 recovery plan called for 15-percent cuts to the Mayor's Office, the Controller, and City Council and Clerk. These and other non-union employees would not get a raise for four years. The Coordinators restructured healthcare plans in the first year under Act 47, requiring employees to make a 15 percent contribution – the first time any employees had contributed. It also called for reduced headcount, wage freeze, and other efforts to control the growth of employee expenditures, for a combined $8.5 million in the first year.[34] In 2006, the city eliminated retiree health benefits for new hires.

New Collective Bargaining Agreements (CBAs). The recovery plan called for the largest cuts to come from the fire department, largely through a new agreement signed in the first quarter of 2005; President of the International Association of Firefighters Joseph King has stated that the union felt "targeted" by the Act 47 process, which "took away all union bargaining powers completely."[35] Of the $11.7 million in personnel-related savings; $10.5 million came from reductions to firefighters, through reduced staffing, salary caps and freezes, and the closure of six fire stations.[36] The city entered beneficial new labor agreements with other unions – a painful process but ultimately successful given the city's additional leverage through Act 47. Though the agreements yielded substantial concessions from unions, it is worth noting that the ICA did not think that the agreements went far enough in cutting costs, and ultimately took the State and the Act 47 coordinators to court – putting the coordinators in the unusual position of an alliance with the unions. (The dispute was later settled and the labor agreements stood.)

Doing Business Smarter. While not as significant toward closing the structural gap, the recovery plan called for over 100 other non-tax initiatives that would strive to improve financial management and help the city become more efficient. Some, such as improved financial reporting, were best practices that did not generate monetary savings but improved the city's footing. Others ranged in savings from $5,000 to $10 million. One significant effort was the introduction of competitive bidding to several city services, such as sanitation and EMS. While the sanitation department won the contract over private bidders, the EMS ultimately outsourced bill collection – saving the city over $2 million.[37] Another major initiative – one that is still a work in progress – was the functional consolidation of the Allegheny County and City of Pittsburgh Enterprise Resource System (ERP), which would allow for shared IT, procurement, email, and other functions.

PAYGO. The city began to fund capital improvements and maintenance on a pay-as-you-go basis, rather than through borrowing. This "debt diet" was an effort to reduce debt service from 25 percent of the budget to 12 percent.

The new revenues and combined savings of over $17.6 million per year allowed the city to turn a projected $70 million deficit into a positive fund balance. In fact, under the first recovery plan, the city was able to turn large and growing deficits into positive fund balances for five years in a row (see chart below).



Source: 2005 - 2007 Comprehensive Annual Financial Reports. December 2008 Controller's Cash Flow Report

Excerpted from presentation by Act 47 Plan Coordinator Eckert Seamans LLC

Given the fiscal progress the city made in just the first year under Act 47, Mayor Ravenstahl petitioned for consideration of rescission of distressed status in 2007. After review and consideration, the Commonwealth determined that there was still progress to be made. "Pittsburgh needs an amended recovery plan that would provide a blueprint for it to exit Act 47 and address pending legacy costs of debt, pensions, post-retirement benefits, workers compensation along with a long-term capital plan, while maintaining positive operating budgets well into the future." -Statement from the Pennsylvania Department of Community and Economic Development

Recovery Plan 2: Paying Down the Debt

In 2009, coordinators submitted an amended Act 47 Recovery plan that would focus more on the city's legacy costs and reflected the economic conditions following the Great Recession.

More Labor Cuts. In a second round of collective bargaining, the approach with labor was different. Under the first recovery plan, the coordinators and city doled out cuts. While ultimately the city was successful in obtaining the targeted level of cuts, all stakeholders agreed that each bargaining unit should be able to come to an agreement that would meet the financial requirements of the plan but allow for some flexibility in what concessions they gave.[38] This made the process more "courteous,"

according to one labor leader, who declared the city had learned “You have to spread the pain. Don’t single one group out.”

Debt restructuring. Despite the progress in PAYGO for capital expenditures, the city was paying $85 million annually for debt service in 2008 – second only to salaries and benefits as an area of spending.[39] Outstanding debt was over $720 million, down from over $1.2 billion pre-Act 47. Restructuring allowed the city to ultimately reduce the amount of outstanding principal by another $274 million and its annual debt service costs will be cut in half starting in 2019, with the entire principal paid off by 2036.[40]

Workers Compensation. By 2009, the city had made progress in settling outstanding workers compensation claims – and in addressing the causes of claims – but was still paying $25 million annually, with a $125 million outstanding liability. The amended recovery plan called for reforms including: requiring injured workers to treat with a city-chosen provider for the full length of disability, allowing injured workers to return to work in another department, and verifying claims more stringently.

Pensions. The city’s pension funding levels were already dismal before the market crash of 2009, in which the city lost more than $100 million in assets – leaving it only 29 percent funded.[41] Additionally, the late 2000s marked the first point in which retirees outnumbered active employees given the streamlined workforce. In 2007, police and fire had a combined 1,472 employees supporting 2,837 pensioners.[42] Act 44 required the city to attain 50 percent funding of its pension fund, or risk takeover by the Municipal Employee Retirement System – whose structure would have forced the city to run out of cash.[43] By pledging future parking tax revenue to the pension fund, and gaming revenue currently controlled by the Intergovernmental Cooperation Authority, the city was able to attain the funding level necessary to avoid state takeover. Critics have noted, however, that the city rejected an offer to privatize parking that would have more than fully funded the pension system, which has an unfunded liability of $380.1 million, a funded ratio of 62 percent, and is defined as moderately distressed under state law.[44]

According to the city, given its progress in addressing ongoing structural deficit and addressing its outstanding debt and credit concerns, Pittsburgh has successfully addressed the criteria which had the city placed in Act 47. Additionally, Pittsburgh is no longer at risk of failing to meet the policy objectives outlined by PFM in a 2003 report to the Pennsylvania Department of Community and Economic Development: “[A]bsent corrective action, the city may not be able to provide for the health, safety and welfare of [its] citizens; pay principal and interest on [its] debt obligations when due; and meet financial obligations to [its] employees, vendors and suppliers.” In the ICA enabling legislation, the city must obtain a positive fund balance for three or more years – a condition which it has met. The ratings agencies have acknowledged Pittsburgh’s progress; in June 2013, its credit rating was upgraded three notches to A from BBB by Standard and Poor’s.[45]

While one of the two Act 47 plan coordinators has declared the law “an absolute success” in Pittsburgh, others feel strongly that the city is not ready to leave oversight. The ICA issue a report stating that it will “reconsider its support for removing the city from Act 47” given ongoing concerns about the city’s debt levels (19 percent of the budget), pension and OPEB liabilities, and hang-ups with the financial management system.[46]

What the Plan Couldn't Do…Or, Stuck in The Tangled Web of Pennsylvania Local Governments

Act 47's Teeth. Critics of Act 47 contend that the law does not go far enough. The Act 47 recovery team has no authority over county officials or neighboring municipalities, so all the plan really can do is suggest efforts at consolidation or sharing services. Likewise, no Act 47 plan can force the General Assembly to consider higher occupational taxes that would go further in allowing the city to extract revenue from commuters.[47] In truth, the Act 47 plan has no authority over local elected officials in the home jurisdiction; though it does have to be approved by City Council, the cases of Scranton and Harrisburg have shown how local officials can deviate from the plan. Several involved parties have pointed out that changes implemented under a recovery plan do not have sticking power beyond the political cycle, especially because – as mentioned above – Act 47 creates a jurisdiction that is reliant on the powers it provides. Some question why Mayor Ravenstahl would have requested rescission from Act 47 – and a return to Act 111 – given that four of five major labor agreements are up for renegotiation in 2014. Even the city's move to get rid of retiree health care could be undone in a new administration; one expert opines that a "wimpy" mayor could give the city away again in any number of ways without oversight. ICA Director Henry Sciortino says that the city's progress has come from forcing stakeholders to make difficult decisions – and that "if they were not forced to do it, they wouldn't do it anymore."

A Stacked Deck. Act 47 addresses the end result of long-term decline, the causes of which are deeply embedded in Pennsylvania laws. Many state and local finance experts in Pennsylvania attribute much of the municipal distress to Act 111, which establishes binding arbitration for disputed public safety labor agreements. The law requires a third, supposedly neutral arbitrator, usually a law firm whom many claim has incentives to side with labor given that they are more likely to deal with unions more frequently than the elected official (whom they will only see once or possibly twice in a political term). David Miller of the University of Pittsburgh, a former city finance director, analyzed growth in wages of public employees under Act 111, and found that wages of unionized employees under Act 111 grew at least 5 percentage points faster than those not under Act 111 (8-8.5 percent per year, vs. 3 percent).[48] Critics of Act 111 call, among other reforms, for the random selection of a third party arbitrator.

Pennsylvania's fragmented local government system also plays a role in distress, since it means that shrinking communities are land-locked, unable to annex land, easily merge, or even enter shared service or functional consolidation agreements. Allegheny County alone holds 128 municipalities, 101 special districts, and 44 school districts; the seven-county MSA it is a part of has over 900 local governments – more per capita than any region in the US.[49] Countless studies of consolidations and mergers have been done, but the laws and political dynamics are extremely complex. This parochialism reaches a dangerous level when it comes to retiree pensions. Pennsylvania has over 3,200 local government pension plans, which now comprise over 25 percent of the public employee pension funds in the United States. Two-thirds of local government pension plans in Pennsylvania have 10 or fewer members.[50] Two in five Pennsylvanians live in a municipality designated distressed under the Act 205 pension reporting requirements.[51] Pennsylvania local governments are required to offer defined benefit plans, which are much more costly than defined contribution plans.[52]

The laws regarding tax-exempt property also create local hardship, especially for bigger cities such as Philadelphia, Pittsburgh, Scranton, and Harrisburg. In the 1990s, under Mayor Masloff, the large non-profit institutions in Pittsburgh contributed a combined $5 million per year voluntarily because the alternative for them was much worse. At the time, the state had a test (the "HUP" Test) which provided

five conditions for non-profit status. The standards were so strict that most of the city's non-profits would lose their tax exempt status if they were taken to court, meaning that the city had leverage in extracting payments. A 1997 legislation – Act 55 -- "clarified" the HUP test but also made it easier for non-profits to gain tax-exempt status, meaning the city lost its leverage, and Pittsburgh non-profits began to contribute less and less, bottoming out around $2 million. Now another court decision has come down which may challenge aspects of Act 55 that are beneficial to non-profits, meaning cities are beginning to challenge tax exempt status. This is currently playing out in Mayor Ravenstahl's lawsuit with the University of Pittsburgh Medical Center, a major employer and powerful presence in the city.[53]

A task force convened in early 2013 by the Pennsylvania Local Government Commission is focusing on four areas of state law that have significant impact on local governments' fiscal sustainability: (1) Act 47; (2) public employee laws; (3) community and economic development; and (4) finance and indebtedness. A member of the task force, Representative Chris Ross, Chair of the PA House Commerce Committee and former Chair of the Urban Affairs Committee, expects six to eight legislative proposals to result from the task force's work, covering a handful of key issues. Whether or not legislators will have the capacity or the political will to act on them is always the critical question.

A Tale of Two Pittsburghs

The story of Pittsburgh in the second half of the 20th Century is really two stories. On the one hand, there is the Pittsburgh with pockets of deep poverty and unemployment, a perpetual budget crisis and high tax burden – where a radio show once put the city up for auction on eBay, attracting $60,000 in bids.[54] While the city continues to find its fiscal footing, the problems it once faced have rippled out to the suburbs, part of a broader suburbanization of poverty detailed in a national study by the Brookings Institution.[55] Looking even more broadly, the struggles of smaller communities in Southwestern Pennsylvania raise serious questions about their long-term viability, with few opportunities for economic rejuvenation given limited access to transit and no resources for investment.

On the other hand, there is the Pittsburgh that remains an admirable example of deindustrialization, a city whose civic leaders were successful in cleaning up its smoke-filled skies and polluted rivers, and pivoting the economy away from dying blue-collar industries towards tech, research, and healthcare. Pittsburgh has long had a strong culture of civic engagement, with active involvement in and stewardship of resources by its business and university leaders. While the city's overall population declined 2.3 percent between 2000 and 2010, the population of those aged 20 to 34 grew – suggesting that the historic "brain drain" that Pittsburgh has experienced among young working adults may be changing course.[56] Murphy, whose fiscal legacy may be tainted as the mayor under whose watch the city entered crisis, also spearheaded the downtown redevelopment push now known as Pittsburgh's "Renaissance III." These efforts yielded a redeveloped waterfront, two new sports arenas, a new convention center, and several high-profile office buildings that changed the city skyscape. While the fruits of his efforts to grow the city out of a crisis may yet be realized, other experts condemn his attention to development over fiscal management – citing, for example, his capitalization of some 40 percent of the revenue from the Allegheny Regional Asset District, which was intended to support operations, or the generous tax breaks he offered to entice corporate expansion.[57] Murphy was not the first Pittsburgh mayor – nor the first U.S. mayor of a major city – to have an economic vision at odds with a fiscal reality. Pittsburgh's success culminated in its hosting of the G20 summit in 2009, an event which many claim marked its reemergence as a world-class city, despite its hefty pricetag – and despite the fact that a blighted downtown building was such an eyesore that the city it was covered with a tarp. The city remains a work in progress.

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[1] Quoted in "The Well that Dried Up," by Anya Sostek. *Govering,* October 2004.
[2] In the early 1980s, Mayor Richard Caliguiri (served 1977-1988) enlisted the Pennsylvania Economy League to assess options for facing the city's growing structural deficit. "Pittsburgh: A Regional City with a Local Tax Base," Pennsylvania Economy League, 1982.
[3] ExplorePAHistory.com
[4] U.S. Census Historic Table "Population of the 100 Largest Urban Places: 1950." Accessed June 30, 2013 at http://www.census.gov/population/www/documentation/twps0027/tab18.txt.
[5] *Atlas of US and Canadian Environmental History,* edited by Char Miller. The Moschovitis Group, 2003.
[6] Pittsburgh: A Regional City with a Local Tax Base, Pennsylvania Economy League, 1982. Accessed on July 1, 2003 at http://www.briem.com/files/RegionalCity_execsum.pdf.
[7] Deitrick, Sabrina and Christopher Briem, "The Impact of Nonprofit, Large Landowners on Public Finance in a Fiscally Distressed Municipality: A Case Study of Pittsburgh, Pennsylvania," Lincoln Land Institute, 2007. http://www.ucsur.pitt.edu/files/frp/Impact%20of%20Large%20Nonprofit%20Landowners%20in%20Pittsburgh.pdf
[8] Pittsburgh: A Regional City with a Local Tax Base, Pennsylvania Economy League, 1982. Accessed on July 1, 2003 at http://www.briem.com/files/RegionalCity_execsum.pdf.
[9] "The Well that Dried Up," by Anya Sostek. *Govering,* October 2004.
[10] Pittsburgh: A Regional City with a Local Tax Base, Pennsylvania Economy League, 1982. Accessed on July 1, 2003 at http://www.briem.com/files/RegionalCity_execsum.pdf.
[11] Pittsburgh: A Regional City with a Local Tax Base, Pennsylvania Economy League, 1982. Accessed on July 1, 2003 at http://www.briem.com/files/RegionalCity_execsum.pdf.
[12] Turner, Jim. "The Allegheny Regional Asset District: Communities Thinking and Acting Like a Region." *Government Finance Review,* June 1994.
[13] City of Pittsburgh, "Pension Crisis?" presentation. http://apps.pittsburghpa.gov/cbo/Pittsburgh_Pension_history_as_presented.pdf
[14] City of Pittsburgh, "Pension Crisis?" presentation. http://apps.pittsburghpa.gov/cbo/Pittsburgh_Pension_history_as_presented.pdf
[15] City of Pittsburgh, "Pension Crisis?" presentation. http://apps.pittsburghpa.gov/cbo/Pittsburgh_Pension_history_as_presented.pdf
[16] Interview with former finance director Jim Turner, June 19, 2013.
[17] City of Pittsburgh, "Pension Crisis?" presentation. http://apps.pittsburghpa.gov/cbo/Pittsburgh_Pension_history_as_presented.pdf
[18] Preliminary Report of the Intergovernmental Cooperation Authority for Cities of the Second Class, April 12, 2004. http://old.post-gazette.com/downloads/20040412report.pdf.
[19] Telephone interview with ICA Director Henry Sciortino, June 25, 2013.
[20] City of Pittsburgh Act 205 Actuarial Valuation Reports for Municipal Pensions, Police Pension and Relief Fund, and Firefighters Pension and Relief Funds, for 2003. Available at http://www.briem.com/policydocs.html.
[21] Telephone interview with former finance director David Y. Miller, June 12, 2013.
[22] A table in the 2005 Act 47 Recovery Plan refers to one-time revenues utilized by the City from 1995-2003. Municipalities Financial Recovery Act Recovery Plan for the City of Pittsburgh, Public Financial Management and Eckert Seamans Cherin and Mellott LLC. June 11, 2004. http://www.briem.com/files/Act47Final.pdf
[23] Interview with former finance director David Miller, June 19, 2013.
[24] Telephone interview with former finance director David Y. Miller, June 12, 2013.
[25] Telephone interview with former mayor Tom Murphy, July 10, 2013.
[26] "Study urged on merger of Pittsburgh, Allegheny County," by Timothy McNulty. Pittsburgh Post-Gazette. September 16, 2003. http://old.post-gazette.com/localnews/20030916conference0916p1.asp. Also "For once, Murphy, Flaherty agree: City finances a mess," by Timothy McNulty. Pittsburgh Post-Gazette, May 2, 2003. http://old.post-gazette.com/neigh_city/20030502auditcity1p1.asp.
[27] City of Pittsburgh Municipalities Financial Recovery Act Rescission Report, prepared by Act 47 coordinators. November 2012. http://apps.pittsburghpa.gov/mayor/Pittsburgh_Rescission_Report_Final_11-08-12.pdf.
[28] Interview with Act 47 coordinator Jim Roberts, June 19, 2013.
[29] "Binding Arbitration is Strangling Pennsylvania Communities: Act 111 reform offers reasonable solutions," Coalition for Sustainable Communities, 2012. http://www.alleghenyconference.org/CSC/PDFs/SB1570.pdf
[30] Interview with Representative Chris Ross, citing colorful quotes from others.
[31] "Oversight agency recommends Pittsburgh regain control of its finances," by Bob Bauder. http://triblive.com/news/adminpage/2753282-74/act-team-oversight-pittsburgh-state-financial-letter-debt-financially-mayor#axzz29OZvMum5

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[32] City of Pittsburgh Municipalities Financial Recovery Act Recovery Plan, prepared by Act 47 coordinators. June 2004. Page 14.
[33] City of Pittsburgh Municipalities Financial Recovery Act Rescission Report, prepared by Act 47 coordinators. November 2012. http://apps.pittsburghpa.gov/mayor/Pittsburgh_Rescission_Report_Final_11-08-12.pdf.
[34] City of Pittsburgh Municipalities Financial Recovery Act Rescission Report, prepared by Act 47 coordinators. November 2012. http://apps.pittsburghpa.gov/mayor/Pittsburgh_Rescission_Report_Final_11-08-12.pdf.
[35] Interview with IAFF President Joseph King, June 19, 2013.
[36] Interview with IAFF President Joseph King, June 19, 2013.
[37] Interview with Act 47 coordinator Jim Roberts, June 19, 2013.
[38] Interview with IAFF President Joseph King, June 19, 2013.
[39] City of Pittsburgh Municipalities Financial Recovery Act Amended Recovery Plan, prepared by Act 47 coordinators. 2009.
[40] City of Pittsburgh Presentation on Fiscal Recovery at the Public Hearing on Act 47 Rescission, November 2012.
[41] City of Pittsburgh Municipalities Financial Recovery Act Amended Recovery Plan, prepared by Act 47 coordinators. 2009.
[42] City of Pittsburgh, "Pension Crisis?" presentation.
http://apps.pittsburghpa.gov/cbo/Pittsburgh_Pension_history_as_presented.pdf
[43] Interview with Deputy Finance Director Cathy Qureshi, June 19, 2013.
[44] For critical accounts of Pittsburgh's steps to avoid a state takeover of its pension system, see Temple University Center on Regional Politics Issue Memo *The Problem of Funding Pensions,* September 2012, pages 12 and 13, and Public Pension Working Group Report, *What to Do About Public Pensions: Options for Funding and Reform,* June 2013, page 11. The source for Pittsburgh's unfunded liability and distress status is the Pennsylvania's Public Employee Retirement Commission's Act 205 Municipal Distress Scores, December 12, 2012.
http://www.perc.state.pa.us/portal/server.pt/community/perc_home/2513/act_205_distress_scores/735168
[45] Pittsburgh Officials Pleased after S&P's Three-Notch Upgrade, by Paul Burton. BondBuyer, June 28, 2013.
[46] Summary Report of the Intergovernmental Cooperation Authority, April 30, 2013.
[47] http://www.post-gazette.com/stories/opinion/editorials/act-right-council-has-one-more-chance-on-the-rescue-plan-347252/#ixzz2Y1swZCoT
[48] Unpublished analysis confirmed in email from David Y. Miller, June 29, 2013.
[49] "Government Consolidation and Economic Development in Allegheny County and the City of Pittsburgh," by Rae Archibald and Sally Sleeper. RAND Corporation, June 2008. Available at
http://www.rand.org/content/dam/rand/pubs/technical_reports/2008/RAND_TR569.pdf.
[50] Pennsylvania Department of the Auditor General, Analysis of Local Government Pension Plans, July 1, 2009 to June 30, 2011.
[51] Coalition for Sustainable Communities.
[52] University of Pittsburgh Institute of Politics. 2009. *Pensions Subcommittee Report: What to Do about Municipal Pensions?* http://www.iop.pitt.edu/documents/Pensions%20Subcommittee%20Report.pdf.
[53] Information about Act 55 and the HUP test from "Purely Public Charities in Pennsylvania: Back to the Future…Again," by Saul Ewing LLC. May 2012. http://www.saul.com/publications-alerts-833.html . Information about the Mayor's lawsuit with UPCM from "Business Workshop: Understanding the HUP test: Reviewing the status of all tax-exempt properties," by Clifford Levine. Pittsburgh Post Gazette, May 20, 2013. http://www.post-gazette.com/stories/business/news/business-workshop-understanding-the-hup-test-reviewing-the-status-of-all-tax-exempt-properties-688329/#ixzz2Y4JHK0KW
[54] "WBZZ tries to sell city, but eBay pulls plug," by Adrian McCoy, *Pittsburgh Post-Gazette,* Wednesday, August 20, 2003. http://old.post-gazette.com/tv/20030820ebay0820fnp3.asp
[55] Berube, Allen and Elizabeth Kneebone. *Confronting Poverty in Suburban America,* Brookings Institution Press. May 2013.
[56] George Mason University analysis of U.S. Census data.
[57] Interview with former finance director Jim Turner, June 19, 2013 and follow-up email correspondence, July 2, 2013. Tax breaks mentioned in http://www.pghcitypaper.com/pittsburgh/were-not-worthy/Content?oid=1335413