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Chapter 9 Pros and Cons Aired in Illinois Legislature.

CHICAGO — Struggling Illinois local governments should have the option of municipal bankruptcy, one mayor told lawmakers during the first airing of legislation that would add Chapter 9 to the state's statutes.

"Simply put, if cities are put in a position where they can't pay all of their bills this provision would provide the best way amongst not a lot of good choices ... to help cities continue to provide public safety to citizens while protecting our ability to access the financial markets and provide fairness to all creditors," said Rockford Mayor Larry Morrissey, who stressed the city was not in need of the option.

The testimony came during a recent hearing held by the House Judiciary-Civil Law Committee on House Bill 298, sponsored by Rep. Ron Sandack, R-Downers Grove, which would permit local governments to file for Chapter 9 bankruptcy.

Conditions allowing for such a filing such as state approval and potential alternatives were also discussed at the March 20 hearing.

While a bankruptcy provision has not gained much traction with Democrats who control the General Assembly, discussions over whether Illinois should add such a law has received heightened attention since the new Republican governor, Bruce Rauner, proposed the option.

The committee heard from representatives of the public finance community and civic organizations who pressed to make new options available for struggling communities and offered an alternative in the form of a new authority to assist local governments solve fiscal problems without bankruptcy.

Police and fire unions urged against permitting Chapter 9.

"Our members provide critical service," said Pat Devaney, representing a firefighters union. "It's very convenient for people to place their woes at the feet of ... police and firefighter pensions."

Some believe Rauner and others want to give local governments more leverage in negotiating pension reforms.

Local governments face big increases in their public safety pension contributions next year due to a prior state mandate to shift to an actuarially required contribution level.

Giving local governments more leverage to ease pension obligations could also help ease pressures if Rauner's proposal to halve the amount of income tax revenue distributed to municipalities is approved.

Sandack said his bill would require municipalities to first show they truly are insolvent and have made a good faith effort to restructure their debts with creditors.

"By sponsoring this bill I am not encouraging municipalities to abandon efforts to regain financial

stability on their own. The bill would simply provide municipalities with an additional tool to help them get their financial affairs in order,” he said.

Lawrence Msall, president of the Chicago Civic Federation, pushed lawmakers to consider a measure backed by the group and developed by municipal restructuring expert James Spiotto to create an authority designed to intervene before a government’s fiscal strains reach crisis stage.

The quasi-judicial authority would help Illinois local governments deal with pension-related and other fiscal burdens threatening their solvency. The goal would be to avoid defaults and bankruptcy while putting a government on a sustainable path.

“Bankruptcy is a very dangerous place for us to be heading,” Msall said at the hearing.

Illinois Finance Authority board chairman William Brandt stressed the availability of help now through the existing Financial Distressed City Act and warned of the toll bankruptcy takes on an issuer.

Illinois statutes don’t currently grant general legal authority allowing for a Chapter 9 filing with the one exemption being for the Illinois Power Agency.

The Fiscally Distressed City Act is for cities with a population under 25,000.

The local government must ask the General Assembly for the appointment of a special commission to consider whether the municipality meets the act’s criteria and if approved it can qualify for state financing assistance.

Currently, 12 states with Chapter 9 statutes require a second look by a governing body like the state. Another 12 states don’t require an additional layer of review.

Two states prohibit local governments from filing bankruptcy and 21 states are either unclear or do not have a specific law, while three states allow it under very limited circumstances, as Illinois does.

The hearing was for testimony only; no action was taken.

THE BOND BUYER

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