State laws vary in defining local distress, allowing municipal bankruptcies, and providing intervention programs

Table 1: Local distress policies, 50 states

State	Law Designating Local Fiscal Distress	Bankruptcy Authorization[i]	Intervention Program[ii]
Alabama	no	yes (bonds only)	no
Alaska	no	no	no
Arizona	yes[iii]	yes	no*
Arkansas	no	yes	no*
California	yes[iv]	conditional (use of a neutral evaluator or declaration of fiscal emergency)	no*
Colorado	no	limited	no
Connecticut	no	conditional	yes
Delaware	no	no	no
Florida	yes	conditional	yes
Georgia	no	no (specifically prohibited)	no
Hawaii	no	no	no
Idaho	no	yes	no[v]
Illinois	n/a[vi]	limited	yes
Indiana	yes[vii]	no	yes
Iowa	yes[viii]	no (with exception)	no*
Kansas	no	no	no
Kentucky	no[ix]	conditional	no
Louisiana	no	conditional	no
Maine	yes	no	yes
Maryland	no	no	no
Massachusetts	no	no	yes
Michigan	yes	conditional	yes
Minnesota	yes[x]	yes	no
Mississippi	no	no	no

State	Law Designating Local Fiscal Distress	Bankruptcy Authorization[i]	Intervention Program[ii]
Missouri	no	yes	no*
Montana	no	yes (but not counties)	no
Nebraska	no	yes	no
Nevada	yes	no	yes
New Hampshire	no	no	yes
New Jersey	yes	conditional	yes
New Mexico	yes	no	yes
New York	yes	conditional	yes
North Carolina	yes	conditional	yes
North Dakota	no	no	no
Ohio	yes	conditional	yes
Oklahoma	no	yes	no
Oregon	yes	limited	yes
Pennsylvania	yes	conditional	yes
Rhode Island	yes	conditional	yes
South Carolina	no	yes	no
South Dakota	no	no	no
Tennessee	yes	no	yes
Texas	no	yes	yes
Utah	no	no	no
Vermont	no	no	no
Virginia	no	no	no
Washington	no	yes	no*
West Virginia	no	no	no
Wisconsin	no	no	no
Wyoming	no	no	no

*Interventions occur in school districts only.

Sources

National Conference of State Legislatures survey of legislative fiscal officers, November 2011.

James Spiotto, et al., “Municipalities in Distress?: How States and Investors Deal with Local Government Financial Emergencies,” Feb. 2012.

Table 1 endnotes

i As noted in “Municipalities in Distress?: How States and Investors Deal with Local Government Financial Emergencies,” 12 states specifically authorize a bankruptcy filing, another 12 states have conditional authorization, three states have limited authorization, two states generally prohibit a filing, and the remaining 21 states provide no authorization for a municipal bankruptcy filing. Without specific authorization from the state, a municipality may not file a petition under the U.S. Bankruptcy Code.

ii Arizona, Arkansas, California, Iowa, Missouri, and Washington have laws in place to intervene within their distressed school districts but not within their localities. They were not included in our typology.

iii For school districts only.

iv For local education agencies—school districts and county offices of education only. While the survey response was limited to education agencies, statute that declares fiscal emergency by local public entity has since been put in place. See CA GOVT § 53760.5 (AB 506).

v Idaho intervenes within its school districts, but it does so to recoup expenditures made to repay debt on behalf of the district rather than to restore the locality’s fiscal health. In addition, the state’s provision for debt readjustment plans for irrigation districts should be noted. It has significance given the importance of irrigation and highway districts in Idaho’s economy. Such districts, however, were not included in this typology.

vi Illinois did not respond to the NCSL survey. However, the state has a legal process in place to designate a local government in fiscal distress or fiscal emergency—see 65 ILCS 5/8-12-2. The triggering conditions can be found in statute. See 50 ILCS 320 [http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=706&ChapterID=11].

vii Only at the township level.

viii For school districts only.

ix Kentucky responded “no” to the NCSL survey, but some literature (State Budget Crisis Task Force, 2012, and Coe, 2008) describes the state as having effective early fiscal distress detection and intervention mechanisms. This seems to be in the form of the Department for Local Government—where the state local finance and state local debt officers establish and monitor compliance with statewide financial management guidelines for counties, cities, and special districts and require all local governments to notify (and in some cases gain approval from) the state before issuing any debt. See KRS 68.250 and KRS 66.310. Kentucky proactively manages the fiscal governance of its municipalities to avoid ever having to declare a locality in fiscal distress.

x For school districts only.