§ 3959. Control period. 1. The authority shall impose a control period at any time that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the county shall have failed to adopt a balanced budget within time frames prescribed in the county charter, financial plan or budget modification as required by sections thirty-nine hundred fifty-six and thirty-nine hundred fifty-seven of this title; (b) the county shall have failed to pay the principal of or interest on any of its bonds or notes when due; (c) the county shall have incurred a major operating funds deficit of one percent or more in the aggregate results of operations of such funds of the county during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title; (d) the comptroller's certification at any time, at the request of the authority or on the comptroller's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time the comptroller could not make the certification described in paragraph (b) of subdivision one of section thirty-nine hundred fifty-one of this title; or (e) the county shall have violated any provision of this title. The authority shall terminate any such control period when it determines that none of the conditions which would permit the authority to impose a control period exist. After termination of a control period the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the comptroller hereunder shall be based on the comptroller's written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond the later of (i) December thirty-first, two thousand thirty-nine, or (ii) the date when all bonds of the authority are refunded, discharged or otherwise defeased.

2. In carrying out the purposes of this title during any control period, the authority:

(a) shall approve or disapprove the financial plan and the financial plan modifications of the county, as provided in section thirty-nine hundred fifty-seven of this title, and shall formulate and adopt its own modifications to the financial plan, as necessary; such modifications shall become effective upon their adoption by the authority;

(b) may set a maximum level of spending for any proposed budget of any covered organization;

(c) may impose a wage and/or hiring freeze: (i) During a control period, upon a finding by the authority that a wage and/or hiring freeze is essential to the adoption or maintenance of a county budget or a financial plan that is in compliance with this title, the authority shall be empowered to order that all increases in salary or wages of employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any other suspended payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable;

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph, this subdivision shall not be applicable to employees of the county or employees of a covered organization subject to a collective bargaining agreement or an employee of the county or a covered organization not subject to a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in

writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the county. Any such agreement to a deferral of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable;

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter;

(d) shall periodically evaluate the suspension of salary or wage increases or suspensions of other increased payments or benefits, and may, if it finds that the fiscal crisis, in the sole judgment of the authority has abated, terminate such suspensions;

(e) shall review and approve or disapprove any collective bargaining agreement to be entered into by the county or any covered organization, or purporting to bind, the county or any covered organization. Prior to entering into any collective bargaining agreement, the county or any covered organization shall submit a copy of such collective bargaining agreement to the authority, accompanied by an analysis of the projected costs of such agreement and a certification that execution of the agreement will be in accordance with the financial plan. Such submission shall be in such form and include such additional information as the authority may prescribe. The authority shall promptly review the terms of such collective bargaining agreement and the supporting information in order to determine compliance with the financial plan, and shall disapprove any collective bargaining agreement which, in its judgment, would be inconsistent with the financial plan. No collective bargaining agreement binding, or purporting to bind, the county or any covered organization after the effective date of this title shall be valid and binding upon the county or any covered organization unless first approved by resolution of the authority;

(f) shall act jointly with the county in selecting members of any interest arbitration panel. Notwithstanding any other evidence presented by the county, the covered organization or any recognized employee

organization, the arbitration panel must, prior to issuing any final decision, provide the authority with the opportunity to present evidence regarding the fiscal condition of the county;

(g) shall take any action necessary in order to implement the financial plan should the county or any covered organization have failed to comply with any material action necessary to fulfill the plan, provided, however, the authority shall provide seven days notice of its determination that the county or any covered organization has not complied prior to taking any such action;

(h) may review and approve or disapprove contracts or other obligations binding or purporting to bind the county or any covered organization;

(i) shall, with respect to any proposed borrowing by or on behalf of the county or any covered organization on or after July first, two thousand five, review the terms of and comment, within thirty days after notification by the county or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the county or covered organization and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the county or covered organization of a proposed borrowing to the county executive, the comptroller, the legislature, the director of the budget, the chair of the state senate finance committee, the chair of the state assembly ways and means committee and the state comptroller and indicate approval or disapproval of the proposed borrowing. Notwithstanding the foregoing, neither the county nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes; and, provided further, revenue anticipation notes issued in July two thousand five, shall be excluded from this requirement;

(j) may review the operation, management, efficiency and productivity of the county and any covered organizations as the authority may determine, and make reports thereon; examine the potential to enhance the revenue of the county or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the county and the covered organizations such measures relating to their operations, management, efficiency and productivity as

the authority deems appropriate to reduce costs, enhance revenue, and improve services so as to advance the purposes of this title;

(k) may review and approve or disapprove the terms of any proposed settlement of claims against the county or any covered organization in excess of fifty thousand dollars;

(l) may obtain from the county, the covered organizations, the comptroller, and the state comptroller, as appropriate, all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the county and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(m) may perform such audits and reviews of the county and any agency thereof and any covered organizations as it deems necessary; and

(n) may issue, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, to the appropriate official of the county and each covered organization, such orders necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was issued and failure to comply with such order shall subject the official to the penalties described in subdivision three of this section.

3. (a) During any control period: (i) no officer or employee of the county or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the county or of any of the covered organizations shall involve the county or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in compliance with the approved financial plan as then in effect.

(b) No officer or employee of the county or any of the covered

organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employee of the county or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the county executive; and any officer or employees of the county or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the county or of a covered organization, the county executive or the chief executive officer of such covered organization shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.