

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1832

Session of
1985

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TRUMAN AND FISCHER, OCTOBER 22, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 26, 1985

AN ACT

1 Providing for tax-exempt bonds; and imposing powers and duties
2 on the Secretary of Commerce.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Tax-Exempt
7 Bond Allocation Act.

8 Section 2. Purpose.

9 A tax-exempt bond allocation formula is established in
10 response to restrictions imposed by amendments to the Internal
11 Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.).
12 Because of the limits on the amounts of tax-exempt bond funding
13 available, this act is intended to use the restricted funding
14 available in order to:

15 (1) Create career-oriented net new jobs OR PRESERVE JOBS <—
16 at an income level high enough to support an individual and

1 the individual's dependents.

2 (2) Increase and diversify the manufacturing base of
3 this Commonwealth.

4 (3) Aid in the expansion of existing private companies,
5 particularly those which sell their products outside this
6 Commonwealth.

7 (4) Attract new industries with new products into
8 distressed areas within this Commonwealth.

9 (5) PREPARE THE NECESSARY PERSONNEL, THROUGH A PROGRAM <—
10 OF EDUCATIONAL FINANCIAL ASSISTANCE TO POSTSECONDARY
11 STUDENTS, THEIR FAMILIES AND OTHERS PROVIDING EDUCATIONAL
12 OPPORTUNITIES TO STUDENTS AND THEIR FAMILIES, TO ASSUME THE
13 MANPOWER AND ADMINISTRATIVE LEADERSHIP ROLES REQUIRED TO
14 CARRY OUT THE OBJECTIVES OF PARAGRAPHS (1) THROUGH (4).

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Exempt facilities." Projects which are determined by the
20 Federal Government not to be subject to small-issue project
21 limitations. Examples may be pollution control facilities,
22 airports and waste-disposal sites.

23 "Net new job." A full-time job, or its equivalent, which
24 increases the number of jobs at the project site above the
25 number of jobs present before the project is started. The term
26 does not include a job which:

27 (1) Is being relocated from within this Commonwealth.

28 (2) Is created by the construction of the project.

29 (3) Is not designed to be permanent.

30 "Project." An activity for which tax-exempt bonds may be

1 used.

2 "Secretary." The Secretary of Commerce of the Commonwealth.

3 "Tax-exempt bonds." Private activity and other bonds and
4 financings which count against the State ceiling defined in the
5 Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et
6 seq.).

7 Section 4. Selection of projects.

8 (a) Projects using county allocations.--

9 (1) Except under paragraph (2), the secretary shall not
10 approve bond projects under the act of August 23, 1967
11 (P.L.251, No.102), known as the Industrial and Commercial
12 Development Authority Law, for:

13 ~~(i) Projects related to the retail sale of consumer~~ <—
14 ~~goods.~~

15 ~~(ii)~~ (I) Office buildings in which 75% or less of <—
16 the square footage has guaranteed occupancy. This
17 subparagraph does not apply to office buildings used to
18 house regional or national corporate headquarters.

19 ~~(iii)~~ (II) Office buildings whose primary tenants <—
20 will be doctors, lawyers, accountants or other
21 professionals whom the secretary designates in
22 regulations promulgated under section 6(4).

23 ~~(iv)~~ (III) Projects which will not generate at least <—
24 one net new job OR PRESERVE ONE FULL-TIME JOB for every <—
25 \$50,000 of bond authority.

26 ~~(v)~~ (IV) Projects which require over \$5,000,000 in <—
27 tax-exempt bonds.

28 ~~(vi)~~ (V) Projects whose beneficiary has outstanding <—
29 tax-exempt bond indebtedness for a project which was
30 initiated after January 1, 1984, and which does not meet

1 job projections within two years following its
2 completion.

3 ~~(vii) Projects at nuclear power facilities.~~ <—

4 (2) The secretary may waive the exclusions in paragraph
5 (1)(i) through ~~(v)~~ (IV) for reasons specified by the <—
6 secretary in the semiannual report under section ~~6(3)~~ 7(3). <—

7 The secretary shall make the waiver under this paragraph for
8 projects located within enterprise development areas, as
9 certified by the Secretary of Community Affairs under 16

10 Pa.Code Ch. 23 (relating to enterprise development area
11 initiative), OR WITHIN COMMUNITIES WHICH HAVE BEEN DESIGNATED <—
12 AS FEDERAL DISASTER RELIEF AREAS, FOR THE ENTIRE PERIOD OF
13 SUCH FEDERAL DESIGNATION, PROVIDED THAT SUCH PROJECTS ARE
14 REASONABLY RELATED TO THE REPLACEMENT, RECONSTRUCTION OR
15 REHABILITATION OF FACILITIES OR EQUIPMENT DESTROYED OR
16 DAMAGED BY NATURAL DISASTER. THE SECRETARY SHALL CONSIDER THE
17 ECONOMIC DISTRESS OF THE AREA WHEN DECIDING ON A WAIVER.

18 (b) Projects set aside by secretary.--To fund projects that
19 do not use county allocations and to fund projects under section
20 5(a)(2)(ii) and (iii), (b)(1)(ii), and (c), the secretary shall
21 use the following criteria:

22 (1) Size of the project, particularly as it compares to
23 the individual county's allocation.

24 (2) Number of net new jobs created.

25 (3) Economic distress of the area, determined by its
26 unemployment rate and its median income.

27 (4) Amount of private funds leveraged by the tax-exempt
28 bond funding.

29 (5) Coordination with economic development plans of the
30 Commonwealth and of municipalities and regions.

1 Section 5. Allocation.

2 (a) Initial allocation.--By December 1 of each year, the
3 secretary shall allocate the tax-exempt bond authority for the
4 following calendar year according to the following:

5 (1) Seventy percent shall be allocated for use inside
6 the borders of each county in this Commonwealth. If the local
7 authority resides outside of the county which contains the
8 project site, no project shall be approved without written
9 approval of the highest elected officials in that county. The
10 following is the allocation formula:

11 (i) The secretary shall determine the ratio of tax-
12 exempt bond usage of the county to the tax-exempt bond
13 usage of all counties for the two most recently completed
14 calendar years, excluding projects for which the tax-
15 exempt financing exceeds \$5,000,000.

16 (ii) The secretary shall determine the ratio of the
17 average number of unemployed individuals in the county to
18 the average number of unemployed individuals in all
19 counties for the most recent 12 months for which revised
20 unemployment statistics are available.

21 (iii) The secretary shall multiply the ratio
22 determined in subparagraph (ii) by two.

23 (iv) The secretary shall add the ratio determined in
24 subparagraph (i) to the product determined in
25 subparagraph (iii).

26 (v) The secretary shall divide the sum determined in
27 subparagraph (iv) by three.

28 (vi) The secretary shall multiply the quotient
29 determined in subparagraph (v) by the total amount
30 available to be allocated under this paragraph.

1 (2) Thirty percent shall be set aside by the secretary
2 for the following purposes:

3 (i) Use by Commonwealth agencies, except for the
4 Pennsylvania Higher Education Assistance Agency, which
5 require the use of tax-exempt bonds.

6 (ii) Projects which require more than \$5,000,000 in
7 bond authority and which are determined by the secretary
8 to be exceptional in furthering the purposes of this act.

9 (iii) Exempt facilities projects.

10 (iv) Use by the Pennsylvania Higher Education
11 Assistance Agency. The agency shall, on or before
12 February 1 of each year, provide the secretary with a
13 report justifying requests for bond authority in that
14 year. ~~The~~ NOTWITHSTANDING SECTION 4(3) OF THE ACT OF
15 AUGUST 7, 1963 (P.L.549, NO.290), REFERRED TO AS THE
16 PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY ACT, THE
17 secretary has the sole authority to determine the amount
18 of the request which may actually be used by the agency.

19 (b) Reallocation.--

20 (1) On July 1 of each year, the secretary shall allocate
21 unused tax-exempt bond authority as follows:

22 (i) Eighty percent shall be allocated on the basis
23 of the following formula:

24 (A) The secretary shall determine the ratio of
25 tax-exempt bond usage of the county to the tax-exempt
26 bond usage of all counties for the two most recently
27 completed calendar years, excluding projects for
28 which the tax-exempt financing exceeds \$5,000,000.

29 (B) The secretary shall multiply the ratio
30 determined in clause (A) by the total amount

<—

1 available to be allocated under this subparagraph.

2 (ii) Twenty percent shall be retained by the
3 secretary for a contingency reserve, which the secretary
4 may use for projects under subsection (a)(2). REQUESTS <—
5 SUBMITTED UNDER SUBSECTION (A)(2)(IV) AFTER FEBRUARY 1 OF
6 EACH YEAR AND UNFUNDED REQUESTS UNDER SUBSECTION
7 (A)(2)(IV) SHALL BE FUNDED THROUGH THE CONTINGENCY
8 RESERVE, IN ADDITION TO BEING FUNDED UNDER SUBSECTION
9 (C).

10 (2) As used in this subsection the term "unused tax-
11 exempt bond authority" means the total tax-exempt bond
12 allocation for the Commonwealth, minus the amount allocated
13 to approved projects under subsection (a).

14 (c) Final allocation.--On November 1 of each year, the
15 secretary shall allocate unused bond authority at the discretion
16 of the secretary. Projects shall be evaluated according to the
17 purposes set forth in section 2, AND THE FAILURE TO COMPLY WITH <—
18 DEADLINES ESTABLISHED IN THIS SECTION SHALL NOT RENDER AN
19 APPLICANT INELIGIBLE FOR FUNDS IN THE FINAL ALLOCATION PROCESS.
20 REQUESTS SUBMITTED UNDER SUBSECTION (A)(2)(IV) AFTER FEBRUARY 1
21 OF EACH YEAR AND UNFUNDED REQUESTS UNDER SUBSECTION (A)(2)(IV)
22 SHALL BE FUNDED UNDER THIS SUBSECTION, IN ADDITION TO BEING
23 FUNDED UNDER SUBSECTION (B)(1)(II).

24 SECTION 6. FEDERAL LAW CHANGE. <—

25 IN THE EVENT THAT FEDERAL LAW REGULATING TAX-EXEMPT BONDS IS
26 CHANGED, AND THAT SUCH CHANGE WOULD, IN THE OPINION OF THE
27 SECRETARY, CONFLICT WITH THIS ACT IN SUCH A WAY AS TO IMPAIR THE
28 ABILITY OF THE COMMONWEALTH TO USE TAX-EXEMPT BONDS TO THEIR
29 MAXIMUM BENEFIT, THE SECRETARY SHALL HAVE THE POWER TO
30 PROMULGATE REGULATIONS WHICH BECOME EFFECTIVE WHEN THE FEDERAL

1 LAW TAKES EFFECT AND WHICH SHALL ENABLE THE COMMONWEALTH TO
2 UTILIZE TAX-EXEMPT BONDS TO THEIR MAXIMUM BENEFIT, AND WHICH
3 SHALL, TO THE LARGEST EXTENT POSSIBLE, CARRY OUT THE PURPOSES
4 SET FORTH IN THIS ACT.

5 Section 6 7. Powers and duties of secretary. <—

6 The secretary has the following powers and duties:

7 (1) Distribute to local authorities model guidelines for
8 the local authorities to use in carrying out the priorities
9 and other provisions of this act.

10 (2) Notify affected Commonwealth agencies and
11 authorities of their bond allocations within 15 days of
12 deadlines under section 5. THE NOTICE UNDER THIS PARAGRAPH <—
13 SHALL INCLUDE A JUSTIFICATION OF THE ALLOCATION AND THE
14 NUMBERS USED IN THE FORMULA APPLICABLE TO THE ALLOCATION OF
15 THE AGENCY OR AUTHORITY.

16 (3) Submit reports to the Chief Clerk of the House of
17 Representatives and the Secretary of the Senate within 45
18 days of January 1 and within 45 days of July 1 of each year.
19 Reports shall include:

20 (i) A list of projects approved ~~and disapproved~~, <—
21 DISAPPROVED AND PENDING. The list shall contain, for each
22 request:

23 (A) Amount.
24 (B) Location.
25 (C) Estimated jobs.
26 (D) Issuing authority or Commonwealth agency.
27 (E) Section of this act under which bond
28 authority was given.

29 (ii) The most recent report submitted to the
30 secretary by the Pennsylvania Higher Education Assistance

