

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1765 Session of  
1989

INTRODUCED BY FLICK, BATTISTO, NOYE, KUKOVICH, GLADECK, NAHILL,  
MORRIS, MICOZZIE, PITTS, ROBINSON, DISTLER, TIGUE, GEIST,  
CARLSON, MERRY, HERMAN, PESCI, BUNT, LASHINGER, BELARDI,  
SEMMELE, TRELLO, ARGALL, JOSEPHS, LAUGHLIN, McVERRY, JOHNSON,  
HECKLER, FAIRCHILD, RAYMOND, DeLUCA, RITTER, FARGO, HESS,  
D. W. SNYDER AND LANGTRY, JUNE 27, 1989

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 27, 1989

AN ACT

1 Amending the act of July 12, 1972 (P.L.781, No.185), entitled,  
2 as amended, "An act providing debt limits for local  
3 government units, including municipalities and school  
4 districts; providing the methods of incurring, evidencing,  
5 securing and collecting debt; defining the powers and duties  
6 of the Department of Community Affairs and certain other  
7 public officers and agencies with respect thereto; exercising  
8 the inherent legislative authority of the General Assembly by  
9 providing additional over-all limitations on the incurring of  
10 lease rental and other obligations for the acquisition of  
11 capital assets to be repaid from the general tax revenues of  
12 such local government units; imposing penalties for filing  
13 false or untrue statements or refusing to give information  
14 with respect to proceedings for the incurring of debt; and  
15 conferring jurisdiction on the Commonwealth Court with  
16 respect to certain proceedings relating to the incurring of  
17 debt," further defining "project"; including capital costs as  
18 project costs; further providing for small borrowing for  
19 capital purposes; providing for self-insurance; and further  
20 providing for the determination of the useful life of  
21 projects.

22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 Section 1. Section 102(c)(12) of the act of July 12, 1972  
25 (P.L.781, No.185), known as the Local Government Unit Debt Act,

1 reenacted and amended April 28, 1978 (P.L.124, No.52) and  
2 amended April 30, 1986 (P.L.104, No.34), is amended to read:

3 Section 102. Definitions.--\* \* \*

4 (c) As used in this act unless the context clearly otherwise  
5 requires:

6 \* \* \*

7 (12) "Project" means (i) any item of construction,  
8 acquisition, extraordinary maintenance or repair which has been  
9 undertaken by a local government unit, (ii) any preliminary  
10 studies, surveying, planning, testing or design work for any  
11 such, (iii) any lands or rights in land to be acquired, (iv) any  
12 furnishings, machinery, apparatus or equipment normally  
13 classified as capital items, but such items must have a useful  
14 life of five years or more if financed separately and not as a  
15 part of a construction or acquisition project, (v) the local  
16 government unit's share of the cost of a project undertaken  
17 jointly with one or more other local government units or the  
18 Commonwealth or one of its agencies, (vi) [funding or refunding  
19 of debt incurred for any or all of the foregoing purposes,  
20 (vii)] county-wide revision of assessment of real property, [or  
21 (viii)] (vii) funding of all, or any portion of, a reserve, or a  
22 contribution toward a combined reserve, pool or other  
23 arrangement, relating to self-insurance, which has been  
24 established by one or more local government units, pursuant to  
25 42 Pa.C.S. § 8564 (relating to liability insurance and self-  
26 insurance), up to, but not exceeding the amount provided in  
27 section 107 of this act, (viii) funding or refunding of debt  
28 incurred for any or all of the foregoing purposes, or (ix) any  
29 combination of any or all of the foregoing, as any or all of the  
30 above may be designated as a project by the governing body for

1 the financing of which it desires to incur debt. The term shall  
2 also include any deficit to be funded by bonds or notes as  
3 provided herein, or the creation of a revolving fund for  
4 specific improvements. Where a local government unit has adopted  
5 a capital budget, the term project shall mean any unfunded  
6 portion of the capital budget selected by ordinance for current  
7 funding.

8 \* \* \*

9 Section 2. Section 107 of the act is amended to read:

10 Section 107. Cost of a Project.--The cost of a project shall  
11 include the amount of all payments to contractors or for the  
12 acquisition of a project or for lands, easements, rights and  
13 other appurtenances deemed necessary for the project, fees of  
14 architects, engineers, appraisers, consultants, financial  
15 advisors, and attorneys incurred in connection with the project  
16 financing costs, costs of necessary printing and advertising,  
17 the costs of preliminary feasibility studies and tests, cost  
18 estimates, and interest on money borrowed to finance the  
19 project, if capitalized, to the date of completion of  
20 construction and, if deemed necessary, for one year thereafter,  
21 amounts to be placed in reserve funds, if any, a reasonable  
22 initial working capital for operating the project [and], a  
23 proper allowance for contingencies and any amount which  
24 constitutes, under generally accepted accounting principles, a  
25 cost of, and which has been determined by an independent actuary  
26 or other expert to be required for the purposes of, a reserve or  
27 a contribution toward a combined reserve, pool or other  
28 arrangement, for losses or liabilities covered by a self-  
29 insurance arrangement established by one or more local  
30 government units.

1 Section 3. The act is amended by adding a section to read:

2 Section 109. Guaranty Funds and Compulsory Associations.--

3 (a) No self-insurance program funded pursuant to this act shall  
4 be required or permitted to join or contribute financially to  
5 any insurance insolvency guaranty fund, or similar mechanism, in  
6 this Commonwealth, nor shall any such self-insurance program  
7 funded pursuant to this act, or its insureds or claimants  
8 against its insureds, receive any benefit from any such fund for  
9 claims arising under the coverage provided by such self-  
10 insurance program.

11 (b) When a local government unit or group of local  
12 government units obtains insurance from a self-insurance program  
13 funded pursuant to this act, such risks, wherever resident or  
14 located, shall not be covered by any insurance guaranty fund or  
15 similar mechanism in this Commonwealth.

16 Section 4. Section 409(a) of the act, amended May 22, 1981  
17 (P.L.54, No.19), is amended to read:

18 Section 409. Small Borrowing for Capital Purposes.--(a) Any  
19 local government unit is hereby authorized to incur debt by  
20 resolution rather than by ordinance to be evidenced by notes to  
21 provide funds for a project as defined in this act without  
22 complying with the requirements of Article VIII provided: (i)  
23 that the aggregate amount of such debt outstanding at any one  
24 time shall not exceed the lesser of [\$50,000] \$100,000 or thirty  
25 percent of the borrowing base; (ii) that the principal of each  
26 such debt shall mature not later than five years from the date  
27 of issuance; (iii) that the incurrence of such debt shall not  
28 cause the debt limits of Article II to be exceeded; and (iv)  
29 that the provisions of section 10 of Article IX of the  
30 Constitution shall have been observed and provided further that

1 the provisions of section 808 shall apply to notes issued in  
2 violation of the foregoing requirements.

3 \* \* \*

4 Section 5. Section 602(a) of the act, amended April 30, 1986  
5 (P.L.104, No.34), is amended to read:

6 Section 602. Limitations on Stated Maturity Dates.--(a) No  
7 bonds or notes shall be issued with a stated maturity date  
8 exceeding the sooner to occur of:

9 (1) Forty years from the date of the series of any bonds or  
10 notes issued to evidence debt for the purpose of financing the  
11 cost of actually constructing, acquiring or improving a project  
12 or a separately financed portion of a project; or

13 (2) (i) The useful life of the project being financed as  
14 stated in the ordinance of the local government unit enacted in  
15 connection with the series of bonds or notes to be issued for  
16 such project, which statement in such ordinance shall be  
17 conclusive for all purposes. If projects have been combined for  
18 financing pursuant to section 401 and such projects have  
19 different useful lives, it shall be sufficient for this section  
20 if an aggregate principal amount of bonds or notes equal to the  
21 separate cost of each project having a shorter useful life shall  
22 have been stated to mature prior to the end of such useful life,  
23 and the balance prior to the end of the longest useful life. For  
24 the purpose of this section, the inclusion of furnishings,  
25 machinery, apparatus or equipment for a construction or  
26 acquisition project shall not be deemed to be the combining of  
27 projects but the useful life of such project shall be that of  
28 the building, structure or improvement constructed or acquired.

29 (ii) Where capital budgeting is practiced, and bonds are  
30 issued to fund the current portion of a capital budget involving

1 projects of varying useful lives a uniform term of thirty years  
2 may be used.

3 (iii) Where the project being financed is a county-wide  
4 revision of assessment of real property, the useful life shall  
5 be a term of no more than ten years.

6 (iv) Where a project consists of the funding of all or a  
7 portion of a reserve, or a contribution toward a combined  
8 reserve, pool or other arrangement, relating to self-insurance,  
9 the useful life shall be the term specified in the ordinance of  
10 the local government unit, not to exceed twenty years, or if  
11 none is specified, then the useful life shall be deemed to be  
12 twenty years.

13 \* \* \*

14 Section 6. This act shall take effect immediately.