

**BLIZZARD AND FLOOD EMERGENCY OF 1996 - OMNIBUS AMENDMENTS**

**Act of Jul. 11, 1996, Special Session 2, P.L. 1767, No. 4**

**Cl. 86**

Special Session No. 2 of 1996

No. 1996-4

**AN ACT**

Implementing the provisions of clause (1) of subsection (a) of section 7 of Article VIII of the Constitution of the Commonwealth of Pennsylvania authorizing the incurring of debt for the rehabilitation of areas affected by the blizzard of January 1996 or the resulting flood emergency; imposing duties upon the Governor, the Auditor General and State Treasurer; prescribing the procedures for the issuance, sale and payment of general obligations bonds, the funding of debt and refunding of bonds; exempting said bonds from State and local taxation; creating certain funds; providing for allocation of proceeds and for a legislative disaster oversight committee; and making appropriations.

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

**Section 1. Borrowing of money authorized.**

Pursuant to the provisions of clause (1) of subsection (a) of section 7 of Article VIII of the Constitution of Pennsylvania, the Commonwealth is hereby authorized and directed to borrow from time to time money not exceeding in the aggregate the sum of \$110,000,000, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be found necessary to carry out the rehabilitation of areas affected by the blizzard of January 1996 or the resulting flood emergency.

**Section 2. General obligation bonds authorized.**

The indebtedness herein authorized shall be incurred from time to time and shall be evidenced by one or more series of general obligation bonds or notes of the Commonwealth in such aggregate principal amount for each series as the Governor, Auditor General and State Treasurer shall determine, but the latest stated maturity date shall not exceed 20 years from the date of the bond first issued for each such series.

**Section 3. Disposition and use of proceeds.**

(a) Deposit.--The proceeds from the sale of bonds and notes, except refunding bonds and replacement notes, issued pursuant to the provisions of this act shall be paid to the State Treasurer and be held in a separate fund to be known as the Disaster Relief Fund.

(b) Dedication of funds.--The moneys in the Disaster Relief Fund are hereby specifically dedicated to meeting the costs of the rehabilitation of areas affected by the blizzard of January 1996 or the resulting flood emergency, including, but not limited to, public assistance and disaster mitigation as defined in or authorized by The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 88 Stat. 143) and

paying the costs and expenses of issuing bonds and notes.

(c) Interest earnings.--Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested and reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Disaster Relief Fund.

(d) Allocation of proceeds.--Subject to the total limit of \$110,000,000, the funds authorized to be borrowed by section 1 shall be allocated as follows:

(1) No more than \$105,000,000 of the funds authorized to be borrowed under this act shall be used to provide for the State's share of all public assistance costs, including costs for highways and bridges, except State-designated highways and bridges, and disaster mitigation costs provided by the Federal Government under The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 88 Stat. 143).

(2) (i) No more than 5% of the funds borrowed under this act shall be used for the cost of the following projects pursuant to the disaster proclamation:

(A) Public assistance projects for the rehabilitation, construction, reconstruction, repair, other than normal maintenance, or the replacement of any public facility of a political subdivision in counties declared as disaster areas which are not funded by the Federal Government or which are funded by the Federal Government at a level insufficient to meet current codes and standards.

(B) Public assistance projects for the rehabilitation, construction, reconstruction, repair, other than normal maintenance, or the replacement of any nonprofit facility owned and operated by a nonprofit organization in counties declared as disaster areas which are not funded by the Federal Government or which are funded at a level insufficient to meet current codes and standards.

(C) Public assistance projects for the rehabilitation, construction, reconstruction, repair, other than normal maintenance, or the replacement of a public facility or nonprofit facility in counties not declared as disaster areas by the Federal Government.

(D) Hazard mitigation projects in counties not declared as disaster areas by the Federal Government.

(ii) If the funding for projects under this paragraph is insufficient to provide assistance for all eligible projects, the Commonwealth shall prioritize projects by considering the following factors:

(A) The severity of disaster-related damages to be rectified by the project.

(B) Whether the project will improve the health, safety and welfare of the affected population.

(C) Whether the project will lead to an

effective solution to the problem to be addressed.

(D) The consistency of the project with other State and regional resource management and economic development plans.

(E) The financial condition of the applicant, including revenues, expenses, debt structure, equity position and available collateral.

(F) The economic and financial condition of the community to be served, including the tax base, annual budget and percentage of low-income and moderate-income residents.

(G) The inability of the applicant to secure funding from other sources.

(iii) Any remaining funds under this paragraph shall be transferred to the Pennsylvania Infrastructure Investment Authority established under the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, to provide funds for authority projects which were damaged by the blizzard of January 1996 or the resulting flood emergency.

(iv) No project shall receive more than \$100,000 of the total funds available under this paragraph, except as defined in section 14(b)(2).

(v) No project shall be funded under subparagraph (i)(A) or (B) unless the Commonwealth determines that there was an adequate appeal of the denial of Federal funding or of the inadequate level of Federal funding.

(e) Transfer of unused funds.--Moneys in the Disaster Relief Fund not necessary to pay unexpired contracts or to pay potential legal obligations shall be transferred by the State Treasurer, with the approval of the Governor, to the Disaster Relief Redemption Fund and shall be used to pay debt service on the existing disaster relief bonds.

Section 4. Issuance of bonds; interest; maturity.

(a) Series and issues.--When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability as the issuing officials may determine. In case interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(b) Terms.--Except as otherwise set forth in the provisions of this act, the terms and conditions of issue, redemption and maturity and time of payment of interest shall be as the issuing officials shall specify. The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence such debt to the date of the

expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements computed in accordance with either a level annual debt service plan, as nearly as may be, or upon the equal annual maturities plan. The issuing officials are hereby authorized to carry out the provisions of this act relating to the issuance of bonds and shall determine all matters in connection therewith subject to the provisions hereof.

(c) Signatures.--All bonds issued under the authority of this act shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth of Pennsylvania and shall be countersigned by a duly authorized officer of a duly authorized loan and transfer agent of the Commonwealth.

#### Section 5. Direct obligations; exemption from taxation; means of payment.

All bonds issued in accordance with the provisions of this act shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as the same shall become due and the payment of the principal thereof at maturity. All bonds issued under the provisions of this act shall be exempt from taxation for State and local purposes, except as provided under Article XXIX of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. The principal of and interest on such bonds shall be payable in lawful money of the United States.

#### Section 6. Sale of bonds.

(a) Requirements.--Whenever bonds are issued in accordance with this act, they shall be offered for sale at not less than 98% of the principal amount thereof and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on such terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and times of advertising shall be prescribed by the issuing officials.

(b) Private sale.--Any portion of any bond issue so offered and not sold or subscribed for may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than 98% of the principal amount thereof and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(c) Temporary bonds.--Until permanent bonds can be prepared, the issuing officials may in their discretion issue in lieu of such permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

#### Section 7. Temporary financing authorization.

(a) Temporary borrowing.--Pending the issuance of bonds of the Commonwealth as authorized, the issuing officials are hereby authorized, in accordance with the provisions of this act and on the credit of the Commonwealth, to make temporary borrowings, through public or private sale, not to exceed three years in

anticipation to the issue of bonds in order to provide funds in such amounts as may from time to time be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement, or agreements, or other agreement or agreements with any banks or trust companies or other lending institutions, investment banking firms or persons in the United States having power to enter into the same, which agreements may contain such provisions not inconsistent with the provisions of this act as may be authorized by the issuing officials.

(b) Evidence of debt.--All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued from time to time for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and condition of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the issuing officials shall authorize and direct and in accordance with this act. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes, which replacement notes shall, upon issuance thereof, evidence such borrowing, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the issuing officials may determine and direct.

(c) Replacement notes.--When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to issue, enter into or authorize and direct the State Treasurer to enter into agreements with any banks, trust companies, investment banking firms or other institutions or persons in the United States having the power to enter the same:

(1) To purchase or underwrite an issue or series of issues of notes.

(2) To credit, to enter into any purchase, loan or credit agreements, to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(3) To appoint as issuing and paying agent or agents with respect to notes.

(4) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and the principal of such notes.

Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by discounting the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance thereof, and all other costs and expenses, including fees for agreements related to the notes, issuing and paying agent costs and costs and expenses of issuance, may be paid from the proceeds of the

notes.

(d) Duties of State Treasurer.--When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the State Treasurer shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates (or procedures for establishing such rates from time to time), rates of discount, denominations and all other terms and conditions relating to the issuance and shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any moneys available for that purpose pursuant to any purchase, loan or credit agreements established with respect thereto, all subject to the authorization and direction of the issuing officials.

(e) Retirement of outstanding notes.--Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as hereinafter authorized. The refunding bonds must be issued and sold not later than a date three years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(f) Disposition of proceeds.--The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of this act.

#### Section 8. Disaster Relief Redemption Fund.

(a) Establishment.--All bonds issued under the authority of this act shall be paid at maturity and all interest due from time to time on such bonds and on all notes issued under the provisions of this act shall be paid from the Disaster Relief Redemption Fund. The General Assembly shall appropriate annually the moneys necessary to pay the aforesaid interest on said bonds and notes and the principal of said bonds and notes at maturity for which other provision is not made. All moneys so appropriated shall be paid into the Disaster Relief Redemption Fund by the State Treasurer. All of such moneys so received prior to the date for disbursement thereof shall be invested by the State Treasurer pending disbursement in such securities as are provided by law for the investment of surplus moneys of the Commonwealth.

(b) Use of fund.--The investment of such moneys and the accumulations thereon in the Disaster Relief Redemption Fund shall be devoted to and be used exclusively for the payment of the interest accruing on such bonds and notes and for the redemption of such bonds and notes at maturity or upon the redemption date, if called for prior redemption. The State Treasurer, with the approval of the Governor, is authorized at any time to use any of such funds for the purchase and retirement of all or any part of the bonds issued under the provisions of this act. No purchase shall be made which will reduce the moneys in the Disaster Relief Redemption Fund below

the amount necessary to pay all principal and interest still to become due in the fiscal year of such purchase. In the event that all or any part of said bonds shall be purchased by the Commonwealth, they shall be canceled and returned to the State Treasurer as canceled and paid bonds and thereafter all payments of interest thereon shall cease and the canceled bonds and coupons shall be destroyed as promptly as possible after cancellation but not later than two years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the issuing officials. All canceled bonds, notes and coupons shall be so mutilated as to make the canceled bonds, notes and coupons nonnegotiable.

#### Section 9. Refunding bonds.

The issuing officials are authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and retire the outstanding debt with accrued interest, any premium payable thereon and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect thereto shall be governed by the provisions of this section insofar as they may be applicable. Refunding bonds which are not subject to the aggregate limitation of \$110,000,000 of debt to be issued pursuant to this act may be issued by the issuing officials to refund debt originally issued or to refund bonds previously issued for refunding purposes.

#### Section 10. Reporting requirements.

The State Treasurer shall determine and report to the Secretary of the Budget by November of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of such obligations, if any, for the following fiscal year and the times and amounts of such payments.

#### Section 11. Registration of bonds.

The Auditor General shall prepare the necessary registry books to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds of the Commonwealth at the request of the owner thereof according to the terms and conditions of issue specified by the issuing officials. All bonds which are issued without interest coupons attached shall be registered in the registry books kept by the duly authorized loan and transfer agent of the Commonwealth.

#### Section 12. Voting requirements.

Whenever in this act any action is to be taken or decision made by the issuing officials and the three officers shall not be able to agree unanimously, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.

#### Section 13. Appropriation.

(a) Appropriation to Governor.--The net proceeds, less the

costs and expenses of issuing such obligations, of the sale of the \$110,000,000 of obligations herein authorized are hereby appropriated from the Disaster Relief Fund to the Governor for allocation by the Secretary of the Budget as provided in section 3(d) to the Pennsylvania Emergency Management Agency for public assistance to non-State and other eligible entities and to the Pennsylvania Emergency Management Agency and to other State agencies for public assistance costs incurred by those agencies and to the Department of Environmental Protection or other State agencies as deemed appropriate for hazard mitigation.

(b) Appropriation to State Treasurer.--There is hereby appropriated to the State Treasurer from the fund as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act and the payment of interest arbitrage rebates on proceeds of such bonds and notes.

Section 14. State and local participation levels.

(a) Public assistance.--The required non-Federal contribution of 25% necessary to secure Federal public assistance funding, including costs for highways and bridges, except State-designated highways and bridges, shall be divided between the State and the affected local political subdivision or nonprofit organization where applicable. The State share will be 22%, and the political subdivision or nonprofit organization share will be 3%.

(b) Additional public assistance.--The State contribution to any political subdivision or nonprofit organization seeking additional public assistance for projects qualifying under section 3(d)(2)(i) shall be as follows:

(1) If the project is located in a county that was declared as a disaster area by the Federal Government and the project is not eligible for Federal funding or receives funding at an inadequate level, the Commonwealth shall contribute 22% of the amount not eligible for Federal funding, and the political subdivision or nonprofit organization shall contribute 78% of the amount not eligible for Federal funding.

(2) If the project is located in a county that was not declared as a disaster area by the Federal Government and the project would have been eligible for Federal funding if located in a county declared as a disaster area by the Federal Government, the Commonwealth shall contribute 22% of the cost of the project, and the political subdivision or nonprofit organization shall contribute 78% of the cost of the project.

(3) If the project is located in a county that was not declared as a disaster area by the Federal Government and the project would not have been eligible for Federal funding or would have received funding at an inadequate level if located in a county declared as a disaster area by the Federal Government, the Commonwealth shall contribute 22% of the amount not eligible for Federal funding, and the political subdivision or nonprofit organization shall contribute 78% of the amount not eligible for Federal funding.

(c) Local waiver.--The Commonwealth may reduce the share of



an affected political subdivision if the tax base of that political subdivision was substantially reduced as a direct result of the blizzard of January 1996 or the resulting flood emergency or if payment of the local share exceeds 40% of the most recently adopted annual budget of the political subdivision. The Commonwealth may require the adoption of appropriate flood control or storm water management plans as a condition of the waiver if the adoption of the plan does not present additional financial hardship.

(d) Definition.--As used in this act, the term "political subdivision" means any county, city, borough, incorporated town, township, school district, vocational school district, county institution district or municipal authority.

#### Section 15. Legislative Disaster Oversight Committee.

(a) Establishment.--There is hereby created a special legislative committee to be known as the Legislative Disaster Oversight Committee which shall be composed of the following:

- (1) The Majority Leader of the Senate.
- (2) The Majority Leader of the House of Representatives.
- (3) The Minority Leader of the Senate.
- (4) The Minority Leader of the House of Representatives.
- (5) The Executive Director of the Pennsylvania Emergency

Management Agency.

(b) Powers and duties.--The Legislative Disaster Oversight Committee may recommend policies for implementation of this act to the Pennsylvania Emergency Management Agency and may inquire into delays and issues related to distribution of public assistance and other grants authorized under this act.

#### Section 16. Constitutional construction.

The provisions of this act shall be severable and, if any of the provisions thereof shall be held unconstitutional, such decisions shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

#### Section 17. Effective date.

This act shall take effect immediately.