

**FISCAL CODE, THE - AMEND CAPITAL PROJECT LOAN FUND**

**Act of Oct. 6, 1997, P.L. 387, No. 46**

**Cl. 72**

Session of 1997

No. 1997-46

SB 755

**AN ACT**

Amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," further providing for redevelopment assistance capital projects; providing for the Local Government Capital Project Loan Fund and for limitations on redevelopment assistance capital projects; making a repeal; and making editorial changes.

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

Section 1. The definition of "Redevelopment Assistance Capital Project" in section 1602-B of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, amended June 28, 1993 (P.L.183, No.39), is amended to read:

Section 1602-B. Definitions.--As used in this article--

\* \* \*

"Redevelopment Assistance Capital Project" shall mean the design and construction of facilities which (i) are facilities other than housing units, highways, bridges, waste disposal facilities, sewage systems or facilities, or water systems or facilities, and are projects which cannot obtain funding under other State or Federal programs; (ii) are economic development projects which generate substantial increases in employment, tax revenues or other measures of economic activity, including such projects with cultural, historical or civic significance; (iii) are facilities which have a regional or multijurisdictional impact; (iv) are eligible for

tax-exempt bond funding under existing Federal law and regulations; (v) have a fifty per centum non-State participation documented at the time of application, at least half of which is secured funding, and which the only noncash non-State participation permitted is land donation and toward which State funds from other programs may not be used, Provided, however, That a portion of any funds reserved for the future physical maintenance and operation of the facilities may be included as a part of the fifty per centum non-State participation; and (vi) have a total project cost of five million dollars (\$5,000,000) or more **for projects in first and second class counties and three million dollars (\$3,000,000) or more for projects in second class A through eighth class counties**, or for such projects in municipalities designated as "financially distressed municipalities" under the provisions of the act of July 10, 1987 (P.L.246, No.47), known as the "Municipalities Financial Recovery Act," or municipalities that are identified at the time of application by the Department of Community [Affairs] **and Economic Development**, under the department's early warning system, as scoring at least one-half standard deviation above the mean score, or municipalities that have part or all of an enterprise zone within the municipal boundaries, and have a total project cost of one million dollars (\$1,000,000) or more; and (vii) have a cooperation agreement between the applicant and a redevelopment authority or industrial development authority or general purpose unit of local government if the applicant does not administer the grant. Applicants can be redevelopment authorities, industrial development authorities or general purpose units of local government.

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Section 2. Sections 1616.1-B and 1616.2-B(a) of the act, amended or added June 28, 1993 (P.L.183, No.39), are amended to read:

Section 1616.1-B. Appropriation and Limitation on Redevelopment Assistance Capital Projects.--(a) The amount necessary to pay principal of and interest on all obligations issued to provide funds for redevelopment assistance capital projects is hereby appropriated from the General Fund and shall be transferred to the Capital Debt Fund upon authorization by the Governor.

(b) The maximum amount of redevelopment assistance capital projects undertaken by the Commonwealth for which obligations are to be issued shall not exceed, in aggregate, [seven hundred million dollars (\$700,000,000).] **eight hundred fifty million dollars (\$850,000,000).**

Section 1616.2-B. Funding and Administration of Redevelopment Assistance Capital Projects.--(a) The Secretary of the Budget, in consultation with the Secretary of [Commerce and the Secretary of Community Affairs] **Community and Economic Development**, shall approve or disapprove redevelopment assistance capital projects.

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Section 3. The act is amended by adding an article to read:

#### **ARTICLE XVI-D**

##### **LOCAL GOVERNMENT CAPITAL PROJECT LOAN FUND**

Section 1601-D. Short Title.--This article shall be known and may be cited as the "Local Government Capital Project Loan Fund Act."

Section 1602-D. Definitions.--As used in this article--

"Department" shall mean the Department of Community and Economic Development of the Commonwealth.

"Equipment" shall mean any truck, car, bulldozer, backhoe, grader, highlift, forklift, street sweeper, other mechanized vehicle or data processing equipment, including any computer, terminal, printer, expansion unit, display unit or related component of a data processing system.

"Facilities" shall mean any structure used to house offices or equipment and the land on which the structure is situated.

"Fund" shall mean the Local Government Capital Project Loan Fund.

"Municipality" shall mean any borough, town, first class township, second class township, third class city or county, provided that the term shall not include any boroughs, towns, townships, cities or counties which have a population in excess of 12,000.

Section 1603-D. Assistance to Municipalities.--(a) The department is hereby authorized, upon application of a municipality, to make loans to the municipality for the following purposes and in the following amounts:

1. Purchasing equipment. The amount of a loan made for purchasing equipment shall not exceed twenty-five thousand dollars (\$25,000) for any single piece of equipment or fifty per centum of the total cost of the piece of equipment, whichever is less.

2. Purchasing, constructing, renovating or rehabilitating facilities. The amount of a loan made for purchasing, constructing, renovating or rehabilitating facilities shall not exceed fifty thousand dollars (\$50,000) for any single facility or fifty per centum of the total cost for purchasing, constructing, renovating or rehabilitating the facility, whichever is less.

(b) Loans made by the department shall be for a period of not more than ten years. Loans shall be subject to the payment of interest at two per centum per annum and shall be subject to such security as shall be determined by the department. The total amount of interest earned by the investment or reinvestment of all or any part of the principal of any loan shall be returned to the department and transferred to the fund and shall not be credited as payment of principal or interest on the loan. The minimum amount of any loan shall be one thousand dollars (\$1,000). The municipality shall comply with the approval requirements of 53 Pa.C.S. Ch. 80 Subch. C (relating to procedure for securing approval of electors).

(c) Every application for a loan under this article shall be accompanied by a financial statement of the municipality and a financial plan to show how the loan will be repaid. Every application shall be accompanied by evidence sufficient to show that all costs, except the amount of the loan, will be met by assets or revenues of the municipality, grants or loans from other sources or in-kind contributions or services.

(d) Loans under this article shall be used for purchasing equipment and for purchasing, constructing, renovating or rehabilitating facilities and shall not be used for operating expenses or for the refinancing or reduction of any debt or obligation incurred prior to the effective date of this article.

(e) Loans made by the department shall be paid from the fund to municipalities in accordance with rules and regulations promulgated by the department.

(f) All payments of interest on loans and the principal thereof shall be deposited by the department in the fund.

Section 1604-D. Local Government Capital Project Loan Fund.--(a) There is hereby created a special fund in the Treasury Department, to be known as the Local Government Capital Project Loan Fund, to which shall be credited all appropriations made by the General Assembly, other than appropriations for expenses of administering this article, or grants from other sources to the department as well as repayment of principal and interest on loans made pursuant to this article.

(b) The department shall routinely requisition from the fund such amounts as shall be allocated by the department for loans to municipalities pursuant to this article. When and as the amounts so allocated by the department as loans to municipalities are repaid to the department pursuant to the terms of the agreements made and entered into with the department, the department shall pay such

amounts into the fund. It is the intent of this article that the fund shall operate as a revolving fund whereby all appropriations and payments made thereto may be applied and reapplied for the purposes of this article.

Section 1605-D. Powers and Duties of Department.--In addition to the powers and duties conferred upon the department under other provisions of law, the department shall have the power and duty to:

1. Lend money for the purposes authorized by this article over a term of years, but in no case in excess of ten years.

2. Accept grants from the Federal Government and any other individual, agency or government for use in the fund.

3. Prescribe the form of the application for a loan pursuant to this article.

4. Advise a municipality regarding the financial ability of the municipality to purchase equipment or to purchase, construct, renovate or rehabilitate facilities.

5. Assist a municipality in taking advantage of joint purchasing arrangements and of opportunities to purchase surplus equipment from the Commonwealth or other political subdivisions.

6. Require security for a loan, if determined to be necessary.

7. Specify priority of liens against any facilities or equipment purchased by a municipality using funds loaned pursuant to this article, if determined to be necessary.

8. Establish a schedule which provides at least an annual opportunity for municipalities to apply for and receive loans.

Section 1606-D. Ranking of Applications.--Whenever the department determines that there will not be enough money in the fund to make loans to all of the municipalities expected to submit eligible applications during an application period, the department shall rank the applications in order of priority to determine which loans shall be made first. A system of ranking shall be established for the purposes of this section by regulation and shall provide for consideration of factors such as whether the municipality has previously received a loan pursuant to this act; the financial condition of the municipality; and the impact of the purchase of equipment or the purchase, construction, renovation or rehabilitation of facilities on the health, safety or welfare of the residents of the municipality.

Section 1607-D. Construction of Article.--This article shall be construed to be a continuation of the act of December 19, 1990 (P.L.1358, No.210), known as the "Local Government Capital Project Loan Fund Act." All loans, applications and administrative determinations under that act shall be in full force and effect under this article.

Section 4. The act of December 19, 1990 (P.L.1358, No.210), known as the Local Government Capital Project Loan Fund Act, is repealed.

Section 5. The addition of Article XVI-D of the act shall be retroactive to June 30, 1997, if this act is enacted after that date.

Section 6. This act shall take effect immediately.

APPROVED--The 6th day of October, A. D. 1997.

THOMAS J. RIDGE