

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 248

Session of
1985

INTRODUCED BY FATTAH, PIEVSKY, FRYER, PERZEL, WESTON AND LINTON,
FEBRUARY 11, 1985

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 11, 1985

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 providing for the issue of short-term notes
18 not to exceed one fiscal year; and making editorial changes.

19 The General Assembly of the Commonwealth of Pennsylvania

20 hereby enacts as follows:

21 Section 1. Section 102(a)(1) and (c)(2) of the act of July
22 12, 1972 (P.L.781, No.185), known as the Local Government Unit
23 Debt Act, reenacted and amended April 28, 1978 (P.L.124, No.52),
24 are amended and (c) is amended by adding a clause to read:

25 Section 102. Definitions.--(a) As used in this act with

1 respect to classifications of debt unless the context clearly
2 otherwise requires:

3 (1) "Debt" means the amount of all obligations for the
4 payment of money incurred by the local government unit, whether
5 due and payable in all events, or only upon the performance of
6 work, possession of property as lessee, rendering of services by
7 others, or other contingency, except:

8 (i) current obligations for the full payment of which
9 current revenues have been appropriated, including tax
10 anticipation notes and short-term notes, and current payments
11 for the funding of pension plans;

12 (ii) obligations under contracts for supplies, services and
13 pensions, allocable to current operating expenses of future
14 years in which the supplies are to be expended or furnished, the
15 services rendered or the pensions paid;

16 (iii) rentals or payments payable in future years under
17 leases, guaranties, subsidy contracts or other forms of
18 agreement not evidencing the acquisition of capital assets, but
19 this exception shall not apply to rentals or payments under such
20 instruments which would constitute lease rental debt but for the
21 fact that the lessor or obligee is not an entity described in
22 section 104(a)(1); and

23 (iv) interest or assumed taxes payable on bonds or notes
24 which interest or taxes is not yet overdue.

25 * * *

26 (c) As used in this act unless the context clearly otherwise
27 requires:

28 * * *

29 (2) "Bond or note" means any instrument issued by a local
30 government unit imposing an obligation for the repayment of

1 money borrowed, but does not include a guaranty endorsed on an
2 instrument issued by an authority. Unless otherwise indicated,
3 the phrase "bonds or notes" does not include short-term notes or
4 tax anticipation notes. A bond or a note which falls within the
5 definition of "security" set forth in [Article 8 of the act of
6 April 6, 1953 (P.L.3, No.1), known as the "Uniform Commercial
7 Code,"] 13 Pa.C.S. Div. 8 (relating to investment securities)
8 shall be governed by said [Article 8] Division 8 and every other
9 bond or note, including short-term notes, shall be governed by
10 [Article 3] 13 Pa.C.S. Div. 3 (relating to commercial paper),
11 except in each case as otherwise provided herein.

12 * * *

13 (14.1) "Short-term notes" means notes having a term not in
14 excess of one year from the date thereof and which are issued
15 pursuant to Article V-A hereof.

16 * * *

17 Section 2. Sections 105(c) and 413 of the act are amended to
18 read:

19 Section 105. Designation of Bonds and Notes; Authority to
20 Issue.--* * *

21 (c) Notwithstanding any other law to the contrary, every
22 local government unit shall have full power and authority to
23 issue bonds or notes, and make guaranties, leases, subsidy
24 contracts or other agreements evidencing the acquisition of
25 capital assets payable out of taxes and other general revenues,
26 to provide funds for and towards the cost of or the cost of
27 completing any project or combination of projects which such
28 local government unit is authorized to own, acquire, subsidize,
29 operate or lease, or to participate in owning, acquiring,
30 subsidizing, operating or leasing with others, to issue tax

1 anticipation notes and funding bonds or notes and short-term
2 notes as herein provided, and to contract for insurance covering
3 the risks of nonpayment of principal, interest and premium of
4 bonds, notes, tax anticipation notes, short-term notes and
5 guaranties. For the purpose of this act, unless debt evidenced
6 by a guaranty shall have been approved as electoral debt in
7 accordance with Article III of this act, such guaranty shall be
8 deemed to be nonelectoral debt if the local government unit
9 guaranties its own bonds or notes and shall be deemed to be
10 lease rental debt if it guaranties the bonds or notes of an
11 authority or another local government unit. For the purpose of
12 all other acts such guaranty shall be deemed to create debt or
13 indebtedness of the local government unit making the guaranty.

14 Section 413. Lost, Stolen, Destroyed or Mutilated Bonds or
15 Notes.--If any temporary or definitive bond or note (including
16 any tax anticipation note or short-term note) lawfully issued
17 under this act or under applicable law prior to the effective
18 date of this act shall become mutilated or be destroyed, stolen
19 or lost, the local government unit shall execute and any sinking
20 fund depositary, fiscal agent or trustee for bondholders shall,
21 if required, authenticate and deliver a new bond or note, with
22 appropriate coupons attached in the case of a bond or note in
23 coupon form, of like series and principal amount as the bond or
24 note and attached coupons, if any, so mutilated, destroyed,
25 stolen or lost, upon surrender and cancellation of such
26 mutilated bond or note and attached coupons, if any, or in lieu
27 of and in substitution for the bond or note and coupons, if any,
28 destroyed, stolen or lost, upon filing with the local government
29 unit, or if so provided in the bond ordinance, with the sinking
30 fund depositary, fiscal agent or trustee, evidence satisfactory

1 to it, that such bond or note and attached coupons, if any, have
2 been destroyed, stolen or lost and proof of ownership thereof
3 and upon furnishing of satisfactory indemnity and complying with
4 such other reasonable regulations as the local government unit
5 shall prescribe, and paying any reasonable expenses, including
6 counsel fees, as the local government unit or the sinking fund
7 depository, fiscal agent or trustee may incur. Mutilated bonds
8 or notes and appurtenant coupons, if any, surrendered shall be
9 cancelled. The new bonds or notes and coupons, if any, so issued
10 shall be independent obligations and all limitations and debt
11 limits shall be deemed increased to the extent necessary to
12 validate such new bonds or notes and any appurtenant coupons.

13 Section 3. The introductory paragraph of section 414 of the
14 act is amended to read:

15 Section 414. Evidence of Signatures of Holders and of
16 Ownership of Bonds, Notes [and], Tax Anticipation Notes and
17 Short-Term Notes.--Any request, consent or other instrument
18 which may be required or permitted to be executed by the holders
19 of bonds or notes (including tax anticipation notes or short-
20 term notes) may be in one or more instruments of similar tenor,
21 and shall be signed or executed by such holders in person or by
22 their attorneys appointed in writing. Proof of (i) the execution
23 of any such instrument, or of an instrument appointing any such
24 attorney, or (ii) the holding by any person of bonds or notes or
25 coupons appertaining thereto, shall be sufficient for the
26 purposes of this act and any proceeding thereunder if made in
27 the following manner:

28 * * *

29 Section 4. Section 415 of the act is amended to read:

30 Section 415. Ordinances and Resolutions Are Contracts with

1 Holders of Bonds, Notes, [and] Tax Anticipation Notes and Short-
2 Term Notes.--Except as otherwise provided in any ordinance or
3 resolution authorizing or awarding bonds or notes or tax
4 anticipation notes or short-term notes, the terms thereof and of
5 this act as in effect when such bonds or notes were authorized
6 shall constitute a contract between the local government unit
7 and the holders from time to time of such bonds and notes
8 subject to modification by the vote of a majority of the holders
9 or such larger portion thereof as may be provided in the bond or
10 note.

11 Section 5. Section 509 of the act, amended May 22, 1981
12 (P.L.54, No.19), is amended to read:

13 Section 509. Unfunded Debt.--For the [purpose] purposes of
14 this article and of Article V-A, unfunded debt shall mean
15 obligations of the same or one or more prior years incurred for
16 current expenses (including tax anticipation notes and short-
17 term notes), due and owing or judgments against the local
18 government unit entered by a court of competent jurisdiction
19 after adversary proceedings, for the payment of either of which
20 category the taxes and other revenues remaining to be collected
21 in the fiscal year and funds on hand will not be sufficient
22 without a curtailment of municipal services to an extent
23 endangering the health or safety of the public or proper
24 education of school children, and the local government unit
25 either may not legally levy a sufficient tax for the balance of
26 the fiscal year, or a sufficient tax, if legally leviable, would
27 not be in the public interest. Unfunded debt shall not, however,
28 include debt incurred under this act nor obligations in respect
29 of a project or part of a project as defined in section
30 102(c)(12) or incurred in respect of the cost of a project as

1 defined in section 107.

2 Section 6. The act is amended by adding an article to read:

3 ARTICLE V-A

4 Short-Term Notes

5 Section 501-A. Power to Issue Short-Term Notes; Use of
6 Proceeds.--(a) Notwithstanding any other provision of the act,
7 a local government unit shall have the power and authority, by
8 resolution of its governing body, to:

9 (1) Borrow money from time to time in anticipation of the
10 receipt of current taxes and current revenues.

11 (2) Evidence the obligation by short-term notes,
12 appropriately designated.

13 (3) Authorize, issue and sell such short-term notes in the
14 manner and subject to the limitations provided therefor in this
15 article.

16 (b) The proceeds of the short-term notes shall be used for
17 current expenses of the local government unit. The short-term
18 notes shall be repaid out of funds derived from the source or
19 sources in anticipation of which they were issued or from any
20 moneys otherwise legally available for such purpose.

21 (c) Limitations imposed by this act on the incurring of
22 nonelectoral debt shall not apply to the obligations evidenced
23 by short-term notes.

24 (d) The local government unit shall have the power and
25 authority to enter into agreements with any banks, trust
26 companies, investment banking firms or other institutions or
27 persons in the United States having the power to enter into the
28 same and to:

29 (1) Purchase or underwrite an issue or series of issues of
30 short-term notes.

1 (2) Enter into any purchase, loan or credit agreements, draw
2 moneys pursuant to any such agreements on the terms and
3 conditions set forth therein, and to issue short-term notes as
4 evidence of borrowings made under any such agreements.

5 (3) Appoint an issuing and paying agent or agents with
6 respect to short-term notes.

7 (4) Do such other acts as may be necessary or appropriate to
8 provide for the payment, when due, of the interest on and
9 principal of such short-term notes.

10 (e) The authority to issue short-term notes provided in this
11 article shall be an alternative to the authority granted a local
12 government unit in this act to issue bonds or notes or tax
13 anticipation notes and is not limited by any of such other
14 provisions except as specifically provided in this article.

15 Section 502-A. Limitation on Amount of Short-Term Notes.--No
16 local government unit shall authorize or issue short-term notes
17 which in the aggregate shall exceed eighty-five per cent of the
18 estimated amount of the then uncollected taxes, income, revenue,
19 cash receipts, and other moneys of the local government unit to
20 be collected or received during the term of such short-term
21 notes and pledged for the payment of such short-term notes and
22 the interest thereon. Said estimate shall be made pursuant to
23 section 506-A. In computing the aggregate amount of short-term
24 notes outstanding at any time for the purpose of the limitation
25 imposed by this section, allowance shall be made for such short-
26 term notes as have already been fully paid and for amounts
27 already paid into appropriate sinking funds, if any.

28 Section 503-A. Limitation on Stated Maturity Date of Short-
29 Term Notes and Other Terms of Short-Term Notes.--(a) No short-
30 term notes shall be stated to mature beyond one year from the

1 date of issuance.

2 (b) Short-term notes shall:

3 (1) be issued in such denominations;

4 (2) be subject to such rights of prior redemption;

5 (3) have such privileges of interchange and registration;

6 (4) be dated;

7 (5) be in registered or bearer form with or without coupons;

8 (6) be payable in such coin or currency as at the place and

9 at the time of payment shall be legal tender for the payment of
10 public and private debts; and

11 (7) be payable at such place or places, one of which shall
12 be within this Commonwealth;

13 all as the governing body of the issuing local government unit
14 may determine by resolution.

15 Section 504-A. Contents of Short-Term Note Resolution.--(a)

16 The resolution authorizing the issuance of short-term notes
17 shall fix the aggregate principal amount of the short-term notes
18 to be issued or, if applicable, the maximum principal amount
19 which may be outstanding at any time, the maximum term and
20 interest rate or rates to be borne thereby (or procedures for
21 establishing such rate or rates from time to time), the manner
22 of sale, form, terms, conditions, and the covenants thereof.

23 (b) The resolution authorizing the issuance of short-term
24 notes may provide for the subsequent issuance of refunding
25 short-term notes to refund any outstanding short-term notes. The
26 resolution shall specify such other terms and conditions with
27 respect to the refunding of short-term notes thereby authorized
28 for issuance as the governing body of the issuing local
29 government unit may determine.

30 Section 505-A. Security for Short-Term Notes.--(a) Any

1 taxes, income, revenue, cash receipts or other moneys of the
2 local government unit to be collected or received during the
3 term of the short-term notes may be pledged to the payment of
4 such short-term notes and the interest thereon. The resolution
5 authorizing the issuance of the short-term notes shall specify
6 which taxes, income, revenue, cash receipts or other moneys are
7 pledged for the payment thereon. The pledge, lien and charge
8 shall be fully perfected as against the local government unit,
9 all creditors thereof, and all third parties in accordance with
10 the terms of such resolution from and after the filing of a
11 financing statement or statements in accordance with 13 Pa.C.S.
12 Div. 9 (relating to secured transactions; sales of accounts,
13 contract rights and chattel paper). For the purpose of such
14 filing, the fiscal agent or paying agent designated in the
15 short-term notes may act as the representative of noteholders
16 and, in such capacity, execute and file the financing statement
17 or statements and any continuation or termination statements as
18 secured party. The authorizing resolution may establish one or
19 more sinking funds and provide for periodic or other deposits
20 therein and may contain such covenants or other provisions as
21 the local government unit shall determine. The amount of any
22 short-term notes issued in compliance with this act shall be
23 general obligations of the local government unit and, if the
24 same shall not be paid within the fiscal year in which such
25 notes mature, shall be deemed to be nonelectoral debt
26 enforceable in the manner of a general obligation which, unless
27 funded pursuant to Article V of this act, shall be included in
28 the budget of the local government unit for the ensuing fiscal
29 year and shall be payable from the taxes and revenues of such
30 ensuing year, notwithstanding that the amount thereof shall

cause the nonelectoral debt of such local government unit to exceed the limitations of Article II.

(b) Any holder of short-term notes issued by a first class school district or the sinking fund depository of the applicable sinking fund, if any, shall have the right to enforce the pledge of, security interest in and lien and charge on, any pledged taxes, income, revenue, cash receipts and other moneys of the first class school district against all State and local public officials in possession of any of such taxes, income, revenue, cash receipts and other moneys at any time which may be collected directly from such officials, upon notice by such holder or depository, for application to the payment thereof as and when due or for deposit in the applicable sinking fund at the times and in the amounts specified in such short-term notes. Any State or local public official in possession of any of such taxes, income, revenue, cash receipts and other moneys shall make payment, against receipt therefor, directly to such holder of such short-term notes or to such depository upon such notice and shall thereby be discharged from any further liability or responsibility for such taxes, income, revenue, cash receipts and other moneys. If such payment shall be to a holder of short-term notes, it shall be made against surrender of the notes to the payor for delivery to the first class school district in the case of payment in full; otherwise it shall be made against production of the notes to the payor for notation thereon of the amount of the payment. The provisions of this subsection with respect to the enforceability and collection of taxes, income, revenue, cash receipts and other moneys which secure short-term notes of a first class school district shall supersede any contrary or inconsistent statutory provision or rule of law.

This subsection shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating temporary borrowings by a first class school district by assuring to holders of short-term notes the full and immediate benefit of the security for such notes without delay, diminishment or interference based on any statute, decision, ordinance or administration rule or practice.

Section 506-A. Certification as to Pledged Funds to Be Collected.--Prior to each authorization of short-term notes, authorized officers of the local government unit shall make an estimate of the pledged moneys to be received during the period when such notes will be outstanding from any pledged taxes then levied and assessed and any pledged income, revenue, cash receipts or other moneys, including, without limitation, subsidies or reimbursements to be received. Such estimate shall take due account of the past and anticipated collection experience of the local government unit and of current economic conditions. The estimate shall be certified by such authorized officers of the local government unit, and their written certificate, dated as of a date not more than thirty days prior to, and not later than, the date of the authorization of the notes, shall be filed with the department as provided in section 508-A.

Section 507-A. Sale of Short-Term Notes.--Short-term notes may be sold at public, private, or invited sale as the governing body of the local government unit may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds in Article VII of this act, except as specifically modified by this article. The governing body of the local government unit shall

1 award the sale of the short-term notes by resolution to
2 specified purchasers at a specified price, not less than the
3 principal amount thereof. At the time of delivery of each issue,
4 series or subseries of short-term notes, authorized officers of
5 the local government unit shall certify to the original
6 purchasers thereof that the amount of all such short-term notes
7 to remain outstanding will not exceed the limitations of section
8 502-A, calculated, however, from the date of such certificate to
9 the respective maturity dates of all such short-term notes to
10 remain outstanding. Such certificate need not be filed with the
11 department, but a copy thereof shall be retained by the local
12 government unit until such series of short-term notes shall have
13 been paid in full.

14 Section 508-A. Condition Precedent to Validity of Short-Term
15 Notes.--No short-term note shall be valid or obligatory in the
16 hands of an original purchaser thereof until certified copies of
17 the authorizing and awarding resolution, the certificate as to
18 the pledged taxes and revenues remaining to be collected or
19 received, and a true copy of the accepted proposal for the
20 purchase of the short-term notes shall have been filed with the
21 department. No approval of the department shall be required.

22 Section 7. Section 605 of the act is amended to read:

23 Section 605. Execution of Bonds or Notes.--Bonds or notes
24 (including tax anticipation notes and short-term notes) shall be
25 signed by such officers of the local government unit, and coupon
26 bond shall have attached thereto interest coupons bearing the
27 facsimile signature of such officer of the local government
28 unit, and such bonds or notes may be sealed with the seal of the
29 local government unit or a facsimile thereof, all as may be
30 determined by the governing body. Bonds or notes may provide

1 that they shall not be valid nor enforceable, unless
2 authenticated by a specified bank, bank and trust company or
3 trust company. If any one signature on a bond or note (including
4 the signature of the authenticating party) shall be manual, all
5 other signatures may be by facsimile. If any officer whose
6 signature, or a facsimile of whose signature, shall appear on
7 any notes, bonds or coupons shall cease to be such officer
8 before the delivery of such notes or bonds, such signature, or
9 such facsimile, shall nevertheless be valid and sufficient for
10 all purposes as if he had remained in office until such
11 delivery, and, also, any note, bond or coupon may bear the
12 facsimile signature of, or may be signed by, such persons as at
13 the actual time of the execution of such note, bond or coupon
14 shall be the proper officers to sign although at the date of
15 such instrument such persons may not have been such officers.

16 Section 8. Section 606 of the act, amended May 22, 1981
17 (P.L.54, No.19), is amended to read:

18 Section 606. Pledge of Revenues.--The governing body of any
19 local government unit which has determined to issue any revenue
20 bonds or notes, or any guaranteed revenue bonds or notes, may
21 provide, by ordinance, for such pledges of or priorities in such
22 rentals, revenues, receipts, rates and charges to be received
23 from projects of the issuing local government unit as may be
24 desirable. Such pledge or priority shall be perfected as a
25 security interest against all creditors of the local government
26 unit and all third parties, in accordance with the terms of such
27 ordinance, from and after the filing of a financing statement or
28 statements in accordance with [the Uniform Commercial Code] 13
29 Pa.C.S. Div. 9 (relating to secured transactions; sales of
30 accounts, contracts rights and chattel paper). For the purpose

1 of such filing the sinking fund depositary may act as
2 representative of the bond or note holders and, in such
3 capacity, execute and file the financing statement and any
4 continuation or termination statements as secured party.

5 Section 9. Sections 608 and 609 of the act are amended to
6 read:

7 Section 608. Negotiable Qualities of Bonds and Notes.--(a)
8 Bonds or notes issued pursuant to this act, including tax
9 anticipation notes and short-term notes, which have all the
10 qualities and incidents of securities under [Article 8 of the
11 Uniform Commercial Code] 13 Pa.C.S. Div. 8 (relating to
12 investment securities) shall be negotiable instruments.

13 (b) Such bonds and notes issued pursuant to this act which
14 are not securities shall have all the qualities and incidents of
15 commercial paper under [Article 3 of the Uniform Commercial
16 Code] 13 Pa.C.S. Div. 3 (relating to commercial paper) and shall
17 be negotiable instruments notwithstanding any references therein
18 to the terms of the authorizing bond ordinance or any trust
19 indenture, deed of trust or other agreement, or any variations
20 in the rate of interest provided in such note, or any
21 limitations upon the funds from which or limitations as to the
22 bonds with which the notes may be paid, or any restriction upon
23 the remedies of the holders.

24 Section 609. Temporary Bonds or Notes or Interim Receipts.--
25 Pending the preparation of definitive bonds or notes, including
26 tax anticipation notes and short-term notes, temporary bonds or
27 notes or interim receipts may be issued in such form and
28 containing such terms and such provisions for exchange for
29 definitive bonds or notes as the local government unit may
30 determine.

1 Section 10. Section 706 of the act, amended May 22, 1981
2 (P.L.54, No.19), is amended to read:

3 Section 706. Required Bid Security.--In the case of public
4 sale, bid security shall be given by each bidder, shall be in
5 cash or by certified or official bank check payable to the local
6 government unit, and shall be not less than two per cent of the
7 principal amount of the bonds or notes to be purchased. The bid
8 security of the unsuccessful bidder or bidders shall be returned
9 to each unsuccessful bidder, without interest in accordance with
10 written instructions of the bidder conforming to the official
11 notice of sale, promptly upon an award of the bonds or notes or
12 upon the rejection of all bids. The bid security of the
13 successful bidder shall be retained by the treasurer of the
14 local government unit and (with or without allowance for
15 interest as the official notice of sale may specify) shall be
16 applied on the purchase price when the bonds or notes are
17 actually delivered and paid for, retained as liquidated damages
18 if the bidder defaults, or returned to the bidder with interest
19 at the judgment rate if, after an acceptance of the proposal,
20 the bonds or notes are not issued for any reason not
21 constituting a default by the bidder. Unless required by the
22 local governing body, no bid security shall be required in the
23 case of tax anticipation notes, bond anticipation notes, short-
24 term notes or notes to be issued under section 409.

25 Section 11. Sections 801 and 808 of the act are amended to
26 read:

27 Section 801. Certification to Department of Bond or Note
28 Transcript or Lease, Guaranty, Subsidy Contract or Other
29 Agreement.--The governing body of each local government unit
30 shall, before any bonds or notes (except tax anticipation notes

1 issued pursuant to section 501 and notes representing small
2 borrowings issued pursuant to section 409 and short-term notes
3 issued pursuant to section 501-A) are actually delivered to the
4 initial purchasers, or before becoming bound on any lease,
5 guaranty, subsidy contract or other agreement, evidencing lease
6 rental debt cause to be certified to the department, under the
7 signature of the clerk or secretary of the governing body and
8 its corporate seal, a complete and accurate copy of the
9 proceedings had for the incurring of debt, as provided in
10 section 411 of this act. The provisions of this section shall
11 not be construed to eliminate the filing requirements of
12 sections 204, 205, 206, 506 [and 508], 508 and 508-A.

13 Section 808. Invalidity of Bonds, Notes, Tax Anticipation
14 Notes, Short-Term Notes, Leases or Other Instruments Which are
15 Delivered without Compliance with Requirements or Conditions
16 Precedent to Issuance or Delivery.--In all cases in which the
17 approval of the department is required by this act prior to the
18 issuance of bonds or notes or the execution of a lease,
19 guaranty, subsidy contract or other agreement evidencing lease
20 rental debt, in the case of small borrowings evidenced by notes
21 in respect of which compliance with the conditions of section
22 409 is required, and in the case of tax anticipation notes in
23 respect of which compliance with the conditions of sections 506,
24 507 and 508 is required, and in the case of short-term notes in
25 respect of which compliance with the conditions of sections 506-
26 A and 508-A is required, if such bonds or notes or such lease or
27 other instrument shall be sold, or executed, and delivered prior
28 to receipt of actual or deemed approval under section 804 or
29 806, or as the case may be, without compliance with applicable
30 conditions of issuance, or prior to a required filing with the

1 department, as aforesaid, such bonds, notes, lease or other
2 instrument shall be invalid and of no effect in the hands of or
3 for the security of the holder of such bonds or notes or of the
4 obligations secured by such lease or other instrument, except to
5 the extent provided in this section [808]. If the bonds or notes
6 or the obligations secured by such lease or other instrument
7 shall be held by a bona fide purchaser (other than an initial
8 purchaser or member of an underwriting or selling group) for
9 value without actual notice of a lack of such prior approval,
10 filing or compliance as the case may be, and such bonds, notes
11 or other obligations shall contain a recital that such prior
12 approval, filing or compliance was received, made or observed,
13 then such bonds, notes, lease or other instrument shall be valid
14 and enforceable in accordance with their terms and any
15 applicable debt limits shall be deemed increased to the extent
16 necessary to validate and keep valid such bonds, notes, lease or
17 other instrument, but not for the purpose of reducing the
18 liability of any person under this section. The local government
19 unit shall be entitled to recover all interest and principal or
20 other amounts payable thereon or thereunder from the initial
21 purchasers and the individuals, including the officers of the
22 local government unit, responsible for making the unapproved or
23 unauthorized delivery. Notwithstanding the invalidity of the
24 instruments as to them, the initial purchasers and such
25 individuals shall be entitled to credit, in any action
26 determining such invalidity or for the recovery provided by the
27 preceding sentence for the amount of:

28 (1) Any proceeds of the sale of the instruments still held
29 unexpended by the local government unit; and

30 (2) The lesser of either: (i) the cost or fair market value,

1 whichever is the lesser, of any capital project or part thereof
2 or interest therein acquired by the local government unit by an
3 expenditure of a portion or all of the proceeds of such bonds,
4 notes or other obligations; or (ii) the remaining nonelectoral
5 borrowing capacity of the local government unit.

6 Section 12. Sections 809(a) and 901 of the act, amended May
7 22, 1981 (P.L.54, No.19), are amended to read:

8 Section 809. Finality of Proceedings; Validity of Bonds,
9 Notes, Tax Anticipation Notes, Short-Term Notes, Leases,
10 Guaranties, Subsidy Contracts or Other Agreements.--(a) Where a
11 certificate of approval has been issued by the department or has
12 been deemed issued under section 806, or, in the case of tax
13 anticipation notes where the filing with the department required
14 by section 508 has occurred, or, in the case of short-term notes
15 where the filing with the department required by section 508-A
16 has occurred, and no petition for a declaratory order or
17 complaint has been filed within the applicable time limits
18 specified in section 901, or when after a petition for a
19 declaratory order or complaint has been filed, the proceedings
20 have been approved finally by the department, and no appeal to
21 court has been taken, or an appeal to court has been taken, and
22 the proceedings have been approved finally by the court or the
23 appeal has been dismissed, the validity of the proceedings, the
24 right of the local government unit lawfully to issue its bonds
25 or notes or to enter into a lease, guaranty, subsidy contract or
26 other agreement evidencing lease rental debt pursuant to such
27 proceedings, and the validity and due enforceability of the
28 bonds, notes or other instruments in accordance with their terms
29 shall not thereafter be inquired into judicially, in equity, at
30 law, or by civil or criminal proceedings, or otherwise, either

1 directly or collaterally. The effect of the approval by the
2 department, or by the court on appeal, or, in the case of tax
3 anticipation notes, the effect of filing in compliance with
4 section 508, or, in the case of short-term notes, the effect of
5 filing in compliance with section 508-A, shall be to ratify,
6 validate and confirm such proceedings absolutely, including the
7 lawful nature of the project and, in the case of tax
8 anticipation notes or short-term notes, the accuracy of the
9 estimates contained in the certificate as to taxes and revenues
10 or pledged funds to be collected, notwithstanding any defect or
11 error in such proceedings, except as specifically provided
12 hereinafter in this section, and any debt limit imposed by this
13 act shall be deemed increased to the extent necessary to
14 validate such debt or obligation. Nothing herein contained
15 shall, however, free an initial purchaser of bonds or notes from
16 liability to a local government unit for the payment of the
17 consideration agreed in the contract of sale, or make all such
18 bonds or notes valid and enforceable in the hands of an initial
19 purchaser unless the issuer shall have received a substantial
20 consideration for the series as a whole.

21 * * *

22 Section 901. Petitions for Declaratory Orders and Complaints
23 to the Department; Exclusive Jurisdiction of Department.--(a)
24 Where proceedings for the incurring of debt represented by bonds
25 or notes or by a lease, guaranty, subsidy contract or other
26 agreement evidencing the acquisition of a capital asset, for the
27 issuance of tax anticipation notes, for the issuance of short-
28 term notes, or for the exclusion of debt as self-liquidating or
29 subsidized, have been taken by a local government unit, such
30 local government unit, or any taxpayer of the local government

1 unit, or other interested party may file with the department a
2 petition for a declaratory order asserting the validity or a
3 complaint asserting the invalidity of such proceedings, or any
4 part thereof. Any such complaint asserting the invalidity of
5 such proceedings or part thereof taken under section 409 may be
6 filed at any time not later than one year after final adoption
7 of the resolution authorizing the debt. Any such complaint
8 asserting the invalidity of such proceedings or part thereof
9 excluding debt as self-liquidating under section 205 or
10 authorizing tax anticipation notes under Article V or
11 authorizing short-term notes under Article V-A may be filed at
12 any time not later than fifteen days after the filing with the
13 department of the documents required by section 205 or of the
14 proceedings pursuant to section 506 or 506-A, as the case may
15 be. Any such complaint asserting the invalidity of any such
16 proceedings or part thereof in cases in which, under this act,
17 the approval or deemed approval of the department is required,
18 may be filed with the department at any time not later than the
19 later of (i) fifteen days after the date of the submission of
20 the proceedings by the local government unit to the department
21 for approval even though such proceeding may be subject to
22 correction as provided in section 805 or otherwise or (ii) five
23 days after the date of the last submission of any such corrected
24 document or certification to the department.

25 If a petition for a declaratory order or complaint shall be
26 filed in respect of proceedings requiring the approval of the
27 department after the submission of the proceedings to the
28 department but prior to approval, disapproval or deemed
29 approval, the department shall not be deemed to have approved
30 the proceedings during the pendency of the matter before the

1 department.

2 (b) Exclusive jurisdiction is hereby conferred on the
3 department to hear and determine all procedural and substantive
4 matters arising from the proceedings of a local government unit
5 taken pursuant to this act, including without limitation, the
6 regularity of the proceedings, the validity of the bonds, notes,
7 tax anticipation notes, short-term notes or other obligations of
8 the local government unit, and the legality of the purpose for
9 which such obligations are to be issued. If a local government
10 unit shall file a petition for a declaratory order with the
11 department, relating to such proceedings, the department may
12 require such service by publication on taxpayers as the
13 circumstances warrant. In all other respects the proceedings
14 before the department shall be governed by regulations of the
15 department. The department shall have the power, after
16 appropriate proceedings in accordance with such regulations, to
17 approve or disapprove the proceedings of the local government
18 unit or to direct correction as provided in section 805. A
19 determination by the department under this act shall, except as
20 provided in this subsection, be conclusive and binding as to all
21 procedural and substantive matters which were or could have been
22 presented to the department hereunder. All determinations by the
23 department under this act are reviewable as provided in 2
24 Pa.C.S. Ch. 7 (relating to judicial review).

25 Section 13. Sections 1001(a) and 1003 of the act are amended
26 to read:

27 Section 1001. Creation of Sinking Funds and Deposits
28 Therein, Reserves and Surplus Funds.--(a) Every local
29 government unit having outstanding any bonds or notes, other
30 than tax anticipation notes, short-term notes, and [other than]

1 notes issued under section 409, shall create forthwith, subject
2 to the terms of any existing contracts with the holders of such
3 bonds or notes, and every local government unit hereafter
4 issuing any bonds or notes shall create simultaneously with or
5 prior to the delivery of the bonds or notes, and thereafter
6 maintain until such bonds or notes are paid in full a sinking
7 fund (i) for the aggregate or for one or more issues or series
8 of its general obligation bonds and notes, and (ii) separately
9 for each project or combination of projects financed by revenue
10 or guaranteed revenue bonds or notes as to which different
11 revenues are pledged. If a sinking fund is established for more
12 than one issue of bonds, a separate debt service account for
13 each issue may be established in the sinking fund. The sinking
14 fund shall be maintained with a bank, trust company or bank and
15 trust company located and lawfully conducting a banking or trust
16 business in the Commonwealth of Pennsylvania and appointed from
17 time to time as sinking fund depository.

18 * * *

19 Section 1003. Duty of Treasurer.--It shall be the duty of
20 the treasurer of each local government unit to deposit into the
21 applicable sinking fund or other fund the moneys to be deposited
22 therein pursuant to the pledge or covenant made or adopted by
23 the local government unit at the times and in the amounts
24 provided in such pledge or covenant or, if no pledge or covenant
25 has been made or adopted, as provided in the appropriations made
26 by the governing body. If no appropriation of moneys shall have
27 been made, or if it shall appear that, as a result of other
28 expenditures, the appropriated revenues will not be received in
29 sufficient amounts in time to make the deposits required to be
30 made for the payment of the taxes assumed and the interest on

1 and principal of general obligation bonds and notes, or the
2 amount due on a guaranty of guaranteed revenue bonds or notes or
3 on a guaranty of any authority or other local government unit
4 obligation, it shall be the duty of the treasurer to pay into
5 the applicable sinking fund, or other fund, that portion of each
6 receipt of tax moneys and other available revenues, subject, in
7 the case of a limited guaranty, to the terms thereof, as will
8 result in the deposit of sufficient moneys in the sinking fund
9 or other fund to pay the taxes assumed and the principal of and
10 interest on the bonds or notes, or to meet the guaranty
11 obligation of the local government unit as and when the same
12 shall become due and payable. The governing body of a local
13 government unit may issue its tax anticipation notes under
14 Article V of this act or its short-term notes under Article V-A
15 of this act to provide all or any part of any moneys needed for
16 deposit in such sinking funds or other funds.

17 Section 14. Section 1201 of the act, amended May 22, 1981
18 (P.L.54, No.19), is amended to read:

19 Section 1201. Failure to Budget Debt Service.--If a local
20 government unit having outstanding any general obligation bonds
21 or notes or guaranteed revenue bonds or notes, lease rental debt
22 or guaranty of authority obligations fails or refuses to make
23 adequate provision in its budget for any fiscal year for the
24 sums payable in respect of such bonds or notes, lease rental or
25 guaranty in such year or shall fail to appropriate or pay the
26 moneys necessary in such year for the payment of the amount of
27 the lease rental or guaranty, as the case may be, of the
28 maturing principal of and the interest on such bonds or notes or
29 any of them, or any tax anticipation notes, or any short-term
30 notes, or any sinking fund obligation for such bonds or notes or

1 tax anticipation notes or short-term notes, or guaranty or the
2 lease rental payment coming due in the fiscal year of such
3 budget or for which such appropriations or payments should have
4 been made, then at the suit of the holder of any bond, note, or
5 tax anticipation note, or short-term note, or coupon or
6 guaranty, or the holder of any authority obligation secured by a
7 lease evidencing the acquisition of a capital asset or of any
8 taxpayer of the local government unit, the court of common pleas
9 shall, after a hearing held upon such notice to the local
10 government unit as the court may direct, and upon a finding of
11 such failure or neglect, by writ of mandamus, require the
12 treasurer of the local government unit, and it shall be the duty
13 of such treasurer, to pay into the sinking fund for each series
14 of bonds or notes then outstanding, or for each guaranty or
15 lease rental payment, the first tax moneys or other available
16 revenues or moneys thereafter received in such fiscal year by
17 such treasurer, equally and ratably for each series for which
18 provision has not been made in proportion to debt service for
19 such year on each such series then outstanding, or the amounts
20 due upon guaranties or as payments with respect to lease rental
21 debt, as the case may be, (except that any priority on incoming
22 tax moneys accorded to a separate sinking fund for tax
23 anticipation notes under the authority of section 505, or for
24 short-term notes under the authority of section 505-A, shall not
25 be affected by this provision), until the sum on deposit in each
26 sinking fund shall equal the moneys that should have been
27 budgeted or appropriated for each such series.

28 Section 15. Section 1202 of the act, repealed in part
29 October 5, 1980 (P.L.693, No.142), is amended to read:

30 Section 1202. Failure to Pay Principal or Interest.--(a) If

1 a local government unit fails or neglects to pay or cause to be
2 paid the interest or principal on any of its general obligation
3 bonds or notes, or tax anticipation notes, or short-term notes,
4 as the same becomes due and payable whether at the stated
5 maturity date or upon an unrevoked call for prior redemption, or
6 to perform its payment obligations with respect to any lease
7 rental debt or guaranteed revenue bonds or notes, and such
8 failure shall continue for thirty days, the holder thereof
9 shall, subject to priorities created under sections 505, 505-A,
10 1201 and 1203 of this act and to any limitations upon individual
11 rights of action properly provided in the bond ordinance or any
12 indenture, have the right to recover the amount due in an action
13 in the court of common pleas. The judgment recovered shall have
14 an appropriate priority upon the moneys next coming into the
15 treasury of the local government unit and shall be a judgment
16 upon which funding bonds may be issued pursuant to Article V of
17 this act.

18 (b) If a local government unit fails or neglects to pay or
19 cause to be paid the principal of or the interest upon any
20 revenue bond or note as the same shall become due, whether at
21 the stated maturity or upon call for prior redemption, the
22 holder thereof shall, subject to priorities created under
23 sections 505, 505-A, 1202 and 1203 of this act and to any
24 limitations upon individual rights of action properly provided
25 in the bond ordinance or any indenture, have the right to
26 recover the amount due in an action in the court of common pleas
27 but the judgment shall be limited to payment out of the
28 assessments, revenues, rates, rents, tolls and charges from the
29 project which are pledged for the payment of such bonds or
30 notes.

1 Section 16. Sections 1303 and 1304 of the act are amended to
2 read:

3 Section 1303. Exemption of Bonds and Notes from Taxation in
4 Pennsylvania.--The Commonwealth does hereby pledge to and agree
5 with any person, firm, or corporation or Federal Agency
6 subscribing to or acquiring any bonds or notes, including tax
7 anticipation notes and short-term notes issued by any local
8 government unit pursuant to the provisions of this act or the
9 act approved June 25, 1941, as amended, that such bonds or
10 notes, their transfer and the income therefrom (including any
11 profits made on the sale thereof) shall at all times be free
12 from taxation for State and local purposes within the
13 Commonwealth of Pennsylvania, but this exemption shall not
14 extend to gift, estate, succession or inheritance taxes or any
15 other taxes not levied directly on the bonds or notes, the
16 transfer thereof, the income therefrom, or the realization of
17 profits on the sale thereof.

18 Section 1304. Exclusive Method of Borrowing on Bonds or
19 Notes, Including Tax Anticipation Notes and Short-Term Notes.--
20 Hereafter a local government unit, as defined in this act, may
21 borrow money on bonds or notes, including tax anticipation notes
22 and short-term notes, only as provided in this act, it being the
23 intention that this act shall provide an exclusive and uniform
24 system on the subjects covered by this act: Provided, however,
25 That school districts of the first class may for their first
26 four full fiscal years following the effective date of this act
27 borrow on tax anticipation notes and other short term borrowing
28 authority in accordance with prior law.

29 Section 17. This act shall take effect immediately.