

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2638 Session of  
2008

INTRODUCED BY McCALL, S. H. SMITH, COHEN, ARGALL, BENNINGHOFF,  
BRENNAN, BUXTON, CALTAGIRONE, CAPPELLI, CARROLL, CURRY,  
DALEY, DALLY, DePASQUALE, FAIRCHILD, FLECK, FRANKEL, FREEMAN,  
GEORGE, GIBBONS, GODSHALL, GRUCELA, HALUSKA, HARHAI, HARKINS,  
JAMES, JOSEPHS, KENNEY, KORTZ, KOTIK, KULA, LONGIETTI,  
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NICKOL, M. O'BRIEN, OLIVER, PAYNE, PICKETT, ROEBUCK, SANTONI,  
SHAPIRO, SIPTROTH, McILVAINE SMITH, SOLOBAY, STURLA, SURRA,  
J. WHITE, WOJNAROSKI, YOUNGBLOOD, YUDICHAK, KING, MARKOSEK,  
WANSACZ, THOMAS, GOODMAN AND WATSON, JUNE 13, 2008

REFERRED TO COMMITTEE ON COMMERCE, JUNE 13, 2008

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public  
2 Corporations) of the Pennsylvania Consolidated Statutes,  
3 further defining "private developer" and adding definitions  
4 relating to the Commonwealth Financing Authority; further  
5 providing, in Commonwealth Financing Authority, for  
6 indebtedness; and establishing, in Commonwealth Financing  
7 Authority, the Legacy Account Program.

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

10 Section 1. The definition of "private developer" in section  
11 1504 of Title 64 of the Pennsylvania Consolidated Statutes is  
12 amended and the section is amended by adding definitions to  
13 read:

14 § 1504. Definitions.

15 The following words and phrases when used in this chapter  
16 shall have the meaning given to them in this section unless the

1 context clearly indicates otherwise:

2 \* \* \*

3 "Economic development infrastructure." Any of the following:

4 (1) Drainage and storm water systems.

5 (2) Energy facilities that distribute electric power.

6 (3) Wastewater systems.

7 (4) Transportation facilities. The term includes roads,  
8 parking facilities, sidewalks, bridges, rails, ports,  
9 waterways and airports.

10 (5) Pipeline for transporting natural gas.

11 (6) Facilities for the transmission of information. The  
12 term includes telecommunication and cable.

13 (7) Water supply facilities.

14 (8) Interests in land to construct a facility, pipeline  
15 or system listed in paragraphs (1), (2), (3), (4), (5), (6)  
16 and (7).

17 \* \* \*

18 "Hospital." A facility operated by an entity licensed as a  
19 hospital under the act of June 13, 1967 (P.L.31, No.21), known  
20 as the Public Welfare Code, or the act of July 19, 1979  
21 (P.L.130, No.48), known as the Health Care Facilities Act, which  
22 is used to provide inpatient care and services.

23 \* \* \*

24 "Independent institution of higher education." Any  
25 accredited nonprofit private or independent college or  
26 university located in this Commonwealth.

27 \* \* \*

28 "Legacy accounts." The term refers collectively to the five  
29 individual accounts established under the Legacy Account  
30 Program. The five account categories include tourism,

1 independent higher education facilities, hospital facilities and  
2 medical technology, vital community assets and economic  
3 development infrastructure.

4 \* \* \*

5 "Private developer." [A person that is all of the following:

6 (1) Engaged in the development of real estate.

7 (2) Determined by the Commonwealth Financing Authority

8 to be financially responsible to assume all obligations

9 proposed to be undertaken.]

10 Any person, partnership, corporation or other for-profit  
11 business entity, or any nonprofit corporation whose purpose is  
12 the promotion or construction of commercial or industrial  
13 development projects, that is engaged in the development of real  
14 estate, for use by more than one private company or for the  
15 reuse of long-term vacant commercial sites, and that is  
16 determined by the Department of Community and Economic  
17 Development to be financially responsible to assume all  
18 obligations proposed to be undertaken, including, but not  
19 limited to, acquisition, development, construction, leasing,  
20 sale, operation and financing.

21 \* \* \*

22 "Tourism facility or attraction." The term includes  
23 nonprofit and for-profit organizations engaged in an activity  
24 that promotes or encourages individuals to travel to a location  
25 within this Commonwealth for pleasure, which will be limited to  
26 the following activities:

27 (1) Destination sites located in this Commonwealth,  
28 including, but not limited to, historic, heritage, cultural,  
29 sporting, amusement, nature, outdoor recreational or retail  
30 venues.

1           (2) Hospitality establishments, including lodging and  
2 restaurants, retail establishments and outdoor activity-based  
3 businesses in close geographic proximity to a Commonwealth  
4 destination site or part of the marketing effort that targets  
5 a Commonwealth destination site.

6           (3) Facilities or attractions formed by public or  
7 private partnerships to enhance or optimize the use of  
8 Commonwealth-owned resources such as State-owned parks and  
9 State game lands.

10          (4) Tourism-related activities or events that promote  
11 overnight visits in this Commonwealth.

12          (5) Other projects or activities as determined by the  
13 Commonwealth Financing Authority.

14          \* \* \*

15          "Vital community assets." Interests in land, construction or  
16 improvement related to facilities that support community and  
17 economic development.

18          \* \* \*

19          Section 2. Section 1543(b) and (d) of Title 64 are amended  
20 to read:

21          § 1543. Indebtedness.

22          \* \* \*

23          (b) Program limitations.--Indebtedness incurred by the  
24 authority under subsection (a) shall not, in aggregate, exceed  
25 any of the following:

26                 (1) \$300,000,000 for the program established in section  
27 1551 (relating to Business in Our Sites Program).

28                 (2) \$150,000,000 for the program established in section  
29 1552 (relating to First Industries Program).

30                 (3) \$60,000,000 for the program established in section

1 1557 (relating to New Pennsylvania Venture Capital Investment  
2 Program).

3 (4) \$150,000,000 for the program established in section  
4 1555 (relating to Building Pennsylvania Program).

5 (5) \$75,000,000 for the program established in 12  
6 Pa.C.S. Ch. 29.

7 (6) \$250,000,000 for the program established in section  
8 1554 (relating to New Pennsylvania Venture Guarantee  
9 Program).

10 (7) \$100,000,000 for the program established in section  
11 1556 (relating to Tax Increment Financing Guarantee Program).

12 (8) \$50,000,000 for the program established in section  
13 1553 (relating to Second Stage Loan Program).

14 (9) \$760,000,000 for the program established in section  
15 1559 (relating to Legacy Account Program).

16 \* \* \*

17 (d) Exception.--Subsection (c) shall not apply to the  
18 aggregate amount of indebtedness incurred by the authority,  
19 including through the issuance of bonds, for the following  
20 programs:

21 (1) The program established in section 1553.

22 (2) The program established in section 1554.

23 (3) The program established in section 1556.

24 (4) The program established in section 1559.

25 \* \* \*

26 Section 3. Title 64 is amended by adding a section to read:  
27 § 1559. Legacy Account Program.

28 (a) Purpose.--The Legacy Account Program will establish five  
29 individual accounts that will help stimulate economic  
30 development by providing grant assistance for capital projects

1 to directly invest in tourism, independent higher education  
2 facilities, hospital facilities and medical technology, vital  
3 community assets and economic development infrastructure  
4 throughout this Commonwealth.

5 (b) Establishment.--There is hereby established a program to  
6 be known as the Legacy Account Program which will designate five  
7 accounts for the purpose of providing financial assistance to  
8 eligible applicants, projects and expenses as determined for  
9 each of the following accounts:

10 (1) Tourism Account.

11 (2) Independent Higher Education Facilities Account.

12 (3) Hospital Facilities and Medical Technology Account.

13 (4) Vital Community Assets Account.

14 (5) Economic Development Infrastructure Account.

15 (c) Fund distribution.--Notwithstanding the provisions of 4  
16 Pa.C.S. § 1407(b) (relating to Pennsylvania Gaming Economic  
17 Development and Tourism Fund), all money in the Pennsylvania  
18 Gaming Economic Development and Tourism Fund not previously  
19 allocated to projects under the act of July 25, 2007 (P.L.342,  
20 No.53), known as the Pennsylvania Gaming Economic Development  
21 and Tourism Fund Capital Budget Itemization Act of 2007, shall  
22 be allocated to the authority for distribution under the Legacy  
23 Account Program established under this section.

24 (d) Grants.--Proceeds from obligations issued under section  
25 1543(b)(9) (relating to indebtedness) and money remaining in the  
26 fund following payment of debt service shall be used for single-  
27 year or multi-year grants for projects following review under  
28 subsection (f) to eligible applicants under subsection (g).

29 (e) Appropriations.--Each individual legacy account shall  
30 receive an annual appropriation in accordance with the

1 provisions of the Pennsylvania Gaming Economic Development and  
2 Tourism Fund Capital Budget Itemization Act of 2007. Each legacy  
3 account established under this act may receive deposits from any  
4 of the following sources:

5 (1) Proceeds from the Gaming Economic Development and  
6 Tourism Fund.

7 (2) Moneys appropriated by the General Assembly to  
8 designated legacy accounts.

9 (3) Transfers of other moneys contributed to an account  
10 by Commonwealth agencies.

11 (4) Transfers from other authority programs.

12 (5) Private funds, including funds from foundations.

13 (6) Federal appropriations and authorizations.

14 (7) Other Commonwealth borrowing approved by the General  
15 Assembly.

16 (f) Applications for project financing, review and  
17 approval.--

18 (1) The application shall be on a form required by the  
19 board and shall include or demonstrate all of the following:

20 (i) Applicant name and address.

21 (ii) Name, address and State tax ID for project  
22 user.

23 (iii) Project description.

24 (iv) Project budget.

25 (v) Project schedule.

26 (vi) Statement of requested grant.

27 (vii) Local and regional comprehensive plan  
28 compliance.

29 (viii) Public support.

30 (ix) Documentation, where applicable, indicating

1 whether or not the project has received gaming local  
2 share assessment moneys. The authority shall consider the  
3 receipt of gaming local share assessment moneys when  
4 determining project awards.

5 (x) Other information as required by the board.

6 (2) Upon being satisfied that all requirements have been  
7 met, the authority shall make a determination and notify the  
8 applicant of the grant award amount.

9 (g) Eligible applicants.--Applicants eligible to receive  
10 financial assistance are as follows:

11 (1) Tourism Account applicants include municipalities,  
12 municipal authorities, redevelopment authorities, industrial  
13 development or economic development agencies or owners of  
14 tourism facilities or attractions.

15 (2) Independent Higher Education Facilities Account  
16 applicants include independent institutions of higher  
17 education.

18 (3) Hospital Facilities and Medical Technology Account  
19 applicants include hospital facilities only.

20 (4) Vital Community Assets Account applicants include  
21 municipalities, municipal authorities, redevelopment  
22 authorities, industrial development or economic development  
23 agencies, nonprofit organizations or private developers.

24 (5) Economic Development Infrastructure Account  
25 applicants include municipalities, municipal authorities,  
26 redevelopment authorities, industrial development or economic  
27 development agencies or private developers.

28 (h) Special provisions for eligibility.--Notwithstanding the  
29 provisions of 4 Pa.C.S. § 1407(d), eligible applicants under the  
30 Independent Higher Education Facilities Account and the Hospital

1 Facilities and Medical Technology Account may be considered for  
2 and receive funding for eligible projects in cities and counties  
3 of the first and second classes.

4 (i) Eligible costs.--

5 (1) General eligible costs include any of the following  
6 expenses incurred for projects, unless defined otherwise for  
7 each of the legacy accounts:

8 (i) Expenses for the acquisition, construction,  
9 reconstruction, expansion, extension, demolition,  
10 improvement, rehabilitation or remodeling of interests in  
11 land, buildings, structures, improvements or  
12 infrastructure which are part of the project or are  
13 directly related to the project.

14 (ii) Expenses for the remediation of existing  
15 environmental hazards on land where the project is or  
16 will be located.

17 (iii) Costs and expenses of administrative and  
18 professional services, including the costs of  
19 engineering, financial services, accounting and legal  
20 services rendered in developing and completing the  
21 project.

22 (iv) Costs and expenses associated with the  
23 preparation of plans, specifications, studies and surveys  
24 necessary or incidental to determining the feasibility of  
25 constructing the project.

26 (2) Tourism Account eligible costs include general  
27 eligible costs, as well as the following:

28 (i) Expenses related to transportation improvements  
29 that directly support tourism projects.

30 (ii) Other infrastructure expenses that directly

1 support tourism projects.

2 (iii) Expenses related to public communications and  
3 security technology improvements directly related to  
4 tourism projects.

5 (iv) Emergency service capital improvements and  
6 assets directly related to tourism projects.

7 (v) Expenses for historical preservation and  
8 downtown redevelopment activities directly related to  
9 tourism projects.

10 (3) Independent Higher Education Facilities Account  
11 eligible costs include general eligible costs, as well as the  
12 following:

13 (i) Allowable expenditures for projects shall  
14 include educational facilities and facilities providing  
15 an economic development benefit to the local community.

16 (ii) No dormitories, residence halls or other forms  
17 of student housing shall be funded under this account.

18 (4) Hospital Facilities and Medical Technology Account  
19 eligible costs include general eligible costs, as well as the  
20 following:

21 (i) Expenses related to the purchase and  
22 installation of medical technology.

23 (ii) Priority consideration will be given to  
24 projects directly related to capital and training  
25 improvements related to obstetrics, emergency or trauma  
26 care, medical technology and information technology and  
27 telemedicine.

28 (5) Vital Community Asset Account eligible costs include  
29 general eligible costs.

30 (6) Economic Development Infrastructure Account eligible

1 costs include general eligible costs.

2 (j) Non-State match requirements.--Program awards shall be  
3 subject to a non-State match-to-grant ratio for each of the  
4 legacy accounts as follows:

5 (1) Project awards from the Tourism Account shall be  
6 subject to a 3 to 1 non-State match-to-grant ratio.

7 (2) Project awards from the Independent Higher Education  
8 Facilities Account shall be determined using a methodology  
9 that will tier institutions based on the proportion of  
10 Pennsylvania Higher Education Assistance Agency student grant  
11 aid recipients to the unduplicated head count for the most  
12 recent year available. The methodology shall conform to the  
13 following:

14 (i) Student grant aid recipients for each  
15 institution shall be obtained from the Pennsylvania  
16 Higher Education Assistance Agency for the most recently  
17 available period at the time of application or equivalent  
18 year for the unduplicated head count data.

19 (ii) The unduplicated head count for institutions  
20 shall be obtained from the Integrated Postsecondary  
21 Education Data System or a comparable source for the most  
22 recently available year or equivalent year for the  
23 student grant aid data.

24 (iii) Applicants with a proportion of student grant  
25 aid recipients to unduplicated head count less than or  
26 equal to 15% or applicants for which the required data is  
27 unavailable shall be required to satisfy a non-State  
28 match-to-grant award ratio of 3 to 1.

29 (iv) Applicants with a proportion of student grant  
30 aid recipients to unduplicated head count less than 30%

1 and greater than 15% shall be required to satisfy a non-  
2 State match-to-grant award ratio of 2 to 1.

3 (v) Applicants with a proportion of student grant  
4 aid recipients to unduplicated head count greater than  
5 30% shall be required to satisfy a non-State match-to-  
6 grant award ratio of 1 to 1.

7 (3) Project awards from the Hospital Facilities and  
8 Medical Technology Account shall be determined based on the  
9 bond rating of the applicant.

10 (i) Bond ratings for Hospital Facilities and Medical  
11 Technology Account applicants shall be determined by the  
12 department from the most recently available Standard and  
13 Poor's ratings or a comparable source at the time of  
14 application.

15 (ii) Grant awards to applicants receiving a Standard  
16 and Poor's bond rating of "AA+," "AA," "AA-," "A+," "A"  
17 or "A-" shall require a non-State match-to-grant award  
18 ratio of 3 to 1.

19 (iii) Grant awards to applicants receiving a  
20 Standard and Poor's bond rating of "BBB+," "BBB"  
21 or "BBB-" shall require a non-State match-to-grant award  
22 ratio of 2 to 1.

23 (iv) Grant awards to applicants receiving a Standard  
24 and Poor's bond rating of "Speculative Grade" (SG) shall  
25 require a non-State match-to-grant award ratio of 1 to 1.

26 (4) Project awards from the Vital Community Assets  
27 Account shall be subject to a 2 to 1 non-State match-to-grant  
28 ratio.

29 (5) Project awards from the Economic Development  
30 Infrastructure Account shall be subject to a 2 to 1 non-State

1 match-to-grant ratio.

2 (k) Limitations.--

3 (1) Project grants from the legacy accounts may be  
4 either single-year or multi-year awards.

5 (2) Grants awarded under the Legacy Account Program for  
6 a single project shall not exceed \$5,000,000 for a given  
7 program year.

8 (3) No more than 10% of the funds in any individual  
9 legacy account may be used for administrative and  
10 professional service and project feasibility activities as  
11 listed under subsection (i).

12 (4) No more than 10% of the total funds from the legacy  
13 accounts in the aggregate or from any single legacy account  
14 may be awarded for projects located within any one county in  
15 a given program year.

16 (5) The anticipated use of the project funds may not be  
17 primarily residential.

18 (6) Multi-year grants shall not exceed the useful life  
19 of the project being funded.

20 Section 4. This act shall take effect immediately.