

## 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, MAHONEY, MANN, MELIO, R. MILLER, MUNDY, MYERS, NAILOR, 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, WATSON, SCAVELLO, MOYER, ADOLPH, QUINN AND SONNEY, JUNE 13, 2008

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 27, 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; AND MAKING A RELATED <—  
8 REPEAL.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

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

15 § 1504. Definitions.

16 The following words and phrases when used in this chapter

1 shall have the meaning given to them in this section unless the  
2 context clearly indicates otherwise:

3 \* \* \*

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

5 (1) HIGH HAZARD DAMS. <—

6 (2) FLOOD CONTROL.

7 ~~(1)~~ (3) Drainage and storm water systems. <—

8 ~~(2)~~ (4) Energy facilities that distribute electric  
9 power. <—

10 ~~(3)~~ (5) Wastewater systems. <—

11 ~~(4)~~ (6) Transportation facilities. The term includes <—  
12 roads, parking facilities, sidewalks, bridges, rails, ports,  
13 waterways and airports.

14 ~~(5)~~ (7) Pipeline for transporting natural gas. <—

15 ~~(6)~~ (8) Facilities for the transmission of information. <—  
16 The term includes telecommunication and cable.

17 ~~(7)~~ (9) Water supply facilities. <—

18 ~~(8)~~ (10) Interests in land to construct a facility, <—  
19 pipeline or system listed in paragraphs (1), (2), (3), (4),  
20 (5), (6) and ~~(7)~~, (7), (8) AND (9). <—

21 \* \* \*

22 "HIGH HAZARD DAM." A DAM SO LOCATED AS TO ENDANGER POPULATED <—  
23 AREAS DOWNSTREAM BY ITS FAILURE.

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

29 \* \* \*

30 "Independent institution of higher education." Any

1 accredited nonprofit private or independent college or  
2 university located in this Commonwealth.

3 \* \* \*

4 "Legacy accounts." The term refers collectively to the five  
5 individual accounts established under the Legacy Account  
6 Program. The five account categories include tourism,  
7 independent higher education facilities, hospital facilities and  
8 medical technology, vital community assets and economic  
9 development infrastructure.

10 \* \* \*

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

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

13 (2) Determined by the Commonwealth Financing Authority

14 to be financially responsible to assume all obligations

15 proposed to be undertaken.] Any person, partnership,

16 corporation or other for-profit business entity, or any

17 nonprofit corporation whose purpose is the promotion or

18 construction of commercial or industrial development

19 projects, that is engaged in the development of real estate,

20 for use by more than one private company or for the reuse of

21 long-term vacant commercial sites, and that is determined by

22 the Department of Community and Economic Development to be

23 financially responsible to assume all obligations proposed to

24 be undertaken, including, but not limited to, acquisition,

25 development, construction, leasing, sale, operation and

26 financing.

27 \* \* \*

28 "Tourism facility or attraction." The term includes

29 nonprofit and for-profit organizations engaged in an activity

30 that promotes or encourages individuals to travel to a location

1 within this Commonwealth for pleasure, which will be limited to  
2 the following activities:

3 (1) Destination sites located in this Commonwealth,  
4 including, but not limited to, historic, heritage, cultural,  
5 sporting, amusement, nature, outdoor recreational or retail  
6 venues.

7 (2) Hospitality establishments, including lodging and  
8 restaurants, retail establishments and outdoor activity-based  
9 businesses in close geographic proximity to a Commonwealth  
10 destination site or part of the marketing effort that targets  
11 a Commonwealth destination site.

12 (3) Facilities or attractions formed by public or  
13 private partnerships to enhance or optimize the use of  
14 Commonwealth-owned resources such as State-owned parks and  
15 State game lands.

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

18 (5) Other projects or activities as determined by the  
19 Commonwealth Financing Authority.

20 \* \* \*

21 "Vital community assets." Interests in land, construction or  
22 improvement related to facilities that support community and  
23 economic development.

24 \* \* \*

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

27 § 1543. Indebtedness.

28 \* \* \*

29 (b) Program limitations.--Indebtedness incurred by the  
30 authority under subsection (a) shall not, in aggregate, exceed

1 any of the following:

2 (1) \$300,000,000 for the program established in section  
3 1551 (relating to Business in Our Sites Program).

4 (2) \$150,000,000 for the program established in section  
5 1552 (relating to First Industries Program).

6 (3) \$60,000,000 for the program established in section  
7 1557 (relating to New Pennsylvania Venture Capital Investment  
8 Program).

9 (4) \$150,000,000 for the program established in section  
10 1555 (relating to Building Pennsylvania Program).

11 (5) \$75,000,000 for the program established in 12  
12 Pa.C.S. Ch. 29.

13 (6) \$250,000,000 for the program established in section  
14 1554 (relating to New Pennsylvania Venture Guarantee  
15 Program).

16 (7) \$100,000,000 for the program established in section  
17 1556 (relating to Tax Increment Financing Guarantee Program).

18 (8) \$50,000,000 for the program established in section  
19 1553 (relating to Second Stage Loan Program).

20 (9) \$760,000,000 for the program established in section  
21 1559 (relating to Legacy Account Program).

22 \* \* \*

23 (d) Exception.--Subsection (c) shall not apply to the  
24 aggregate amount of indebtedness incurred by the authority,  
25 including through the issuance of bonds, for the following  
26 programs:

27 (1) The program established in section 1553.

28 (2) The program established in section 1554.

29 (3) The program established in section 1556.

30 (4) The program established in section 1559.

1 \* \* \*

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

4 (a) Purpose.--The Legacy Account Program will establish five  
5 individual accounts that will help stimulate economic  
6 development by providing grant assistance for capital projects  
7 to directly invest in tourism, independent higher education  
8 facilities, hospital facilities and medical technology, vital  
9 community assets and economic development infrastructure  
10 throughout this Commonwealth.

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

16 (1) Tourism Account.

17 (2) Independent Higher Education Facilities Account.

18 (3) Hospital Facilities and Medical Technology Account.

19 (4) Vital Community Assets Account.

20 (5) Economic Development Infrastructure Account.

21 ~~(c) Fund distribution.--Notwithstanding the provisions of 4~~ <—

22 (C) FUND DISTRIBUTION.-- <—

23 (1) NOTWITHSTANDING THE PROVISIONS OF 4 Pa.C.S. §  
24 1407(b) (relating to Pennsylvania Gaming Economic Development  
25 and Tourism Fund), all money in the Pennsylvania Gaming  
26 Economic Development and Tourism Fund not previously  
27 allocated to projects under the act of July 25, 2007  
28 (P.L.342, No.53), known as the Pennsylvania Gaming Economic  
29 Development and Tourism Fund Capital Budget Itemization Act  
30 of 2007, shall be allocated to the authority for distribution

1 under the Legacy Account Program established under this  
2 section.

3 (2) NOTWITHSTANDING THE PROVISIONS OF 4 PA.C.S. § <—  
4 1407(D), ELIGIBLE APPLICANTS UNDER THE INDEPENDENT HIGHER  
5 EDUCATION FACILITIES ACCOUNT AND THE HOSPITAL FACILITIES AND  
6 MEDICAL TECHNOLOGY ACCOUNT MAY BE CONSIDERED FOR AND RECEIVE  
7 FUNDING FOR ELIGIBLE PROJECTS IN CITIES AND COUNTIES OF THE  
8 FIRST CLASS AND SECOND CLASS.

9 (d) Grants.--Proceeds from obligations issued under section  
10 1543(b)(9) (relating to indebtedness) and money remaining in the  
11 fund following payment of debt service shall be used for single-  
12 year or multi-year grants for projects following review under  
13 subsection (f) to eligible applicants under subsection (g).

14 ~~(c) Appropriations. Each individual legacy account shall~~ <—  
15 ~~receive an annual appropriation in accordance with the~~  
16 ~~provisions of the Pennsylvania Gaming Economic Development and~~  
17 ~~Tourism Fund Capital Budget Itemization Act of 2007. Each legacy~~

18 (E) OTHER DEPOSITS.--IN ADDITION TO DEPOSITS UNDER <—  
19 SUBSECTION (C), EACH LEGACY account established under this act  
20 may receive deposits from any of the following sources:

21 (1) Proceeds from the Gaming Economic Development and  
22 Tourism Fund.

23 (2) Moneys appropriated by the General Assembly to  
24 designated legacy accounts.

25 (3) Transfers of other moneys contributed to an account  
26 by Commonwealth agencies.

27 (4) Transfers from other authority programs.

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

29 (6) Federal appropriations and authorizations.

30 (7) Other Commonwealth ~~borrowing~~ SOURCES approved by the <—

1 General Assembly.

2 (f) Applications for project financing, review and  
3 approval.--

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

6 (i) Applicant name and address.

7 (ii) Name, address and State tax ID for project  
8 user.

9 (iii) Project description.

10 (iv) Project budget.

11 (v) Project schedule.

12 (vi) Statement of requested grant.

13 (vii) Local and regional comprehensive plan  
14 compliance.

15 (viii) Public support.

16 (ix) Documentation, where applicable, indicating  
17 whether or not the project has received gaming local  
18 share assessment moneys. The authority shall consider the  
19 receipt of gaming local share assessment moneys when  
20 determining project awards.

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

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

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

27 (1) Tourism Account applicants include municipalities,  
28 municipal authorities, redevelopment authorities, industrial  
29 development or economic development agencies or owners of  
30 tourism facilities or attractions.

1           (2) Independent Higher Education Facilities Account  
2           applicants include independent institutions of higher  
3           education.

4           (3) Hospital Facilities and Medical Technology Account  
5           applicants include hospital facilities only.

6           (4) Vital Community Assets Account applicants include  
7           municipalities, municipal authorities, redevelopment  
8           authorities, industrial development or economic development  
9           agencies, nonprofit organizations or private developers.

10          (5) Economic Development Infrastructure Account  
11          applicants include municipalities, municipal authorities,  
12          redevelopment authorities, industrial development or economic  
13          development agencies or private developers.

14          ~~(h) Special provisions for eligibility. Notwithstanding the~~ <—  
15          ~~provisions of 4 Pa.C.S. § 1407(d), eligible applicants under the~~  
16          ~~Independent Higher Education Facilities Account and the Hospital~~  
17          ~~Facilities and Medical Technology Account may be considered for~~  
18          ~~and receive funding for eligible projects in cities and counties~~  
19          ~~of the first and second classes.~~

20          ~~(i)~~

21          (H) ANNUAL REPORT.--THE AUTHORITY SHALL PROVIDE AN ANNUAL <—  
22          REPORT WHICH AT A MINIMUM SHALL INCLUDE:

23           (1) A LIST OF ALL GRANTS APPROVED DURING THE PREVIOUS  
24           FISCAL YEAR.

25           (2) THE NAME AND ADDRESS OF EACH RECIPIENT, INCLUDING  
26           THE NAME OF A CONTACT PERSON FOR THE RECIPIENT.

27           (3) THE AMOUNT OF THE GRANT AND A DETAILED DESCRIPTION  
28           OF THE PROJECT FOR WHICH THE GRANT WAS AWARDED.

29          (I) SUBMISSION OF REPORT.--A REPORT UNDER SUBSECTION (H)  
30          SHALL BE SUBMITTED TO THE MAJORITY LEADER OF THE SENATE, THE

1 MINORITY LEADER OF THE SENATE, THE MAJORITY LEADER OF THE HOUSE  
2 OF REPRESENTATIVES AND THE MINORITY LEADER OF THE HOUSE OF  
3 REPRESENTATIVES BY OCTOBER 1, 2009, AND OCTOBER 1 OF EACH YEAR  
4 THEREAFTER. THE REPORT SHALL ALSO BE POSTED AND MAINTAINED ON  
5 THE OFFICIAL INTERNET WEBSITE OF THE AUTHORITY.

6 (J) Eligible costs.--

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

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

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

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

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

28 (2) Tourism Account eligible costs include general  
29 eligible costs ASSOCIATED WITH TOURISM, as well as the  
30 following:

<—

1           (i) Expenses related to transportation improvements  
2           that directly support tourism projects.

3           (ii) Other infrastructure expenses that directly  
4           support tourism projects.

5           (iii) Expenses related to public communications and  
6           security technology improvements directly related to  
7           tourism projects.

8           (iv) Emergency service capital improvements and  
9           assets directly related to tourism projects.

10          (v) Expenses for historical preservation and  
11          downtown redevelopment activities directly related to  
12          tourism projects.

13          (3) Independent Higher Education Facilities Account  
14          eligible costs include general eligible costs ASSOCIATED WITH ←  
15          INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION, as well as the  
16          following:

17               (i) Allowable expenditures for projects shall  
18               include educational facilities and facilities providing  
19               an economic development benefit to the local community.

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

22          (4) Hospital Facilities and Medical Technology Account  
23          eligible costs include general eligible costs, as well as the  
24          following:

25               (i) Expenses related to the purchase and  
26               installation of medical technology.

27               (ii) Priority consideration will be given to  
28               projects directly related to capital and training  
29               improvements related to obstetrics, emergency or trauma  
30               care, medical technology and information technology and

1           telemedicine.

2           (5) Vital Community Asset Account eligible costs include  
3 general eligible costs ASSOCIATED WITH VITAL COMMUNITY           <—  
4 ASSETS.

5           (6) Economic Development Infrastructure Account eligible  
6 costs include general eligible costs ASSOCIATED WITH ECONOMIC           <—  
7 DEVELOPMENT INFRASTRUCTURE.

8           ~~(j)~~ (K) Non-State match requirements.--Program awards shall           <—  
9 be subject to a non-State match-to-grant ratio for each of the  
10 legacy accounts as follows:

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

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

20           (i) Student grant aid recipients for each  
21 institution shall be obtained from the Pennsylvania  
22 Higher Education Assistance Agency for the most recently  
23 available period at the time of application or equivalent  
24 year for the unduplicated head count data.

25           (ii) The unduplicated head count for institutions  
26 shall be obtained from the Integrated Postsecondary  
27 Education Data System or a comparable source for the most  
28 recently available year or equivalent year for the  
29 student grant aid data.

30           (iii) Applicants with a proportion of student grant

1 aid recipients to unduplicated head count less than or  
2 equal to 15% or applicants for which the required data is  
3 unavailable shall be required to satisfy a non-State  
4 match-to-grant award ratio of 3 to 1.

5 (iv) Applicants with a proportion of student grant  
6 aid recipients to unduplicated head count less than 30%  
7 and greater than 15% shall be required to satisfy a non-  
8 State match-to-grant award ratio of 2 to 1.

9 (v) Applicants with a proportion of student grant  
10 aid recipients to unduplicated head count greater than  
11 30% shall be required to satisfy a non-State match-to-  
12 grant award ratio of 1 to 1.

13 (3) Project awards from the Hospital Facilities and  
14 Medical Technology Account shall be determined based on the  
15 bond rating of the applicant.

16 (i) Bond ratings for Hospital Facilities and Medical  
17 Technology Account applicants shall be determined by the  
18 department from the most recently available Standard and  
19 Poor's ratings or a comparable source at the time of  
20 application.

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

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

29 (iv) Grant awards to applicants receiving a Standard  
30 and Poor's bond rating of "Speculative Grade" (SG) shall

1 require a non-State match-to-grant award ratio of 1 to 1.

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

5 (5) Project awards from the Economic Development  
6 Infrastructure Account shall be subject to a 2 to 1 non-State  
7 match-to-grant ratio.

8 ~~(k)~~ (L) Limitations.--

<—

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

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

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

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

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

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

26 (M) PENNSYLVANIA GAMING ECONOMIC DEVELOPMENT AND TOURISM

<—

27 FUND DEPOSITS.--FUNDS DEPOSITED IN THE PENNSYLVANIA GAMING

28 ECONOMIC DEVELOPMENT AND TOURISM FUND UNDER 4 PA.C.S. §

29 1407(C)(RELATING TO PENNSYLVANIA GAMING ECONOMIC DEVELOPMENT AND

30 TOURISM FUND) SHALL NOT BE CONSIDERED STATE GAMING RECEIPTS FOR

1 PURPOSES OF 4 PA.C.S. § 1202(B)(24) (RELATING TO GENERAL AND  
2 SPECIFIC POWERS).

3 SECTION 4. THE PROVISIONS OF 4 PA.C.S. § 1407(B) ARE  
4 REPEALED INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT.

5 Section 4 5. This act shall take effect immediately.

<—