

AMENDMENTS TO HOUSE BILL NO. 2557

Sponsor: REPRESENTATIVE KIM

Printer's No. 4139

1 Amend Bill, page 1, lines 1 through 13, by striking out all

2 of said lines and inserting

3 Establishing intergovernmental cooperation authorities for
4 certain cities of the third class; providing for powers and
5 duties; and making an appropriation.

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36 Section 709. Effective date.

37 Amend Bill, page 1, lines 16 through 22; pages 2 and 3, lines

1 1 through 30; page 4, lines 1 through 14; by striking out all of
2 said lines on said pages and inserting

3 CHAPTER 1
4 GENERAL PROVISIONS

5 Section 101. Short title.

6 This act shall be known and may be cited as the
7 Intergovernmental Cooperation Authorities Act for Cities of the
8 Third Class.

9 Section 102. Purpose and legislative intent.

10 (a) Policy.--It is hereby declared to be a public policy of
11 the Commonwealth to exercise its retained sovereign powers with
12 regard to taxation and matters of Statewide concern in a manner
13 calculated to foster the fiscal integrity of cities of the third
14 class to assure that they:

15 (1) provide for the health, safety and welfare of their
16 residents;

17 (2) pay principal and interest owed on their debt
18 obligations when due;

19 (3) meet financial obligations to their employees,
20 vendors and suppliers; and

21 (4) provide for proper financial planning procedures and
22 budgeting practices.

23 The inability of a city of the third class to provide essential
24 services to its residents as a result of a fiscal emergency is
25 determined to affect adversely the health, safety and welfare
26 not only of the residents of the city but also of other
27 residents of this Commonwealth.

28 (b) Legislative intent.--

29 (1) It is the intent of the General Assembly to:

30 (i) provide cities of the third class with the legal
31 tools with which they can perform essential municipal
32 services; and

33 (ii) foster sound financial planning and budgetary
34 practices for cities of the third class, which cities
35 will be charged with the responsibility to exercise
36 efficient and accountable fiscal practices, such as:

37 (A) increased managerial accountability;

38 (B) consolidation or elimination of inefficient
39 city programs and authorities;

40 (C) reevaluation of tax exemption policies with
41 regard to real property taxes;

42 (D) increased collection of existing tax
43 revenues;

44 (E) privatization or outsourcing of appropriate
45 city services;

46 (F) sale of city assets as appropriate;

47 (G) improvement of procurement practices,
48 including competitive bidding procedures; and

49 (H) review of compensation and benefits of city

1 employees.
2 (2) This act is intended to remedy the apparent fiscal
3 emergency confronting cities of the third class through the
4 implementation of sovereign powers of the Commonwealth. To
5 safeguard the rights of the residents of this Commonwealth to
6 the electoral process and home rule, the General Assembly
7 intends to exercise its power in an appropriate manner with
8 the elected officers of cities of the third class.

9 Section 103. Legislative findings.

10 It is hereby determined and declared as a matter of
11 legislative finding that:

12 (1) Some cities of the third class have encountered
13 recurring financial difficulties that may affect the
14 performance of necessary municipal services to the detriment
15 of the health, safety and general welfare of residents of
16 those cities.

17 (2) It is critically important that cities of the third
18 class maintain their creditworthiness.

19 (3) Due to the economic and social interrelationship
20 among all residents in our economy, the fiscal integrity of
21 cities of the third class is a matter of concern to all
22 residents of this Commonwealth, and the financial problems of
23 these cities have a direct and negative effect on the entire
24 Commonwealth.

25 (4) Because cities of the third class consume a
26 substantial proportion of the products of Pennsylvania's
27 farms, factories, manufacturing plants and service
28 enterprises, economic difficulties confronting cities of the
29 third class detrimentally affect the economy of the
30 Commonwealth as a whole and become a matter of Statewide
31 concern.

32 (5) Because residents of cities of the third class
33 contribute a substantial proportion of all Commonwealth tax
34 revenues, a disruption of the economic and social life of
35 these cities may have a significant detrimental effect on
36 Commonwealth revenues.

37 (6) The financial difficulties of cities of the third
38 class can best be addressed and resolved by cooperation
39 between governmental entities.

40 (7) The Constitution of Pennsylvania grants
41 municipalities authority to cooperate with other governmental
42 entities in the exercise of any function or responsibility.

43 (8) The Commonwealth retains certain sovereign powers
44 with respect to cities of the third class, among them the
45 powers to authorize and levy taxes, to authorize the
46 incurring of indebtedness and to provide financial assistance
47 that may be necessary to assist cities in solving their
48 financial problems.

49 (9) The Commonwealth may attach conditions to grants of
50 authority to incur indebtedness or assistance to cities of
51 the third class in order to ensure that deficits are

1 eliminated and access to capital markets is achieved and
2 maintained.

3 (10) The conditions must be incorporated into
4 intergovernmental cooperation agreements between the
5 Commonwealth or its instrumentalities and cities of the third
6 class.

7 (11) Cities of the third class and the Commonwealth will
8 benefit from the creation of an independent authority
9 composed of members experienced in finance and management
10 that advises the cities, the General Assembly and the
11 Governor concerning solutions to fiscal problems cities of
12 the third class may face.

13 (12) The creation of an authority will allow cities of
14 the third class to continue to provide the necessary
15 municipal services for their residents and to contribute to
16 the economy of this Commonwealth.

17 Section 104. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Assisted city." A city for which an authority has been
22 established under section 201. The term includes any municipal
23 authority, other authority or other corporate entity that
24 directly or indirectly performs a governmental function on
25 behalf of the city, is directly or indirectly controlled by the
26 city or to which a city has direct or indirect power of
27 appointment or has directly or indirectly pledged or designated
28 the city's revenues or the city's credit.

29 "Authority." An intergovernmental cooperation authority
30 established in section 201.

31 "Board." The governing board of an authority.

32 "Chief fiscal officer." A municipal official in an assisted
33 city designated as follows:

34 (1) In the case of a city where the mayor is responsible
35 for proposing the city's annual budget, the chief fiscal
36 officer shall be the mayor.

37 (2) In the case of a city where the budget is proposed
38 to the governing body by an employee or appointee of the
39 city, the chief fiscal officer shall be the presiding officer
40 of the governing body.

41 "City." A city of the third class or a home rule
42 municipality which was previously a city of the third class:

43 (1) with a population of at least 48,000 and not more
44 than 55,000 based on the most recent Federal decennial census
45 at the time receivership was terminated;

46 (2) for which a coordinator under Chapter 2 of the act
47 of July 10, 1987 (P.L.246, No.47), known as the
48 Municipalities Financial Recovery Act, is or has been
49 appointed; and

50 (3) for which receivership has been terminated.

51 "City account." A trust fund held for the exclusive benefit

1 of an assisted city.

2 "Controller." The elected controller of a city. In the case
3 of a city which does not elect a controller, the term shall
4 refer to a person designated by the intergovernmental
5 cooperation agreement to administer financial controls for the
6 city.

7 "Corporate entity." A municipal authority, other authority
8 or other corporate entity that performs a governmental function
9 on behalf of an assisted city or to which an assisted city has
10 power of appointment or has pledged or designated revenues.

11 "Deficit." A negative fund balance in any principal
12 operating fund or funds of an assisted city or corporate entity
13 existing at the beginning of a fiscal year of the assisted city
14 or projected to exist as of the close of a fiscal year of the
15 assisted city as may be more specifically identified, calculated
16 and specified in an intergovernmental cooperation agreement or
17 financial plan of an assisted city described in section 209.

18 "Federal agency." The United States, the President of the
19 United States and a department or corporation, agency or
20 instrumentality created, designated or established by the United
21 States.

22 "Governing body." The legislative body of a city.

23 "Governing law." The applicable statutes, home rule charter,
24 optional plan or optional charter that provides for the
25 officers, duties and powers of a city.

26 "Government agency." The Governor, department, board,
27 commission, authority and an officer or agency of State
28 government, including any that is not subject to the policy
29 supervision and control of the Governor, a political
30 subdivision, municipal or other local authority and an officer
31 or agency of a political subdivision or local authority. The
32 term does not include a court or other officer or agency of the
33 unified judicial system or the General Assembly or any of its
34 officers and agencies.

35 "Intergovernmental cooperation agreement." An agreement
36 between an authority and a city entered into under the
37 provisions of section 203(d).

38 "Party officer." The following members or officers of a
39 political party:

40 (1) a member of a national committee;

41 (2) a chairman, vice chairman, secretary, treasurer or
42 counsel of a State committee or member of the executive
43 committee of a State committee;

44 (3) a county chairman, vice chairman, counsel, secretary
45 or treasurer of a county committee; or

46 (4) a chairman, vice chairman, counsel, secretary,
47 treasurer or ward leader of a city or municipal committee.

48 "Public official." An elected or appointed official or
49 employee in the executive, legislative or judicial branch of the
50 Commonwealth or a political subdivision thereof. The term does
51 not include:

1 (1) A member of an advisory board that has no authority
2 to expend public funds other than reimbursement for personal
3 expense or to otherwise exercise the power of the
4 Commonwealth or a political subdivision thereof.

5 (2) An appointed official who receives no compensation
6 other than reimbursement for actual expenses.

7 "Termination date." December 31 of the fourth full calendar
8 year following the year in which an intergovernmental
9 cooperation agreement is entered into under section 203(d).

10 CHAPTER 2

11 INTERGOVERNMENTAL COOPERATION AUTHORITIES

12 FOR CITIES OF THE THIRD CLASS

13 Section 201. Authorities established.

14 (a) General rule.--A body corporate and politic to be known
15 as the Intergovernmental Cooperation Authority for (name of
16 city) is established as a public authority and instrumentality
17 of the Commonwealth for each city that shall exercise public
18 powers of the Commonwealth as an agency and instrumentality
19 thereof. The exercise by the authority of the powers conferred
20 by this act is declared to be and shall for all purposes be
21 deemed and held to be the performance of an essential public
22 function.

23 (b) Separate authorities.--A separate intergovernmental
24 cooperation authority shall be established for each city.

25 Section 202. Governing board.

26 (a) Composition of board.--

27 (1) The powers and duties of an authority shall be
28 exercised by a governing board composed of five members
29 appointed as follows:

30 (i) One member shall be appointed by the Governor.

31 (ii) One member shall be appointed by the President
32 pro tempore of the Senate.

33 (iii) One member shall be appointed by the Minority
34 Leader of the Senate.

35 (iv) One member shall be appointed by the Speaker of
36 the House of Representatives.

37 (v) One member shall be appointed by the Minority
38 Leader of the House of Representatives.

39 (vi) The Secretary of the Budget and the controller
40 of an assisted city shall serve as ex officio members of
41 the board. The ex officio members may not vote and shall
42 not be counted for purposes of establishing a quorum. The
43 Secretary of the Budget and the controller of an assisted
44 city may designate in writing a representative of their
45 respective offices to attend meetings of the board on
46 their behalf.

47 (2) All members and designees must have substantial
48 experience in finance or management.

49 (3) All members of the board must be residents of this
50 Commonwealth and, except the Secretary of the Budget, must
51 either be residents of the assisted city or have their

1 primary places of business or employment in that city.

2 (b) Term.--

3 (1) Appointing authorities shall appoint the initial
4 members of the board within 30 days of the date of
5 termination of receivership or the effective date of this
6 section, whichever is later. The appointed members shall
7 select a chairperson from among themselves at the initial
8 organizational meeting of the board and for any subsequent
9 vacancy in the office of chairperson. The term of a board
10 member shall begin on the date of the appointment. Except as
11 provided in paragraph (3), a member's term shall be
12 coterminous with that of the appointing authority.

13 (2) The member selected as chairperson shall serve in
14 that capacity for two years from the date of selection or for
15 the duration of the member's term on the board, whichever is
16 a shorter period of time, and may be reelected as chairperson
17 to subsequent two-year terms.

18 (3) An appointed board member shall serve at the
19 pleasure of the member's appointing authority.

20 (4) Whenever a vacancy occurs among the appointed
21 members on the board, whether prior to or on the expiration
22 of a term, the appointing authority who originally appointed
23 the board member whose seat has become vacant shall appoint a
24 successor member within 30 days of the vacancy.

25 (5) A member appointed by an appointing authority to
26 fill a vacancy occurring prior to the expiration of a term
27 shall serve the unexpired term.

28 (c) Organization.--

29 (1) The appointees of the President pro tempore of the
30 Senate and the Speaker of the House of Representatives shall
31 set a date, time and place for the initial organizational
32 meeting of the board within 40 days of the date of
33 termination of receivership or the effective date of this
34 section, whichever is later. The initial organizational
35 meeting shall be held within 45 days of the date of
36 termination of receivership or the effective date of this
37 section, whichever is later.

38 (2) In addition to the chairperson, the members shall
39 elect other officers as they may determine.

40 (3) A member may hold more than one office of the board
41 at any time.

42 (d) Meetings.--

43 (1) After the initial organizational meeting, the board
44 shall meet as frequently as it deems appropriate but at least
45 once during each quarter of the fiscal year of the authority.

46 (2) A meeting of the board shall be called by the
47 chairperson if a request for a meeting is submitted to the
48 chairperson by at least two members of the board.

49 (d.1) Quorum and open meetings.--

50 (1) A majority of the board shall constitute a quorum
51 for the purpose of conducting the business of the board and

1 for all other purposes.

2 (2) All actions of the board shall be taken by a
3 majority of the board members present, except as otherwise
4 specifically provided in this act.

5 (3) The provisions of 65 Pa.C.S. Ch. 7 (relating to open
6 meetings) shall apply to the board.

7 (e) Expenses.--A member may not receive compensation or
8 remuneration but shall be entitled to reimbursement for all
9 reasonable and necessary actual expenses.

10 (f) Employees and agents.--

11 (1) The board shall fix and determine the number of
12 employees of the authority and their respective compensation
13 and duties.

14 (2) The board may contract for or receive the loan of
15 services of persons in the employ of other government
16 agencies, and other government agencies may make those
17 employees available.

18 (3) The board may retain an executive director.

19 (4) The board may hire an independent general counsel to
20 the authority and may engage consultants and contract for
21 other professional services.

22 (5) The board may delegate to the executive director
23 powers of the board as the board deems necessary to carry out
24 the purposes of the authority, subject in every case to the
25 supervision and control of the board.

26 (g) Public officials and party officers.--

27 (1) The following provisions apply to members of the
28 board and the executive director:

29 (i) Except for the Secretary of the Budget and the
30 director of finance of an assisted city, neither members
31 of the board nor the executive director shall seek or
32 hold a position as any other public official within this
33 Commonwealth or as a party officer while in the service
34 of the authority.

35 (ii) Members of the board and the executive director
36 may not seek election as public officials or party
37 officers for one year after their service with the
38 authority.

39 (iii) Members of the board and the executive
40 director may serve as appointed public officials any time
41 after their periods of service with the authority.

42 (2) The following provisions apply to employees and
43 agents of the authority, as indicated:

44 (i) Employees and agents of the authority may not
45 seek or hold other positions as public officials or party
46 officers while in the employ of the authority. The
47 authority may receive the loan of services of persons in
48 other government agencies in accordance with subsection
49 (f), notwithstanding that those persons are public
50 officials.

51 (ii) Employees of the authority may not seek

election as public officials or party officers for one year after leaving the employ of the authority.

(3) No member of the board or employee of the authority may:

(i) directly or indirectly be a party to or be interested in any contract or agreement with the authority or with the assisted city; or

(ii) use his office or employment or any confidential information received through his office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated.

(4) Any member or employee who shall willfully violate paragraph (3) shall forfeit his office or employment and shall be subject to other criminal and civil sanctions as may be imposed by law.

(5) Any contract or agreement knowingly made in contravention of paragraph (3) shall be void and unenforceable.

(6) For purposes of this subsection, the term "immediate family" shall mean a parent, spouse, child, brother or sister.

(h) Statutes applicable to authority.--

(1) The provisions of the following acts shall apply to the board:

(i) Except as specified in paragraph (3), the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(ii) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(iii) 62 Pa.C.S. (relating to procurement).

(iv) 65 Pa.C.S. Ch. 7.

(v) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(2) The provisions of the following acts shall apply to the executive director of the authority:

(i) Except as set forth in paragraph (3), the State Adverse Interest Act.

(ii) 65 Pa.C.S. Ch. 11.

(3) Notwithstanding the provisions of the State Adverse Interest Act, the Secretary of the Budget and the director of finance of an assisted city shall, while serving as ex officio members of the board, also serve in their official capacities with respect to the negotiation and execution of intergovernmental cooperation agreements and other agreements between the assisted city and the authority.

(i) Advisory committee.--

(1) The board may appoint one advisory committee comprised of professionals engaged in municipal management and finance or other experts as the board deems necessary. The members of an advisory committee must reside within the

1 assisted city or a county within the statistical metropolitan
2 area in which the assisted city is located.

3 (2) The provisions of subsection (g) shall be applicable
4 to members of an advisory committee; however, the board may
5 allow the governing body to designate a liaison from the
6 governing body to serve on an advisory committee.

7 (3) An advisory committee shall consist of no more than
8 six members, excluding any liaison to the governing body.

9 (4) A member of the advisory committee shall not receive
10 compensation or remuneration but shall be entitled to
11 reimbursement for all reasonable and necessary actual
12 expenses.

13 Section 203. Powers and duties.

14 (a) General powers and duties.--Each authority is
15 established for the purposes, without limitation, by itself or
16 by agreement in cooperation with others, of assisting the
17 assisted city in solving its budgetary and financial problems.

18 (b) Specific duties.--Each authority shall have the
19 following powers and duties:

20 (1) To assist the assisted city in achieving financial
21 stability in any manner consistent with the purposes and
22 powers described by this act.

23 (2) To assist the assisted city in avoiding defaults,
24 eliminating and financing deficits and debts, maintaining
25 sound budgetary practices and avoiding the interruption of
26 municipal services.

27 (3) To negotiate intergovernmental cooperation
28 agreements with the assisted city containing terms and
29 conditions as will enable the assisted city to eliminate and
30 avoid deficits, maintain sound budgetary practices and avoid
31 interruption of municipal services.

32 (4) To prepare an annual report within 120 days after
33 the close of the assisted city's fiscal year to the Governor
34 and the General Assembly describing the assisted city's
35 financial condition and the authority's progress with respect
36 to restoring the financial stability of the assisted city and
37 achieving balanced budgets for the assisted city. An annual
38 report shall be signed by the chairperson of the board and
39 shall:

40 (i) Be submitted to the Governor, the presiding
41 officers of the Senate and the House of Representatives,
42 the chairperson and minority chairperson of the
43 Appropriations Committee of the Senate and the
44 chairperson and minority chairperson of the
45 Appropriations Committee of the House of Representatives
46 and the governing body, chief fiscal officer and
47 controller of the assisted city. The report shall be
48 publicly available in the assisted city during normal
49 business hours for public inspection, shall be posted on
50 the authority's publicly accessible Internet website and
51 may be provided to a member of the public upon request at

1 a cost not to exceed commercial costs of reproduction.

2 (ii) Clearly show by consistent category the last
3 five years of operating revenues and expenditures,
4 capital expenditures, gross and net indebtedness
5 transactions, including a schedule of principal and
6 interest, five-year projections of the assisted city's
7 operating and capital budgets, and the entire projected
8 indebtedness transactions, including a schedule of
9 principal and interest of the indebtedness until any and
10 all debt has been completely retired.

11 (iii) Contain a narrative explaining progress of the
12 assisted city in meeting its annual and five-year
13 budgetary objectives, an appraisal by the authority of
14 the progress the assisted city is making to achieve its
15 goals and an appraisal of the extent to which the
16 assisted city is making a good faith effort to achieve
17 its goals.

18 (iv) Disclose any violations of Federal and State
19 law that the authority may have discovered.

20 (v) Include as appendixes all historical loans or
21 other contracts entered into by the assisted city and its
22 corporate entities.

23 (5) To establish and maintain a publicly accessible
24 Internet website that contains, but is not limited to, all of
25 the following:

26 (i) Intergovernmental cooperation agreements entered
27 into under paragraph (3).

28 (ii) Annual reports required under paragraph (4).

29 (iii) The authority's annual budget adopted under
30 section 206.

31 (iv) Annual reports and audits required under
32 section 207.

33 (v) Contracts that the authority has entered into
34 with third parties.

35 (6) To adopt and publish a records retention policy that
36 is consistent with the records retention policy of the Office
37 of Administration as published in Manual 210.9, The
38 Commonwealth's General Records Retention and Disposition
39 Schedule, adopted September 5, 2018. The policy shall be
40 updated annually to remain consistent with the policy of the
41 Office of Administration.

42 (c) Specific powers.--In addition to the powers and duties
43 otherwise provided in this act, each authority shall have the
44 specific powers:

45 (1) To obtain copies of all reports and documents
46 regarding the revenues, expenditures, budgets, deficits,
47 debts, costs, plans, operations, estimates and any other
48 financial or budgetary matters of the assisted city.

49 (2) To obtain additional reports and information on the
50 above matters in forms as are deemed necessary by the
51 authority.

1 (3) To make factual findings concerning the assisted
2 city's budgetary and fiscal affairs.

3 (4) To make recommendations to the assisted city and the
4 General Assembly concerning the budgetary and fiscal affairs
5 of the assisted city, including consideration of the
6 following issues and other issues at the discretion of the
7 authority:

8 (i) Consolidation or merger of services performed by
9 the assisted city and a school, county or other
10 municipality surrounding the assisted city.

11 (ii) Consolidation of public safety services.

12 (iii) Appropriate staffing levels of city
13 departments and corporate entities.

14 (iv) Cooperative agreements or contractual
15 arrangements between health care facilities licensed by
16 the Department of Health.

17 (v) Financial or contractual obligations of the
18 assisted city.

19 (vi) Pensions and other postemployment benefits
20 obligations of the assisted city.

21 (vii) Contributions of nonprofit or charitable
22 organizations that receive the benefit of municipal
23 services provided by the assisted city.

24 (viii) Reduction or restructuring of debt
25 obligations.

26 (ix) Cooperative agreements between the assisted
27 city and the county in which the assisted city is located
28 or municipalities that border the assisted city.

29 (x) Cooperative agreements between the assisted city
30 and school districts located in the assisted city.

31 (xi) Collective bargaining agreements and other
32 contracts of the assisted city.

33 (xii) Elimination, sale or transfer of assisted city
34 services or property.

35 (xiii) Implementation of cost-saving measures by the
36 assisted city.

37 (xiv) Increased managerial accountability.

38 (xv) Performance of government operations and
39 delivery of municipal services.

40 (xvi) Reevaluation of tax exemption policies and
41 practices with regard to real property taxation within
42 the assisted city.

43 (xvii) Improvements in procurement practices.

44 (xviii) Implementation of user fees for services,
45 including sewage, water treatment and refuse collection.

46 (xix) Privatization and outsourcing of appropriate
47 assisted city services.

48 (xx) Increased collection of fines and costs
49 relating to parking violations or violations of other
50 city ordinances.

51 (xxi) Competitive bidding of appropriate assisted

city services and competitive bidding practices.

(xxii) The use of technology to achieve cost savings.

(xxiii) A study of health care and other benefits offered by the assisted city to its employees.

(xxiv) The sale of the assisted city's workers' compensation fund.

(xxv) The sale of unencumbered assets of the assisted city or authorities of the assisted city.

(xxvi) The elimination or reorganization of authorities or departments.

(xxvii) The use of budgetary practices and principles as they relate to forecasting, public openness, projections, estimates, tax policy, lending, borrowing and strategic planning.

(xxviii) The transfers of employees and assets by and between bureaus, departments, authorities and corporate entities of the assisted city.

(xxix) Prior suggestions published by others prior to the date that the city became an assisted city.

(xxx) A review of the taxing authority of the assisted city.

(xxxi) A review of the ratio of debt service to general fund outlays of the assisted city, the appropriate ratio and the means to achieve the ratio.

(xxxii) A review of outstanding debt, debt payments and the ability to prepay the debt.

(5) To make recommendations to the Governor and the General Assembly regarding legislation or resolutions that relate to the assisted city's fiscal stability. The authority shall submit a preliminary report of the recommendations to the Governor and the General Assembly within 180 days of the initial organizational meeting of the board in section 202(c). The report shall include, but not be limited to, recommendations as to whether or not an assisted city needs additional revenues, the best sources of those revenues and ways for the assisted city to reduce expenditures. Any recommendations for new revenue, if warranted, shall state whether the revenues should be earmarked for specific expenditures, including, but not limited to, prepayment of debt and whether the revenues should be subject to expiration provisions.

(6) To exercise powers of review concerning the budgetary and fiscal affairs of an assisted city consistent with this act and the assisted city's governing law.

(7) To receive revenues from any source, directly or by assignment, pledge or otherwise.

(8) To sue and be sued, implead and be impleaded, interplead, complain and defend in all courts.

(9) To adopt, use and alter at will a corporate seal.

(10) To make bylaws for the management and regulation of

1 the authority's affairs and adopt rules, regulations and
2 policies in connection with the performance of the
3 authority's functions and duties that, notwithstanding any
4 other provision of law to the contrary, shall not be subject
5 to review under the act of June 25, 1982 (P.L.633, No.181),
6 known as the Regulatory Review Act.

7 (11) To make and enter into contracts and other
8 instruments necessary or convenient for the conduct of the
9 authority's business and the exercise of the powers of the
10 authority.

11 (12) To appoint such officers and hire such agents and
12 employees as the authority deems necessary.

13 (13) To retain counsel and auditors to render
14 professional services as the authority deems appropriate. The
15 authority shall not be considered either an executive agency
16 or an independent agency for the purpose of the act of
17 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
18 Attorneys Act, but shall possess the same status for that
19 purpose as the Auditor General, State Treasurer and the
20 Pennsylvania Public Utility Commission, except that the
21 provisions of section 204(b) and (f) of the Commonwealth
22 Attorneys Act shall not apply to the authority.

23 Notwithstanding 42 Pa.C.S. Ch. 85 (relating to matters
24 affecting government units), the authority shall defend
25 actions brought against the authority or its members,
26 officers, officials and employees when acting within the
27 scope of their official duties.

28 (14) To cooperate with any Federal agency or government
29 agency.

30 (15) To acquire, by gift or otherwise, purchase, hold,
31 receive, lease, sublease and use any franchise, license, or
32 property, real, personal or mixed, tangible or intangible, or
33 any interest therein. The authority shall be absolutely
34 limited in its power to acquire real property under this act
35 to real property that will be used only for the office space
36 in which the authority will conduct its daily business if
37 necessary. If possible, the assisted city shall provide
38 office space to the authority at no cost to the authority as
39 part of an intergovernmental cooperation agreement.

40 (16) To sell, transfer, convey and dispose of any
41 property, real, personal or mixed, tangible or intangible or
42 any interest therein.

43 (17) To enter into contracts for group insurance and to
44 contribute to retirement plans for the benefit of the
45 authority's employees and to enroll the authority's employees
46 in an existing retirement system of a government agency.

47 (18) To accept, purchase or borrow equipment, supplies,
48 services or other things necessary or convenient to the work
49 of the authority from other government agencies. All
50 government agencies are authorized to sell, lend or grant to
51 the authority equipment, supplies, services or other things

1 necessary or convenient to the work of the authority.

2 (19) To invest any funds held by the authority as
3 provided in section 211.

4 (20) To receive and hold assets, money and funds from
5 any source, including, but not limited to, appropriations,
6 grants and gifts.

7 (21) To procure insurance, guarantees and sureties the
8 authority determines necessary or desirable for its purposes.

9 (22) To pledge the credit of the authority as the
10 authority determines necessary or desirable for authority
11 purposes.

12 (23) To do all acts and things necessary or convenient
13 for the promotion of its purposes and the general welfare of
14 the authority and to carry out the powers granted to it by
15 this act or any other acts.

16 (d) Intergovernmental cooperation agreements.--

17 (1) The authority may enter into and implement an
18 intergovernmental cooperation agreement, as approved by the
19 board, with the assisted city.

20 (2) An assisted city may enter into an intergovernmental
21 cooperation agreement in which the city, consistent with this
22 act, covenants to cooperate or agree in the exercise of any
23 function, power or responsibility with, or delegate or
24 transfer any function, power or responsibility to, the
25 authority upon the adoption by the governing body of the city
26 of an ordinance authorizing and approving the
27 intergovernmental cooperation agreement.

28 (3) An ordinance that authorizes an assisted city to
29 enter into an intergovernmental cooperation agreement with
30 the authority shall specify:

31 (i) The purpose and objectives of the agreement.

32 (ii) The conditions of the agreement.

33 (iii) The term of the agreement, including
34 provisions relating to termination of the agreement.

35 (4) An intergovernmental cooperation agreement may not
36 be entered into earlier than 60 days following the initial
37 organizational meeting of the board under section 202(c).

38 (e) Limitation.--Notwithstanding any purpose or general or
39 specific power granted by this act or any other act, whether
40 express or implied, the authority shall have no power to pledge
41 the credit or taxing powers of the Commonwealth.

42 Section 204. Term of existence.

43 The following apply:

44 (1) The authority shall exist until the termination
45 date.

46 (2) Upon termination of the authority, records and
47 documents of the authority shall be transferred to the
48 assisted city.

49 (3) The authority shall submit a final report on its
50 activities and the assisted city's fiscal condition to the
51 Governor and the General Assembly within 60 days of the

1 termination of the authority.

2 Section 205. Fiscal year.

3 The fiscal year of each authority shall be the same as the
4 fiscal year of the Commonwealth.

5 Section 206. Annual budget of authority.

6 (a) Budget.--

7 (1) Within 60 days of the initial organizational meeting
8 of the board under section 202(c) and each October 15
9 thereafter, an authority shall adopt a budget as approved by
10 the board specifying in reasonable detail the projected
11 expenses of operation of the authority for the ensuing fiscal
12 year, including the salary and benefits of the executive
13 director and any other employees of the authority, and the
14 projected revenues of the authority to be derived from
15 investment earnings and any other money of the authority that
16 are estimated to be available to pay the operating expenses
17 specified in the budget.

18 (2) A copy of the authority's budget shall be submitted
19 to the Governor and to the General Assembly.

20 (3) The authority or its designated representatives may
21 be afforded an opportunity to appear before the Governor and
22 the Appropriations Committee of the Senate and the
23 Appropriations Committee of the House of Representatives
24 regarding the authority's budget.

25 (b) Limit on operating expenses.--

26 (1) Following the submission of the authority's budget
27 to the Governor and the General Assembly and any hearing held
28 by an appropriations committee under subsection (a), the
29 General Assembly, by concurrent resolution with presentment
30 to the Governor, in accordance with section 9 of Article III
31 of the Constitution of Pennsylvania, may limit the operating
32 expenses of the authority.

33 (2) In that event, it shall be unlawful for the
34 authority to spend more for operating expenses than the limit
35 established for the ensuing fiscal year by the concurrent
36 resolution.

37 (3) If the General Assembly does not adopt a concurrent
38 resolution prior to May 30, the authority's budget shall be
39 deemed approved for the ensuing fiscal year.

40 (c) Examination of books.--The chairperson and minority
41 chairperson of the Appropriations Committee of the Senate and
42 the chairperson and minority chairperson of the Appropriations
43 Committee of the House of Representatives may at any time
44 examine the books, accounts and records of the authority.

45 Section 207. Annual report to be filed and annual audits.

46 By December 31 following the end of each fiscal year of an
47 authority, the authority shall file an annual report with the
48 chairperson and minority chairperson of the Appropriations
49 Committee of the Senate and chairperson and minority chairperson
50 of the Appropriations Committee of the House of Representatives,
51 that makes provisions for the accounting of revenues and

1 expenses. The report shall be signed by the chairperson of the
2 board. The authority shall have its books, accounts and records
3 audited annually in accordance with generally accepted auditing
4 standards by an independent auditor who must be a certified
5 public accountant, and a copy of the audit report shall be
6 attached to and be made a part of the authority's annual report.
7 A concise financial statement shall be published annually in the
8 Pennsylvania Bulletin.

9 Section 208. Limit on city borrowing.

10 An assisted city and its corporate entities may not borrow or
11 receive funds for any lawful purpose unless the assisted city
12 has entered into an intergovernmental cooperation agreement with
13 the authority and there is an approved financial plan in effect.
14 Section 209. Financial plan of an assisted city.

15 (a) Requirement of a financial plan.--Each assisted city
16 shall develop, implement and periodically revise a financial
17 plan as described in this section.

18 (b) Elements of plan.--The financial plan shall include:

19 (1) Projected revenues and expenditures of the principal
20 operating fund or funds of the assisted city for five fiscal
21 years consisting of the current fiscal year and the next four
22 fiscal years.

23 (2) Plan components that will:

24 (i) Eliminate any projected deficit for the current
25 fiscal year and for subsequent fiscal years.

26 (ii) Restore to special fund accounts money from
27 those accounts used for purposes other than those
28 specifically authorized.

29 (iii) Balance the current fiscal year budget and
30 subsequent budgets in the financial plan through sound
31 budgetary practices, including, but not limited to,
32 reductions in expenditures, improvements in productivity,
33 increases in revenues or a combination of these steps.

34 (iv) Provide procedures to avoid a fiscal emergency
35 condition in the future.

36 (v) Enhance the ability of the assisted city to
37 access short-term and long-term credit markets.

38 (vi) If applicable, eliminate the levy of rate of
39 taxes authorized under section 707 on or prior to the
40 termination date.

41 (vii) If recommended by a coordinator's plan under
42 the act of July 10, 1987 (P.L.246, No.47), known as the
43 Municipalities Financial Recovery Act, and not previously
44 established, establish a trust to fund the benefit
45 obligations of other postemployment benefits of the
46 assisted city and engage an investment manager in
47 connection with the trust.

48 (c) Standards for formulation of plan.--

49 (1) All projections of revenues and expenditures in a
50 financial plan shall be based on prudent, reasonable and
51 appropriate assumptions and methods of estimation. All

1 assumptions and methods shall be consistently applied and
2 reported in the financial plan. The financial plan of an
3 assisted city may not include projected revenue that in order
4 to be collected requires the enactment by the General
5 Assembly of new taxing powers.

6 (2) All revenue and appropriation estimates shall be on
7 a modified accrual basis in accordance with generally
8 accepted standards agreed to by the authority, such as those
9 promulgated by the Governmental Accounting Standards Board,
10 and shall be subject to the following provisions:

11 (i) Revenue estimates shall recognize revenues in
12 the accounting period in which they become both
13 measurable and available.

14 (ii) Estimates of city-generated revenues shall be
15 based on current or proposed tax rates, historical
16 collection patterns and generally recognized econometric
17 models.

18 (iii) Estimates of revenues to be received from the
19 Commonwealth shall be based on historical patterns,
20 currently available levels or on levels proposed in a
21 budget by the Governor.

22 (iv) Estimates of revenues to be received from the
23 Federal Government shall be based on historical patterns,
24 currently available levels or on levels proposed in a
25 budget by the President or in a congressional budget
26 resolution.

27 (v) Nontax revenues shall be based on current or
28 proposed rates, charges or fees, historical patterns and
29 generally recognized econometric models.

30 (vi) Appropriation estimates shall include, at a
31 minimum, all obligations incurred during the fiscal year
32 and estimated to be payable during the fiscal year or in
33 the 24-month period following the close of the current
34 fiscal year and all obligations of prior fiscal years not
35 covered by encumbered funds from prior fiscal years.

36 (vii) Any deviations from these standards of
37 estimating revenues and appropriations proposed to be
38 used by an assisted city shall be specifically disclosed
39 and must be approved by a majority of the board.

40 (3) All cash flow projections shall be based on prudent,
41 reasonable and appropriate assumptions as to sources and uses
42 of cash, including, but not limited to, prudent, reasonable
43 and appropriate assumptions as to the timing of receipt and
44 expenditure thereof, and shall provide for operations of the
45 assisted city to be conducted within the resources so
46 projected. All estimates shall take due account of the past
47 and anticipated collection, expenditure and service demand
48 experience of the assisted city and of current and projected
49 economic conditions.

50 (d) Form of plan.--Each financial plan shall include,
51 consistent with the requirements of an assisted city's governing

1 law:

2 (1) For each of the first two fiscal years covered by
3 the financial plan, information that reflects an assisted
4 city's total expenditures by fund and by lump sum amount for
5 each board, commission, department or office of an assisted
6 city.

7 (2) For the remaining three fiscal years of the
8 financial plan, information that reflects an assisted city's
9 total expenditures by fund and by lump sum amount for major
10 object classification.

11 (3) Projections of all revenues and expenditures for
12 five fiscal years, including, but not limited to, projected
13 capital expenditures and short-term and long-term debt
14 incurrence and cash flow forecasts by fund for the first year
15 of the financial plan.

16 (4) A schedule of projected capital commitments of the
17 assisted city and proposed sources of funding for those
18 commitments.

19 (5) A statement describing in reasonable detail the
20 significant assumptions and methods of estimation used in
21 arriving at the projections contained in the plan.

22 (e) Annual submission of plan.--

23 (1) Within 90 days of the initial organizational meeting
24 of the board under section 202(c), the assisted city shall
25 develop and the authority shall review and act upon an
26 initial five-year financial plan that includes a report on
27 the status of implementation of prior published suggestions
28 regarding consolidation and cost savings.

29 (2) During each subsequent fiscal year, the chief fiscal
30 officer of the assisted city shall, at least 100 days prior
31 to the beginning of the assisted city's fiscal year or on
32 another date as the authority may approve upon the request of
33 the assisted city, prepare and submit its proposed five-year
34 plan.

35 (3) At the same time the plan is submitted, the chief
36 fiscal officer shall also submit to the authority:

37 (i) The chief fiscal officer's proposed annual
38 operating budget and capital budget, which budgets shall
39 be consistent with the first year of the financial plan
40 and prepared in accordance with the assisted city's
41 governing law.

42 (ii) A statement by the chief fiscal officer that
43 the budget:

44 (A) Is consistent with the financial plan.

45 (B) Contains funding adequate for debt service
46 payments, legally mandated services and lease
47 payments securing bonds of other government agencies.

48 (C) Is based upon prudent, reasonable and
49 appropriate assumptions and methods of estimation.

50 (D) Complies with any balanced budget
51 requirements contained in the governing law and

ordinances of the assisted city or State law.

(f) Balanced budget requirement.--

(1) The chief fiscal officer of the assisted city shall submit, and the governing body of the city or assisted city shall adopt, a balanced budget each year consistent with the assisted city's governing law.

(2) A balanced budget of an assisted city may not include projected revenues that in order to be collected require the enactment by the General Assembly of new taxing powers or the approval of a court of common pleas of the county in which the assisted city is located.

(3) The failure of the assisted city to comply with this subsection shall result in the withholding of Commonwealth funds under section 210(e) and (f).

(g) Authority review and approval of plan.--

(1) The authority shall promptly review each financial plan, proposed operating budget and capital budget submitted by the assisted city. In conducting the review, the authority shall request from the controller of the assisted city an opinion or certification, prepared in accordance with generally accepted auditing standards, with respect to the reasonableness of the assumptions and estimates in the financial plan.

(2) The controller and other elected officials of the assisted city shall comply with a request under paragraph (1).

(3) Not more than 30 days after submission of a financial plan and proposed operating budget, the authority shall determine whether:

(i) The financial plan projects balanced budgets, based upon prudent, reasonable and appropriate assumptions as described in this section, for each year of the plan.

(ii) The proposed operating budget and capital budget are consistent with the proposed financial plan.

(4) If the authority determines that the criteria under paragraph (3) are satisfied, the authority shall approve the financial plan.

(5) The authority shall not be bound by any opinion or certification of the controller or other official of an assisted city issued under this subsection.

(6) If the authority fails to take any action regarding a financial plan within 30 days following submission of the plan to the authority, the financial plan as submitted shall be deemed approved. If, during the 30-day period, a written request by two members of the board for a meeting and vote on the question of approval of the financial plan has been submitted to the chairperson and a meeting and vote do not take place, the financial plan shall be deemed disapproved.

(h) Authority disapproval of plan.--

(1) If the authority disapproves the proposed financial

1 plan of the assisted city, the authority shall, when it
2 notifies the assisted city of the authority's decision, state
3 in writing in reasonable detail the reasons for the
4 disapproval, including the amount of any estimated budget
5 imbalance.

6 (2) The assisted city shall submit a revised financial
7 plan to the authority within 15 days of a disapproval under
8 paragraph (1), and the revised plan must eliminate the budget
9 imbalance.

10 (3) Not more than 15 days after the submission of the
11 revised financial plan, the authority shall determine whether
12 the revised plan satisfies the criteria under subsection (g)
13 (3).

14 (4) If the authority determines that the criteria are
15 satisfied, the authority shall approve the financial plan.

16 (5) If the authority fails to approve the financial
17 plan, the authority shall, in accordance with section 210(e),
18 certify the assisted city's noncompliance with the financial
19 plan to the Secretary of the Budget, the President pro
20 tempore of the Senate and the Speaker of the House of
21 Representatives.

22 (i) Revisions to plan.--

23 (1) The plan shall be revised on an annual basis to
24 include the operating budget for the next fiscal year and to
25 extend the plan for an additional fiscal year. The chief
26 fiscal officer of an assisted city shall, within 90 days of
27 assuming office, propose revisions to the financial plan or
28 certify to the authority that the chief fiscal officer adopts
29 the existing plan.

30 (2) An assisted city may, during the course of a fiscal
31 year, submit proposed revisions to the financial plan and
32 shall submit a proposed revision for any amendment to the
33 city's operating or capital budget.

34 (3) The authority shall review each proposed revision
35 within 20 days of its submission. The authority shall approve
36 the revision if it will not, based on prudent, reasonable and
37 appropriate assumptions, cause the plan to become imbalanced.

38 (4) Proposed revisions shall become part of the
39 financial plan upon the approval of the authority unless some
40 other method of approval is permitted by authority rules and
41 regulations approved by the board or pursuant to an agreement
42 with the assisted city contained in an intergovernmental
43 cooperation agreement.

44 (5) If the authority fails to take action within 20 days
45 on a proposed revision, the submission shall be deemed
46 approved unless a written request for a meeting and vote has
47 been made in accordance with subsection (g)(4), in which
48 event, if a meeting and vote do not take place, the proposed
49 revision shall be deemed disapproved.

50 (6) If the governing body of a city adopts a budget
51 inconsistent with an approved financial plan, the assisted

1 city shall submit the enacted budget to the authority as a
2 proposed revision to the plan. The authority shall review the
3 proposed revision within 30 days of its submission in
4 accordance with the criteria under subsection (g) and the
5 approval process under paragraph (3).

6 (j) Supplemental reports.--

7 (1) Within 45 days of the end of each fiscal quarter of
8 an assisted city, or monthly if a variation from the
9 financial plan has been determined in accordance with section
10 210(c), the chief fiscal officer of the assisted city shall
11 provide the authority with a report describing actual or
12 current estimates of revenues and expenditures compared to
13 budgeted revenues and expenditures for the period reflected
14 in the assisted city's cash flow forecast.

15 (2) A report required under this section shall indicate
16 any variance between actual or current estimates and budgeted
17 revenues, expenditures and cash for the period covered by the
18 report.

19 (3) An assisted city shall also provide periodic reports
20 on debt service requirements in conformity with section
21 210(b).

22 (k) Effect of plan upon contracts and collective bargaining
23 agreements.--

24 (1) A contract or collective bargaining agreement in
25 existence in an assisted city prior to the approval by the
26 authority of a financial plan submitted under this section
27 shall remain effective after approval of the plan until the
28 contract or agreement expires.

29 (2) After the approval by the authority of a financial
30 plan submitted pursuant to this section, an assisted city
31 shall execute contracts and collective bargaining agreements
32 in compliance with the plan. If an assisted city executes a
33 contract or a collective bargaining agreement which is not in
34 compliance with the plan, the contract or agreement shall not
35 be void or voidable solely by reason of the noncompliance,
36 but the assisted city shall submit to the authority a
37 proposed revision to the plan which demonstrates that
38 revenues sufficient to pay the costs of the contract or
39 collective bargaining agreement will be available in the
40 affected fiscal years of the plan.

41 (3) Nothing in this act shall be construed to in any
42 manner violate, expand or diminish the provisions of the
43 Municipalities Financial Recovery Act relating to collective
44 bargaining agreements.

45 (l) Effect of plan upon certain arbitration settlements.--

46 (1) After the approval by the authority of a financial
47 plan submitted pursuant to this section, any arbitration
48 settlement of a board of arbitration established pursuant to
49 the provisions of the act of June 24, 1968 (P.L.237, No.111),
50 referred to as the Policemen and Firemen Collective
51 Bargaining Act, providing for an increase in wages or fringe

benefits of an employee of an assisted city under the plan, in addition to considering any standard or factor required to be considered by applicable law, shall take into consideration and accord substantial weight to:

- (i) the approved financial plan; and
- (ii) relevant market factors, such as the financial situation of the assisted city, inflation, productivity, size of workforce and pay and benefit levels in economically and demographically comparable political subdivisions.

(2) The arbitration settlement shall be in writing and a copy thereof shall be forwarded to each party to the dispute and the authority. Any arbitration settlement of the board of arbitration which provides for an increase in wages or fringe benefits of an employee of an assisted city shall be in writing and shall state with specificity all factors which the board of arbitration took into account in considering and giving substantial weight to the factors referred to in paragraph (1).

(3) Any party to a proceeding before a board of arbitration may appeal to the court of common pleas to review:

- (i) consideration under paragraph (1); or
- (ii) failure of the board of arbitration to issue an arbitration settlement under paragraph (2).

(4) An appeal under paragraph (3) must be commenced not later than 30 days after the issuance of a final arbitration settlement by the board of arbitration.

(5) The decision of the board of arbitration shall be vacated and remanded to the board of arbitration if the court finds:

- (i) that the board of arbitration failed to take into consideration and accord substantial weight to the factors referred to in paragraph (1); or
- (ii) that the board of arbitration has failed to issue an arbitration settlement under paragraph (2).

(6) If, after the exhaustion of all appeals, the final arbitration settlement is not in compliance with the approved financial plan, the arbitration settlement shall not be void or voidable solely by reason of such noncompliance, but the assisted city shall submit to the authority a proposed revision to the plan which demonstrates that revenues sufficient to pay the costs of the arbitration settlement will be available in the affected fiscal years of the plan.

(7) As used in this subsection, the term "arbitration settlement" shall mean an adjustment or settlement of a collective bargaining agreement or dispute. The term includes a final or binding arbitration award or other determination.

Section 210. Powers and duties of authority with respect to financial plans.

(a) Formulation and approval of plan.--To advance the

1 financial recovery of an assisted city, the authority shall
2 require the assisted city to submit a five-year financial plan
3 in accordance with section 209. With regard to the formulation
4 of the financial plan, the authority shall:

5 (1) Consult with the assisted city as it prepares the
6 financial plan.

7 (2) Prescribe the form of the financial plan.

8 (3) Prescribe the supporting information required in
9 connection with the financial plan, which shall include, at a
10 minimum:

11 (i) Debt service payments due or projected to be due
12 during the relevant fiscal years.

13 (ii) Payments for legally mandated services included
14 in the financial plan and due or projected to be due
15 during the relevant fiscal years.

16 (iii) A statement in reasonable detail of the
17 significant assumptions and methods of estimation used in
18 arriving at the projections in the financial plan.

19 (4) Exercise any right of approval or disapproval and
20 issue any recommendation authorized by this act in accordance
21 with the standards for formulation of the financial plan
22 under section 209(c).

23 (b) Authority functions after plan is approved.--After a
24 financial plan of an assisted city has been approved, the
25 authority shall:

26 (1) Receive and review:

27 (i) The financial reports submitted by the chief
28 fiscal officer of the assisted city under section 209(j).

29 (ii) Reports concerning the debt service
30 requirements on all bonds, notes of the assisted city and
31 lease payments of the assisted city securing bonds or
32 other government agencies for the following quarter. The
33 reports shall be in a form and contain information as the
34 authority shall determine and shall be issued no later
35 than 60 days prior to the beginning of the quarter to
36 which they pertain. The reports shall be updated
37 immediately at each issuance of bonds or notes by the
38 assisted city or execution of a lease securing bonds of
39 another government agency after the date of the report to
40 reflect any change in debt service requirements as a
41 result of the issuance.

42 (iii) Any additional information provided by the
43 assisted city concerning changed conditions or unexpected
44 events that may affect the assisted city's adherence to
45 the financial plan. The reports described in subparagraph
46 (ii) shall be certified by the controller of the assisted
47 city.

48 (2) Determine, on the basis of information and reports
49 described in paragraph (1), whether the assisted city has
50 adhered to the financial plan.

51 (c) Variation from the plan.--

1 (1) If the authority determines, based upon reports
2 submitted by the assisted city under subsection (b) or
3 independent audits, examinations or studies of an assisted
4 city's finances obtained under subsection (i)(3), that the
5 assisted city's actual revenues and expenditures vary from
6 those estimated in the financial plan, the assisted city
7 shall provide additional information as the authority deems
8 necessary to explain the variation.

9 (2) The authority shall take no action with respect to
10 the assisted city for variations from the financial plan in a
11 fiscal quarter if:

12 (i) The assisted city provides a written explanation
13 for the variation that the authority deems reasonable.

14 (ii) The assisted city proposes remedial action that
15 the authority believes will restore the assisted city's
16 overall compliance with the financial plan.

17 (iii) Information provided by the assisted city in
18 the immediately succeeding quarterly financial report
19 demonstrates that the assisted city is taking remedial
20 action and otherwise is complying with the financial
21 plan.

22 (iv) The assisted city submits monthly supplemental
23 reports in accordance with section 209(j) until the
24 assisted city regains compliance with the financial plan.

25 (d) Authority may make recommendations.--The authority may
26 at any time issue recommendations as to how an assisted city may
27 achieve compliance with the financial plan and shall provide
28 copies of the recommendations to the chief fiscal officer and
29 the governing body of the city and to the officials specified in
30 section 203(b)(4).

31 (e) When Commonwealth shall withhold funds.--

32 (1) An authority shall certify to the Secretary of the
33 Budget the assisted city's noncompliance with the financial
34 plan during any period when the authority has determined that
35 the assisted city is not in compliance with the plan and has
36 not taken acceptable remedial action during the next quarter
37 following noncompliance with the plan.

38 (2) The authority shall certify to the Secretary of the
39 Budget that the assisted city is not in compliance with the
40 financial plan if the assisted city:

41 (i) has no financial plan approved by the authority,
42 has failed to provide requested documents or has failed
43 to file a plan with the authority; or

44 (ii) has failed to file mandatory revisions to the
45 financial plan or reports as required by section 209(i),
46 (j), (k) or (l).

47 (3) (i) If the authority certifies that an assisted
48 city is not in compliance with the financial plan under
49 paragraph (1) or (2), the Secretary of the Budget shall
50 notify the assisted city that the certification has been
51 made and that each grant, loan, entitlement or payment to

1 the assisted city by the Commonwealth shall be withheld
2 pending compliance with the plan.

3 (ii) Funds withheld shall be held in escrow by the
4 Commonwealth until compliance with the financial plan is
5 restored as specified in paragraph (4).

6 (iii) Funds held in escrow under this paragraph
7 shall not lapse under section 621 of the act of April 9,
8 1929 (P.L.177, No.175), known as The Administrative Code
9 of 1929, or any other law.

10 (4) The authority shall determine when the conditions
11 which caused the assisted city to be certified as
12 noncompliant with the financial plan have ceased to exist and
13 shall promptly notify the Secretary of the Budget of the
14 vote.

15 (5) After receipt of the notice, the Secretary of the
16 Budget shall release all funds held in escrow, together with
17 all interest and income earned on the funds during the period
18 held in escrow, and the disbursements of amounts in the city
19 account shall resume.

20 (f) Exemptions.--Notwithstanding the provisions of
21 subsection (e), the following shall not be withheld from an
22 assisted city:

23 (1) Funds granted or allocated to the assisted city
24 directly from an agency of the Commonwealth or from the
25 Federal Government for distribution by the Commonwealth after
26 the declaration of a disaster resulting from a catastrophe.

27 (2) Funds for capital projects under contract in
28 progress.

29 (3) Pension fund payments required by law.

30 (4) Funds the assisted city has pledged to repay bonds
31 or notes.

32 (g) Effect of Commonwealth's failure to disburse funds.--The
33 provisions of subsection (e) shall not apply and an assisted
34 city shall not be found to have departed from the financial plan
35 due to the Commonwealth's failure to pay any money, including
36 payment of Federal funds distributed by or through the
37 Commonwealth, due to the assisted city from money appropriated
38 by the General Assembly.

39 (h) Assisted city to determine expenditure of available
40 funds.--Nothing in this act shall be construed to limit the
41 power of an assisted city to determine from time to time, within
42 available funds of the assisted city, the purposes for which
43 expenditures will be made by the assisted city and the amounts
44 of the expenditures then permitted under the financial plan of
45 the assisted city.

46 (i) Documents and examinations to be reviewed or undertaken
47 by authority.--An authority shall:

48 (1) Receive from the assisted city and review the
49 reports, documents, budgetary and financial planning data and
50 other information prepared by or on behalf of the assisted
51 city and that are made available to the authority under this

1 act.

2 (2) Inspect and copy the books, records and information
3 of the assisted city as the authority deems necessary to
4 accomplish the purposes of this act.

5 (3) Conduct or cause to be conducted independent audits,
6 examinations or studies of the assisted city's finances as
7 the authority deems appropriate.

8 (j) Remedies of authority for failure of assisted city to
9 file financial plans and reports.--

10 (1) In the event that an assisted city fails to file
11 with the authority a financial plan, revision to a plan,
12 report or other information required to be filed with the
13 authority under this act, the authority, in addition to all
14 other rights that the authority may have at law or in equity,
15 may by mandamus compel the assisted city and the officers,
16 employees and agents of the assisted city to file with the
17 authority the financial plan, revision to a plan, report or
18 other information that the assisted city has failed to file.

19 (2) The authority shall provide the assisted city
20 written notice of the failure of the assisted city to file
21 and of the authority's intention to initiate an action under
22 this subsection and shall not initiate the action earlier
23 than 10 days after the giving of the notice.

24 Section 211. Investment of funds.

25 Funds of an authority that are not required for immediate use
26 may be invested in obligations of an assisted city or in
27 obligations of the Federal Government or of the Commonwealth or
28 obligations that are legal investments for Commonwealth funds.
29 No money may be invested in obligations issued by or obligations
30 guaranteed by the assisted city without the approval of the
31 board.

32 Section 212. Sovereign immunity.

33 No member of the board shall be liable personally for any
34 obligations of the authority. It is hereby declared to be the
35 intent of the General Assembly that each authority created by
36 this act and its members, officers, officials and employees
37 shall enjoy sovereign and official immunity as provided in 1
38 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed;
39 specific waiver) and shall remain immune from suit except as
40 provided by and subject to the provisions of 42 Pa.C.S. Ch. 85
41 (relating to matters affecting government units).

42 CHAPTER 7

43 MISCELLANEOUS PROVISIONS

44 Section 701. Appropriation.

45 The sum of \$100,000 is hereby appropriated from the General
46 Fund to an authority which holds its initial organizational
47 meeting under section 202(c) on or before May 1, 2019. The funds
48 appropriated shall be used to provide operating funds for the
49 authority. Any unencumbered sums then remaining shall lapse June
50 30, 2019.

51 Section 702. General rights and prohibitions.

1 Nothing in this act shall limit the rights or impair the
2 obligations of an assisted city to comply with the provisions of
3 a contract in effect on the date the city was deemed an assisted
4 city under this act or shall in any way impair the rights of the
5 obligees of any assisted city with respect to the contract.

6 Section 703. Nondiscrimination.

7 Each authority shall comply in all respects with the
8 nondiscrimination and contract compliance plans used by the
9 Department of General Services to assure that all persons are
10 accorded equality of opportunity in employment and contracting
11 by the authority and its contractors, subcontractors, assignees,
12 lessees, agents, vendors and suppliers.

13 Section 704. Construction of act.

14 (a) Liberal construction.--The provisions of this act
15 providing for security for and rights and remedies of obligees
16 of each authority shall be liberally construed to achieve the
17 purposes stated and provided by this act.

18 (b) Severability.--If any provision of the title or any
19 chapter, section or clause of this act or the application
20 thereof to any person, party or corporation, public or private,
21 shall be judged invalid by a court of competent jurisdiction,
22 the order or judgment shall be confined in its operation to the
23 controversy in which it was rendered and shall not affect or
24 invalidate the remainder of any provision of the title or any
25 chapter or any section or clause of this act or the application
26 of any part thereof to any other person, party or corporation,
27 public or private, or circumstance, and to this end the
28 provisions of the title or any chapter, section or clause of
29 this act hereby are declared to be severable. It is hereby
30 declared as the legislative intent that this act would have been
31 adopted had any provision declared unconstitutional not been
32 included in this act.

33 Section 705. Limitation of authority powers.

34 Except as provided in section 203(c)(4), nothing contained in
35 this act shall be construed to confer upon an authority any
36 powers with respect to a school district.

37 Section 706. Extension of plan.

38 The following shall apply:

39 (1) Notwithstanding the provisions of the act of July
40 10, 1987 (P.L.246, No.47), known as the Municipalities
41 Financial Recovery Act, to the contrary, a plan adopted for a
42 city under the Municipalities Financial Recovery Act shall
43 continue until an intergovernmental cooperation agreement is
44 entered into by the city and an authority under section
45 203(d).

46 (2) The distressed status of a city under the
47 Municipalities Financial Recovery Act shall terminate when an
48 intergovernmental cooperation agreement is entered into by
49 the city and an authority under section 203(d).

50 Section 707. Taxes.

51 (a) General rule.--Notwithstanding any law to the contrary,

1 a city which is or has been an assisted city that is levying or
2 has been authorized to levy within the previous three fiscal
3 years a local services tax in excess of \$52 and a tax on earned
4 income tax in excess of 1% on residents of the city shall be
5 authorized to levy until the termination date:

6 (1) a local services tax at a rate which does not exceed
7 \$156 per year; and

8 (2) an earned income tax on residents which does not
9 exceed 2%.

10 (b) Prohibition on commuter tax.--A city which is or has
11 been an assisted city shall not levy a tax or fee on the earned
12 income of nonresidents which is not levied on the date of
13 termination of receivership or on the effective date of this
14 section, whichever is later. Such tax or fee shall not be in
15 excess of the amount authorized in the act of December 31, 1965
16 (P.L.1257, No.511), known as The Local Tax Enabling Act.
17 Section 708. Repeal.

18 All acts and parts of acts are repealed insofar as they are
19 inconsistent with this act.

20 Section 709. Effective date.

21 This act shall take effect immediately.