

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 118

Session of
1975

INTRODUCED BY FRYER, RUGGIERO, MORRIS, YAHNER, PETRARCA,
SHUMAN, ZELLER, DOYLE, O'KEEFE, DeMEDIO, GARZIA,
MEBUS, A. C. FOSTER JR., WEIDNER, BURNS, GRING,
NOYE, LEVI, ABRAHAM, TRELLO AND W. D. HUTCHINSON,
JANUARY 27, 1975

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 27, 1975

AN ACT

1 Amending the act of July 12, 1972 (P.L.781, No.185), entitled,
2 as amended, "An act providing debt limits for local
3 government units, including municipalities and school
4 districts; providing the methods of incurring, evidencing,
5 securing and collecting debt; defining the powers and duties
6 of the Department of Community Affairs and certain other
7 public officers and agencies with respect thereto; exercising
8 the inherent legislative authority of the General Assembly by
9 providing additional over-all limitations on the incurring of
10 lease rental and other obligations for the acquisition of
11 capital assets to be repaid from the general tax revenues of
12 such local government units; imposing penalties for filing
13 false or untrue statements or refusing to give information
14 with respect to proceedings for the incurring of debt; and
15 conferring jurisdiction on the Commonwealth Court with
16 respect to certain proceedings relating to the incurring of
17 debt," providing for exemption from department approval of
18 bonds or notes or lease rental debt of fifty thousand dollars
19 or thirty percent of the borrowing base whichever is less.

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

22 Section 1. Section 409, act of July 12, 1972 (P.L.781,
23 No.185), known as the "Local Government Unit Debt Act," is
24 amended to read:

25 [Section 409. Borrowing by Notes.--(a) Even though no bond

1 issue has been previously authorized, a local government unit,
2 by ordinance of its governing body, may borrow money on notes
3 for all or any part of the cost of a project other than one
4 involving funding debt. The debt incurred shall be evidenced by
5 general obligation notes, guaranteed revenue notes or revenue
6 notes, as the case may be, and shall be subject to the
7 limitations and restrictions provided in Article II of this act.
8 All general obligation notes or guaranteed revenue notes shall
9 contain the covenant required by section 404 of this act.

10 (b) Such notes shall be stated to mature in five years or
11 less from the date of issue and, unless previously refunded by
12 subsequently authorized bonds, not less than seventeen and one-
13 half per cent in principal amount of the series shall be repaid
14 on or before the end of the first year; an additional nineteen
15 per cent on or before the end of the second year; an additional
16 twenty per cent on or before the end of the third year; an
17 additional twenty-one per cent on or before the end of the
18 fourth year; and the balance on or before the end of the fifth
19 year.

20 (c) Such notes may be issued and sold as provided in Article
21 VII of this act.

22 (d) Prior to any delivery of notes to a lender the local
23 government shall file a debt statement and a transcript of the
24 proceedings with the department, in accordance with sections 410
25 and 411 of this act and no notes shall be delivered to a lender
26 until the department shall have issued its approval, or its
27 approval shall be deemed to have been given pursuant to section
28 806 of this act.

29 (e) Notes may be excluded from nonelectoral debt as
30 subsidized debt or self-liquidating debt in the manner provided

1 in Article II.]

2 Section 409. Small Borrowing.--Any local government unit is
3 hereby authorized to incur debt by ordinance to be evidenced by
4 notes to provide funds for a project as defined in this act
5 without complying with the requirements of Article VIII
6 provided: (i) that the aggregate amount of such debt outstanding
7 at any one time shall not exceed the lesser of fifty thousand
8 dollars (\$50,000) or thirty percent of the borrowing base; (ii)
9 that the principal of each such debt shall mature not later than
10 five years from the date of issuance; (iii) that the incurrence
11 of such debt shall not cause the debt limits of Article II to be
12 exceeded; (iv) that a debt statement prepared pursuant to
13 section 410 certifying thereon compliance with this act shall be
14 filed with the department; and (v) that the provisions of
15 section 10 of Article IX of the Constitution shall have been
16 observed.

17 Section 2. Subsections (a) and (b) of section 411 of the
18 act, clause (3) of subsection (a) of section 411 amended October
19 11, 1972 (P.L.901, No.214), are amended to read:

20 Section 411. Submission to Department.--(a) Before
21 delivering any bonds or notes in excess of fifty thousand
22 dollars (\$50,000) or thirty percent of the borrowing base,
23 whichever is lesser, the local government unit shall apply for
24 the approval of the department. The application, in such form as
25 the department shall prescribe shall be accompanied by a
26 transcript of the proceedings consisting of certified copies of
27 any of the following which are applicable:

28 (1) The ordinance calling the election in the case of
29 electoral debt with proofs of all proper advertisements;

30 (2) The return of election;

1 (3) The ordinance or ordinances or resolution authorizing
2 the bonds or notes and prescribing the manner of sale with
3 proofs of proper publication;

4 (4) The accepted proposal for the purchase of the bonds or
5 notes;

6 (5) The ordinance or ordinances awarding the bonds or notes
7 with proofs of proper publication;

8 (6) The debt statement prepared pursuant to section 410;

9 (7) Such certificates and proofs as may be necessary for the
10 exclusion of any portion of the series proposed to be delivered
11 or any prior series as self-liquidating debt or subsidized debt
12 if such exclusion is desired by the local government unit.

13 (b) Before becoming bound in an amount in excess of fifty
14 thousand dollars (\$50,000) or thirty percent of the borrowing
15 base, whichever is lesser, on any lease evidencing the
16 acquisition of a capital asset, a local government unit shall
17 apply for and receive the approval of the department. The
18 application, in such form as the department shall prescribe,
19 shall be accompanied by certified copies of the following:

20 (1) The ordinance authorizing the execution of the lease;
21 and

22 (2) The debt statement prepared pursuant to section 410.

23 * * *

24 Section 3. The act is amended by adding a section to read:

25 Section 811. Applicability.--The provisions of this article
26 shall not apply to any bonds, notes and lease rentals in an
27 amount of fifty thousand dollars (\$50,000) or thirty percent of
28 the borrowing base whichever is less.

29 Section 4. Subsection (a) of section 901 of the act, amended
30 October 11, 1972 (P.L.901, No.214), is amended to read:

1 Section 901. Appeals by Interested Parties and Taxpayers.--

2 (a) Where proceedings for the incurring of debt and sale of
3 bonds or notes or the exclusion of debt as self-liquidating or
4 subsidized have been taken by a local government unit and the
5 department shall have certified or shall have been deemed to
6 have certified its approval or disapproval of the series or the
7 exclusion of any debt from net nonelectoral and net lease rental
8 or where department approval is not required and the fact of
9 final adoption of the ordinance approving the sale or the
10 exclusion shall have been advertised one time in a newspaper of
11 general circulation in the area of the local government unit,
12 such local government unit or any other interested party, or any
13 taxpayer of the local government unit may appeal within fifteen
14 days from the earlier of:

15 (1) The date of advertisement of the fact of the final
16 passage of the ordinance approving the sale of the bonds; or

17 (2) The date of the department's certificate of approval,
18 the date it is deemed to have been approved, or the date of its
19 disapproval. The appeal shall be by petition to the Commonwealth
20 Court. The petition shall allege the error or errors in the
21 proceedings in the manner required of bills in equity, and the
22 burden of persuading the trier of fact as to all matters of fact
23 shall be upon the appellant.

24 * * *

25 Section 5. This act shall take effect immediately.