

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

# HOUSE BILL

## No. 1075

Session of  
1977

---

INTRODUCED BY MESSRS. PIEVSKY, JOHNSON, COHEN, RIEGER, OLIVER,  
MRS. SCANLON, MESSRS. GIAMMARCO, JONES, BORSKI, McINTYRE,  
WIGGINS, DUMAS, BARBER, GREENFIELD, WHITE, MRS. HARPER,  
MESSRS. CIANCIULLI AND RICHARDSON, APRIL 27, 1977

---

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 21, 1977

---

## AN ACT

1 Providing for the creation of the Public School Finance  
2 Assistance Authority and providing for its powers and duties;  
3 and imposing additional powers and duties on the Department  
4 of Education.

## 5 TABLE OF CONTENTS

## 6 Chapter 1. General Provisions.

7 Section 101. Short title.

8 Section 102. Legislative findings and determination of  
9 policy.

10 Section 103. Definitions.

## 11 Chapter 2. Public School Finance Assistance Authority

12 Section 201. Creation of authority.

13 Section 202. General powers.

14 Section 203. Limitation on contracts.

15 Section 204. Leases, loans and transfer of buildings.

## 16 Chapter 3. Bonds; Notes; Obligations of the Authority

17 Section 301. Issuance of bonds and notes.

1       Section 302.   Credit of Commonwealth or any subdivision  
2                               not pledged.  
3       Section 303.   Moneys of the authority.  
4       Section 304.   Annual report, books and records of the  
5                               authority.  
6       Section 305.   Exemptions from taxation.  
7       Section 306.   Bonds as legal investments.  
8       Section 307.   Covenant by Commonwealth not to limit or  
9                               alter powers vested in authority.  
10   Chapter 4.   Powers and Duties of the Secretary of Education  
11       Section 401.   Application.  
12       Section 402.   Requirements for application.  
13       Section 403.   Initial review by secretary.  
14       Section 404.   Financial schedule.  
15       Section 405.   Agreements.  
16       Section 406.   Approval of agreements.  
17       Section 407.   Closing.  
18       Section 408.   Amendments to financial schedule.  
19       Section 409.   Investigation and audits by the department.  
20       Section 410.   Noncompliance by school district.  
21       Section 411.   Special board of control; petition,  
22                               appointments.  
23       Section 412.   Powers of the special board of control.  
24       Section 413.   Additional tax.  
25       Section 414.   School directors to remain in  
26                               office; elections.  
27       Section 415.   Payments to school districts.  
28       Section 416.   Withholding Commonwealth funds for unpaid  
29                               indebtedness.

30   Chapter 5.   Rules and Regulations; Effective Date

1 Section 501. Rules and regulations.

2 Section 502. Secretary.

3 Section 503. Severability.

4 Section 504. Authorized investments for school district  
5 funds.

6 Section 505. Effective date.

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

9 CHAPTER 1

10 GENERAL PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the "Public  
13 School Finance Assistance Act."

14 Section 102. Legislative findings and determination of policy.

15 It is hereby determined and declared as a matter of  
16 legislative finding that:

17 (1) The welfare of the Commonwealth is threatened by the  
18 fact that some school districts may not be able to find  
19 adequate funding.

20 (2) The tax burden of the citizens of Pennsylvania is  
21 already at a very high level of their incomes.

22 (3) As the economy expands, and school enrollments  
23 stabilize or are reduced, the taxing authority of school  
24 districts will be adequate to meet future expenses.

25 (4) The Commonwealth has a strong responsibility to  
26 assist financially hard-pressed school districts in order to  
27 promote the educational opportunities of all of its citizens.  
28 The Commonwealth recognizes its obligation to assist these  
29 school districts to restore financial stability by providing  
30 the guidance of the Secretary of Education and paying the

1 school districts for some of the costs associated with  
2 restoring their financial health.

3 (5) The Commonwealth has a responsibility to promote  
4 educational opportunities by assisting school districts to  
5 plan for long-term financial stability.

6 (6) Therefore, it is hereby declared to be the policy of  
7 this Commonwealth to create an authority to issue bonds and  
8 to enact a program to:

9 (i) Loan money to or purchase school buildings from  
10 school districts for the purpose of assisting them in  
11 achieving and maintaining fiscal stability;

12 (ii) Require the preparation of a financial plan by  
13 school districts from which school buildings are  
14 purchased or qualify and apply for such loans;

15 (iii) Empower the Secretary of Education to monitor  
16 the finances of those school districts which qualify and  
17 file financial plans and receive loans or from which  
18 school buildings are to be purchased;

19 (iv) Authorize the Secretary of Education to apply  
20 sanctions to any school district participating in the  
21 loan program, or from which school buildings are  
22 purchased, which fails to comply with its approved  
23 financial plan.

#### 24 Section 103. Definitions.

25 The following words and phrases when used in this act shall  
26 have, unless the context clearly indicates otherwise, the  
27 meanings given to them in this section:

28 "Authority." The body politic and corporate created by this  
29 act.

30 "Bond" or "bonds." Notes, or any renewals thereof, bonds,

1 refunding bonds and other evidences of indebtedness or  
2 obligations of the authority.

3 "Department." The Department of Education.

4 "School building." Includes, but shall not be limited to,  
5 any structure used or useful for schools and playgrounds,  
6 including facilities for physical education.

7 "School district." A school district as defined in the act  
8 of March 10, 1949 (P.L.30, No.14), known as the "Public School  
9 Code of 1949."

10 "Secretary." The Secretary of Education.

11 "Unfunded debt of a school district." ~~Its obligations~~ ANY <—  
12 OBLIGATION OF A SCHOOL DISTRICT of the same or a prior year,  
13 properly contracted for current expenses (including tax  
14 anticipation notes) due and owing, which taxes and other  
15 revenues of the school district remaining to be collected in the  
16 fiscal year and funds on hand will not be sufficient to pay  
17 without a curtailment of school district services to an extent  
18 which endangers the proper education of school children.

19 CHAPTER 2

20 PUBLIC SCHOOL FINANCE ASSISTANCE AUTHORITY

21 Section 201. Creation of authority.

22 (a) Members.--The Governor, the State Treasurer, the Auditor  
23 General, the Secretary of Education, the Secretary of General  
24 Services, the President pro tempore of the Senate, the Speaker  
25 of the House of Representatives, the minority leader of the  
26 Senate, the minority leader of the House of Representatives, and  
27 their respective successors in office are hereby created a body  
28 corporate and politic, constituting a public corporation and  
29 government instrumentality by the name of the "Public School  
30 Finance Assistance Authority." The President pro tempore of the

1 Senate and minority leader of the Senate and the Speaker of the  
2 House of Representatives and minority leader of the House ~~or~~ OF <—  
3 Representatives may designate any member of the Senate or House,  
4 respectively, to act in their stead to serve at the discretion  
5 of the respective President pro tempore or minority leader and  
6 Speaker of the House of Representatives or minority leader. Such  
7 designees, if any, shall be the same persons designated under  
8 the "State Public School Building Authority Act." Said members  
9 of the authority shall be entitled to no compensation for their  
10 services as members but shall be entitled to reimbursement for  
11 all necessary expenses incurred in connection with the  
12 performance of their duties as members.

13 (b) Term for members of General Assembly.--The President pro  
14 tempore of the Senate and the Speaker of the House of  
15 Representatives, the minority leader of the Senate and the  
16 minority leader of the House of Representatives, shall continue  
17 as members of the authority until their respective successors in  
18 office assume such office, regardless of whether or not they  
19 shall have ceased to be members of the Senate or the House of  
20 Representatives.

21 (c) Deputy permitted.--The ~~member~~ MEMBERS of the authority <—  
22 may authorize by written proxy or authorization a personal  
23 deputy to appear and act for them at a meeting and for the  
24 purposes specified in such written proxy or authorization,  
25 provided that a separate written authorization or proxy shall be  
26 required for each separate meeting.

27 Section 202. General powers.

28 The authority is hereby granted and shall have and may  
29 exercise all the powers necessary or convenient for the carrying  
30 out of the aforesaid purposes, including but without limiting

1 the generality of the foregoing, the following rights and  
2 powers:

3 (1) To have perpetual existence as a corporation;

4 (2) To sue and be sued, implead and be impleaded,  
5 complain and defend, in all courts;

6 (3) To adopt, use and alter at will a corporate seal;

7 ~~use any property real, personal or mixed, tangible or~~ <—

8 (4) TO ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE AND USE <—

9 ANY PROPERTY, REAL, PERSONAL OR MIXED, TANGIBLE OR

10 intangible, or any interest therein (necessary or desirable)

11 for carrying out the purpose of the authority, and to sell,

12 lease AS LESSOR, transfer and dispose of any property or any <—

13 interest therein at any time acquired by it;

14 ~~(4)~~ (5) To make bylaws for the management and regulation <—

15 of its affairs;

16 ~~(5)~~ (6) To obtain only from the State Public School <—

17 Building Authority OR THE DEPARTMENT OF EDUCATION, for a fee, <—

18 those executive, fiscal and administrative services, as may

19 be required to carry out the functions of the authority under

20 this act;

21 ~~(6)~~ (7) To ACQUIRE AND LEASE SCHOOL BUILDINGS AND TO <—

22 fix, alter, charge and collect rentals, and other charges for

23 the use of the facilities of, or for the services rendered by

24 the authority, at reasonable rates to be determined by it for

25 the purpose of providing for the payment of the expenses of

26 the authority, not provided for by appropriation by the

27 Commonwealth, or otherwise, the construction, improvement,

28 repair, equipping and furnishing, maintenance and operation

29 of its facilities and properties, the payment of the

30 principal of, and interest on, its obligations, and to

1 fulfill the terms and provisions of any agreements made with  
2 the purchasers or holders of any such obligations OR <—  
3 AGREEMENTS MADE WITH ANY SCHOOL DISTRICT AS PROVIDED FOR IN  
4 THIS ACT;

5 ~~(7)~~ (8) To borrow money for the purposes of making loans <—  
6 to school districts and purchasing public school buildings;

7 ~~(8)~~ (9) To make loans to school districts in accordance <—  
8 with ~~this act on such~~ THE terms and conditions ~~as it deems~~ <—  
9 ~~desirable~~ OF THIS ACT subject to the approval of the <—  
10 secretary;

11 ~~(9)~~ (10) To make and issue bonds and to secure the <—  
12 payment of all such bonds and to make such agreements with  
13 the purchasers or holders of all such bonds, or with others  
14 in connection with all such bonds, whether issued or to be  
15 issued as the authority shall deem advisable, and in general  
16 to provide for the security for all such bonds and the rights  
17 of the holders thereof; and in connection therewith to enter  
18 into a trust indenture, deed of trust, mortgage, or other  
19 similar security instrument with any bank or trust company as  
20 indenture trustee, trustee, ~~mortgage~~ MORTGAGEE or equivalent: <—  
21 Provided, however, That each separate issue of bonds shall be  
22 issued pursuant to a trust indenture, deed of trust, mortgage  
23 or other similar security instrument, separate, distinct and  
24 apart from that of each and every other issue of bonds:  
25 Provided further, That a particular bank or trust company may  
26 be designated by the authority as indenture trustee with  
27 respect to more than one trust indenture;

28 ~~(10)~~ (11) Without limitation of the foregoing, to borrow <—  
29 money, and accept grants from, and to enter into contracts,  
30 leases or other transactions with any Federal agency;



1           ~~(11)~~ (12) To pledge, hypothecate, mortgage or otherwise     <—  
2     encumber, all or any of the school buildings, revenues or  
3     receipts of the authority as security for all, or any of the  
4     obligations of the authority;

5           (13) TO CONDUCT A DESK AUDIT AND A PRE-AUDIT BY THE     <—  
6     STATE TREASURER IMMEDIATELY TO DETERMINE THE FISCAL POSITION  
7     OF THE PHILADELPHIA SCHOOL DISTRICT, ADDITIONALLY A PRE-AUDIT  
8     SHOULD BE CONDUCTED ANNUALLY THEREAFTER TO ASSURE FISCAL  
9     ACCOUNTABILITY;

10          ~~(12)~~ (14) To do all acts and things necessary or     <—  
11     convenient to carry out the powers granted to it by this act.  
12     ~~or any other acts.~~     <—

13 Section 203. Limitation on contracts.

14     No contract for the purchase, sale or lease of school  
15     buildings or for the loan of money, or for any other purpose,  
16     shall be executed between the authority and school districts or  
17     municipality authorities created by school districts without  
18     specific prior written approval of the secretary.

19 Section 204. Leases, loans and transfer of buildings.

20     (a) Authorization to lease.--Any school district or  
21     districts within the Commonwealth shall have power and authority  
22     to lease as lessee from the authority any school building, and  
23     the furnishings and equipment thereof for a term, with respect  
24     to each not exceeding 40 years, at such rental or rentals as may  
25     be determined by the authority. THE RENTAL OR RENTALS SHALL BE     <—  
26     AMORTIZED OVER THE PERIOD OF THE LEASE, BUT THE SCHOOL  
27     DISTRICT'S ANNUAL RENTAL PAYMENT FIXED BY THE AUTHORITY IN SUCH  
28     LEASE SHALL BE OF SUFFICIENT AMOUNT AS TO REIMBURSE THE  
29     AUTHORITY FOR THE AMOUNT OF PRINCIPAL AND THE INTEREST ACCRUED  
30     OR TO ACCRUE ANNUALLY ON THE OUTSTANDING BONDS AND NOTES AND

1 SUCH OTHER COSTS OF THE AUTHORITY, AS SHALL BE PRORATED AND  
2 ALLOCATED BY THE AUTHORITY AS ANNUAL PAYMENT FROM SUCH SCHOOL  
3 DISTRICT.

4 (b) Authorization to borrow money.--Any school district or  
5 districts within the Commonwealth shall have the power and  
6 authority to borrow money from the authority and to transfer  
7 title of school buildings to the authority as part of such loan  
8 transaction. THE LOAN SHALL BE AMORTIZED OVER THE PERIOD OF THE <—  
9 LOAN AGREEMENT BUT THE ANNUAL PAYMENT FIXED BY THE AUTHORITY IN  
10 THE SCHOOL DISTRICT'S LOAN AGREEMENT SHALL BE OF SUFFICIENT  
11 AMOUNT TO REIMBURSE THE AUTHORITY FOR THE PRINCIPAL AND INTEREST  
12 ACCRUED OR TO ACCRUE ANNUALLY ON THE OUTSTANDING BONDS OR NOTES  
13 AND SUCH OTHER ANNUAL COSTS OF THE AUTHORITY AS SHALL BE  
14 PRORATED AND ALLOCATED BY THE AUTHORITY AS ANNUAL PAYMENT FROM  
15 SUCH SCHOOL DISTRICT.

16 (c) Conveyance of lands.-- Any school district shall have  
17 the power and authority, with the approval of the Secretary of  
18 Education, to grant, assign and convey to the authority, with or  
19 without consideration, any lands, easements or rights in lands  
20 together with any improvements, school buildings or structures  
21 therein or thereon, now owned by such school district or  
22 hereafter acquired by it, needed or convenient to carry out the  
23 purposes of this act, as well as furnishings and equipment for  
24 school buildings.

25 (d) Reconveyance by authority.-- When the authority shall  
26 have finally paid and discharged all bonds, including refunding  
27 bonds, together with all interest due thereon, which were issued  
28 for the purposes of this act and shall have paid any and all  
29 other charges and obligations incurred, the authority may  
30 reconvey such school buildings conveyed to it in connection with

1 the issuance of such bonds to the school district to which such  
2 buildings were leased.

3 CHAPTER 3

4 BONDS; NOTES; OBLIGATIONS OF THE AUTHORITY

5 Section 301. Issuance of bonds and notes.

6 (a) Power to issue bonds.-- The authority shall have the  
7 power and is hereby authorized from time to time to issue its  
8 bonds, either as serial bonds, maturing in annual installments  
9 or as term bonds, or any combination thereof, in such principal  
10 amount as in the opinion of the authority shall be necessary to  
11 provide sufficient funds for achieving its corporate purposes,  
12 including but not limited to the payment of interest on bonds of  
13 the authority, establishment of reserves to secure such bonds  
14 and all other expenditures of the authority incident to and  
15 necessary or convenient to carry out its corporate purposes and  
16 powers. The authority shall have power, from time to time, to  
17 issue bonds to pay notes and whenever it deems refunding  
18 expedient to refund any or all bonds by the issuance of new  
19 bonds, whether the bonds to be refunded have or have not  
20 matured, and to issue bonds partly to refund bonds then  
21 outstanding and partly for any other purpose. The proceeds of  
22 the refunding bonds shall be applied to the purchase, redemption  
23 or payment of the bonds to be refunded, all as authorized by the  
24 authority.

25 (b) Form of bonds.-- The bonds shall be authorized by  
26 resolution of the authority, shall bear such date or dates, and  
27 shall mature at such time or times, not exceeding 40 years from  
28 the date of issue, as such resolution or resolutions may  
29 provide. The bonds shall bear interest at such rate or rates, be  
30 in such denominations, be in such form, either coupon or

1 registered, carry such registration privileges, contain such  
2 terms and provisions relating to, but not limited to, pledges of  
3 the assets, setting aside of reserves, limitations ~~on~~ ON <—  
4 additional bonds, and such other matters as may affect the  
5 security or protection of the bonds, be executed in such manner,  
6 be payable in such medium of payment, at such place or places  
7 and be subject to such terms of redemption as such resolution or  
8 resolutions may provide. The bonds of the authority may be sold  
9 at public or private sale, at such price or prices as the  
10 authority shall determine.

11 (c) Liability for bonds.-- Neither the members of the  
12 authority nor any person executing the bonds shall be liable  
13 personally on the bonds or be subject to any personal liability  
14 or accountability by reason of the issuance thereof.

15 (d) Repurchase of bonds.-- The authority, subject to such  
16 agreement with bondholders as may then exist, shall have the  
17 power out of any funds available therefor to purchase its bonds,  
18 which shall thereupon be cancelled, at a price not exceeding:

19 (1) if the bonds are then redeemable, the redemption  
20 price then applicable plus accrued interest to the next  
21 interest payment date thereupon, or

22 (2) if the bonds are not then redeemable, the redemption  
23 price applicable on the first date after such purchase upon  
24 which the bonds become subject to redemption plus accrued  
25 interest to such date.

26 Section 302. Credit of Commonwealth or any subdivision not  
27 pledged.

28 Except as may otherwise be expressly provided by the  
29 authority, its bonds shall be general obligations of the  
30 authority payable out of any moneys or revenues of the

1 authority, including rental payments, the proceeds of loans made  
2 under this act, reserve funds created therefor by the authority,  
3 and other money lawfully available to the authority, subject  
4 only to any agreements with holders of the bonds pledging any  
5 moneys or revenues. Bonds of the authority issued under the  
6 provisions of this act shall not be deemed to constitute a debt  
7 of the Commonwealth or of any political subdivision thereof or a  
8 pledge of the faith and credit of the Commonwealth or of any  
9 such political subdivision thereof. ~~or a pledge of the faith~~ <—  
10 ~~and credit of the Commonwealth or of any such political~~  
11 ~~subdivision.~~ All such bonds shall contain on the face thereof a  
12 statement to the effect that neither the Commonwealth nor any  
13 political subdivision thereof shall be obligated to pay the same  
14 or the interest thereon and that neither the faith and credit  
15 nor the taxing power of the Commonwealth nor any political  
16 subdivision thereof is pledged to the payment of the principal  
17 of or the interest thereon.

18 Section 303. Moneys of the authority.

19 All moneys of the authority from whatever source derived  
20 shall be paid to the treasurer of the authority and shall be by  
21 him invested in United States Treasury obligations, obligations  
22 of agencies and instrumentalities of the United States, or  
23 obligations of this Commonwealth, or deposited in one or more  
24 banks or trust companies, AS EVIDENCED BY CERTIFICATES OF <—  
25 DEPOSIT OR OTHERWISE, in one or more special accounts until  
26 required to be transferred to one or more sinking funds or  
27 analogous funds in order to make payment of interest or  
28 principal on bonds of the authority. Each deposit shall be  
29 continuously secured by pledge of direct obligations of the  
30 United States of America or of this Commonwealth, bonds of the

1 ~~agency,~~ AUTHORITY, of other authorities of this Commonwealth, or <—  
2 of agencies and instrumentalities of the United States, having  
3 an aggregate market value, exclusive of accrued interest, at all  
4 times, at least equal to the balance on deposit in the account.  
5 The security shall be either deposited with the treasurer or  
6 held by a trustee or agent satisfactory to the authority. All  
7 banks and trust companies are authorized to give the security  
8 required. The treasurer shall make reasonable efforts to obtain  
9 the highest available yield on the investments or deposits.  
10 Interest or other income earned on the investments or deposits  
11 shall be used for debt service reduction, administrative  
12 expenses or for such other purposes as the authority may from  
13 time to time determine. The moneys of the authority shall be  
14 paid out on the warrant or other order of the treasurer of the  
15 authority or of another person authorized by the authority to  
16 execute warrants or orders. Moneys held in trust or otherwise to  
17 secure the payment of bonds or notes shall be secured in the  
18 same manner as moneys of the authority and all banks and trust  
19 companies are authorized to give security for such deposits.  
20 Notwithstanding the provisions of this section, the authority  
21 shall have power to contract with the holders of any of its  
22 bonds or notes ~~as~~ WITH RESPECT TO the custody, security, <—  
23 investment and payment of any moneys of the authority or any  
24 moneys held in trust or otherwise to secure the payment of bonds  
25 or notes. Any provisions with respect to custody, security,  
26 investment or payment of moneys of the authority shall not  
27 become effective until the resolution or trust indenture  
28 containing such contract with bondholders or noteholders shall  
29 have been approved in writing by the Governor.

30 Section 304. Annual report, books and records of the

1 authority.

2 The authority shall file an annual report with the Department  
3 ~~of Community Affairs.~~ OF EDUCATION AND THE GENERAL ASSEMBLY. The <—  
4 authority shall have its books, accounts and records audited  
5 annually by a certified public accountant and a copy of this  
6 audit shall be attached to and be made a part of the aforesaid  
7 annual report. A concise financial statement shall be published  
8 annually by the authority and shall be available for public  
9 inspection at the office of the authority. The Auditor General  
10 shall have the right to examine the books, accounts and records  
11 of the authority.

12 Section 305. Exemptions from taxation.

13 (a) Public purpose of authority.-- The creation of the  
14 authority is in all respects for the benefit of the people of  
15 the Commonwealth and for the improvement of their health,  
16 safety, welfare, comfort and security, and its purposes are  
17 public purposes and the authority will be performing an  
18 essential governmental function.

19 (b) Interest free of certain taxes.--The Commonwealth  
20 covenants with the purchasers and all subsequent holders and  
21 transferees of the bonds issued by the authority in  
22 consideration of the acceptance of any payment for the bonds,  
23 that the bonds of the authority issued pursuant to this act and  
24 the income therefrom shall at all times be free from taxation or  
25 assessment of every kind and nature except for inheritance,  
26 estate, gift and transfer taxes.

27 (c) Authority exempt from taxation.-- The authority shall be  
28 exempt from payment of any taxes or assessments upon any  
29 property acquired, held, owned, leased or used by it. The income  
30 and revenues of the authority shall likewise be free from

1 taxation.

2 Section 306. Bonds as legal investments.

3 The bonds of the authority are securities in which all public  
4 officers and bondholders of the Commonwealth and all municipalities  
5 and municipal subdivisions, all insurance companies and  
6 associations, and other persons carrying on an insurance  
7 business, all banks, trust companies, savings banks and savings  
8 associations, investment companies, all administrators,  
9 guardians, executors, trustees and other fiduciaries, and all  
10 other persons whatsoever who are now or may hereafter be  
11 authorized to invest in bonds or other obligations of the  
12 Commonwealth, may properly and legally invest funds, including  
13 capital, in their control or belonging to them.

14 Section 307. Covenant by Commonwealth not to limit or alter  
15 powers vested in authority.

16 The Commonwealth does hereby pledge and covenant and agree  
17 with the holders of any bonds issued pursuant to the authority  
18 of this act that the Commonwealth will not limit or alter the  
19 rights or powers hereby vested in the authority to perform and  
20 fulfill the terms of any agreement made with the holders of such  
21 bonds or in any way impair the rights or remedies of such  
22 holders, until such bonds, together with interest thereon, with  
23 interest on any unpaid installments of interest, and all costs  
24 and expenses in connection with any action or proceedings by or  
25 in behalf of such holders, are fully met and discharged or  
26 provided for. The authority may include this pledge and  
27 agreement of the Commonwealth in any agreement with the holders  
28 of bonds issued by the authority.

29 CHAPTER 4

30 POWERS AND DUTIES OF THE SECRETARY OF EDUCATION



1 Section 401. Application.

2 Any school district may apply and be considered for  
3 authorization to participate in the program provided by this act  
4 by filing an application with the secretary. Applications shall  
5 be submitted by the board of school directors in such form as  
6 the secretary may require.

7 Section 402. Requirements for application.

8 Each application shall state, and be supported by such  
9 adequate documentation as the secretary may require:

10 (1) that the school district has unfunded debt;

11 ~~(2) that the board of school directors is taxing real~~ <—  
12 ~~estate at the maximum rate set by statute or that the board~~

13 (2) (I) THAT THE BOARD OF SCHOOL DIRECTORS IS TAXING <—  
14 REAL ESTATE AT THE MAXIMUM RATE SET BY STATE STATUTE; OR

15 (II) THAT THE BOARD of school directors has levied  
16 real estate taxes such that the district is making a  
17 local real estate tax effort greater than 85% of the  
18 school districts in the Commonwealth and is taxing earned  
19 income at the maximum rate permitted under the act of  
20 December 31, 1965 (P.L.1257, No.511), known as "The Local  
21 Tax Enabling act." As used in this section, local tax  
22 effort means that figure determined by the secretary to  
23 be the mill equivalent of all taxes on equalized value;  
24 and

25 ~~(3) that the school district would experience~~ <—  
26 ~~substantial financial benefits through participation in the~~  
27 ~~programs provided by this act in addition to those benefits~~  
28 ~~due to receipt of subsidies as provided for in section 415.~~

29 (3) THAT THE SCHOOL DISTRICT WOULD EXPERIENCE A SEVERE <—  
30 CURTAILMENT OF SCHOOL DISTRICT SERVICES TO AN EXTENT WHICH

1       ENDANGERS THE PROPER EDUCATION OF SCHOOL CHILDREN IF THE  
2       SCHOOL DISTRICT DID NOT PARTICIPATE IN THIS ACT.

3   Section 403.   Initial review by secretary.

4       (a)   Review.--Upon receipt of an application the secretary  
5   shall review the statements and documentation submitted by the  
6   school district and shall determine whether or not the applicant  
7   meets the requirements set forth in section 402.

8       (b)   Procedure on approval.--If the secretary determines that  
9   an applicant meets the requirements set forth in section 402,  
10  and if he finds that the school district's participation in the  
11  programs provided by this act are in the best interests of the  
12  school district, he shall authorize the school district to file  
13  the financial schedule and agreements required by sections 404  
14  and 405 and to apply to and begin negotiations with the  
15  authority so that the school district may participate in the  
16  programs provided in this act.

17  Section 404.   Financial schedule.

18       (a)   Filing of schedule.--As a condition for receiving final  
19  approval to participate in the programs provided by this act,  
20  each school district authorized to negotiate with the authority  
21  pursuant to section 403, shall file with the secretary, for his  
22  approval, a financial schedule.

23       (b)   Content of schedule.--The financial schedule shall set  
24  forth in detail:

25           (1)   The budgets of the school district for the current  
26       and preceding year.

27           (2)   A complete statement of all current obligations  
28       whether funded or unfunded.

29           (3)   The schedules of all outstanding debts and lease  
30       rental obligations and the projects to which they are

1 related.

2 (4) Copies of all current collective bargaining  
3 agreements.

4 (5) A five-year detailed ~~estimate~~ ESTIMATED BUDGET <—  
5 SEGREGATED BY YEARS of all receipts and expenditures,  
6 including the proposed proceeds from the sale of school  
7 buildings and the obligations to the authority incurred by  
8 the sale of school buildings.

9 (6) Such other information or matters as the secretary  
10 shall determine.

11 (C) A SCHOOL DISTRICT SHALL FILE A FINANCIAL SCHEDULE FOR <—  
12 EACH YEAR IN WHICH SUCH SCHOOL DISTRICT PARTICIPATES IN PROGRAMS  
13 AUTHORIZED UNDER THIS ACT.

14 ~~(e)~~ (D) Review of schedule.--The secretary shall review the <—  
15 financial schedule and may, in his sole discretion, require that  
16 it be supplemented or amended.

17 ~~(d)~~ (E) Approval of schedule.--When the financial schedule <—  
18 is in a form acceptable to the secretary, he may approve it and  
19 if approved shall so inform the authority.

20 Section 405. Agreements.

21 (a) Contents of agreements.--As a condition for receiving  
22 approval to participate in the programs provided by this act,  
23 each school district shall agree with the secretary, in a form  
24 acceptable to him, that for the period covered by the financial  
25 schedule:

26 (1) The school district will incur no unfunded debt.

27 (2) The school district will not incur any debt except  
28 in accordance with the approved financial schedule.

29 (3) The school district shall adhere to the detailed  
30 financial schedule filed in accordance with section 404 or as

1 amended in accordance with section 408.

2 (4) AS PART OF THE FINANCIAL SCHEDULE AND AS A CONDITION <—  
3 TO PARTICIPATING IN THE PROGRAMS PROVIDED BY THIS ACT, IT  
4 SHALL BE THE DUTY OF SUCH SCHOOL DISTRICT TO SET UP IN EACH  
5 FISCAL YEAR A RESERVE AMOUNT FROM REVENUES DERIVED SOLELY  
6 FROM ANY TAX WHICH THE SCHOOL DISTRICT IS DIRECTLY OR  
7 INDIRECTLY AUTHORIZED, BY LAW TO LEVY FOR THE PURPOSE OF  
8 REIMBURSING THE AUTHORITY FOR PRINCIPAL, INTEREST, OR OTHER  
9 COSTS WHICH ARE TO BE FIXED BY THE AUTHORITY IN THE LEASE OR  
10 LOAN AGREEMENT.

11 (5) FAILURE OF ANY SCHOOL DISTRICT TO ADHERE TO THE  
12 RESERVE REQUIREMENTS AS SET FORTH IN PARAGRAPH (4) SHALL  
13 CONSTITUTE AN "UNFUNDED DEBT" AND NONCOMPLIANCE BY THE SCHOOL  
14 DISTRICT WITH THE PROVISIONS OF THIS ACT. AND, IF WITHIN 60  
15 DAYS AFTER NOTICE BY THE SECRETARY DIRECTING COMPLIANCE, THE  
16 SCHOOL DISTRICT FAILS TO DO SO, THE SCHOOL DISTRICT SHALL BE  
17 CONSIDERED A DISTRESS DISTRICT WITHIN THE MEANING OF AND  
18 SUBJECT TO THE PROVISIONS OF THIS ACT APPLICABLE TO  
19 DISTRESSED SCHOOL DISTRICTS.

20 (b) Legal effect of agreements.--These agreements shall  
21 become legally binding upon the school district in accordance  
22 with section 407 and the secretary is authorized to take all  
23 appropriate legal actions to enforce these agreements.

24 Section 406. Approval of agreements.

25 Each school district authorized under section 403 (b) to  
26 negotiate with the authority shall submit to the secretary any  
27 proposed agreement pursuant to section 204 between the school  
28 district and the authority. The secretary may approve such  
29 proposed agreements only if the school district has submitted an  
30 approved financial schedule and approved proposed agreements

1 with the secretary, provided that the secretary shall not  
2 approve any such proposed agreements pursuant to which  
3 obligations of a school district to the authority would result  
4 in payments pursuant to section 415 which would exceed without  
5 proration appropriations for such purposes.

6 Section 407. Closing.

7 Upon approval of the proposed agreements by the secretary,  
8 the school directors shall enter into such agreements with the  
9 authority. The agreements made by the school district and the  
10 authority in accordance with section 405 shall become legally  
11 binding on the parties thereto at the time of closing.

12 Section 408. Amendments to financial schedule.

13 The school district may, subject to the approval of the  
14 secretary, amend and revise its financial schedule. The  
15 secretary shall not approve an amendment to increase  
16 expenditures unless the proposed amendment includes at least an  
17 equal increase in revenue.

18 Section 409. Investigation and audits by the department.

19 The department may at any time make such investigations and  
20 audits of financial records that it deems appropriate to assure  
21 compliance with the financial schedule approved by the secretary  
22 and agreements with the secretary made by the district.

23 Section 410. Noncompliance by school district.

24 (a) Determination.--Whenever the secretary, after  
25 investigation, determines that a district is in noncompliance  
26 with the approved financial schedule and agreements with the  
27 secretary required by this act, he shall so notify the school  
28 district in writing, citing the specific facts and circumstances  
29 which have resulted in the determination.

30 (b) Financial review board.--Upon making a determination of

1 noncompliance, the secretary may call for the establishment of a  
2 financial review board to make recommendations regarding the  
3 school district's finances. When a financial review board is  
4 called for it shall be established as follows:

5 (1) For school districts of the first class the  
6 financial review board shall consist of seven members  
7 appointed as follows:

8 (i) One resident elector of the city who shall hold  
9 no public office or public employment shall be appointed  
10 by the secretary to serve as chairman.

11 (ii) Three resident electors shall be appointed each  
12 by the Governor and by the authority. At least one of  
13 each appointing agency's appointments shall hold no  
14 public office or public employment.

15 (iii) As used in this subsection city means a city  
16 which is coterminous with the boundaries of the school  
17 district.

18 (2) For school districts other than districts of the  
19 first class the financial review board shall consist of five  
20 members appointed as follows:

21 (i) One resident elector of the school district who  
22 shall hold no public office or public employment shall be  
23 appointed by the secretary to serve as chairman.

24 (ii) Two resident electors of the school district  
25 shall be appointed each by the board of school directors  
26 and by the intermediate unit board of school directors of  
27 the intermediate unit to which the school district is  
28 assigned. At least one of each appointing agencies'  
29 appointments shall hold no public office or public  
30 employment.



1 for, the secretary has declared any school district to be a  
2 distressed school district he or his designated representative  
3 shall petition the court of common pleas of the county in which  
4 such district, or the largest part in area, is located to  
5 appoint two citizens who shall be qualified electors and  
6 taxpayers in the county in which the school district is located.  
7 School directors and employees of any such school district shall  
8 be ineligible for appointment by the court. Within 10 days after  
9 the presentation of said petition, the court shall make the  
10 appointments herein provided and the appointees, together with  
11 the secretary or his designated representative, shall constitute  
12 a special board of control. Vacancies occurring because of death  
13 or resignation of appointed members of the board shall be filled  
14 by the court. The special board of control shall assume control  
15 of the affairs of the district and operate it in the place of  
16 the school directors during the period necessary to reestablish  
17 a sound financial structure in the district. The costs of the  
18 court proceedings shall be paid by the department.

19 Section 412. Powers of the special board of control.

20 When the special board of control assumes control of a  
21 distressed school district, it shall have power and is hereby  
22 authorized to exercise all the rights, powers, privileges,  
23 prerogatives and duties imposed or conferred by law on the board  
24 of school directors of the distressed district, and the board of  
25 school directors shall have no power to act without the approval  
26 of the special board of control. In addition thereto, the  
27 special board of control shall have power to require the board  
28 of directors within 60 days to revise the district's budget for  
29 the purpose of effecting such economies as it deems necessary to  
30 improve the district's financial condition. To this end the



1 special board of control may require the board:

2 (1) To cancel or to renegotiate any contract other than  
3 collective bargaining agreements of school employees, to  
4 which the board or the school district is a party, if such  
5 cancellation or renegotiation of contract will effect needed  
6 economies in the operation of the district's schools.

7 (2) To increase tax levies in such amounts and at such  
8 times as is permitted by the act of March 10, 1949 (P.L.30,  
9 No.14), known as the "Public School Code of 1949."

10 (3) To appoint a special collector of delinquent taxes  
11 for the district who need not be a resident of the school  
12 district. Such special tax collector shall exercise all the  
13 rights and perform all the duties imposed by law on tax  
14 collectors for school districts. The superseded tax collector  
15 shall not be entitled to any commissions on the taxes  
16 collected by the special collector of delinquent taxes.

17 (4) To direct the special school auditors of the  
18 department or to appoint a competent independent public  
19 accountant to audit the accounts of the distressed school  
20 districts.

21 (5) To dispense with the services of such  
22 nonprofessional employees as in his judgment are not actually  
23 needed for the economical operation of the school system.

24 (6) To suspend, in accordance with the provisions of the  
25 act of March 10, 1949 (P.L.30, No.14), known as the "Public  
26 School Code of 1949," such number of professional and  
27 temporary professional employees as may be necessary to  
28 maintain a pupil-teacher ratio of not less than 26 pupils per  
29 teacher for the combined elementary and secondary school  
30 enrollments.

1 Section 413. Additional tax.

2 When the operation of a distressed school district has been  
3 assumed by the special board of control, the board of school  
4 directors of the district shall, upon the recommendation and  
5 with the approval of the special board of control, levy an  
6 additional tax or taxes sufficient to pay the indebtedness of  
7 the district including that for the authority: Provided, That  
8 when such school directors fail to levy such additional taxes  
9 within a reasonable time, the special board of control may  
10 petition the court of common pleas of the county in which such  
11 district or the largest part in area is located to issue a writ  
12 of mandamus requiring the board to levy such additional tax or  
13 taxes. In no case shall taxes levied under this section produce  
14 revenues greater than 120% of revenues raised by all local taxes  
15 levied for school district purposes in the current fiscal year.  
16 The subjects of taxation shall be limited to persons,  
17 transactions, occupations, privileges, subjects and real and  
18 personal property which may now or hereafter be taxable by the  
19 school district for school district purposes.

20 Section 414. School directors to remain in office; elections.

21 The school directors of a distressed district may not resign  
22 their offices, except with the unanimous consent of the special  
23 board of control and shall continue in office, unless removed  
24 from office for neglect of duty under the provisions of the act  
25 of March 10, 1949 (P.L.30, No.14), known as the "Public School  
26 Code of 1949," set by the court of common pleas of the county in  
27 which such district or the largest part in area is located, or  
28 unless any of such directors are elected to another position not  
29 compatible with the position of school director or are appointed  
30 to any position for which there is a requirement that said

1 appointee shall hold no elective office, for the remainder of  
2 their terms during the time the district is operated by the  
3 special board of control and shall perform any duties delegated  
4 to them by it. The assumption of control of a distressed school  
5 district by the special board of control shall in no way  
6 interfere with the regular election or reelection of school  
7 directors for the district.

8 Section 415. Payments to school districts.

9 (a) Appropriations.--From appropriations specifically made  
10 for this purpose, the department shall pay school districts for <—  
11 ~~the amounts required to be paid to the authority by the school~~  
12 ~~districts pursuant to~~ ON ACCOUNT OF LEASE OR LOAN agreements <—  
13 entered into in accordance with section 204. The amount of such  
14 payments to each school district shall not in any year exceed  
15 the amount of interest accrued or to accrue that year on the  
16 principal amount of the authority's outstanding bonds or notes,  
17 the proceeds of which were used to make a loan to or to finance  
18 the purchase of the school buildings, of the respective school  
19 districts.

20 (b) Certification of interest.--The authority shall certify  
21 the secretary as to each school district, the amount of such  
22 interest, for each school district.

23 (c) Pro rata payments.--In the event an appropriation  
24 specifically for each such payment is not adequate to fund the  
25 aggregate of all such payments certified by the authority, the  
26 secretary shall make pro rata payments.

27 ~~(d) Payments to be additional. Payments under this act~~ <—  
28 ~~shall be in addition to all other funds, subsidies and~~  
29 ~~reimbursements made available to school districts under any law~~  
30 ~~now in effect or as may be henceforth enacted, including sinking~~

1 ~~fund and lease rental reimbursements to be extent and for the~~  
2 ~~period currently committed.~~

3 (D) EFFECT ON OTHER FUNDS, SUBSIDIES AND REIMBURSEMENTS.--NO <—  
4 SCHOOL DISTRICT SHALL RECEIVE ANY SUBSIDY, REIMBURSEMENT, OR  
5 OTHER FUNDS UNDER ANY PROVISION OF THE ACT OF MARCH 10, 1949  
6 (P.L.30, NO.14), KNOWN AS THE "PUBLIC SCHOOL CODE OF 1949," OR  
7 UNDER THE PROVISIONS OF ANY OTHER LAW NOW IN EFFECT OR WHICH MAY  
8 BE THEREAFTER ENACTED, THE BASIS OF WHICH SHALL BE THE  
9 PARTICIPATION BY SUCH SCHOOL DISTRICT IN ANY PROGRAM AUTHORIZED  
10 BY THIS ACT, EXCEPT THAT ANY SUBSIDY, REIMBURSEMENT OR OTHER  
11 FUNDS RECEIVED BY A SCHOOL DISTRICT OR TO WHICH A SCHOOL  
12 DISTRICT WAS ENTITLED TO RECEIVE UNDER ANY LAW IN EFFECT PRIOR  
13 TO THE PARTICIPATION OF SUCH SCHOOL DISTRICT IN ANY PROGRAM  
14 UNDER THIS ACT SHALL CONTINUE TO BE RECEIVED BY SUCH SCHOOL  
15 DISTRICT.

16 Section 416. Withholding Commonwealth funds for unpaid  
17 indebtedness.

18 In all cases in which the board of school directors fails to  
19 pay or to provide for the payment of rental or rentals or loan  
20 repayments due the authority for any period in accordance with  
21 the terms of any lease or loan agreement entered into in  
22 accordance with the provisions of this act, the authority shall  
23 notify the secretary and the department shall withhold out of  
24 any moneys which may be or have been appropriated by the  
25 Commonwealth and which are due such school district an amount  
26 equal to the sum of the rental or rentals or loan payments owing  
27 by such school district to the authority, and shall pay over the  
28 amount so withheld to the authority.

29 CHAPTER 5  
30 RULES AND REGULATIONS;

EFFECTIVE DATE

Section 501. Rules and regulations.

The authority, the secretary, and the department shall have the power to promulgate rules and regulations as are necessary and appropriate and as are consistent with the intent and purpose of this act.

Section 502. Secretary.

The secretary is authorized to employ the staff necessary to administer this act. Persons so employed shall not be subject to the provisions of the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

Section 503. Severability.

The provisions of this statute shall be severable. If any provision of this statute or the application thereof of any person or circumstance is held invalid, the remainder of the statute, and the application of such provision to other persons or circumstances, shall not be affected thereby, unless the court finds that the valid provisions of the statute are so essentially and inseparably connected with, and so depend upon, the void provision or application, that it cannot be presumed the General Assembly would have enacted the remaining valid provisions without the void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with legislative intent.

Section 504. Authorized investments for school district funds.

Authorized types of investments of proceeds from the authority shall be limited to:

(1) United States treasury bills.

(2) Direct obligations of the United States Government

1 and its agencies.

2 (3) Deposits in time accounts, open time accounts, share  
3 accounts and all other investments in authorized depositories  
4 for which collateral is secured by the pledging of assets in  
5 accordance with the act of August 6, 1971 (P.L.281, No.72),  
6 relating to pledges of assets to secure deposits of public  
7 funds.

8 Section 505. Effective date.

9 This act shall take effect immediately, UPON THE  
10 APPROPRIATION OF THE SUM OF \$10,000,000 TO A SCHOOL DISTRICT OF  
11 THE FIRST CLASS BY A CITY OF THE FIRST CLASS.

<—