

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1353 Session of
1979

INTRODUCED BY RAPPAPORT, WEIDNER AND SIRIANNI, MAY 22, 1979

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 22, 1979

AN ACT

1 Providing for the creation of a Local Government Unit Debt
2 Adjustment Commission, giving it power to declare a fiscal
3 emergency, and providing for the appointment of a local
4 administrator of finance and establishing his powers and
5 duties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the "Local
10 Government Unit Financial Emergency Act."

11 Section 2. Legislative findings and declarations of policy.

12 It is hereby found and declared that:

13 (1) That default by any local government unit threatens
14 the credit of both State and local government.

15 (2) That it is in the interest of both State and local
16 government to protect the credit of the State and local
17 government unit by effecting special restraints upon fiscally
18 distressed local governments in order to forestall serious
19 default.

20 (3) That any default or disruption of public service

1 will ultimately affect the health, safety and welfare of the
2 citizens of the Commonwealth.

3 Now, therefore, in the exercise of legislative control over the
4 expenditures of local government units, it is declared to be the
5 policy of the Commonwealth of Pennsylvania to promote the
6 health, safety and welfare of the inhabitants thereof by
7 providing for a Local Government Unit Finance Commission, which
8 commission shall have the power and it shall be its duty to
9 analyze the problem presented and take whatever action necessary
10 to prevent a financial emergency and restore sound fiscal
11 management to the local government unit.

12 Section 3. Definitions.

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

16 "Administrator." The local administrator of finance provided
17 for in this act.

18 "Commission." The commission provided for in this act.

19 "Department." The Department of Community Affairs.

20 "Fiscal year." The 12-month period by which accounts are
21 reckoned. The period is not necessarily concurrent with the
22 calendar year.

23 "Governing body." The authorities in each local government
24 authorized by law to levy taxes, fix the taxable rate and incur
25 indebtedness.

26 "Local government unit." A county, county institution
27 district, city, borough, incorporated town, township, home rule
28 municipality, or any similar general or limited purpose unit of
29 local government, including a municipal authority, or any unit
30 created by joint action of two or more local government units

1 which now or shall hereafter be authorized to be created by the
2 General Assembly.

3 "Obligations." Any instrument evidencing indebtedness, such
4 as bonds or notes issued by the local government unit payable
5 primarily from taxes and/or special assessments. The term
6 includes liabilities under contract for supplies, services and
7 pensions allocable to current operating expenses.

8 "Unfunded or floating debt." Debt due and owing for which
9 taxes and other revenues remaining to be received in the current
10 fiscal year will not be sufficient to meet payment.

11 Section 4. Creation of the commission.

12 There is hereby created a commission to be known as the Local
13 Government Unit Finance Commission to be composed of the
14 Secretary of the Department of Community Affairs, who shall be
15 ex officio chairman of the commission, the Auditor General of
16 the Commonwealth and the Budget Secretary of the Commonwealth.
17 Each member may appoint a deputy who may act in his place in all
18 circumstances. Such designation shall be made in writing and
19 shall remain in full force until revoked in like manner.

20 Section 5. Powers and duties.

21 The commission is authorized and directed to protect the
22 credit of the Commonwealth and its municipalities and agencies
23 and to that end it may declare a local government unit fiscal
24 emergency and when one has been declared it shall make
25 application to the court of common pleas of the county wherein
26 the municipality is located for the appointment of a local
27 administrator of finance. The person appointed shall have
28 experience in government and finance but shall not be an
29 employee of the Commonwealth or a local government or an agency
30 thereof. The court in its discretion may require the posting of

1 a bond by the local administrator of finance.

2 Section 6. Determination of local government unit fiscal
3 emergency.

4 A local government unit fiscal emergency shall be deemed to
5 exist when any one of the following circumstances shall arise
6 and the commission, after investigation of the financial
7 condition of the local government unit, has declared the
8 emergency and served notice of its declaration upon the local
9 government unit:

10 (1) The local government unit has defaulted in the
11 payment of principal and interest or other obligations,
12 including lease rental payments to an authority, for a period
13 of 30 days after the due date and no action has been taken
14 within that period to provide payment.

15 (2) The local government unit has failed to pay over to
16 the proper agency contributions for social security pensions,
17 withholding taxes, or other taxes that remain unpaid for 30
18 days or more after the due date.

19 (3) Salaries of employees or pension benefits due
20 retirees have not been paid for two or more consecutive pay
21 periods.

22 (4) Unfunded debt exceeds 5% of the total appropriation
23 for the last fiscal year, providing there are no reserves for
24 the payment of such obligations.

25 (5) Delinquent taxes exceed 35% of the tax levy for the
26 preceding fiscal year.

27 (6) Upon petition of 15% of the electors voting in the
28 last gubernatorial election in the local government unit
29 alleging a severe fiscal crisis which demands investigation
30 by the commission.

1 Section 7. Powers of the local administrator of finance.

2 (a) When the local administrator of finance assumes control
3 of the local government unit he shall have the power and is
4 hereby authorized to exercise, in conjunction with the local
5 governing body, all the rights, powers, privileges and
6 prerogatives and duties imposed by law on the governing body of
7 the local government unit with respect to fiscal affairs.

8 (b) The governing body shall have no power to act on fiscal
9 matters without the written consent of the local administrator
10 of finance.

11 (c) The local administrator of finance shall have the power
12 to require the governing body to revise the budget, if
13 necessary, for the purpose of effecting such change in
14 appropriations as may be necessary.

15 (d) Any plan of liquidation of current debt shall require
16 the prior approval of the administrator before presentation to
17 the governing body.

18 (e) The administrator shall not have the power to direct the
19 governing body to hire and fire employees but he may lay off
20 employees.

21 (f) The administrator shall not have the power to direct the
22 governing body to increase tax levies.

23 (g) The administrator shall not have the authority to act as
24 an agent of the local government unit in collective bargaining.

25 (h) The administrator shall have the power to approve or
26 disapprove any appropriation or contract but only on the basis
27 of the cost.

28 Section 8. Length of suspension.

29 The local government unit shall remain under the supervision
30 of the administrator at least until the local government unit

1 has operated during a full fiscal year without incurring a cash
2 deficit and is discharged by the court of common pleas.

3 Section 9. Effective date.

4 This act shall take effect in 60 days.