

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1276

Session of
1987

INTRODUCED BY SWEET, FLICK, GAMBLE, LaGROTTA, TIGUE, HAYDEN,
LLOYD, McHALE, KUKOVICH, SHOWERS, BELFANTI, BALDWIN, DALEY,
PICCOLA, RYBAK, PISTELLA, DeLUCA, TRELLO, BUNT, LESCOVITZ,
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LUCYK, VEON, PETRARCA, MERRY, RITTER, JOHNSON, MICHLOVIC,
BELARDI, FOX, BORTNER, OLASZ AND G. SNYDER, APRIL 29, 1987

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 5, 1987

AN ACT

1 Amending the act of May 2, 1945 (P.L.382, No.164), entitled "An
2 act providing for the incorporation as bodies corporate and
3 politic of 'Authorities' for municipalities, counties and
4 townships; prescribing the rights, powers and duties of such
5 Authorities heretofore or hereafter incorporated; authorizing
6 such Authorities to acquire, construct, improve, maintain and
7 operate projects, and to borrow money and issue bonds
8 therefor; providing for the payment of such bonds, and
9 prescribing the rights of the holders thereof; conferring the
10 right of eminent domain on such Authorities; authorizing such
11 Authorities to enter into contracts with and to accept grants
12 from the Federal Government or any agency thereof; and
13 conferring exclusive jurisdiction on certain courts over
14 rates," further defining "local government unit" and "provide
15 financing for insurance reserves"; and providing for
16 financing of insurance reserves.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 2(j) of the act of May 2, 1945 (P.L.382,
20 No.164), known as the Municipality Authorities Act of 1945,
21 amended July 10, 1981 (P.L.221, No.70), is amended and the
22 section is amended by adding definitions to read:

1 Section 2. Definitions.--The following terms whenever used
2 or referred to in this act shall have the following meanings,
3 except in those instances where the context clearly indicates
4 otherwise:

5 * * *

6 (j) The term "project" shall mean equipment to be leased by
7 an Authority to the municipality or municipalities that
8 organized it or to any municipality or school district located
9 wholly or partially within the boundaries of the municipality or
10 municipalities that organized it, or any structure, facility or
11 undertaking which an Authority is authorized to acquire,
12 construct, improve, maintain or operate, or provide financing
13 for insurance reserves under the provisions of this act.

14 * * *

15 (n) The term "local government unit" shall have the same
16 meaning as that provided in section 102(c)(10) of the act of
17 July 12, 1972 (P.L.781, No.185), known as the "Local Government
18 Unit Debt Act."

19 (o) The term "provide financing for insurance reserves"
20 shall mean the lending of funds to a local government unit or <—
21 any authority for the purpose of funding of FINANCING ON BEHALF <—
22 OF ONE OR MORE LOCAL GOVERNMENT UNITS OR AUTHORITIES all, or any
23 portion of, a reserve, or a contribution toward a combined
24 reserve, pool or other arrangement, relating to self-insurance,
25 which has been established by one or more local government
26 units, pursuant to 42 Pa.C.S. § 8564 (relating to liability
27 insurance and self-insurance) up to, but not exceeding, the
28 amount provided in section 107 of the "Local Government Unit
29 Debt Act."

30 Section 2. The introductory paragraph OF SUBSECTION A, THE <—

1 INTRODUCTORY PARAGRAPH of clause (a) and clause (b) of
2 subsection A of section 4 of the act, amended December 21, 1984
3 (P.L.1246, No.236), are amended to read:

4 Section 4. Purposes and Powers; General.--A. Every
5 Authority incorporated under this act shall be a body corporate
6 and politic, and shall be for the purpose of acquiring, holding,
7 constructing, improving, maintaining, and operating, owning,
8 leasing, either in the capacity of lessor or lessee, projects of
9 the following kind and character and providing financing for
10 insurance reserves.

11 (a) The Authority shall be for the purpose of acquiring,
12 holding, constructing, improving, maintaining and operating,
13 owning, leasing, either in the capacity of lessor or lessee,
14 projects of the [following] kind and character ~~and DESCRIBED IN~~ <—
15 THE FOLLOWING SUBCLAUSES AND FOR THE PURPOSE OF providing
16 financing for insurance reserves:

17 * * *

18 (b) This section is subject to the following limitations:

19 (1) An Authority created by a school district or school
20 districts shall have the power only to acquire, hold, construct,
21 improve, maintain, operate and lease public school buildings and
22 other school projects acquired, constructed or improved for
23 public school purposes.

24 (2) The purpose and intent of this act being to benefit the
25 people of the Commonwealth by, among other things, increasing
26 their commerce, health, safety and prosperity, and not to
27 unnecessarily burden or interfere with existing business by the
28 establishment of competitive enterprises, none of the powers
29 granted by this act shall be exercised in the construction,
30 improvement, maintenance, extension or operation of any project

1 or projects or providing financing for insurance reserves which
2 in whole or in part shall duplicate or compete with existing
3 enterprises serving substantially the same purposes. This
4 limitation shall not apply to the exercise of the powers granted
5 hereunder:

6 (i) for facilities and equipment for the collection, removal
7 or disposal of ashes, garbage, rubbish and other refuse
8 materials by incineration, land fill or other methods, if each
9 municipality organizing or intending to use the facilities of an
10 Authority having such powers shall declare by resolution or
11 ordinance that it is desirable for the health and safety of the
12 people of such municipality that it use the facilities of the
13 Authority, and if any contract between such municipality and any
14 other person, firm or corporation for the collection, removal or
15 disposal of ashes, garbage, rubbish and other refuse material
16 has by its terms expired or is terminable at the option of the
17 municipality or will expire within six months from the date such
18 ordinance becomes effective; nor

19 (ii) for industrial development projects if the Authority
20 does not develop industrial projects which will compete with
21 existing industries; nor

22 (iii) for Authorities created for the purpose of providing
23 business improvements and administrative services if each
24 municipality organizing an Authority for such a project shall
25 declare by resolution or ordinance that it is desirable for the
26 entire [municipality] LOCAL GOVERNMENT UNIT to improve the
27 business district; nor

28 (iv) to hospital projects to be leased to public hospitals
29 or nonprofit hospital corporations serving the public or to
30 school building projects and facilities to be leased to private,

<—

1 nonprofit, nonsectarian colleges and universities, State-related
2 universities and community colleges, or to facilities, limited
3 as described above, to produce steam or to generate electric
4 power, if each municipality organizing an Authority for such a
5 project shall declare by resolution or ordinance that it is
6 desirable for the health, safety and welfare of the people in
7 the area served by such facilities to have such facilities
8 provided by an Authority[.]; nor

9 (v) to provide financing for insurance reserves, if each
10 municipality or Authority intending to use any proceeds thereof
11 shall declare by resolution or ordinance that it is desirable
12 for the health, safety and welfare of the people in such
13 municipality LOCAL GOVERNMENT UNIT or served by such Authority. <—

14 * * *

15 Section 3. Subsection B of section 4 of the act is amended
16 by adding a clause to read:

17 Section 4. Purposes and Powers; General.--* * *

18 B. Every Authority is hereby granted, and shall have and may
19 exercise all powers necessary or convenient for the carrying out
20 of the aforesaid purposes, including but without limiting the
21 generality of the foregoing, the following rights and powers:

22 * * *

23 (y) To provide financing for insurance reserves by making
24 loans, which may be evidenced by, and secured as may be provided
25 in, loan agreements, security agreements or any other
26 instruments or agreements, which instruments or agreements may
27 contain such provisions as the Authority shall deem necessary or
28 desirable for the security or protection of the Authority or its
29 bondholders.

30 * * *

1 Section 4. Subsections B and C of section 5 of the act are
2 amended to read:

3 Section 5. Purposes and Powers; Bonds.--* * *

4 B. Any resolution or resolutions authorizing any bonds may
5 contain provisions which shall be part of the contract with the
6 holders thereof, as to (a) pledging the full faith and credit of
7 the Authority (but not of the Commonwealth of Pennsylvania or
8 any political subdivision thereof) for such obligations, or
9 restricting the same to all or any of the revenues of the
10 Authority from all or any projects or properties, (b) the
11 construction, improvement, operation, extension, enlargement,
12 maintenance and repair of the project, and providing financing
13 for insurance reserves and the duties of the Authority with
14 reference thereto, (c) the terms and provisions of the bonds,
15 (d) limitations on the purposes to which the proceeds of the
16 bonds then or thereafter to be issued, or of any loan or grant
17 by the United States may be applied, (e) the rate of tolls and
18 other charges for use of the facilities of or for the services
19 rendered by the Authority, (f) the setting aside of reserves or
20 sinking funds and the regulation and disposition thereof, (g)
21 limitations on the issuance of additional bonds, (h) the terms
22 and provisions of any deed of trust or indenture securing the
23 bonds, or under which the same may be issued, and (i) any other
24 or additional agreements with the holders of the bonds.

25 C. Any Authority may enter into any deeds of trust,
26 indentures or other agreements, with any bank or trust company,
27 or other person or persons in the United States having power to
28 enter into the same, including any Federal agency, as security
29 for such bonds, and may assign and pledge all or any of the
30 revenues or receipts of the Authority thereunder. Such deed of

1 trust, indenture or other agreement, may contain such provisions
2 as may be customary in such instruments, or as the Authority may
3 authorize, including (but without limitation) provisions as to
4 (1) the construction, improvement, operation, maintenance and
5 repair of any project, and providing financing for insurance
6 reserves and the duties of the Authority with reference thereto,
7 (2) the application of funds and the safeguarding of funds on
8 hand or on deposit, (3) the rights and remedies of said trustee
9 and the holders of the bonds, (which may include restrictions
10 upon the individual right of action of such bondholders) and (4)
11 the terms and provisions of the bonds or the resolutions
12 authorizing the issuance of the same.

13 Said bonds shall have all the qualities of negotiable
14 instruments under the law merchant and the negotiable
15 instruments law of the Commonwealth of Pennsylvania.

16 Section 5. This act shall take effect in 60 days.