

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1221 Session of 2015

INTRODUCED BY COSTA, FONTANA, SCARNATI, TEPLITZ, VULAKOVICH, RESCHENTHALER, BREWSTER, YUDICHAK AND HUGHES, MAY 2, 2016

AS AMENDED ON SECOND CONSIDERATION, JUNE 6, 2016

AN ACT

1 Amending the act of February 12, 2004 (P.L.73, No.11), entitled
2 "An act providing for intergovernmental cooperation in cities
3 of the second class; establishing an intergovernmental
4 authority; providing for financing, for bankruptcy and for
5 sovereign immunity; and making an appropriation," in general
6 provisions, further providing for definitions; in
7 intergovernmental cooperation authority for cities of the
8 second class, further providing for governing board, for
9 powers and duties, for term of existence, AND for annual
10 report to be filed and annual audits and providing for
11 distribution of gaming revenue.

<--

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 104 of the act of February 12, 2004
15 (P.L.73, No.11), known as the Intergovernmental Cooperation
16 Authority Act for Cities of the Second Class, is amended by
17 adding a definition to read:

18 Section 104. Definitions.

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

22 \* \* \*

1       "Gaming revenue." The local share assessment collected from  
2 gaming revenue by the Department of Revenue for distribution to  
3 municipalities hosting licensed facilities under 4 Pa.C.S. Ch.  
4 14 (relating to revenues).

5       \* \* \*

6       Section 2. Section 202(d) and (h) of the act are amended to  
7 read:

8 Section 202. Governing board.

9       \* \* \*

10       (d) Meetings.--After the initial organizational meeting, the  
11 board shall meet as frequently as it deems appropriate but at  
12 least once during each quarter of the fiscal year. In addition,  
13 a meeting of the board shall be called by the chairperson if a  
14 request for a meeting is submitted to the chairperson by at  
15 least two members of the board.

16       (d.1) Quorum and open meetings.--A majority of the board  
17 shall constitute a quorum for the purpose of conducting the  
18 business of the board and for all other purposes. All actions of  
19 the board shall be taken by a majority of the board members  
20 present, except as otherwise specifically noted. The provisions  
21 of 65 Pa.C.S. Ch. 7 (relating to open meetings) shall apply to  
22 the board.

23       \* \* \*

24       (h) Statutes applying to authority.--

25       (1) The provisions of the following acts shall apply to  
26 the [authority] board:

27               (i) 65 Pa.C.S. Ch. 7 (relating to open meetings).

28               (ii) The act of [June 21, 1957 (P.L.390, No.212),  
29 referred to] February 14, 2008 (P.L.6, No.3), known as  
30 the Right-to-Know Law.

1 (iii) Except as set forth in paragraph (2), the act  
2 of July 19, 1957 (P.L.1017, No.451), known as the State  
3 Adverse Interest Act.

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

6 (v) 62 Pa.C.S. (relating to procurement).

7 (1.1) The provisions of the following acts shall apply  
8 to the executive director of the authority:

9 (i) Except as set forth in paragraph (2), the act of  
10 July 19, 1957 (P.L.1017, No.451), known as the State  
11 Adverse Interest Act.

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

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

21 Section 3. Section 203(b) (4) of the act is amended and the  
22 subsection is amended by adding paragraphs to read:

23 Section 203. Powers and duties.

24 \* \* \*

25 (b) Specific duties.--The authority shall have the powers  
26 and its duties shall be:

27 \* \* \*

28 (4) To make annual signed reports within 120 days after  
29 the close of the assisted city's fiscal year[, commencing  
30 with the fiscal year ending December 31, 2003,] to the

1 Governor and the General Assembly describing the city's  
2 financial condition and the authority's progress with respect  
3 to restoring the financial stability of assisted cities and  
4 achieving balanced budgets for assisted cities. [Such reports  
5 shall be] Each report shall:

6 (i) Be filed with the Governor, with the presiding  
7 officers of the Senate and the House of Representatives,  
8 with the chairperson and minority chairperson of the  
9 Appropriations Committee of the Senate and the  
10 chairperson and the minority chairperson of the  
11 Appropriations Committee of the House of Representatives  
12 and with the governing body, mayor and controller of the  
13 assisted city and be publicly available in the assisted  
14 city during normal business hours for public inspection  
15 and on the authority's publicly accessible Internet  
16 website, and may be reproduced by any member of the  
17 public at commercial costs of reproduction. [Such report  
18 shall clearly]

19 (ii) Clearly show by consistent category the last  
20 five years of operating revenues and expenditures,  
21 capital expenditures, gross and net indebtedness  
22 transactions, including a schedule of principal and  
23 interest, five-year projections of the assisted city's  
24 operating and capital budgets, and the entire projected  
25 indebtedness transactions, including a schedule of  
26 principal and interest of such indebtedness until any and  
27 all debt has been completely retired. [Such report shall  
28 contain]

29 (iii) Contain a narrative explaining progress of the  
30 assisted city in meeting its annual and five-year

1 budgetary objectives, an appraisal by the authority of  
2 the progress the assisted city is making to achieve its  
3 goals and an appraisal of the extent to which the  
4 assisted city is making a good faith effort to achieve  
5 its goals. [Such report shall disclose]

6 (iv) Disclose any violations of Federal and State  
7 law that the authority may have discovered. [Such report  
8 shall include]

9 (v) Include as appendixes all historical loans or  
10 other contracts entered into by the assisted city and its  
11 authorities.

12 (vi) Contain detailed accounting on gaming revenue  
13 under 4 Pa.C.S. § 1403(c)(3)(xv) (relating to  
14 establishment of State Gaming Fund and net slot machine  
15 revenue distribution), and the distribution of gaming  
16 revenue in accordance with section 210.1, that shall  
17 include the status of all gaming revenue not yet  
18 distributed and demonstrate compliance with the  
19 procedures and requirements of section 210.1(c).

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

23 (i) Intergovernmental cooperation agreements under  
24 paragraph (3).

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

26 (iii) The authority's annually adopted budget under  
27 section 206.

28 (iv) Audits required under section 207.

29 (v) Contracts that the authority has entered into  
30 with third parties.

1           (6) To adopt and publish a records retention policy that  
2           is consistent with the records retention policy of the Office  
3           of Administration as published in Manual 210.9, The  
4           Commonwealth's General Records Retention and Disposition  
5           Schedule, adopted April 4, 2016. The policy shall be updated  
6           annually to remain consistent with the Office of  
7           Administration.

8           \* \* \*

9           Section 4. Sections 204 and 207 of the act are amended to  
10          read:

11          Section 204. Term of existence.

12          (a) Length.--The authority shall exist for a term of at  
13          least seven years. If, after seven years, an assisted city has  
14          had annual operating budgets and five-year financial plans  
15          approved by the board for at least the three immediately  
16          preceding years, the Secretary of Community and Economic  
17          Development shall certify that the authority is no longer  
18          needed, and the provisions of this chapter [will no longer be in  
19          effect] shall no longer apply to the assisted city 90 days  
20          following that certification. Upon termination of the authority,  
21          records and documents of the authority shall be transferred to  
22          the director of finance of the assisted city. The authority  
23          shall submit a final report on its activities and the city's  
24          fiscal condition to the Governor and the General Assembly within  
25          60 days of its termination.

26          (b) Limitation.--The Secretary of Community and Economic  
27          Development may not certify that the authority is no longer  
28          necessary under subsection (a) until oversight is terminated  
29          under the act of July 10, 1987 (P.L.246, No.47), known as the  
30          Municipalities Financial Recovery Act, or June 30, 2019,

1 whichever is later.

2 (c) Redistribution.--

3 (1) If the authority is terminated under subsection (a)  
4 or (b) and gaming revenue was distributed to and under the  
5 exclusive control of the authority under 4 Pa.C.S. § 1403(c)  
6 (3)(xv) (relating to establishment of State Gaming Fund and  
7 net slot machine revenue distribution), the gaming revenue  
8 shall be redistributed to an assisted city to increase the  
9 level of funding to the municipal pension funds of an  
10 assisted city.

11 (2) The gaming revenue shall be in addition to and shall  
12 not replace the minimum obligation that the assisted city is  
13 required to contribute to its pension funds under the act of  
14 December 18, 1984 (P.L.1005, No.205), known as the Municipal  
15 Pension Plan Funding Standard and Recovery Act.

16 Section 207. Annual report to be filed; annual audits.

17 [The] By December 31 following the end of each fiscal year,  
18 the authority shall file a signed annual report with the  
19 chairperson and the minority chairperson of the Appropriations  
20 Committee of the Senate and chairperson and the minority  
21 chairperson of the Appropriations Committee of the House of  
22 Representatives, which shall make provisions for the accounting  
23 of revenues and expenses. The authority shall have its books,  
24 accounts and records audited annually in accordance with  
25 generally accepted auditing standards by an independent auditor  
26 who shall be a certified public accountant, and a copy of his  
27 audit report shall be attached to and be made a part of the  
28 authority's annual report. A concise financial statement shall  
29 be published annually in the Pennsylvania Bulletin.

30 Section 5. The act is amended by adding a section to read:

1 Section 210.1. Distribution of gaming revenue.

2 (a) Authority determination.--Notwithstanding any other  
3 provision of law and not less than 30 days preceding each  
4 scheduled quarterly distribution of gaming revenue under 4  
5 Pa.C.S. § 1403(c) (3) (i) (relating to establishment of State  
6 Gaming Fund and net slot machine revenue distribution) to a host  
7 municipality that is an assisted city, the board shall vote  
8 whether or not to direct the assisted city to use the gaming  
9 revenue pursuant to 4 Pa.C.S. § 1403(c) (3) (xv).

10 (b) Debt or pension funding.--If the authority votes to  
11 require an assisted city to use gaming revenue under 4 Pa.C.S. §  
12 1403(c) (3) (xv) (A) or (B):

13 (1) the authority shall notify the Secretary of the  
14 Budget;

15 (2) the Commonwealth shall distribute the gaming revenue  
16 directly to the assisted city as provided for under 4 Pa.C.S.  
17 § 1403(c) (3) (i); and

18 (3) the assisted city shall use the gaming revenue as  
19 directed by the authority.

20 (c) Other purpose.--

21 (1) IF THE AUTHORITY VOTES TO DIRECT AN ASSISTED CITY TO <--  
22 USE GAMING REVENUE FOR A PURPOSE UNDER 4 PA.C.S. § 1403(C) (3)  
23 (XV) (C) WITHOUT CONDITIONS, THE AUTHORITY SHALL NOTIFY THE  
24 SECRETARY OF THE BUDGET AND THE COMMONWEALTH SHALL DISTRIBUTE  
25 THE GAMING REVENUE DIRECTLY TO THE ASSISTED CITY AS PROVIDED  
26 FOR UNDER 4 PA.C.S. § 1403(C) (3) (I) TO BE USED BY THE  
27 ASSISTED CITY AS DIRECTED BY THE AUTHORITY.

28 ~~(1)~~ (2) If the authority votes to direct an assisted <--  
29 city to use gaming revenue for a purpose under 4 Pa.C.S. §  
30 1403(c) (3) (xv) (C) WITH CONDITIONS, the authority shall <--

1 transmit in writing to the assisted city and the Secretary of  
2 the Budget no more than five days from the time of the vote,  
3 conditions that the assisted city must meet, including the  
4 purpose and time period for meeting the conditions, before  
5 distribution of the gaming revenue may be made to the  
6 assisted city.

7 ~~(2)~~ (3) If the assisted city provides the authority with <--  
8 information that, to the authority's satisfaction, meets the  
9 conditions imposed by the authority, the authority shall  
10 certify its decision to the Secretary of the Budget and the  
11 Commonwealth shall distribute the gaming revenue directly to  
12 the assisted city as provided for under 4 Pa.C.S. § 1403(c)  
13 (3)(i).

14 ~~(3)~~ (4) If the assisted city needs additional time to <--  
15 meet the conditions imposed by the authority, the assisted  
16 city shall reply to the authority in writing with an update  
17 on the process for meeting the conditions and a projection of  
18 the time period that will be needed to complete the  
19 conditions.

20 ~~(4)~~ (5) (i) The authority shall certify to the <--  
21 Secretary of the Budget if the assisted city fails to  
22 meet the conditions imposed under paragraph ~~(1)~~ (2) and <--  
23 that no distribution of gaming revenue should be made to  
24 the assisted city until the conditions are met.

25 (ii) The authority shall, by majority vote,  
26 determine when the conditions which caused an assisted  
27 city to be certified as not in compliance have been met  
28 and shall promptly certify that fact to the Secretary of  
29 the Budget.

30 (iii) Upon receipt of the certification, the

1 Secretary of the Budget shall release the gaming revenue  
2 withheld from the assisted city, including the interest  
3 and income earned on the gaming revenue during the period  
4 withheld, directly to the assisted city.

5 ~~(5)~~ (6) (i) If the assisted city disagrees with the <--  
6 authority's certification that the conditions have not  
7 been met, the assisted city may request that the  
8 Secretary of the Budget determine whether the assisted  
9 city has met the conditions.

10 (ii) If the Secretary of the Budget determines that  
11 the conditions have been met, the Secretary of the Budget  
12 shall provide notice to the assisted city and the  
13 authority and shall distribute the gaming revenue,  
14 including interest and income earned on the gaming  
15 revenue during the period withheld, directly to the  
16 assisted city.

17 (iii) If the Secretary of the Budget determines that  
18 the conditions have not been met, the Secretary of the  
19 Budget shall provide notice to the assisted city and the  
20 authority and require that the assisted city meet the  
21 conditions under this section.

22 (iv) The Secretary of the Budget may not distribute  
23 the gaming revenue, including interest and income earned  
24 on the gaming revenue during the period withheld, under  
25 this paragraph until the Secretary of Budget is satisfied  
26 that the assisted city has met the conditions imposed  
27 under this section.

28 Section 6. This act shall take effect in 60 days.