

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 104 Session of 2017

INTRODUCED BY GODSHALL, MOUL, GILLEN, B. MILLER AND KORTZ, JANUARY 23, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 21, 2017

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in municipal authorities, further
3 providing for money of authority and for transfer of existing
4 facilities to authority and providing for sale or transfer of
5 authority water or sewer infrastructure.

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

8 Section 1. Sections 5612(b) and 5613(b) of Title 53 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 5612. Money of authority.

11 * * *

12 (b) Report.--[Every authority whose fiscal year ends
13 December 31 shall file on or before July 1 an annual report of
14 its fiscal affairs covering the preceding calendar year with the
15 Department of Community and Economic Development and with the
16 municipality creating the authority on forms prepared and
17 distributed by the Department of Community and Economic
18 Development. Authorities whose fiscal year does not end on
19 December 31 shall file the report within 90 days after the end

1 of their fiscal year.]

2 (1) Every authority shall file, on or before 180 days
3 following the end of its fiscal year, an annual report of its
4 fiscal affairs covering the preceding fiscal year with the
5 Department of Community and Economic Development and with the
6 municipality or municipalities creating the authority on
7 forms prepared and distributed by the Department of Community
8 and Economic Development. ~~The report shall also be provided, <--~~
9 ~~and may be provided electronically, to any other municipality~~
10 ~~that has customers served by the authority.~~ THE REPORT SHALL <--
11 ALSO BE POSTED ON THE AUTHORITY'S PUBLICLY ACCESSIBLE
12 INTERNET WEBSITE. IF THE AUTHORITY DOES NOT MAINTAIN A
13 PUBLICLY ACCESSIBLE INTERNET WEBSITE, THE REPORT SHALL BE
14 PROVIDED BY ELECTRONIC OR OTHER MEANS TO ANY OTHER
15 MUNICIPALITY THAT HAS CUSTOMERS SERVED BY THE AUTHORITY.

16 (2) Every authority shall have its books, accounts and
17 records audited annually by a certified public accountant,
18 and a copy of his audit report shall be filed in the same
19 manner and within the same time period as the annual report.
20 A concise financial statement shall be published annually at
21 least once in a newspaper of general circulation in the
22 municipality where the principal office of the authority is
23 located. If the publication is not made by the authority, the
24 municipality shall publish such statement at the expense of
25 the authority. If the authority fails to make such an audit,
26 then the controller, auditor or accountant designated by the
27 municipality is hereby authorized and empowered from time to
28 time to examine at the expense of the authority the accounts
29 and books of it, including its receipts, disbursements,
30 contracts, leases, sinking funds, investments and any other

1 matters relating to its finances, operation and affairs.

2 * * *

3 § 5613. Transfer of existing facilities to authority.

4 * * *

5 (b) Acquisition.--

6 (1) An authority may not acquire by any device or means,
7 including a consolidation, merger, purchase or lease or
8 through the purchase of stock, bonds or other securities,
9 title to or possession or use of all or a substantial portion
10 of any existing facilities constituting a project [as defined
11 under this chapter] if the project is subject to the
12 jurisdiction of the Pennsylvania Public Utility Commission
13 without first reporting to and advising the municipality
14 which created or which are members of the authority of the
15 agreement to acquire, including all its terms and conditions.

16 (2) The proposed action of the authority and the
17 proposed agreement to acquire shall be approved by the
18 governing body of the municipality which created or which are
19 members of the authority and to which the report is made.
20 Where there are one or two member municipalities of the
21 authority, such approval shall be by two-thirds vote of all
22 of the members of the governing body or of each of the
23 governing bodies. If there are more than two member
24 municipalities of the authority, approval shall be by
25 majority vote of all the members of each governing body of
26 two-thirds of the member municipalities.

27 (3) An authority may not acquire by a device or means,
28 including a consolidation, merger, purchase or lease or
29 through the purchase of stock, bonds or other security, title
30 to or possession or use of all or a substantial portion of a

1 facility constituting a project, unless the authority has
2 discussed the acquisition at a public meeting and the written
3 minutes of the meeting contain details relating to the
4 anticipated or projected public benefit that will be realized
5 by the acquisition. For purposes of this paragraph, a public
6 benefit may include rate reduction, improved service quality,
7 rate stabilization, improved service reliability, action
8 resulting from an agreement with a Federal or State
9 regulatory agency or other clearly defined benefit to a
10 ratepayer of the authority.

11 * * *

12 Section 2. Title 53 is amended by adding a section to read:

13 § 5613.1. Sale or transfer of authority water or sewer
14 infrastructure.

15 (a) Prohibition.--An authority may not sell or transfer
16 title to all or a portion of the water or sewer infrastructure
17 of the authority, unless the authority has discussed the sale or
18 transfer at a public meeting and the written minutes of the
19 meeting contain details relating to the anticipated or projected
20 public benefit that will be realized by the sale or transfer.

21 (b) Definition.--As used in this section, the term "public
22 benefit" may include a rate reduction, improved service quality,
23 rate stabilization, improved service reliability, action
24 resulting from an agreement with a Federal or State regulatory
25 agency or other clearly defined benefit to a ratepayer of the
26 authority.

27 Section 3. The addition of 53 Pa.C.S. § 5613(b) (3) shall
28 apply to title to or possession or use of all or a substantial
29 portion of a facility constituting a project which is acquired
30 on or after the effective date of this section.

1 Section 4. The addition of 53 Pa.C.S. § 5613.1 shall apply
2 to the sale or transfer of title to all or a portion of the
3 water or sewer infrastructure sold or transferred on or after
4 the effective date of this section.

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