

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY WHITE, McCLINTON, SOLOMON, R. BROWN, DRISCOLL,  
KINSEY, MIZGORSKI, NEILSON, PENNYCUICK, SANCHEZ, SMITH,  
TOMLINSON, TWARDZIK, C. WILLIAMS AND D. WILLIAMS,  
SEPTEMBER 29, 2021

REFERRED TO COMMITTEE ON URBAN AFFAIRS, SEPTEMBER 29, 2021

AN ACT

1 Amending the act of June 5, 1991 (P.L.9, No.6), entitled "An act  
2 providing for the financial stability of cities of the first  
3 class; establishing an authority empowered to assist cities  
4 of the first class in their financial affairs and to issue  
5 findings and recommendations to cities of the first class and  
6 to the General Assembly; creating the authority and providing  
7 for its powers and duties; authorizing each city of the first  
8 class and the authority to enter into intergovernmental  
9 cooperation agreements and specifying certain terms of such  
10 agreements and ordinances whereby cities of the first class  
11 enter into such agreements; empowering the authority to incur  
12 indebtedness, receive revenues, acquire the obligations of  
13 assisted cities, make loans and offer other financial  
14 assistance to such cities subject to conditions; establishing  
15 procedures for the preparation and review of financial plans  
16 of cities of the first class while bonds of the authority are  
17 outstanding and providing remedies for failure to adhere to  
18 such plans; requiring certain contracts to be consistent with  
19 the financial plan; making certain provisions with respect to  
20 short-term borrowing by cities of the first class;  
21 establishing procedures for handling authority funds, and  
22 providing for certain payments to the authority; providing  
23 security for bonds and notes issued by the authority;  
24 authorizing the creation of a debt service reserve fund and  
25 providing for its maintenance; granting to the holders of the  
26 authority's indebtedness and to the authority certain  
27 remedies in the event of default by the authority or by an  
28 assisted city on authorized obligations; authorizing cities  
29 of the first class to receive financial assistance from the  
30 authority under certain terms and conditions; establishing  
31 the method for the appointment and composition of the  
32 authority board; prohibiting the authority and assisted

1 cities from filing a petition under Federal bankruptcy  
2 statutes; authorizing an appropriation for authority  
3 operating expenses; authorizing cities of the first class to  
4 impose an optional sales and use tax; authorizing cities of  
5 the first class to impose certain taxes for the authority;  
6 authorizing emergency payment deferral; and providing  
7 jurisdiction for challenges to this act," in general  
8 provisions, further providing for purpose and legislative  
9 intent, for legislative findings and for definitions; in  
10 Pennsylvania Intergovernmental Cooperation Authority, further  
11 providing for powers and duties, for term of existence of  
12 authority, for financial plan of an assisted city, for powers  
13 and duties of authority with respect to financial plans and  
14 for limitation on authority and on assisted cities to file  
15 petition for relief under Federal bankruptcy law; in bonds  
16 and funds of authority, further providing for bonds, for  
17 final date for issuance of bonds and for city payment of  
18 authority bonds; in Pennsylvania Intergovernmental  
19 Cooperation Authority tax, further providing for duration of  
20 tax; in miscellaneous provisions, providing for applicability  
21 of other law; and making related repeals.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 102(b) of the act of June 5, 1991 (P.L.9,  
25 No.6), known as the Pennsylvania Intergovernmental Cooperation  
26 Authority Act for Cities of the First Class, is amended to read:  
27 Section 102. Purpose and legislative intent.

28 (a) \* \* \*

29 (b) Legislative intent.--

30 (1) It is the intent of the General Assembly to:

31 (i) provide cities of the first class with the legal  
32 tools with which such cities can eliminate budget  
33 deficits that render them unable to perform essential  
34 municipal services;

35 (ii) create an authority that will enable cities of  
36 the first class to access capital markets for deficit  
37 elimination and seasonal borrowings to avoid default on  
38 existing obligations and chronic cash shortages that will  
39 disrupt the delivery of municipal services[;] and to  
40 maintain and enhance the sound financial planning and

1 budgetary practices that the authority has fostered;

2 (iii) foster sound financial planning and budgetary  
3 practices that will address the underlying problems which  
4 result in such deficits for cities of the first class[,]  
5 and that will allow for the maintenance and enhancement  
6 of the sound fiscal status of such cities, which [city]  
7 cities shall be charged with the responsibility to  
8 exercise efficient and accountable fiscal practices, such  
9 as:

10 (A) increased managerial accountability;

11 (B) consolidation or elimination of inefficient  
12 city programs;

13 (C) recertification of tax-exempt properties;

14 (D) increased collection of existing tax  
15 revenues;

16 (E) privatization of appropriate city services;

17 (F) sale of city assets as appropriate;

18 (G) improvement of procurement practices  
19 including competitive bidding procedures; and

20 (H) review of compensation and benefits of city  
21 employees; and

22 (iv) exercise its powers consistent with the rights  
23 of citizens to home rule and self-government.

24 (2) The General Assembly further declares that this  
25 legislation is intended to remedy the fiscal emergency  
26 confronting cities of the first class through the  
27 implementation of sovereign powers of the Commonwealth with  
28 respect to taxation, indebtedness and matters of Statewide  
29 concern and to ensure that such an emergency does not repeat  
30 itself. To safeguard the rights of the citizens to the

1 electoral process and home rule, the General Assembly intends  
2 to exercise its power in an appropriate manner with the  
3 elected officers of cities of the first class.

4 (3) The General Assembly further declares that this  
5 legislation is intended to authorize the imposition of a tax  
6 or taxes to provide a source of funding for an  
7 intergovernmental cooperation authority to enable it to  
8 assist cities of the first class and to incur debt of such  
9 authority for such purposes; however, the General Assembly  
10 intends that such debt shall not be a debt or liability of  
11 the Commonwealth or a city of the first class nor shall debt  
12 of the authority payable from and secured by such source of  
13 funding create a charge directly or indirectly against  
14 revenues of the Commonwealth or a city of the first class.

15 Section 2. Section 103 of the act is amended by adding  
16 paragraphs to read:

17 Section 103. Legislative findings.

18 It is hereby determined and declared as a matter of  
19 legislative finding:

20 \* \* \*

21 (23) That the authority and each assisted city have  
22 demonstrated the soundness and effectiveness of the tools  
23 provided for by this act in maintaining and enhancing the  
24 fiscal soundness of cities of the first class and that the  
25 continued existence and use of such tools will allow each  
26 assisted city to further maintain and enhance fiscal  
27 soundness.

28 (24) That cities of the first class have ongoing  
29 critical infrastructure and other capital needs and the  
30 ability of cities of the first class to access the capital

1 markets at favorable interest rates through bonds issued by  
2 the authority will maintain and enhance the ability of cities  
3 of the first class to meet the capital needs.

4 Section 3. The definition of "assisted city" in section 104  
5 of the act is amended to read:

6 Section 104. Definitions.

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

10 "Assisted city." A city of the first class which receives  
11 assistance, including oversight or consultation, from the  
12 Pennsylvania Intergovernmental Cooperation Authority created by  
13 this act.

14 \* \* \*

15 Section 4. Sections 203(c)(8), 204, 209(a), (b), (e) and (h)  
16 (1), 210(a), 211(a) and (d), 301(e), 319, 320 and 602 of the act  
17 are amended to read:

18 Section 203. Powers and duties.

19 \* \* \*

20 (c) Specific powers.--In addition to the powers and duties  
21 set forth elsewhere in this act, the authority shall have the  
22 specific powers:

23 \* \* \*

24 (8) To [exercise, while any bonds issued by the  
25 authority to assist the city remain outstanding,] exercise  
26 powers of review concerning the budgetary and fiscal affairs  
27 of [that] the city consistent with this act and the city's  
28 home rule charter or other optional plan of government.

29 \* \* \*

30 Section 204. Term of existence of authority.

1 (a) General rule.--The authority shall have continuing  
2 existence and succession [for a term not exceeding one year  
3 after all of its liabilities, including, without limitation, its  
4 bonds, have been fully paid and discharged.] until the later of:

5 (1) January 2, 2047; or

6 (2) one year after all of the authority's liabilities,  
7 including without limitation, its bonds, have been fully paid  
8 or discharged or, in the case of authority bonds, one year  
9 after provision for such payment shall have been made as  
10 provided for in the applicable bond indenture.

11 (b) Property at termination.--Upon the termination of the  
12 existence of the authority, all of its rights and properties,  
13 including funds remaining in the debt service reserve fund,  
14 shall be paid to the Commonwealth to the extent the Commonwealth  
15 has contributed such rights or property; otherwise, such rights  
16 or property shall pass to and be vested in the assisted city.  
17 Section 209. Financial plan of an assisted city.

18 (a) Requirement of a financial plan.--[While any bonds  
19 issued by the authority to assist a city remain outstanding,]  
20 Until such time as the authority's existence is terminated as  
21 provided in section 204, an assisted city shall develop,  
22 implement and periodically revise a financial plan as described  
23 in this section. The authority shall not provide the net  
24 proceeds of the initial bond issue described in section 317 and  
25 any subsequent bond issue, other than any amounts necessary to  
26 enable such city to pay principal of or interest on its  
27 outstanding bonds, or lease payments securing bonds of other  
28 government agencies, which payments, in the authority's  
29 discretion, may be made directly to the paying agents for such  
30 bonds, until the authority and the city have agreed upon such a

1 plan.

2 (b) Elements of plan.--The financial plan shall include:

3 (1) Projected revenues and expenditures of the principal  
4 operating fund or funds of the city for five fiscal years  
5 consisting of the current fiscal year and the next four  
6 fiscal years.

7 (2) Plan components that will:

8 (i) eliminate any projected deficit for the current  
9 fiscal year and for subsequent fiscal years;

10 (ii) restore to special fund accounts money from  
11 those accounts used for purposes other than those  
12 specifically authorized;

13 (iii) balance the current fiscal year budget and  
14 subsequent budgets in the financial plan through sound  
15 budgetary practices, including, but not limited to,  
16 reductions in expenditures, improvements in productivity,  
17 increases in revenues or a combination of these steps;

18 (iv) provide procedures to avoid a fiscal emergency  
19 condition in the future; and

20 (v) enhance the ability of the city to regain,  
21 improve or maximize access to the short-term and long-  
22 term credit markets.

23 \* \* \*

24 (e) Annual submission of plan.--An assisted city shall  
25 develop, and the authority shall review and act upon, an initial  
26 five-year financial plan for the city as soon as practicable  
27 after the effective date of this act. During each subsequent  
28 fiscal year while [bonds of the authority are outstanding,] the  
29 requirements of subsection (a) are applicable, the mayor or  
30 chief executive officer of each assisted city shall, at least

1 100 days prior to the beginning of its fiscal year or on such  
2 other date as the authority may approve upon the request of the  
3 assisted city, prepare and submit its proposed five-year plan.  
4 At the same time the plan is submitted, the mayor or chief  
5 executive officer shall also submit to the authority:

6 (1) the mayor's or chief executive officer's proposed  
7 annual operating budget and capital budget which shall be  
8 consistent with the first year of the financial plan and  
9 which shall be prepared in accordance with the assisted  
10 city's home rule charter or other optional plan of  
11 government; and

12 (2) a statement by the mayor or chief executive officer  
13 that such budget:

14 (i) is consistent with the financial plan;

15 (ii) contains funding adequate for debt service  
16 payments, legally mandated services and lease payments  
17 securing bonds of other government agencies; and

18 (iii) is based upon reasonable and appropriate  
19 assumptions and methods of estimation.

20 \* \* \*

21 (h) Revisions to plan.--

22 (1) While [any bonds of the authority remain  
23 outstanding,] the requirements of subsection (a) remain  
24 applicable, the plan shall be revised on an annual basis to  
25 include the operating budget for the next fiscal year and to  
26 extend the plan for an additional fiscal year. In addition,  
27 the mayor or chief executive officer of an assisted city  
28 shall, within 90 days of assuming office, propose revisions  
29 to the financial plan or certify to the authority that he or  
30 she adopts the existing plan. A city may, during the course

1 of a fiscal year, submit proposed revisions to the financial  
2 plan and shall submit a proposed revision for any amendment  
3 to the city's operating or capital budget.

4 \* \* \*

5 Section 210. Powers and duties of authority with respect to  
6 financial plans.

7 (a) Formulation and approval of plan.--To enhance the  
8 security of bonds issued by the [authority, to minimize the need  
9 for future borrowing by the] authority and to advance the  
10 financial recovery or fiscal health of each assisted city, the  
11 authority shall require such city to submit a five-year  
12 financial plan in accordance with section 209. With regard to  
13 the formulation of such plan, the authority shall:

14 (1) Consult with an assisted city as it prepares the  
15 financial plan.

16 (2) Prescribe the form of the financial plan, insofar as  
17 that form is consistent with an assisted city's home rule  
18 charter or other optional plan of government and with this  
19 act.

20 (3) Prescribe the supporting information required in  
21 connection with such plan, such information to include at a  
22 minimum:

23 (i) debt service payments due or projected to be due  
24 during the relevant fiscal years;

25 (ii) payments for legally mandated services included  
26 in the plan and due or projected to be due during the  
27 relevant fiscal years; and

28 (iii) a statement in reasonable detail of the  
29 significant assumptions and methods of estimation used in  
30 arriving at the projections in the plan.

1 (4) Exercise any rights of approval or disapproval and  
2 issue such recommendations as are authorized by this act in  
3 accordance with the standards for formulation of the plan set  
4 forth in section 209(c).

5 \* \* \*

6 Section 211. Limitation on authority and on assisted cities to  
7 file petition for relief under Federal bankruptcy  
8 law.

9 (a) Limitation on bankruptcy filing.--Notwithstanding any  
10 other provision of law, so long as the authority shall have  
11 [outstanding any bonds issued pursuant to this act,] any power  
12 or duty under this act, the authority and any assisted city  
13 shall not be authorized to file a petition for relief under 11  
14 U.S.C. Ch. 9 (relating to bankruptcy) or any successor Federal  
15 bankruptcy law, and no government agency shall authorize the  
16 authority or such city to become a debtor under 11 U.S.C. Ch. 9  
17 or any successor Federal bankruptcy law.

18 \* \* \*

19 (d) Effective date.--Subsections (b) and (c) shall take  
20 effect on the effective date of this act and shall apply to an  
21 assisted city whenever the authority does not have any  
22 [outstanding bonds issued pursuant to] power or duty under this  
23 act.

24 Section 301. Bonds.

25 \* \* \*

26 (e) Use of proceeds.--The proceeds of an issue of bonds may  
27 be used to pay the costs of issuance of such bonds, to pay costs  
28 of administration of authority assistance to a city, to fund  
29 reserves for such bonds, to capitalize interest on such bonds  
30 for a period not to exceed 12 months, to fund an existing or

1 projected deficit of a city or to provide for other financial  
2 assistance to a city, to finance any cash flow deficit of a city  
3 or of the authority or to purchase any obligations of a city  
4 issued to finance cash flow deficits or to pay the costs of  
5 capital projects; provided that the authority shall not issue  
6 bonds to finance the costs of a capital project in and for an  
7 assisted city unless it receives the request described in  
8 subsection (g). [accompanied by a certification that the  
9 assisted city cannot obtain financing for such capital projects  
10 at reasonable rates except through the issuance of authority  
11 bonds and that the construction or acquisition of such capital  
12 projects is a material element of such city's approved financial  
13 plan and the authority determines by a qualified majority of the  
14 board that the capital project is:

15 (1) an emergency capital project which must necessarily  
16 be undertaken as a direct result of an order by a court of  
17 competent jurisdiction or for the repair or replacement of an  
18 existing facility that had been placed in service prior to  
19 the effective date of this act and is owned or occupied by a  
20 city on the effective date of this act; or

21 (2) a capital project necessary to achieve savings and  
22 balanced budgets under an approved financial plan.

23 In addition to the requirement of a qualified majority of the  
24 board, the Governor and either the Auditor General or State  
25 Treasurer shall certify that a capital project under paragraph  
26 (2) is a capital project necessary to achieve savings and  
27 balanced budgets under an approved financial plan of an assisted  
28 city. Proceeds of the initial bond issue of the authority may be  
29 applied to reimburse the Commonwealth for the advance set forth  
30 in section 701 and to fund up to \$500,000 of initial operating

1 expenses of the authority.]

2 \* \* \*

3 Section 319. [Final date] Time for issuance of bonds.

4 (a) General rule.--No bond shall be issued for the purpose  
5 of financing [a capital project or] a deficit, other than a cash  
6 flow deficit, on a date later than December 31, 1994. No bond  
7 shall be issued for the purpose of financing a cash flow deficit  
8 on a date later than December 31, 1996.

9 (b) Bonds issued after January 2, 2022.--Upon the initial  
10 issuance of any bond on or after January 2, 2022, for the  
11 purpose of financing a capital project, additional bonds for the  
12 purpose of financing a capital project may only be issued  
13 beginning on each successive 10-year anniversary of the date of  
14 the initial issuance; provided that one or more series of the  
15 bonds may be issued from time to time during the first three  
16 years after the initial issuance and during the first three  
17 years of each 10-year period that begins on each 10-year  
18 anniversary of the initial issuance.

19 (c) Applicability.--The limitations provided in this section  
20 shall not apply to any bond to be issued to refund an  
21 outstanding bond issued under this act.

22 Section 320. City payment of authority bonds.

23 An assisted city shall have the right at any time to deposit  
24 funds with the authority in an amount sufficient to pay for the  
25 defeasance of all or part of the authority's bonds. The assisted  
26 city depositing funds with the authority pursuant to this  
27 section shall have the right to designate to the authority the  
28 maturities of bonds or portions thereof subject to defeasance by  
29 such deposit. [If an assisted city pays to the authority an  
30 amount sufficient to pay for the defeasance of all of the

1 authority's bonds, the assisted city shall be deemed to have no  
2 further obligations under this act.]

3 Section 602. Duration of tax.

4 Any tax imposed under this chapter shall continue in effect  
5 until [all bonds of the authority which are secured by the  
6 authority's pledge of such tax revenues are no longer  
7 outstanding.] such time as the authority's existence is  
8 terminated, as provided in section 204. For as long as [any such  
9 bonds remain outstanding,] the authority remains in existence,  
10 no governing body of a city shall repeal any ordinance or reduce  
11 the rate of tax imposed for the authority under this act.

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

13 Section 707.1. Applicability of other law.

14 The following laws shall not apply to a city of the first  
15 class that has entered into and remains subject to an  
16 intergovernmental cooperation agreement under this act:

17 (1) Article XVI-C of the act of April 9, 1929 (P.L.343,  
18 No.176), known as The Fiscal Code.

19 (2) The provisions of 62 Pa.C.S. Ch. 39 (relating to  
20 contracts for public works).

21 Section 6. Repeals are as follows:

22 (1) The General Assembly finds that the repeals under  
23 paragraph (2) are necessary to effectuate this act.

24 (2) The following acts or parts of acts are repealed:

25 (i) Section 1610-C 4. of the act of April 9, 1929  
26 (P.L.343, No.176), known as The Fiscal Code.

27 (ii) 62 Pa.C.S. § 3938(3).

28 Section 7. This act shall take effect in 60 days.