SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 904

PRINTER'S NO. 2234

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

June 7, 2013

PRIME SPONSOR

Senator Teplitz

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 904, as amended, establishes a freestanding act with respect to a city or county of the first class to put in place protections and restrictions regarding interest rate management agreements, commonly known as "swaps" or "derivatives".

The legislation provides for requirements for interest rate management agreements entered into by a "contracting authority", which is defined as follows:

> Any of the following that enter into an interest rate management agreement under this act:
>
> 1. A city of the first class.
> 2. A county of the first class.
> 3. A municipal authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) by an entity listed under paragraph (1) or (2).

Senate Bill 904 would allow a contracting authority to enter into swap agreements only if the following provisions are met:

- Interest rate management agreements must be authorized and awarded by resolution of a contracting authority.
- No payments shall be made to or on behalf of a contracting authority by the other party except periodic scheduled payments, termination payments, and attorney fees and other consultant fees incurred in connection with entering into a swap agreement.
- Periodic scheduled payments on an interest rate management agreement must commence within three years.
- The index or basis used for calculating the scheduled payments on the swaps shall be substantially similar to the index or basis used for calculating the interest due on the associated debt.
- The amount of interest rate management agreements shall not exceed 30% of the total principal amount of the aggregate general obligation debt and other debt-related obligations payable from or supported by its General Fund then outstanding.

- Scheduled payments shall be deposited in a payment account to pay the following:
  - I. Pay periodic swap payments or to pay principal and interest on the debt or debt-related obligations related to the interest rate management agreement.
  - II. If the interest rate management agreements under paragraph (I) have been terminated and none of the related debt or debt-related obligations are outstanding, pay periodic swap payments on interest rate management agreements and principal and interest on debt or debt-related obligations from or supported by the same fund or revenues as the original agreement.
  - III. If all of the interest rate management agreements under paragraph (II) have been terminated and no debt or debt-related obligations described under paragraph (II) are outstanding, pay any other obligations of the first class city or county.
- The scheduled expiration date of an interest rate management agreement shall not exceed ten years.
- An interest rate management agreement shall contain certifications by the counterparty.

The legislation requires that within 15 days following the adoption of a resolution authorizing a swap agreement, a contracting authority shall file with the Department of Community and Economic Development ("DCED") certified copies of the resolution, together with an itemized statement of all attorney fees, consultant fees and any other costs expected to be paid on behalf of a contracting authority by the other party. DCED must retain copies of all documents filed as long as the interest rate management agreement is in effect. A contracting authority shall include information with respect to each swap agreement in its annual financial statements.

The act shall take effect in 60 days and shall apply to all interest rate management agreements entered into by a contracting authority on or after the effective date of this act. This act shall not apply to any amendment, termination or novation of a swap agreement where such agreement was entered into prior to the effective date of this act as long as the term of the agreement is not extended.

FISCAL IMPACT:

Senate Bill 904 will have no adverse fiscal impact on Commonwealth or local funds.

Because the legislation places protections and restrictions on the use of swaps in a first class county or city, Senate Bill 904 may further protect the county and city against transactions that threaten their fiscal well-being.