

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 340

PRINTER NO. 1608

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

February 20, 2015

PRIME SPONSOR

Senator Eichelberger

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 340 amends the Local Government Unit Debt Act (“LGUDA”) contained in Title 53 (Municipalities Generally) to provide adequate regulatory oversight and enforcement of the provisions of the LGUDA.

The legislation is in response to hearings regarding the fiscal distress of the City of Harrisburg, whereby it was determined that current state laws are inadequate to protect communities against transactions that may threaten their fiscal stability.

The Local Government Unit Debt Act provides for review of project financings by the Department of Community and Economic Development (“DCED”), defines the different types of debt a municipality may enter into, and sets limits on the amount of debt a municipality can incur without voter approval. Senate Bill 340 strengthens the LGUDA as follows:

- Amends the definition of “self-liquidating debt” to prohibit reimbursements for payments made under a guarantee.
- Adds a definition of “working capital” to prohibit other non-project-related costs.
- Adds a definition of “financial advisor” and provides for the fiduciary duty of those advisors who represent local governments.
- Limits the ability of municipalities to provide unlimited guarantees for other entities’ debts.
- Requires a local government unit to conduct its own public due diligence to determine the risks involved in a transaction before issuing a guarantee.
- Prohibits the guarantee of another entities’ debt for sums due under a swap agreement or for projects that compete directly with the private sector or that do not otherwise constitute a traditional government function.
- Prohibits a local government unit from collecting a fee to guarantee the debt of an authority or another local government unit.
- Clarifies what are considered to be allowable costs of a project for which debt is issued.
- Establishes a more comprehensive review process by DCED in which borrowings are adequately examined in a timely fashion to ensure that the debt is issued in accordance with the intent of the LGUDA.

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- Limits the number of transactions subject to DCED's review process by excluding small borrowings (i.e. \$250,000 or less) and borrowings that consist strictly of a refunding of an already approved prior debt, so long as the refunding does not include a swap.
- Specifies the information and documentation required for preliminary and final approvals.
- Requires DCED to conduct its preliminary review within 10 days.
- Amends Section 8291 pertaining to the duties of participants to reflect that the duties imposed therein are a condition of participating in transactions with the local government, and pertain only to persons who represent the local government unit.
- Provides that the term "fiduciary duty" shall mean the duty to perform loyally, in good faith and in a manner the financial advisor believes to be in the best interests of the local government unit.
- Improves the review of debts claimed to be self-liquidating by requiring updated filings.
- Requires appropriate retention of public records.
- Provides for the treatment of false filings under LGUDA, including penalty provisions.

The act shall take effect in 60 days.

FISCAL IMPACT:

Senate Bill 340 will have no adverse fiscal impact on Commonwealth or local funds. Senate Bill 340 may prevent local government units from losing money as a result of unsound borrowing practices.

DCED currently reviews local government debt financing, and it is presumed that the department will be able to administer the act without the need for additional resources.