

INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR CITIES OF THE
SECOND CLASS - OMNIBUS AMENDMENTS

Act of Jul. 20, 2016, P.L. 843, No. 99

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SB 1221

AN ACT

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

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

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

Section 104. Definitions.

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

* * *

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

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

Section 202. Governing board.

* * *

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

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

* * *

(h) Statutes applying to authority.--

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

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

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

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

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

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

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

(i) Except as set forth in paragraph (2), the State Adverse Interest Act.

(ii) 65 Pa.C.S. Ch. 11.

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

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

Section 203. Powers and duties.

* * *

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

* * *

(4) To make annual signed reports within 120 days after the close of the assisted city's fiscal year[, commencing with the fiscal year ending December 31, 2003,] to the Governor and the General Assembly describing the city's financial condition and the authority's progress with respect to restoring the financial stability of assisted cities and achieving balanced budgets for assisted cities. [Such reports shall be] **Each report shall:**

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

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

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

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

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

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

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

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

(i) **Intergovernmental cooperation agreements under paragraph (3).**

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

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

(iv) **Audits required under section 207.**

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

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

* * *

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

Section 204. Term of existence.

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

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

(c) **Redistribution.**--

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

(2) The gaming revenue shall be in addition to and shall not replace the minimum obligation that the assisted city is required to contribute to its pension funds under the act of December 18, 1984 (P.L.1005, No.205), known as the **Municipal Pension Plan Funding Standard and Recovery Act.** Section 207. Annual report to be filed; annual audits.

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

Section 5. The act is amended by adding a section to read:
Section 210.1. Distribution of gaming revenue.

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

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

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

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

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

(c) **Other purpose.--**

(1) If the authority votes to direct an assisted city to use gaming revenue for a purpose under 4 Pa.C.S. § 1403(c)(3)(xv)(C) without conditions, the authority shall notify the Secretary of the Budget and the Commonwealth shall distribute the gaming revenue directly to the assisted city as provided for under 4 Pa.C.S. § 1403(c)(3)(i) to be used by the assisted city as directed by the authority.

(2) If the authority votes to direct an assisted city to use gaming revenue for a purpose under 4 Pa.C.S. § 1403(c)(3)(xv)(C) with conditions, the authority shall transmit in writing to the assisted city and the Secretary of the Budget no more than five days from the time of the vote, conditions that the assisted city must meet, including the purpose and time period for meeting the conditions,

before distribution of the gaming revenue may be made to the assisted city.

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

(4) If the assisted city needs additional time to meet the conditions imposed by the authority, the assisted city shall reply to the authority in writing with an update on the process for meeting the conditions and a projection of the time period that will be needed to complete the conditions.

(5) (i) The authority shall certify to the Secretary of the Budget if the assisted city fails to meet the conditions imposed under paragraph (2) and that no distribution of gaming revenue should be made to the assisted city until the conditions are met.

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

(iii) Upon receipt of the certification, the Secretary of the Budget shall release the gaming revenue withheld from the assisted city, including the interest and income earned on the gaming revenue during the period withheld, directly to the assisted city.

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

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

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

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

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

APPROVED--The 20th day of July, A.D. 2016.

TOM WOLF