

TABLE OF CONTENTS

TITLE 53 MUNICIPALITIES GENERALLY

PART I. PRELIMINARY PROVISIONS

Chapter 1. General Provisions

§ 101. Short title of title.

Chapter 3. Preemptions

§ 301. Tobacco product.

§ 302. Restriction on municipal regulation of amateur radio service communications.

§ 303. Appeal of decision by school reform commission.

§ 304. Protection for victims of abuse or crime.

§ 305. Local regulation of unmanned aircraft prohibited.

§ 306. Businesses operated by minors.

Chapter 5. Prohibition Options

§ 501. Definitions.

§ 502. Municipal option for gaming.

PART II. CREATION, TERRITORY, ALTERATION AND DISSOLUTION

Chapter 7. Alteration of Territory or Corporate Entity and Dissolution

Subchapter B. Municipal Boundary Change

§ 711. Scope of subchapter.

§ 712. Definitions.

§ 713. Interpretation.

§ 714. Stream boundaries.

§ 715. Boundary change agreement by abutting municipalities.

§ 716. Petition and establishment of disputed boundaries by judicial ascertainment.

§ 717. Judicial ascertainment procedure.

§ 718. Effective date of boundary change.

§ 719. Notification of boundary change.

§ 720. Monuments.

§ 721. Wards.

§ 722. Collection of taxes levied prior to change of boundary and authorized expenditures.

§ 723. Election districts and officers.

§ 724. Governing body agreements.

§ 725. Adjustment of indebtedness.

§ 726. Judicial adjustment award proceedings.

§ 727. Compensation, expenses and costs.

§ 728. Territory located in multiple counties.

§ 729. Bond issues.

Subchapter C. Consolidation and Merger

§ 731. Short title of subchapter.

§ 732. Definitions.

§ 733. Procedure for consolidation or merger.

§ 734. Joint agreement of governing bodies.

- § 735. Initiative of electors seeking consolidation or merger without new home rule charter.
- § 735.1. Initiative of electors seeking consolidation or merger with new home rule charter.
- § 736. Conduct of referenda.
- § 737. Consolidation or merger agreement.
- § 738. Effectuation of consolidation or merger.
- § 739. Effect of transition on employees of consolidated or merged municipality.
- § 740. Procedures.
- § 741. Court review of transitional plan.

Chapter 9. Municipal Reapportionment

- § 901. Short title and scope of chapter.
- § 902. Definitions.
- § 903. Reapportionment by governing body.
- § 904. Reapportionment by court upon petition.
- § 905. Compensation of commissioners and payment of costs.
- § 906. Contest of reapportionment by governing body.
- § 907. Costs and expenses of contest.
- § 908. Retention in office and new elections.

PART III. GOVERNMENT AND ADMINISTRATION

SUBPART A. GENERAL PROVISIONS

Chapter 11. General Provisions

Subchapter A. (Reserved)

Subchapter B. Emergency Seat of Government

- § 1121. Scope of subchapter.
- § 1122. Establishment and designation.
- § 1123. Exercise of powers and functions.
- § 1124. Applicability of subchapter.

Subchapter C. Emergency Succession of Officers

- § 1131. Scope of subchapter.
- § 1132. Declaration of policy.
- § 1133. Definitions.
- § 1134. Enabling authority for emergency interim successors for local offices.
- § 1135. Emergency interim successors for local officers.
- § 1136. Formalities of taking office.
- § 1137. Succession period.
- § 1138. Term and removal of designees.

Subchapter D. Miscellaneous Provisions

- § 1141. Form of oaths of office.
- § 1142. Residency during military service.

SUBPART B. GOVERNING BODY

Chapter 13. General Provisions

Subchapters A through E (Reserved)

Subchapter F. Records

- § 1381. Short title and scope of subchapter.
- § 1382. Definitions.
- § 1383. Disposition of public records.
- § 1384. Proposed retention and disposal schedules.
- § 1385. Local Government Records Committee.
- § 1386. Effect of approval of schedule.
- § 1387. Nonliability of official.
- § 1388. Recording and copying records.
- § 1389. Applicability of other statutes.

Subchapter G. Miscellaneous Provisions (Unconstitutional)

- § 1391. Acceptance of gifts or donations (Unconstitutional).
- § 1392. Prohibition of fees for police services.

SUBPART C. EXECUTIVE DEPARTMENTS, OFFICERS AND EMPLOYEES

Chapter 21. Employees

Subchapters A through C (Reserved)

Subchapter D. Municipal Police Education and Training

- § 2161. Establishment of program and scope of subchapter.
- § 2162. Definitions.
- § 2163. Commission members.
- § 2164. Powers and duties of commission.
- § 2165. Meetings and quorum of commission.
- § 2166. Applicability to civil service laws.
- § 2166.1. Prohibition on political activity (Repealed).
- § 2167. Police training.
- § 2168. Automatic certification.
- § 2169. In-service training by existing personnel.
- § 2170. Reimbursement of expenses.
- § 2171. Payment of certain county costs.
- § 2172. Canine training standards for police officers.

Subchapter E. Employee Benefits

- § 2181. Health insurance ordinances.

SUBPART D. AREA GOVERNMENT AND INTERGOVERNMENTAL COOPERATION

Chapter 23. General Provisions

Subchapter A. Intergovernmental Cooperation

- § 2301. Scope of subchapter.
- § 2302. Definitions.
- § 2303. Intergovernmental cooperation authorized.
- § 2304. Intergovernmental cooperation.
- § 2305. Adoption of ordinance or resolution.
- § 2306. Initiative and referendum.
- § 2307. Content of ordinance or resolution.
- § 2308. Bids for certain joint purchases.
- § 2309. Direct purchases.
- § 2310. Joint purchases with private educational establishments.
- § 2311. Written or telephonic price quotations required.

- § 2312. Division of transactions provided.
- § 2313. Penalty.
- § 2314. Required review of specified agreements.
- § 2315. Effect of joint cooperation agreements.
- § 2316. Recognition by Commonwealth departments and agencies.
- § 2317. Agreements for fire protection services in cities of the second class.

Subchapter B. Environmental Advisory Councils

- § 2321. Scope of subchapter.
- § 2322. Establishment of environmental advisory council.
- § 2323. Composition and organization of council.
- § 2324. Powers and duties of council.
- § 2325. Records and reports.
- § 2326. Appropriations for expenses of council.
- § 2327. Status of existing agencies unaffected.
- § 2328. Assistance from State Conservation Commission.
- § 2329. Assistance from Department of Community and Economic Development.

Subchapter C. Regional Planning

- § 2341. Short title and scope of subchapter.
- § 2342. Definitions.
- § 2343. Declaration of policy.
- § 2344. Establishment and organization of regional planning commission.
- § 2345. Finances, staff and program.
- § 2346. Commission to prepare master plan.
- § 2347. Cooperation between commission, municipalities and others.
- § 2348. Interstate participation.

Chapter 25. Environmental Improvement Compacts

Subchapter A. Preliminary Provisions

- § 2501. Short title and scope of chapter.
- § 2502. Definitions.

Subchapter B. Initiative

- § 2511. Proposal by electors.
- § 2512. Initiative petition.
- § 2513. Review of initiative petition.
- § 2514. Petition as public record.
- § 2515. Distribution of petition.

Subchapter C. Municipal Referendum Ordinance

- § 2521. Referendum ordinance.
- § 2522. Filing of referendum ordinance.
- § 2523. Notice to governing bodies of referendum date.

Subchapter D. Referendum

- § 2531. Referendum procedures.
- § 2532. Placing question on ballot.
- § 2533. Date of election.
- § 2534. Public notice of referendum.
- § 2535. Approval.

§ 2536. Results of election.

Subchapter E. Election of Board

§ 2541. Election of board.

§ 2542. Nomination of candidates.

§ 2543. Election returns.

Subchapter F. Organization of Board

§ 2551. Membership of board.

§ 2552. Compensation of board.

§ 2553. Organization of board.

§ 2554. Secretary and treasurer of board.

§ 2555. Purposes and powers of board.

SUBPART E. HOME RULE AND OPTIONAL PLAN GOVERNMENT

Chapter 29. General Provisions

Subchapter A. Preliminary Provisions

§ 2901. Short title and scope of subpart.

§ 2902. Definitions.

Subchapter B. Procedure for Adoption of Home Rule Charter or Optional Plan of Government

§ 2911. Submission of question for election of government study commission.

§ 2912. Election of members of commission.

§ 2913. Nomination of candidates.

§ 2914. Results of election.

§ 2915. Oath of office of members of commission.

§ 2916. First meeting of commission.

§ 2917. Vacancies.

§ 2918. Function and duty of commission.

§ 2919. Compensation and personnel.

§ 2920. Hearings and public forums.

§ 2921. Report of findings and recommendations.

§ 2922. Discharge of petition and amended reports.

§ 2923. Types of action recommended.

§ 2924. Specificity of recommendations.

§ 2925. Form of question on form of government.

§ 2926. Submission of question on form of government.

§ 2927. Limitation on enactment of ordinance or filing of petition.

§ 2928. Time when change of form of government takes effect.

§ 2929. Limitation on changing new form of government.

§ 2930. Status of forms of government provided in subpart.

Subchapter C. Amendment of Existing Charter or Optional Plan

§ 2941. Procedure for amendment of charter or optional plan.

§ 2942. Initiation of amendment by electors or council.

§ 2943. Petition for referendum or ordinance proposing amendment.

§ 2944. Time and manner of submission of question.

Subchapter D. Conduct of Election

- § 2951. Conduct and results of election.
- § 2952. Notice of election.

Subchapter E. General Powers and Limitations of Home Rule Charter Municipalities

- § 2961. Scope of powers of home rule.
- § 2962. Limitation on municipal powers.
- § 2963. Exercise of municipal powers by home rule county.
- § 2964. General powers of municipalities.
- § 2965. Recording and filing of charter.
- § 2966. Continuation of office of existing elective officials.
- § 2967. Repeal of home rule charter.

Subchapter F. General Provisions and Limitations for Optional Plan Municipalities

- § 2971. Law applicable to optional plan.
- § 2972. Recording and filing of plan.
- § 2973. Scope of powers of optional plan.
- § 2974. Limitation on powers of optional plan.

Subchapter G. Miscellaneous Provisions

- § 2981. Limitation on local municipality.
- § 2982. Retention of existing form of government.
- § 2983. Retention of existing form of government when electors disapprove proposal.
- § 2984. Assumption of functions previously assumed by other municipality.

Chapter 30. Types of Optional Plans of Government

Subchapter A. Executive (Mayor) - Council Plan A

- § 3001. Designation and applicability of plan.
- § 3002. Officers and employees.
- § 3003. Election and term of office of officials.
- § 3004. Election and term of office of council members.
- § 3005. First election of council members.
- § 3006. Legislative power vested in council.
- § 3007. Organization of council.
- § 3008. Powers of council concerning officers and agencies.
- § 3009. Appointment and duties of municipal clerk or secretary.
- § 3010. Executive power vested in executive.
- § 3011. Powers and duties of executive.
- § 3012. Approval or veto of ordinances.
- § 3013. Mayor, departments and department heads.
- § 3014. Department of administration.
- § 3015. Budget.
- § 3016. Form and adoption of budget.
- § 3017. Amended budget.
- § 3018. Council amendments to budget.

Subchapter B. Executive (Mayor) - Council Plan B

- § 3031. Designation and applicability of plan.
- § 3032. Departments.
- § 3033. Mandatory department of administration.

Subchapter C. Executive (Mayor) - Council Plan C

- § 3041. Designation and applicability of plan.
- § 3042. Powers and duties of executive.
- § 3043. Appointment and duties of managing director.

Subchapter D. Council-Manager Plan

- § 3051. Designation and applicability of plan.
- § 3052. Officers and employees.
- § 3053. Election and term of office of elected officials.
- § 3054. Election and term of office of council members.
- § 3055. First election of council members.
- § 3056. Selection of mayor, council president or chairman.
- § 3057. Appointment and duties of municipal clerk or secretary.
- § 3058. Powers and duties of council.
- § 3059. Qualifications of municipal manager.
- § 3060. Removal of municipal manager from office.
- § 3061. Inability of municipal manager to perform duties.
- § 3062. Powers and duties of municipal manager.
- § 3063. Preparation and adoption of budget.
- § 3064. Amended budget.

Subchapter E. Small Municipality Plan

- § 3071. Designation and applicability of plan.
- § 3072. Officers.
- § 3073. Election of council members.
- § 3074. Organization of council.
- § 3075. Powers and duties of council.
- § 3076. Municipal clerk or secretary, solicitor and agencies.
- § 3077. Powers and duties of executive.
- § 3078. Appointment of officers and employees by executive.
- § 3079. Preparation and adoption of budget.
- § 3080. Amended budget.

Subchapter F. Optional County Plan

- § 3091. Designation and applicability of plan.
- § 3092. County officers.
- § 3093. Powers.
- § 3094. Additional options for election of county sheriff.
- § 3095. Approval of plan.

Chapter 31. General Provisions Common to Optional Plans

Subchapter A. Officers and Employees

- § 3101. Adverse interest in contracts for purchase or services.
- § 3102. Acceptance of services at more favorable terms.
- § 3103. Gift or promise of thing of value to influence political support.
- § 3104. Refusal or failure to appear or testify before court.

Subchapter B. Treasurer

- § 3111. Selection and duties of municipal treasurer.

Subchapter C. Appointment Power and Personnel

- § 3121. Appointment of members of boards and commissions.
- § 3122. Appointment of subordinate officers and employees.

Subchapter D. Filling Vacancies in Elected Office

- § 3131. Applicability of subchapter.
- § 3132. Manner of filling vacancies in office.

Subchapter E. Legislation by Council

- § 3141. Regular and special meetings of council.
- § 3142. Procedure and functions of council.
- § 3143. Adoption of ordinances.
- § 3144. Recording and compilation of ordinances and resolutions.
- § 3145. Filing and publication of rules and regulations.
- § 3146. Passage of administrative ordinance.

Subchapter F. Audit and Control

- § 3151. Exercise of financial management control functions.
- § 3152. Post audits by independent auditor.
- § 3153. Selection of controller.

Subchapter G. Transition to Optional Plan Government

- § 3161. Applicability of plan.
- § 3162. Status and term of office of officials.
- § 3163. Compensation of elected officials.
- § 3164. Status of existing ordinances and resolutions.
- § 3165. Abolishment of existing appointive offices.
- § 3166. Pending actions and proceedings.

Subchapter H. Repeal of Optional Plan

- § 3171. Repeal of optional plan and establishment of new form of government.

PART V. PUBLIC IMPROVEMENTS, UTILITIES AND SERVICES

SUBPART A. GENERAL PROVISIONS

Chapter 54. Business Improvement Districts

- § 5401. Short title and scope of chapter.
- § 5402. Definitions.
- § 5403. Powers of governing body.
- § 5404. Administrative services provided by cities of the second class.
- § 5405. Assessment authorized.
- § 5406. Method and payment of assessment.

Chapter 55. Parking Authorities

- § 5501. Scope of chapter.
- § 5502. Declaration of policy.
- § 5503. Definitions.
- § 5504. Method of incorporation.
- § 5505. Purposes and powers.
- § 5506. Bonds.
- § 5507. Bondholders.
- § 5508. Governing body.
- § 5508.1. Special provisions for authorities in cities of the first class.
- § 5508.2. Additional special provisions for authorities in cities of the first class; mixed-use projects.

- § 5508.3. Restrictions on authorities in cities of the first class.
- § 5508.4. Granting of interests and mixed-use projects for authorities in cities of the second class.
- § 5509. Acquisition of lands.
- § 5510. Money of authority.
- § 5510.1. Management of authority funds in cities of the first class.
- § 5510.2. Special funds in cities of the first class.
- § 5510.3. Bonds in cities of the first class.
- § 5510.4. Contracts with obligees of an authority in cities of the first class.
- § 5510.5. Commonwealth pledges in cities of the first class.
- § 5510.6. Provisions of bonds and trust indentures in cities of the first class.
- § 5510.7. Funds collected on behalf of a municipality (Deleted by amendment).
- § 5510.8. Bonds to be legal investments.
- § 5510.9. Validity of pledge.
- § 5510.10. Security interest in funds and accounts.
- § 5510.11. Limitation on authority under Federal bankruptcy code.
- § 5511. Competition in award of contracts.
- § 5512. Use of projects.
- § 5513. Pledge by Commonwealth.
- § 5514. Termination of authority.
- § 5515. Exemption from taxation; payments in lieu of taxes.
- § 5516. Transfer of existing facilities to authority.
- § 5517. Severability.

Chapter 56. Municipal Authorities

- § 5601. Short title of chapter.
- § 5602. Definitions.
- § 5603. Method of incorporation.
- § 5604. Municipalities withdrawing from and joining in joint authorities.
- § 5605. Amendment of articles.
- § 5606. School district projects.
- § 5607. Purposes and powers.
- § 5608. Bonds.
- § 5609. Bondholders.
- § 5610. Governing body.
- § 5611. Investment of authority funds.
- § 5612. Money of authority.
- § 5613. Transfer of existing facilities to authority.
- § 5614. Competition in award of contracts.
- § 5615. Acquisition of lands, water and water rights.
- § 5616. Acquisition of capital stock.
- § 5617. Use of projects.
- § 5618. Pledge by Commonwealth.
- § 5619. Termination of authority.
- § 5620. Exemption from taxation and payments in lieu of taxes.
- § 5621. Constitutional construction.
- § 5622. Conveyance by authorities to municipalities or school districts of established projects.
- § 5623. Revival of an expired authority.

Chapter 57. Taxicabs and Limousines in First Class Cities

Subchapter A. General Provisions

- § 5701. Definitions.
- § 5701.1. Legislative findings.
- § 5702. Advisory committee.
- § 5703. Rates.
- § 5704. Power of authority to require insurance.
- § 5705. Contested complaints.
- § 5706. Driver certification program.
- § 5707. Budget and assessments.
- § 5707.1. Assessment notice and hearings.
- § 5708. Funds.
- § 5709. (Reserved).
- § 5710. Fees.

Subchapter B. Taxicabs

- § 5711. Power of authority to issue certificates of public convenience.
- § 5712. Medallion system.
- § 5713. Property and licensing rights.
- § 5714. Certificate and medallion required.
- § 5715. Contested complaints (Deleted by amendment).
- § 5716. Reissuance of medallion.
- § 5717. Additional certificates and medallions.
- § 5718. Restrictions.
- § 5719. Driver certification program (Deleted by amendment).
- § 5720. Wages.
- § 5721. Centralized dispatcher.
- § 5722. Regulations.
- § 5723. Budget and fees (Deleted by amendment).
- § 5724. Criminal penalties.
- § 5725. Civil penalties.

Subchapter C. Limousines

- § 5741. Certificate of public convenience required.
- § 5741.1. Power of authority.
- § 5742. Regulations.
- § 5743. Budget and fees (Deleted by amendment).
- § 5744. Criminal penalties.
- § 5745. Civil penalties.

Chapter 57A. Transportation Network Companies

- § 57A01. Definitions.
- § 57A02. License required.
- § 57A03. Application.
- § 57A04. Qualifications for licensure.
- § 57A05. License issuance and appeal of denial.
- § 57A06. License enforcement.
- § 57A06.1. Appeals generally.
- § 57A07. Insurance requirements.
- § 57A08. Vehicle ownership and standards.
- § 57A09. Vehicle inspections.
- § 57A10. Distinctive signage.
- § 57A11. Transportation network service accessibility.
- § 57A12. Transportation network company drivers.
- § 57A13. Intoxicating substance policy.
- § 57A14. Reporting requirement.
- § 57A15. Driver credentials.
- § 57A16. Operating regulations.
- § 57A17. Fare rates.
- § 57A18. Records and reports.

- \$ 57A19. Penalties.
- \$ 57A20. Impoundment of vehicles.
- \$ 57A21. Enforcement and rules and regulations.
- \$ 57A22. Assessment.

Chapter 57B. Regulation of Taxicabs and Limousines in Cities of the First Class

- \$ 57B01. Legislative findings.
- \$ 57B02. Regulation of taxicabs and limousines.

Chapter 58. Contractors' Bonds and Financial Security for Redevelopment Contracts (Repealed)

\$ 5801 - \$ 5810 (Repealed)

Chapter 59. Pennsylvania Convention Center Authority (Repealed)

\$ 5901 - \$ 5923 (Repealed)

Chapter 60. Optional Affordable Housing Funding

Subchapter A. Preliminary Provisions

- \$ 6001. Scope of chapter.
- \$ 6002. Legislative purpose.
- \$ 6003. Definitions.

Subchapter B. Affordable Housing Programs and Funding in Counties

- \$ 6011. Affordable housing programs fee in counties.
- \$ 6012. Disposition of proceeds in counties.
- \$ 6013. Affordable housing efforts in counties.

Subchapter C. Affordable Housing Programs and Funding in Cities of First Class

- \$ 6021. Affordable housing programs fee in cities of first class.
- \$ 6022. Disposition of proceeds in cities of first class.
- \$ 6023. Affordable housing efforts in cities of first class.

Chapter 61. Neighborhood Blight Reclamation and Revitalization

Subchapter A. Preliminary Provisions

- \$ 6101. Short title of chapter.
- \$ 6102. Legislative findings and purpose.
- \$ 6103. Definitions.

Subchapter B. Actions Against Owner of Property with Serious Code Violations

- \$ 6111. Actions.
- \$ 6112. Asset attachment.
- \$ 6113. Duty of out-of-State owners of property in this Commonwealth.
- \$ 6114. Duty of corporation, association and trust owners.
- \$ 6115. Failure to comply with a code requirement.

Subchapter C. Permit Denials by Municipalities

§ 6131. Municipal permit denial.

Subchapter D. Miscellaneous Provisions

§ 6141. (Reserved).

§ 6142. (Reserved).

§ 6143. Conflict with other law.

§ 6144. Relief for inherited property.

§ 6145. Construction.

PART VII. TAXATION AND FISCAL AFFAIRS

SUBPART B. INDEBTEDNESS AND BORROWING

Chapter 80. General Provisions

Subchapter A. Preliminary Provisions

§ 8001. Short title, scope and applicability of subpart.

§ 8002. Definitions.

§ 8003. Advertisement and effectiveness of ordinances.

§ 8004. When lease or other agreement evidences acquisition of capital asset.

§ 8005. Classification and authority to issue bonds and notes.

§ 8006. Preliminary cost estimates.

§ 8007. Cost of project.

§ 8008. Home rule.

§ 8009. Guaranty funds and compulsory associations.

Subchapter B. Limitations on Debt of Local Government Units

§ 8021. No limitation on debt approved by electors.

§ 8022. Limitations on incurring of other debt.

§ 8023. Transfer to electoral debt of debt incurred without approval of electors.

§ 8024. Exclusion of subsidized debt from net nonelectoral debt or net lease rental debt.

§ 8025. Exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt.

§ 8026. Exclusion of other self-liquidating debt to determine net nonelectoral debt or net lease rental debt.

§ 8027. Effect of debt limitations on outstanding debt.

§ 8028. Determination of existing net nonelectoral debt and net nonelectoral plus net lease rental debt.

§ 8029. Determination of debt limits.

Subchapter C. Procedure for Securing Approval of Electors

§ 8041. Desire resolution and expense of certain elections.

§ 8042. Advertisement of election.

§ 8043. Conduct of election.

§ 8044. Finality of result of election.

§ 8045. Effect of defeat of question.

§ 8046. Issuance of bonds, notes or other instruments to evidence electoral debt.

§ 8047. Cancellation or termination of approval of electors.

§ 8048. Limitation on use of proceeds of electoral debt.

§ 8049. Manner of changing purpose of electoral debt.

Chapter 81. Incurring Debt and Issuing Bonds and Notes

Subchapter A. General Provisions

- § 8101. Combining projects for financing or series of bonds or notes for sale.
- § 8102. Preliminary authorizations as to financing.
- § 8103. Ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt.
- § 8104. Covenant to pay bonds or notes or a guaranty.
- § 8105. Additional provisions in ordinance authorizing issuance of revenue or guaranteed revenue bonds or notes.
- § 8106. Sinking fund depository and trustee for bondholders or noteholders.
- § 8107. Award of bonds or notes.
- § 8108. Bond anticipation notes.
- § 8109. Small borrowing for capital purposes.
- § 8110. Debt statement.
- § 8111. Submission to department.
- § 8112. Agreements with bondholders or noteholders.
- § 8113. Lost, stolen, destroyed or mutilated bonds or notes.
- § 8114. Evidence of signatures of holders and of ownership of bonds, notes and tax anticipation notes.
- § 8115. Contractual effect of ordinances and resolutions.
- § 8116. Unfunded actuarial accrued liability - condition precedent (Repealed).

Subchapter B. Tax Anticipation Notes and Funding Debt

- § 8121. Power to issue tax anticipation notes.
- § 8122. Limitation on amount of tax anticipation notes.
- § 8123. Maturity date and time of payment of interest.
- § 8124. Other terms of tax anticipation notes.
- § 8125. Security for tax anticipation notes and sinking fund.
- § 8126. Certification as to taxes and revenues to be collected.
- § 8127. Sale of tax anticipation notes.
- § 8128. Condition precedent to validity of tax anticipation notes.
- § 8129. Scope of unfunded debt.
- § 8130. Approval by court to fund unfunded debt.

Subchapter C. Provisions of Bonds and Notes

- § 8141. Form of bonds or notes.
- § 8142. Limitations on stated maturity dates.
- § 8143. Disposition of proceeds notwithstanding certain limitations.
- § 8144. Number of interest rates.
- § 8145. Place and medium of payment.
- § 8146. Execution of bonds or notes.
- § 8147. Pledge of revenues.
- § 8148. Deeds of trust and other agreements with bondholders and noteholders.
- § 8149. Negotiable qualities of bonds and notes.
- § 8150. Temporary bonds or notes or interim receipts.

Subchapter D. Sale of Bonds and Notes

- § 8161. Manner of sale of bonds or notes.
- § 8162. Contents of public advertisement and of official notice of sale.
- § 8163. Proposals for purchase.
- § 8164. Opening of bids.

- § 8165. Determination of highest and best bid.
- § 8166. Required bid security.
- § 8167. Reserved right to reject bids.
- § 8168. Failure to receive conforming bid.
- § 8169. Determination of net interest cost and net interest rate.

Chapter 82. Miscellaneous Provisions

Subchapter A. Department of Community and Economic Development

- § 8201. Certification to department of bond or note transcript or lease, guaranty, subsidy contract or other agreement.
- § 8202. Filing of statements of noncompletion of sale with department.
- § 8203. Fees for filing.
- § 8204. Certificate of approval of transcript.
- § 8205. Certificate of disapproval and correction of proceedings.
- § 8206. Effect of failure of timely action by department.
- § 8207. Records of department.
- § 8208. Invalidity of instruments which are delivered without compliance with requirements or conditions precedent to issuance or delivery.
- § 8209. Finality of proceedings as to validity of instruments.
- § 8210. Power of department to define terms, issue rules and regulations and prescribe forms.
- § 8211. Petitions for declaratory orders and complaints to department.

Subchapter B. Sinking Funds and Other Funds and Accounts

- § 8221. Creation of sinking funds and deposits, reserves and surplus funds.
- § 8222. Assessment fund.
- § 8223. Duty of treasurer.
- § 8224. Deposit and investment of moneys in sinking funds and other funds.
- § 8225. Management of sinking and other funds.
- § 8226. Inspection of sinking funds and orders to comply.
- § 8227. Sinking fund not required for small borrowings.

Subchapter C. Refunding of Debt

- § 8241. Power to refund.
- § 8242. Treatment of costs upon refunding.
- § 8243. Limitation on extending term of debt by refunding.
- § 8244. Effect of debt limits on refunding nonelectoral bonds or notes or lease rental debt.
- § 8245. Refunding of electoral debt.
- § 8246. Procedure for authorization, sale, issue and approval of refunding bonds or notes.
- § 8247. Special limitation on refunding of funding debt.
- § 8248. Approval of refunding by the electors.
- § 8249. Refunding with bonds of another type.
- § 8250. Use of proceeds of refunding bonds and when refunded bonds are no longer deemed outstanding.
- § 8251. Cessation of interest on called bonds or notes.

Subchapter D. Remedies

- § 8261. Failure to budget debt service.
- § 8262. Failure to pay principal or interest.
- § 8263. Trustee for bondholders.
- § 8264. Receiver for revenue projects.
- § 8265. Costs of suits or proceedings.
- § 8266. Distribution of moneys realized for bondholders.

Subchapter E. Penalties

- § 8271. Failure to obey sinking fund directive of department.

Subchapter F. Interest Rate Risk and Interest Cost Management

- § 8281. Qualified interest rate management agreements.
- § 8282. Covenant to pay amounts due under qualified interest rate management agreements.
- § 8283. Remedies.
- § 8284. Notice and retention of records.
- § 8285. Financial reporting.

SUBPART C. TAXATION AND ASSESSMENTS

Chapter 84. General Provisions

Subchapter A. Preliminary Provisions

- § 8401. Definitions.
- § 8402. Scope and limitations.
- § 8403. Preemption.
- § 8404. Certain rates of taxation limited.
- § 8405. Applicability.

Subchapter B. (Reserved)

Subchapter C. Local Taxpayers Bill of Rights

- § 8421. Short title of subchapter.
- § 8422. Definitions.
- § 8423. Disclosure statement.
- § 8424. Requirements for requests.
- § 8425. Refunds of overpayments.
- § 8426. Interest on overpayment.
- § 8427. Notice of basis of underpayment.
- § 8428. Abatement of certain interest and penalty.
- § 8429. Application of payments.
- § 8430. Administrative appeals.
- § 8431. Petitions.
- § 8432. Practice and procedure.
- § 8433. Decisions.
- § 8434. Appeals.
- § 8435. Equitable and legal principles to apply.
- § 8436. Installment agreements.
- § 8437. Confidentiality of tax information.
- § 8438. Taxes on real property.

Chapter 85. Assessments of Persons and Property

Subchapters A through C (Reserved)

Subchapter D. Cities and Counties of the First Class

- § 8561. Scope of subchapter.
- § 8562. Definitions.
- § 8563. Tax rates.
- § 8564. Installment payments.
- § 8565. Assessments and appeals for certain tax years.

Subchapter E. Real Estate Tax Deferral

- § 8571. Short title of subchapter.
- § 8572. Definitions.
- § 8573. Authority.
- § 8574. Income eligibility.
- § 8575. Tax deferral.
- § 8576. Application procedure.
- § 8577. Contents of application.
- § 8578. Attachment and satisfaction of liens.

Subchapter F. Homestead Property Exclusion

- § 8581. Short title of subchapter.
- § 8582. Definitions.
- § 8583. Exclusion for homestead property.
- § 8584. Administration and procedure.
- § 8585. Exclusion for farmstead property.
- § 8586. Limitations.
- § 8587. Uniform application.
- § 8588. Applicability.

Chapter 86. Taxation for Public Transportation

- § 8601. Scope of chapter.
- § 8602. Local financial support.

Chapter 87. Other Subjects of Taxation

Subchapter A. Tax Authorization and Referendum Requirements

- § 8701. General tax authorization.
- § 8702. Continuity of tax.
- § 8703. Adoption of referendum.
- § 8704. Public referendum requirements for increasing property taxes previously reduced.
- § 8705. Local tax study commission.
- § 8706. Property tax limits on reassessment.

Subchapter B. Earned Income and Net Profits Tax

- § 8711. Earned income and net profits tax.
- § 8712. Collections.
- § 8713. Credits.
- § 8714. Earned income and net profits tax exemption.
- § 8715. Rules and regulations.
- § 8716. Procedure and administration.
- § 8717. Disposition of earned income and net profits tax revenue.

Subchapter C. Miscellaneous Taxes

- § 8721. Hotel room rental (Repealed).
- § 8722. Local option cigarette tax in school districts of the first class.

§ 8723. Local sales tax revenues in cities of the first class.

Chapter 88. Consolidated County Assessment

Subchapter A. Preliminary Provisions

- § 8801. Short title and scope of chapter.
- § 8802. Definitions.
- § 8803. Excluded provisions.
- § 8804. Construction of chapter.

Subchapter B. Subjects of Local Taxation; Exceptions; Special Provisions on Assessments

- § 8811. Subjects of local taxation.
- § 8812. Exemptions from taxation.
- § 8813. Temporary tax exemption for residential construction.
- § 8814. Temporary assessment change for real estate subject to sewer connection ban order.
- § 8815. Catastrophic loss.
- § 8816. Clerical and mathematical errors.
- § 8817. Changes in assessed valuation.
- § 8818. Assessment of lands divided by boundary lines.
- § 8819. Separate assessment of coal and surface.
- § 8820. Assessment of real estate subject to ground rent or mortgage.
- § 8821. Assessment of mobile homes and manufactured homes.
- § 8822. Taxing districts lying in more than one county and choice of assessment ratio.
- § 8823. Limitation on tax increase after countywide reassessment.

Subchapter C. County Assessment Office

- § 8831. Chief assessor.
- § 8832. Subordinate assessors.
- § 8833. Solicitor.
- § 8834. Assessment records system.

Subchapter D. Assessment Roll, Valuation, Notice and Appeals

- § 8841. Assessment roll and interim revisions.
- § 8842. Valuation of property.
- § 8843. Spot reassessment.
- § 8844. Notices, appeals and certification of values.
- § 8845. Service of notices.
- § 8846. Notice of changes given to taxing authorities.
- § 8847. Application of assessment changed as result of appeal.
- § 8848. Special provisions relating to countywide revisions of assessments.

Subchapter E. Boards and Appeals to Court

- § 8851. Board of assessment appeals and board of assessment revision.
- § 8852. Regulations and training of boards.
- § 8853. Auxiliary appeal boards.
- § 8854. Appeals to court.
- § 8855. Appeals by taxing districts.

Subchapter F. Miscellaneous Provisions

- § 8861. Submission of permit and substantial improvement information to the county assessment office and civil penalty.
- § 8862. Recorder of deeds to furnish record of conveyances, compensation.
- § 8862.1. Grantees of real property to register deed with chief assessor.
- § 8863. Assessment of property of decedent's estates.
- § 8864. Assessment of personal property.
- § 8865. Assessment of occupations.
- § 8866. Limitation on rates of specific taxes.
- § 8867. Prohibition on certain levies.
- § 8868. Optional use by cities.

Chapter 89. Payment and Collection of Taxes

Subchapter A. (Reserved)

Subchapter B. Register for Certain Taxes (Repealed)

§ 8911 - § 8916 (Repealed).

Subchapter C. Cities and Counties of the First Class

§ 8921. Confidentiality of tax information.

SUBPART D. EMPLOYMENT AND EMPLOYEES

Chapter 91. Municipal Pensions

Subchapter A. (Reserved)

Subchapter B. Cities of the Second Class

- § 9111. Scope of subchapter.
- § 9112. Deposits of certain proceeds.
- § 9113. Timing of transfer of administration of pension system fund.

TITLE 53

MUNICIPALITIES GENERALLY

Part

- I. Preliminary Provisions
- II. Creation, Territory, Alteration and Dissolution
- III. Government and Administration
- V. Public Improvements, Utilities and Services
- VII. Taxation and Fiscal Affairs

Enactment. Unless otherwise noted, the provisions of Title 53 were added October 13, 1994, P.L.596, No.90, effective in 90 days.

PART I

PRELIMINARY PROVISIONS

Chapter

- 1. General Provisions
- 3. Preemptions
- 5. Prohibition Options

Enactment. Unless otherwise noted, Part I was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

CHAPTER 1

GENERAL PROVISIONS

Sec.

101. Short title of title.

Enactment. Chapter 1 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

§ 101. Short title of title.

This title shall be known and may be cited as the General Local Government Code.

CHAPTER 3

PREEMPTIONS

Sec.

- 301. Tobacco product.
- 302. Restriction on municipal regulation of amateur radio service communications.
- 303. Appeal of decision by school reform commission.
- 304. Protection for victims of abuse or crime.
- 305. Local regulation of unmanned aircraft prohibited.
- 306. Businesses operated by minors.

Enactment. Chapter 3 was added July 10, 2002, P.L.789, No.112, effective in 30 days.

§ 301. Tobacco product.

(a) **General rule.**--Except as set forth in subsection (b), the provisions of 18 Pa.C.S. § 6305 (relating to sale of tobacco products) shall preempt and supersede any local ordinance or rule concerning the subject matter of 18 Pa.C.S. § 6305 and of section 206-A of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) **Exception.**--This section does not prohibit:

- (1) Local regulation authorized by the act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.
- (2) Local regulation enacted prior to January 1, 2002. (Nov. 27, 2019, P.L.669, No.93, eff. 60 days; Nov. 27, 2019, P.L.759, No.111, eff. July 1, 2020)

2019 Amendments. Acts 93 and 111 amended section 301. Act 111 overlooked the amendment by Act 93, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 301.

§ 302. Restriction on municipal regulation of amateur radio service communications.

(a) **General rule.**--A municipality that adopts an ordinance, regulation or plan or takes any other action involving the placement, screening or height of antennas or antenna support structures shall reasonably accommodate amateur radio service communications and shall impose only the minimum regulations necessary to accomplish the legitimate purpose of the municipality.

(b) Reasonable accommodations.--A municipality may impose necessary regulations to ensure the safety of amateur radio antenna structures, but must reasonably accommodate amateur service communications. No ordinance, regulation, plan or any other action shall restrict amateur radio antenna height to less than 65 feet above ground level.

(c) Construction.--The provisions of this section shall not be construed to prohibit a municipality from taking action to protect or preserve a historic, a historical or an architectural district that is established by the municipality or pursuant to Federal or State law.

(d) Definition.--As used in this section, the term "legitimate purposes" shall include a clearly defined health, safety or aesthetic objective of a municipality.
(Oct. 8, 2008, P.L.1079, No.88, eff. 60 days)

2008 Amendment. Act 88 added section 302.

§ 303. Appeal of decision by school reform commission.

Notwithstanding the provisions of section 696(i) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or any other provision of law to the contrary, the following shall apply:

(1) A charter school applicant may appeal a decision of a school reform commission to deny an application to establish a charter school in a school district of the first class to the State Charter School Appeal Board established under section 1721-A of the Public School Code of 1949.

(2) Section 1717-A(a), (c), (d), (e), (f), (g), (h) and (i) of the Public School Code of 1949 shall apply to an application to establish a charter school in a school district of the first class.

(3) A school reform commission shall be considered a board of school directors or a local board of school directors as such terms are used in section 1717-A of the Public School Code of 1949.

(Sept. 24, 2014, P.L.2452, No.131, eff. 45 days)

2014 Amendment. Act 131 added section 303.

§ 304. Protection for victims of abuse or crime.

(a) Declaration of policy.--The General Assembly finds and declares as follows:

(1) It is the public policy of the Commonwealth to ensure that all victims of abuse and crime and individuals in an emergency are able to contact police or emergency assistance without penalty.

(2) This section is intended to shield residents, tenants and landlords from penalties that may be levied pursuant to enforcement of an ordinance or regulation if police or emergency services respond to a residence or tenancy to assist a victim of abuse or crime or individuals in an emergency.

(3) This section is not intended to prohibit municipalities from enforcing an ordinance or regulation against a resident, tenant or landlord where police or emergency services respond to a residence or tenancy that does not involve assistance to a victim of abuse or crime or individuals in an emergency.

(b) Protection.--No ordinance enacted by a municipality shall penalize a resident, tenant or landlord for a contact made for police or emergency assistance by or on behalf of a victim of abuse as defined in 23 Pa.C.S. § 6102 (relating to definitions), a victim of a crime pursuant to 18 Pa.C.S.

(relating to crimes and offenses) or an individual in an emergency pursuant to 35 Pa.C.S. § 8103 (relating to definitions), if the contact was made based upon the reasonable belief of the person making the contact that intervention or emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime or emergency or if the intervention or emergency assistance was actually needed in response to the abuse, crime or emergency.

(c) Remedies.--If a municipality enforces or attempts to enforce an ordinance against a resident, tenant or landlord in violation of subsection (b), the resident, tenant or landlord may bring a civil action for a violation of this section and seek an order from a court of competent jurisdiction for any of the following remedies:

(1) An order requiring the municipality to cease and desist the unlawful practice.

(2) Payment of compensatory damages, provided that a resident, tenant or landlord shall make a reasonable effort to mitigate any damages.

(3) Payment of reasonable attorney fees.

(4) Payment of court costs.

(5) Other equitable relief, including, but not limited to, reinstating a rental license or rental permit, as the court may deem appropriate.

(d) Preemption.--This section preempts any local ordinance or regulation insofar as it is inconsistent with this section, irrespective of the effective date of the ordinance or regulation. This section shall not affect or apply to enforcement of the act of October 11, 1995 (1st Sp.Sess., P.L.1066, No.23), known as the Expedited Eviction of Drug Traffickers Act, or to the enforcement of 18 Pa.C.S. § 7511 (relating to control of alarm devices and automatic dialing devices).

(e) Definition.--As used in this section, the term "penalize" includes the actual or threatened revocation, suspension or nonrenewal of a rental license, the actual or threatened assessment of fines or the actual or threatened eviction, or causing the actual or threatened eviction, from leased premises.

(Oct. 31, 2014, P.L.3039, No.200, eff. 90 days)

2014 Amendment. Act 200 added section 304.

§ 305. Local regulation of unmanned aircraft prohibited.

(a) Preemption.--The provisions of 18 Pa.C.S. § 3505 (relating to unlawful use of unmanned aircraft) shall preempt and supersede any ordinance, resolution, rule or other enactment of a municipality regulating the ownership or operation of unmanned aircraft. As of the effective date of this section, a municipality shall not regulate the ownership or operation of unmanned aircraft unless expressly authorized by statute.

(b) Municipal use.--Nothing under 18 Pa.C.S. § 3505 shall prohibit a municipality from using unmanned aircraft within the boundaries of the municipality for municipal purposes and regulating that use.

(c) Definition.--As used in this section, the term "municipality" shall include a county, city, borough, incorporated town or township or home rule, optional plan or optional charter municipality, any other general purpose unit of government established by the General Assembly, a municipal authority and any entity formed pursuant to Ch. 23 Subch. A (relating to intergovernmental cooperation).

(Oct. 12, 2018, P.L.516, No.78, eff. 90 days)

2018 Amendment. Act 78 added section 305.

§ 306. Businesses operated by minors.

(a) Restrictions on business licenses and permits.--Notwithstanding any other provision of law:

(1) a municipality or an agency of a municipality may not require a business license for a business that is:

- (i) operated on an occasional basis by a minor; and
- (ii) located a sufficient distance, as determined by the municipality, from a commercial entity required to obtain a business license from the municipality or an agency of the municipality to prevent the minor's business from becoming a direct economic competitor of the commercial entity.

(2) A municipality may not prohibit a business operated by a minor from operating in a primarily residential zone or unzoned area in the municipality.

(b) Construction.--Nothing in this section may be construed to prohibit a municipality from enacting and enforcing local laws relating to the manner in which a business may be operated by a minor, with the exception of a requirement that the minor obtain a permit or business license prior to operating the business.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Business."

(1) An enterprise that is:

(i) Exclusively owned by one or more minors receiving not more than \$5,000 in net proceeds per year from the enterprise unless the enterprise is created for a charitable purpose.

(ii) Carried on for the purpose of gain or economic profit.

(2) The term does not include:

(i) An act of an employee rendering services to an employer.

(ii) An enterprise organized as a form of for-profit corporation, limited liability partnership or company under the provisions of 15 Pa.C.S. (relating to corporations and unincorporated associations).

"Business license." A license or permit required by a municipality to temporarily or permanently offer sale of goods or provision of services or otherwise operate an enterprise in the municipality. This term does not include a building permit.

"Minor." A person under 18 years of age.

"Municipality." A county, city, borough, incorporated town, township or home rule municipality.

"Occasional basis." A business that does not operate more than 84 days in a calendar year.

(June 30, 2021, P.L.184, No.34, eff. 60 days)

2021 Amendment. Act 34 added section 306.

CHAPTER 5
PROHIBITION OPTIONS

Sec.

501. Definitions.

502. Municipal option for gaming.

Enactment. Chapter 5 was added July 2, 2019, P.L.394, No.63, effective immediately.

§ 501. Definitions.

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

"Applicant." As defined under 4 Pa.C.S. § 3102 (relating to definitions).

"Board." The Pennsylvania Gaming Control Board.

"County." A county of the third class which has a population, based on the most recent Federal decennial census, of at least 500,000.

"Establishment license." As defined under 4 Pa.C.S. § 3102.

"Establishment licensee." As defined under 4 Pa.C.S. § 3102.

"Municipality." A municipality within a county.

"Truck stop establishment." As defined under 4 Pa.C.S. § 3102.

§ 502. Municipal option for gaming.

(a) Prohibition.--Notwithstanding 4 Pa.C.S. § 3514 (relating to establishment licenses), the following shall apply:

(1) A municipality may, by delivering a resolution of the municipality's governing body to the board no later than 60 days after the effective date of this subsection, prohibit the location of an establishment licensee within the municipality as follows:

(i) Prior to the board approving an application and issuing an establishment license within the municipality.

(ii) After an establishment license has been issued within the municipality.

(2) An establishment licensee may not be located in a municipality which has exercised its option under this subsection.

(3) A prohibition under this subsection shall not be affected by a reclassification of counties as a result of a Federal decennial census or pursuant to an act of the General Assembly or by a change in the population of a county.

(b) Rescission of prohibition.--

(1) A municipality that prohibits the location of an establishment licensee under subsection (a) may rescind that prohibition at any time by delivering a new resolution of the municipality's governing body to the board.

(2) A municipality that rescinds its prior prohibition according to this subsection may not subsequently prohibit the location of an establishment licensee in the municipality.

(3) A municipality's ability to rescind under this subsection shall not be affected by a reclassification of counties as a result of a Federal decennial census or pursuant to an act of the General Assembly or by a change in the population of a county.

(c) Refund of fees.--If a truck stop establishment has been approved for an establishment license or submits an application and the fees for an establishment license as required under 4 Pa.C.S. § 4101 (relating to fees) and the municipality within which the truck stop establishment is located elects to prohibit establishment licensees under subsection (a), the board shall refund the fees to the applicant.

PART II

CREATION, TERRITORY, ALTERATION AND DISSOLUTION

Chapter

- 7. Alteration of Territory or Corporate Entity and Dissolution
- 9. Municipal Reapportionment

Enactment. Part II was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

CHAPTER 7

ALTERATION OF TERRITORY OR CORPORATE ENTITY AND DISSOLUTION

Subchapter

- B. Municipal Boundary Change
- C. Consolidation and Merger

Enactment. Chapter 7 was added October 13, 1994, P.L.596, No.90, effective in 90 days.

SUBCHAPTER B

MUNICIPAL BOUNDARY CHANGE

Sec.

- 711. Scope of subchapter.
- 712. Definitions.
- 713. Interpretation.
- 714. Stream boundaries.
- 715. Boundary change agreement by abutting municipalities.
- 716. Petition and establishment of disputed boundaries by judicial ascertainment.
- 717. Judicial ascertainment procedure.
- 718. Effective date of boundary change.
- 719. Notification of boundary change.
- 720. Monuments.
- 721. Wards.
- 722. Collection of taxes levied prior to change of boundary and authorized expenditures.
- 723. Election districts and officers.
- 724. Governing body agreements.
- 725. Adjustment of indebtedness.
- 726. Judicial adjustment award proceedings.
- 727. Compensation, expenses and costs.
- 728. Territory located in multiple counties.
- 729. Bond issues.

Enactment. Subchapter B was added July 7, 2022, P.L.455, No.41, effective in 60 days.

§ 711. Scope of subchapter.

This subchapter relates to municipal boundary changes and adjustments to municipal indebtedness and property rights following boundary change.

§ 712. Definitions.

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

"Abutting municipal corporations." Municipal corporations that share contiguous territory.

"Boundary ascertainment." Establishment of a municipal boundary between abutting municipal corporations by judicial decree.

"Boundary change" or "change of boundary." Any change in the municipal boundary between abutting municipalities, other than as a result of a merger or consolidation under Subchapter C (relating to consolidation and merger), including any transfer of territory, boundary clarification or boundary ascertainment.

"Boundary clarification." Establishment of a municipal boundary by agreement under this subchapter between municipal corporations in a territorial area with a previously unclear boundary.

"Contiguous territory." Territory of which a portion abuts the boundary of another municipal corporation, including territory separated from the exact boundary of another municipal corporation by a street, road, railroad or highway or by a river or other natural or artificial stream of water.

"Governing body." The council in a city, borough or incorporated town, the board of commissioners in a county or township of the first class, the board of supervisors in a township of the second class or the legislative policymaking body in a home rule municipality.

"Impacted property." A parcel of real property that is divided by a municipal boundary prior to, or will be divided incident to, a proposed boundary change.

"Impacted territory." Territory which is subject to a boundary change.

"Municipal corporation." A city, borough, incorporated town, township or home rule municipality that is not a county.

"Municipality." A county, city, borough, incorporated town or township.

"Unclear boundary." Contiguous territory between two municipal corporations in which the exact boundary between the municipal corporations is in dispute or cannot be readily discerned as a result of conflicting or missing records.

§ 713. Interpretation.

(a) **Certain actions unaffected.**--Nothing in this title shall preclude, restrict or limit successive changes in boundaries and territorial limits of any municipality.

(b) **County boundaries unaffected.**--When a boundary change is made under the provisions of this title which results in a municipal corporation which lies partly in one county and partly in one or more other counties, the territory within the municipal corporation shall, for county purposes, be and remain a part of the county in which the respective territory is physically located.

(c) **School districts unaffected.**--Nothing in this title, and no action taken under this title, shall affect or apply to any school district or any school district boundary, but nothing shall preclude further action from being taken under the provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or other applicable provisions of law to change the boundary or location of a school district.

(d) **Initiative and referendum.**--Nothing in this title shall preclude a change of boundary by initiative and referendum as provided in sections 8 and 14 of Article IX of the Constitution of Pennsylvania.

§ 714. Stream boundaries.

(a) **General rule.**--If a municipal corporation is bounded by the nearest margin of a navigable stream and the opposite

municipal corporation is also bounded by the nearest margin of the same stream, the middle of the stream shall be the boundary between the municipal corporations.

(b) Prior actions unaffected.--Nothing in this section shall be construed to affect any boundary established prior to the effective date of this section between municipal corporations or repeal any local or special law contrary to this section.

§ 715. Boundary change agreement by abutting municipalities.

(a) General rule.--Two or more abutting municipal corporations may, by the adoption of an ordinance memorializing an agreement under this subchapter:

- (1) Transfer or exchange territory between municipal corporations.
- (2) Establish a territorial boundary between municipal corporations by boundary clarification.

(a.1) County boundary agreement by certain abutting counties.--Two or more abutting counties may, by the adoption of an ordinance memorializing an agreement under this subchapter, transfer territory between counties to the extent necessary to align a portion of the county territorial boundary with the territorial boundary of a municipal corporation where the municipal corporation is divided by the existing county territorial boundary.

(b) Prohibition on unincorporated territory.--No boundary change may result in territory not incorporated in any municipal corporation or county.

(c) Contents of ordinance.--An ordinance under this section shall provide a description of the territory to be transferred by a change of boundary, or territorial boundary to be established within the impacted territory, and shall contain or have attached a plot showing the courses and distances of the boundaries of the municipalities as follows:

- (1) In the case of a transfer of territory, municipal boundaries before and after the proposed change in the boundaries or territorial limits.
- (2) In the case of a boundary established to resolve an unclear boundary, the proposed boundary and a description of the area which was in dispute or unclear.

(d) Public meeting.--In addition to the procedures that apply to the proposal and adoption of ordinances, each municipality shall accept public comment on the proposed ordinance at a regular or special meeting occurring not less than 10 days after the ordinance is introduced and occurring not less than 10 days prior to the adoption of the ordinance. Nothing shall prevent the municipalities from satisfying this requirement by holding a joint public meeting in one of the municipalities.

(e) Notification of ordinance.--Within 15 days after enactment of an ordinance under this subchapter, the governing body of a municipality shall perform all of the following acts:

- (1) Assign, for reference, a distinctive designation to any impacted territory.
- (2) File with the clerk of court and board of commissioners of the county a certified copy of the ordinance by which the change was effected, together with a plot, showing the courses and distances of the boundaries before and after the change and clearly indicating any designation or designations, as provided in paragraph (1). If the impacted territory is located in or impacts the territorial boundary of more than one county, the documents and information shall be filed in each impacted county.

(3) Notify the record owner of each impacted property in writing.

(f) Petition and suspension of ordinance.--A boundary change under an ordinance enacted under this section shall be suspended following the presentation of a petition, in writing, to the municipal secretary, or the chief clerk of the county, as the case may be, of at least one impacted municipality protesting the proposed boundary change. A valid petition under this section shall be composed of:

(1) at least 20% of registered electors of the municipal corporation or county. Petitioners must provide their address on the petition along with their respective signatures; or

(2) at least one owner of an impacted property.

(g) Deadline for filing petition and notice.--A petition under subsection (f) shall be filed with the secretary or clerk of the municipal corporation, or the chief clerk of the county, as the case may be, where the registered electors reside no later than the 20th day after the date on which the municipal corporation files its documents under subsection (e)(2) in the county. If the required number of registered electors have signed the petition, the municipal secretary or clerk shall provide notice of the petition to the governing body of all impacted municipalities.

(h) Referendum.--The following shall apply:

(1) If the required number of electors or owners have signed the petition as provided in subsection (f) in any impacted municipal corporation or county, the governing body of each impacted municipality shall call for a referendum to be held at the time of the next general, municipal or primary election occurring at least 90 days after the petition has been filed, at which election the question of whether the boundary change as provided in the ordinance of each affected municipality will be submitted to the electors of each affected municipality. Notice of the election and the text of the question to be submitted to the electors shall be published in the same manner as publication is required in section 1201 of the act of June 3, 1937

(P.L.1333, No.320), known as the Pennsylvania Election Code.

(2) The question to be submitted to the electors on the ordinance shall be framed to identify the ordinance, followed by the words "yes" and "no." The question shall be placed on the ballot which shall be counted, returned and computed in accordance with the election laws of this Commonwealth.

(3) If the majority of the qualified electors of the municipality voting on the ordinance vote for the ordinance in all impacted municipalities, the boundary change shall take effect.

Cross References. Section 715 is referred to in sections 718, 719 of this title.

§ 716. Petition and establishment of disputed boundaries by judicial ascertainment.

(a) Judicial ascertainment.--A court of common pleas may, upon presentation of a petition, ascertain and establish disputed boundaries of two or more municipal corporations.

(b) Bond required.--If a petition is presented, the court under subsection (a) may require the petitioners to file a bond in a sufficient amount to secure the payment of all costs of the proceeding.

(c) Petition requirement.--A petition under this section shall be submitted in writing by:

(1) One or more owners of an impacted property.

(2) Ten or more residents of any municipal corporation impacted by the disputed boundary.

Cross References. Section 716 is referred to in section 717 of this title.

§ 717. Judicial ascertainment procedure.

(a) **Appointment.**--Upon application by petition under section 716 (relating to petition and establishment of disputed boundaries by judicial ascertainment), the court shall appoint three impartial individuals as commissioners, one of whom must be a surveyor or registered engineer.

(b) **Hearing.**--After providing notice to interested parties and upon publication of the petition, as directed by the court, the commissioners shall hold a hearing and view the disputed lines and boundaries.

(c) **Stay of proceedings.**--In the event that the governing body of a municipal corporation notifies the court that the impacted municipal corporations intend to resolve the disputed boundary by agreement under this act, the court shall stay any proceedings under this section for 90 days. A stay may be extended at the discretion of the court if it appears that the impacted parties are pursuing an agreement in good faith.

(d) **Report.**--A majority of the commissioners shall issue the report and recommendations to the court, accompanied by a plot or draft of the lines and boundaries proposed to be ascertained and established if the lines and boundaries cannot be fully designated by natural lines or boundaries.

(e) **Exceptions.**--Exceptions to the report under subsection (d) may be filed within 30 days after the filing of the report by an interested person or political subdivision. The court shall set and provide notice of a hearing on the exceptions. After a hearing under this subsection, the court may sustain or dismiss the exceptions. If the court has sustained the exceptions, the court may refer the report back to the same or new commissioners with the authority to make another report.

(f) **Decree.**--If no exceptions are filed within 30 days after the filing of the report, or the exceptions have been dismissed, the court shall confirm the report. If a report is confirmed, the court shall:

(1) Enter a decree ascertaining and establishing the lines and boundaries as shown in the report.

(2) Direct publication of the decree under paragraph (1).

(3) Order that the boundary line be marked by appropriate monuments.

(g) **Compensation, expenses and costs.**--The compensation and expenses of commissioners appointed under subsection (a) shall be in a reasonable amount as approved by the court. The court shall, by order, provide how costs and expenses of the proceedings shall be paid and may assess the costs individually or in apportioned amounts against the following:

(1) The petitioners.

(2) Any interested municipal corporation.

§ 718. Effective date of boundary change.

(a) **Change by ordinance.**--The change in boundaries under an ordinance shall take effect on January 1 of the year following the date on which all of the documents under section 715(e)(2) (relating to boundary change agreement by abutting municipalities) have been filed, unless:

(1) the filing date is within 60 days prior to the end of a calendar year, in which case the change shall take

effect as of January 1 of the second year following the filing date; or

(2) a timely petition is filed under section 715 in which case the petition shall act as a supersedeas and the change in boundaries in all impacted municipalities shall only take effect if the referendum under section 715 passes, where the boundary change shall take effect on January 1 of the year following the referendum.

(b) Change by ascertainment.--A change of boundaries by judicial ascertainment shall take effect on the effective date of the decree.

(c) Change by referendum.--In the event of a change of boundary under the provisions of section 8 of Article IX of the Constitution of Pennsylvania by referendum, the change of boundary shall take effect on January 1 of the year following the referendum.

§ 719. Notification of boundary change.

(a) General rule.--Within 15 days after a change in boundaries has taken effect, the governing body of a municipality shall file a final report of the boundary change containing the following information with the County Board of Elections, the Department of Community and Economic Development, the Department of Transportation, the Governor's Office of Policy Development or its successor, the Department of Education and the State Tax Equalization Board:

(1) The name of the impacted municipalities.

(2) A land survey showing the courses and distances of the boundary in the impacted territory.

(3) The location of the monuments along the new boundary line.

(4) The total assessed valuation of the impacted territory.

(5) The approximate population of the impacted territory.

(6) The designation, as provided for in section 715(e)(1) (relating to boundary change agreement by abutting municipalities), by which the impacted territory is to be known.

(7) In the case of a boundary change by judicial ascertainment, the decree shall be attached to the report.

(b) Combined notifications authorized.--All municipalities impacted by a boundary change may jointly provide for a combined final report under subsection (a).

§ 720. Monuments.

The impacted municipalities shall provide for the placement of monuments, no more than 1,500 feet apart, along the newly established boundary line, other than where a natural line can be described, in a manner adequate that the entire territory in question can be depicted and represented for the future. The coordinates of monuments shall be expressed in terms of the State Plane Coordinate System in effect on the date of the change of boundary.

§ 721. Wards.

(a) Increased municipal territory.--If a municipal corporation gaining territory is divided among wards, the governing body shall, within 30 days after the change in boundaries is effective, provide for the distribution of the gained territory among the wards of the municipal corporation or for the creation of one or more wards out of the gained territory.

(b) Decreased municipal territory.--If the municipal corporation decreasing territory is divided among wards, the

governing body of the municipal corporation shall, within 30 days after the change in boundaries is effective, provide for the alteration of wards among the remaining territory.

§ 722. Collection of taxes levied prior to change of boundary and authorized expenditures.

(a) **Taxes.**--All taxes assessed and levied against property in an impacted territory prior to the effective date of the boundary change shall be paid to the municipality which levied the tax, and the collection and enforcement of taxes under this subsection shall be as though the change of boundary had not taken place.

(b) **Expenditures.**--A municipality initiating a boundary change by ordinance under this subchapter is authorized to make reasonable expenditures for surveys required to describe the property under consideration or for any other necessary purpose.

§ 723. Election districts and officers.

All election districts in the impacted territory shall remain as constituted prior to the boundary change and shall become election districts of the municipality gaining territory on the change in designation in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. All election district officers shall continue in office until the expiration of the officer's term, unless the office is vacated.

§ 724. Governing body agreements.

(a) **General rule.**--Prior to the effective date of a boundary change, an impacted municipality may execute an agreement fully resolving:

(1) Transfers of any funds and indebtedness related to property within the impacted territory.

(2) The sharing of costs associated with the territorial alteration or clarification.

(3) The sharing or division of any tax or fee revenues associated with property within the impacted territory in the year that a territorial alteration occurs.

(4) A resolution of any matters, rights or other issues incident to the transfer of territory.

(b) **Exception.**--In the event that an agreement under this section is incorporated in an ordinance, sections 725 (relating to adjustment of indebtedness), 726 (relating to judicial adjustment award proceedings), 727 (relating to compensation, expenses and costs), 728 (relating to territory located in multiple counties) and 729 (relating to bond issues) shall not apply.

§ 725. Adjustment of indebtedness.

(a) **Property.**--The following shall apply:

(1) Following a boundary change under this subchapter or any other provision of law, the governing bodies of the impacted municipalities shall make an equitable adjustment and apportionment of all the public real and personal property impacted by the change of boundary.

(2) Except as provided under paragraph (3), the property under paragraph (1) shall include funds and indebtedness.

(3) If adjusting property and indebtedness under paragraph (1), streets, sewers and utilities may not be considered except to the extent that current and unpaid indebtedness was incurred for the construction and improvement of the property.

(b) **Proportion.**--In making the adjustment and apportionment under subsection (a), the following shall apply:

(1) The municipality gaining territory shall be entitled to a division of the property and indebtedness in the same

proportion that the assessed valuation of the taxable real estate included within the territorial limits of the newly gained territory bears to the assessed valuation of the taxable real estate in the municipality losing territory immediately prior to the boundary change. The municipality losing territory shall be entitled to the remainder of the property and indebtedness.

(2) If indebtedness was incurred by the municipality losing territory for an improvement located wholly within the territorial limits of the newly transferred territory, the indebtedness shall be assumed by the municipality gaining territory.

(3) If only part of the improvement is located within the newly transferred territory, the part of the indebtedness representing the part of the improvement located within transferred territory shall be assumed by the municipality gaining territory and the adjustment and apportionment of any remaining debt shall be retained by the municipality losing territory.

(c) Form.--The adjustment and apportionment made under this section must meet all of the following:

(1) Be in writing and duly executed and acknowledged by the secretary or clerk of each impacted municipal corporation, or the chief clerk of the county, as the case may be.

(2) Be filed in the office of the clerk of the court of common pleas of the county.

(3) Be filed as a copy with the Department of Community and Economic Development.

(d) Petition for judicial adjustment.--If the governing bodies of the impacted municipalities cannot make an amicable adjustment and apportionment of the property and indebtedness within six months after the effective date of the change in boundaries, the governing body of a municipality may present a petition to the court of common pleas, or the Commonwealth Court under section 728 (relating to territory located in multiple counties), requesting a judicial adjustment.

(e) Appointment.--After receiving a petition under subsection (d), the court shall appoint three disinterested commissioners. If the impacted territory is located in two or more counties, section 728 shall apply. If all of the impacted territory is located in one county, the commissioners shall meet all of the following requirements:

(1) Are residents and taxpayers of the county.

(2) Are not residents of or own real estate in an impacted municipal corporation.

(f) Report.--The individuals appointed under subsection (e) shall hold a hearing and make a report to the court containing an adjustment and apportionment of all the property and the indebtedness between the impacted municipalities. Notice shall be made as provided by the court. The report shall state the amount due to, payable from and the amount of indebtedness that shall be assumed by each impacted municipality.

Cross References. Section 725 is referred to in sections 724, 726, 727, 728 of this title.

§ 726. Judicial adjustment award proceedings.

(a) Notice.--The commissioners appointed under section 725(e) (relating to adjustment of indebtedness) shall give the impacted municipalities at least five days' notice of the filing of the report under section 725(f).

(b) Exceptions.--If exceptions are filed to the report made under section 725(f), the court shall dispose of the exceptions and shall enter its decree confirming or modifying the award.

(c) Confirmation.--Unless exceptions are filed to the report within 30 days after the date of the filing, the report shall be confirmed by the court and the court shall issue an appropriate order effectuating the report.

Cross References. Section 726 is referred to in section 724 of this title.

§ 727. Compensation, expenses and costs.

The commissioners appointed under section 725(e) (relating to adjustment of indebtedness) shall receive compensation and expenses for their services as provided by the court. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the impacted municipalities.

Cross References. Section 727 is referred to in section 724 of this title.

§ 728. Territory located in multiple counties.

If the impacted territory is located in two or more counties, Commonwealth Court shall have exclusive jurisdiction over the proceedings to adjust and apportion the property and indebtedness between the municipalities. Notwithstanding the provisions of section 725(e) (relating to adjustment of indebtedness), the court shall appoint three disinterested commissioners who are residents of this Commonwealth but are not residents of, or owners of real estate in, any impacted county.

Cross References. Section 728 is referred to in sections 724, 725 of this title.

§ 729. Bond issues.

In a proceeding to adjust and apportion indebtedness, a municipality shall have power to issue and deliver interest-bearing bonds in liquidation of the indebtedness ascertained, to be its proportionate share payable, if the bonds are acceptable to the municipality entitled to receive the bonds. The court may make necessary orders for the collection and payment.

Cross References. Section 729 is referred to in section 724 of this title.

SUBCHAPTER C

CONSOLIDATION AND MERGER

Sec.

- 731. Short title of subchapter.
- 732. Definitions.
- 733. Procedure for consolidation or merger.
- 734. Joint agreement of governing bodies.
- 735. Initiative of electors seeking consolidation or merger without new home rule charter.
- 735.1. Initiative of electors seeking consolidation or merger with new home rule charter.
- 736. Conduct of referenda.
- 737. Consolidation or merger agreement.
- 738. Effectuation of consolidation or merger.

739. Effect of transition on employees of consolidated or merged municipality.
740. Procedures.
741. Court review of transitional plan.

Cross References. Subchapter C is referred to in section 712 of this title; sections 241, 805 of Title 8 (Boroughs and Incorporated Towns); section 10201 of Title 11 (Cities).

§ 731. Short title of subchapter.

This subchapter shall be known and may be cited as the Municipal Consolidation or Merger Act.

§ 732. Definitions.

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

"Commission." A board of members elected under the provisions of section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter) to consider the advisability of the adoption of a new home rule charter for the proposed consolidated or merged municipality and, if advisable, to draft and recommend a new home rule charter to the electorate.

"Consolidated or merged municipality." A municipal entity resulting from successful consolidation or merger proceedings under this subchapter.

"Consolidation." The combination of two or more municipalities which results in the termination of the existence of each of the municipalities to be consolidated and the creation of a new municipality which assumes jurisdiction over all of the municipalities which have been terminated.

"Contiguous territory." A territory of which a portion abuts the boundary of another municipality, including territory separated from the exact boundary of another municipality by a street, road, railroad or highway or by a river or other natural or artificial stream of water.

"Election officials." The county boards of election.

"Electors." The registered voters of a municipality involved in proceedings relating to the adoption and repeal of optional forms of government.

"Governing body." The council in cities, boroughs and incorporated towns; the board of commissioners in counties and townships of the first class; the board of supervisors in townships of the second class; or the legislative policymaking body in home rule municipalities.

"Initiative." The filing with applicable election officials of a petition containing a proposal for a referendum to be placed on the ballot of the next election. The petition shall be:

(1) Filed not later than the 13th Tuesday prior to the next election in which it will appear on the ballot.

(2) Signed by voters comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial general election in the municipality where the proposal will appear on the ballot.

(3) Placed on the ballot by election officials in a manner fairly representing the content of the petition for decision by referendum at the election.

(4) Submitted not more than once in five years.

"Merger." The combination of two or more municipalities which results in the termination of the existence of all but one of the municipalities to be merged with the surviving

municipality absorbing and assuming jurisdiction over the municipalities which have been terminated.

"Municipality." Every county other than a county of the first class, every city other than a city of the first or second class, and every borough, incorporated town, township and home rule municipality other than a home rule municipality which would otherwise be a city of the first or second class.

"New home rule charter." A written document that defines the powers, structure, privileges, rights and duties of the proposed consolidated or merged municipality, the limitations thereon and that provides for the composition and election of the governing body chosen by popular elections.

"Referendum." A vote seeking approval by a majority of electors voting on a question of consolidation or merger placed on the ballot by initiative or otherwise.

(Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

2003 Amendment. Act 29 amended the def. of "initiative" and added the defs. of "commission," "electors" and "new home rule charter."

§ 733. Procedure for consolidation or merger.

(a) General rule.--Two or more municipalities may be consolidated or merged into a single municipality, whether within the same or different counties, if each of the municipalities is contiguous to at least one of the other consolidating or merging municipalities and if together the municipalities would form a consolidated or merged municipality. Consolidation or merger may be commenced by one of the following:

(1) Joint agreement of the governing bodies of the municipalities proposed for consolidation or merger approved by ordinance followed by approval by the electorate of the joint agreement.

(2) Initiative of electors.

(3) One or more of the municipalities using a joint agreement followed by approval by the electorate of the joint agreement and one or more of the municipalities using initiative of electors.

(b) Combination of joint agreement and initiative.--When consolidation or merger is commenced by a combination of joint agreements and initiatives, the initiative petition and municipal joint agreement shall be materially consistent.

(c) Approval of home rule charter or optional plan.--At the same time that voters approve or disapprove the consolidation or merger of two or more municipalities, voters may approve or disapprove a new home rule charter or an optional plan under Subpart E of Part III (relating to home rule and optional plan government) that will govern the newly formed municipality resulting from the merger or consolidation. The same ballot may contain a question to consolidate or merge two or more municipalities and a question to adopt a home rule charter or an optional plan.

(d) Study of home rule charter or optional plan.--Except as provided in sections 734 (relating to joint agreement of governing bodies) and 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter), the procedure provided for in subsection (c) shall not be utilized unless the same home rule charter or optional plan has been recommended by a government study commission elected in accordance with Ch. 29 Subch. B (relating to procedure for adoption of home rule charter or optional plan of government) in each of the municipalities to be merged or consolidated.

Notwithstanding any limitations on the powers and duties of government study commissions provided in Ch. 29 Subch. B, the commissions may study and recommend a home rule charter or optional plan that would be adopted by the consolidated or merged municipalities concurrently with the study of the issue of consolidation or merger of the municipalities.

(Oct. 27, 2010, P.L.980, No.102, eff. 60 days)

§ 734. Joint agreement of governing bodies.

(a) General rule.--The governing body of each municipality proposed to be consolidated or merged shall enter into a joint agreement under the official seal of each municipality to consolidate or merge into one municipality.

(b) Elements.--The joint agreement shall include, but not be limited to:

(1) The name of each municipality that is a party to the agreement.

(2) The name and the territorial boundaries of the consolidated or merged municipality.

(3) The type and class of the consolidated or merged municipality.

(4) Whether a consolidated or merged municipality shall be governed solely by the code and other general laws applicable to the kind and class of the consolidated or merged municipality; whether it shall be governed by a home rule charter or optional plan of government previously adopted pursuant to Subpart E of Part III (relating to home rule and optional plan government), by one of the municipalities to be consolidated or merged; or whether it shall be governed by a home rule charter or optional plan of government that has not been previously adopted in accordance with Subpart E of Part III by any of the municipalities to be consolidated or merged, but which, in the case of an optional plan of government, has been selected and approved by the governing body of each of the municipalities to be consolidated or merged from among the options provided for in Subpart E of Part III or, in the case of a home rule charter, has been formulated and approved by the governing body of each of the municipalities to be consolidated or merged; provided, however, that nothing in this subchapter shall be construed as authorizing a municipality adopting a home rule charter or optional plan of government pursuant to this subchapter to exercise powers not granted to a municipality adopting a home rule charter or an optional plan of government pursuant to Subpart E of Part III.

(5) The number of districts or wards, if any, into which the consolidated or merged municipality will be divided for the purpose of electing all or some members of its governing body, and the boundaries of wards or districts shall be established to achieve substantially equal representation.

(6) In the case of a merger, where the surviving municipality is a city which had previously adopted an optional charter pursuant to the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law, whether the resulting merged municipality will continue to operate under the optional charter.

(7) Terms for:

(i) The disposition of existing assets of each municipality.

(ii) The liquidation of existing indebtedness of each municipality.

(iii) The assumption, assignment or disposition of existing liabilities of each municipality, either jointly, separately or in certain defined proportions, by separate rates of taxation within each of the constituent municipalities until consolidation or merger becomes effective pursuant to section 738 (relating to effectuation of consolidation or merger).

(iv) The implementation of a legally consistent uniform tax system throughout the consolidated or merged municipality which provides the revenue necessary to fund required municipal services.

(8) The governmental organization of the consolidated or merged municipality insofar as it concerns elected officers.

(9) A transitional plan and schedule applicable to elected officers.

(10) The common administration and enforcement of ordinances enforced uniformly within the consolidated or merged municipality.

(c) Transitional planning committee.--In preparing and adopting a joint agreement, the governing bodies of the municipalities may appoint a transitional planning committee composed of residents of the respective municipalities, including not more than one of whom may be a member of the governing body of each municipality, to study and make recommendations to the governing bodies regarding transitional plans and schedules, common administration and uniform enforcement of ordinances, consolidation and merger of departments and staff and other matters of concern to the governing bodies. The transitional planning committee, if created, shall continue for a maximum of six months after the effective date of the consolidation or merger to advise the new governing body of the consolidated or merged municipality on merging budgets, staffing and operations.
(Oct. 23, 2003, P.L.180, No.29, eff. 60 days; Oct. 27, 2010, P.L.980, No.102, eff. 60 days)

Cross References. Section 734 is referred to in sections 733, 736, 737, 738, 741 of this title.

§ 735. Initiative of electors seeking consolidation or merger without new home rule charter.

(a) General rule.--In order for consolidation or merger proceedings to be initiated by petition of electors, petitions containing signatures of at least 5% of the number of electors voting for the office of Governor in the last gubernatorial general election in each municipality proposed to be consolidated or merged shall be filed with the county board of elections of the county in which the municipality, or the greater portion of its territory, is located.

(b) Notice to governing bodies affected.--When election officials find that a petition is in proper order, they shall send copies of the initiative petition without the signatures thereon to the governing bodies of each of the municipalities and school districts affected by the proposed consolidation or merger.

(c) Contents.--A petition shall set forth:

(1) The name of the municipality from which the signers of the petition were obtained.

(2) The names of the municipalities proposed to be consolidated or merged.

(3) The name of the consolidated or merged municipality.

(4) The type and class of the consolidated or merged municipality.

(5) Whether a consolidated or merged municipality shall be governed solely by the code and other general laws applicable to the kind and class of the consolidated or merged municipality; whether it shall be governed by a home rule charter or optional plan of government previously adopted pursuant to Subpart E of Part III (relating to home rule and optional plan government), by one of the municipalities to be consolidated or merged; or whether it shall be governed by an optional plan of government that has not been previously adopted in accordance with Subpart E of Part III by any of the municipalities to be consolidated or merged, but which has been selected from among the options provided for in Subpart E of Part III and is identified in the petition; provided, however, that nothing in this subchapter shall be construed as authorizing a municipality adopting an optional plan of government pursuant to this subchapter to exercise powers not granted to a municipality adopting an optional plan of government pursuant to Subpart E of Part III.

(6) In the case of a merger, where the surviving municipality is a city which had previously adopted an optional charter pursuant to the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law, whether the resulting merged municipality will continue to operate under the optional charter.

(7) The number of districts or wards, if any, into which the consolidated or merged municipality will be divided for the purpose of electing all or some members of its governing body.

(d) Filing of petition.--The consolidation or merger petition shall be filed with the election officials not later than the 13th Tuesday prior to the next primary, municipal or general election. The petition and proceedings on the petition shall be conducted in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as the provisions are applicable, except that no referendum petition shall be signed or circulated prior to the 20th Tuesday before the election, nor later than the 13th Tuesday before the election. (Oct. 23, 2003, P.L.180, No.29, eff. 60 days; Oct. 27, 2010, P.L.980, No.102, eff. 60 days)

Cross References. Section 735 is referred to in sections 736, 737 of this title.

§ 735.1. Initiative of electors seeking consolidation or merger with new home rule charter.

(a) General rule.--In order for a commission and consolidation or merger proceedings to be initiated by petition of electors, petitions containing signatures of at least 5% of the number of electors voting for the office of Governor in the last gubernatorial general election in each municipality proposed to be consolidated or merged shall be filed with the county board of elections of the county in which the municipality, or the greater portion of its territory, is located. The petition shall set forth:

(1) The name of the municipality from which the signers of the petition were obtained.

(2) The names of the municipalities proposed to be consolidated or merged.

(3) An estimated cost of the study commission.

- (4) The number of persons to compose the commission.
- (5) The petition question which shall read as follows:
Shall a Government Study Commission of (seven, nine or eleven) members be elected to study the issue of consolidation or merger of (municipalities to be consolidated or merged); to provide a recommendation on consolidation or merger; to consider the advisability of the adoption of a new home rule charter; and to draft a new home rule charter, if recommended in the report of the commission?
- (6) The following statement:
Only municipalities voting in the affirmative on the question will be held responsible for the costs of the study commission.

(b) Notice to governing bodies affected.--When election officials find that a petition is in proper order, they shall send copies of the initiative petition without the signatures thereon to the governing bodies of each of the municipalities affected by the proposed consolidation or merger.

(c) Contents.--(Deleted by amendment).

(d) Filing of petition and duty of election board.--

(1) A commission and consolidation or merger proceedings petition under this section shall be filed with the election officials not later than the 13th Tuesday prior to the next primary, municipal or general election.

(2) The petition and proceedings on the petition shall be conducted in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as the provisions are applicable, except that no referendum petition shall be signed or circulated prior to the 20th Tuesday before the election, nor later than the 13th Tuesday before the election.

(3) At the next general, municipal or primary election occurring not less than the 13th Tuesday after the filing of the petition with the county board of elections, it shall cause the appropriate question and statement listed under subsection (a)(5) and (6) to be submitted to the electors of each of the municipalities proposed to be consolidated or merged in the same manner as other questions are submitted under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(e) Election of members of commission.--

(1) A commission of seven, nine or eleven members, as designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors.

(2) Each candidate for the office of member of the commission shall be nominated and placed upon the ballot containing the question in the manner provided by and subject to the provisions of the Pennsylvania Election Code, which relate to the nomination of a candidate nominated by nomination papers filed for other offices elective by the voters. Each candidate shall be nominated and listed without any political designation or slogan, and no nomination paper shall be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. No signature shall be counted unless it bears a date within this period.

(3) Each elector shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for the designated number of members of

the commission who shall serve if the question is or has been determined in the affirmative by the majority of the whole of those voting in all the municipalities impacted by the consolidation or merger.

(4) If an insufficient number of nominating papers is filed to fill all of the designated positions on the commission, the question of establishing the commission shall be placed on the ballot and, unless a sufficient number of commission members are elected by receiving at least as many votes as signatures are required to file a nominating petition, then the question of creating the commission shall be deemed to have been rejected.

(f) Nomination of candidates.--

(1) All candidates for a commission shall be electors. Each candidate shall be nominated from the area of the proposed consolidated or merged municipality by nomination papers signed by a number of electors equal at least to 2% of the number of electors voting for the office of Governor in the last gubernatorial general election in each municipality proposed to be consolidated or merged or 200 electors from each municipality, whichever is less, and filed with the county board of elections of the county in which the municipality, or the greater portion of its territory, is located not later than the tenth Tuesday prior to the date of the election.

(2) Each nomination paper shall set forth the name, place of residence and post office address of the candidate thereby nominated, that the nomination is for the office of commissioner and that the signers are legally qualified to vote for the candidate. An elector may not sign nomination papers for more candidates for the commission than he could vote for at the election. Every elector signing a nomination paper shall write his place of residence, post office address and street number, if any, on the petition.

(3) Each nomination paper shall, before it may be filed with the county board of elections, contain under oath of the candidate an acceptance of the nomination in writing, signed by the candidate therein nominated, upon or annexed to the paper or, if the same person be named in more than one paper, upon or annexed to one of the papers. The acceptance shall certify that the candidate is an elector, that the nominee consents to run as a candidate at the election and that, if elected, the candidate agrees to take office and serve.

(4) Each nomination paper shall be verified by an oath of one or more of the signers, taken and subscribed before a person qualified under the laws of this Commonwealth to administer an oath, to the effect that the paper was signed by each of the signers in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, electors and that the nomination paper is prepared and filed in good faith for the sole purpose of endorsing the person named therein for election as stated in the paper.

(g) Results of election.--

(1) The result of the votes cast for and against the question as to the election of a commission and consolidation and merger proceedings shall be returned by the election officers, and a canvass of the election had, as is provided by law in the case of other public questions put to the electors. The votes cast for members of the commission shall be counted and the result returned by the county board of electors of the county in which the municipality, or the

greater portion of its territory, is located, and a canvass of the election had, as is provided by law in the case of election of members of municipal councils or boards. If a majority of the whole in the municipalities proposed to be consolidated or merged vote in the affirmative on the question, the commission shall be formed to study the issue of consolidation or merger and to make recommendations as set forth in the question. The designated number of candidates receiving the greatest number of votes shall be elected and shall constitute the commission. If a majority of the whole in the municipalities voting on the question vote against the election of the commission, none of the candidates shall be elected. If two or more candidates for the last seat shall be equal in number of votes, they shall draw lots to determine which one shall be elected.

(2) If, in accordance with subsection (e)(4), there has been an insufficient number of nominating papers filed to fill all of the designated positions on the commission and a sufficient number of commission members are not elected by receiving at least as many votes as signatures are required to file a nominating petition, the question as to the election of a commission and consolidation and merger proceedings shall be deemed to have been rejected and shall fail, and none of the candidates shall be elected.

(h) Oath of office of members of commission.--

(1) No later than ten days after its certification of election, the members of a commission elected on a countywide basis shall, before a judge of the court of common pleas in the county where the election was held, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(2) No later than ten days after its certification of election, the members of a commission elected on other than a countywide basis shall, before a judge or a magisterial district judge, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(i) First meeting of commission.--

(1) No later than 15 days after its certification of election, a commission shall organize and hold its first meeting and elect one of its members chairman and another member vice chairman, fix its hours and place of meeting and adopt rules for the conduct of business it deems necessary and advisable.

(2) A majority of the members of the commission shall constitute a quorum for the transaction of business, but no recommendation of the commission shall have any legal effect unless adopted by a majority of the whole number of the members of the commission.

(j) Vacancies.--In case of a vacancy in a commission, the remaining members of the commission shall fill it by appointing thereto some other properly qualified elector.

(k) Function and duty of commission.--

(1) A commission shall study the issue of consolidation or merger of the municipalities.

(2) The commission shall study the advisability of a new home rule charter form of government for the proposed consolidated or merged municipality and compare it with other available forms under the laws of this Commonwealth and determine in its judgment which form of government is more

clearly responsible or accountable to the people and its operation more economical and efficient.

(3) If a new home rule charter is found to be the most advisable form of government for the proposed consolidated or merged municipality, the commission shall:

(i) Draft and recommend to the electorate a new home rule charter for the proposed consolidated or merged municipality containing a transitional plan and schedule applicable to elected officers, provided, however, that nothing in this section shall be construed as authorizing a consolidated or merged municipality adopting a new home rule charter pursuant to this section to exercise powers not granted to a municipality adopting a home rule charter pursuant to Subpart E of Part III (relating to home rule and optional plan government).

(ii) If the new home rule charter calls for all or any part of the governing body of the consolidated or merged municipality to be elected on a district or ward basis, prepare and set forth as an appendix to the new home rule charter:

(A) The district or ward boundaries established to achieve substantially equal representation.

(B) The district or ward designation by number.

(C) The number of members of the municipal governing body to be elected from each district or ward.

(iii) Prepare and suggest for adoption by the governing body of the newly consolidated or merged municipality recommendations concerning:

(A) The disposition of assets that may be surplus or unneeded as a result of the consolidation or merger.

(B) The liquidation, assumption or other disposition of existing indebtedness of the consolidated or merged municipalities.

(C) A legally consistent uniform tax system to be implemented throughout the consolidated or merged municipality which provides the revenue necessary to fund required municipal services.

(D) Ordinances to be uniformly enforced throughout the consolidated or merged municipality, which may be adopted by the new governing body of the consolidated or merged municipality at its organizational meeting, provided that codification of all ordinances shall be completed as specified in section 740 (relating to procedures).

(1) Compensation, personnel and commission budget.--

(1) Members of the commission shall serve without compensation but shall be reimbursed by the municipalities proposed to be consolidated or merged for their necessary expenses incurred in the performance of their duties.

(2) The commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix reasonable compensation therefor to be paid the consultants and clerical and other assistants.

(3) In accordance with this subsection, the commission shall prepare and submit, to the governing body of each of the municipalities being considered for consolidation or merger, budget estimates of the amount of money necessary to meet the expenditures to be incurred by the commission in the carrying out of its functions in accordance with this

section, including, but not limited to, reasonable estimations of the necessary expenses of commission members, compensation of consultants, clerical personnel and other assistants and other expenditures incident to work of the commission.

(4) The commission shall prepare and submit an initial budget submission that estimates expenses for the first nine-month phase of the commission's work. The initial budget estimate shall be submitted as soon as possible and in any event no later than 45 days after the commission's certification of election.

(5) If, during the first nine-month phase of its work, the commission elects to prepare and submit a new home rule charter for the proposed consolidated or merged municipality, a final budget shall be submitted to the governing body of each of the municipalities being considered for consolidation or merger that estimates expenses to be incurred in the completion of the commission's work.

(6) No later than 15 days after the submission of a budget in accordance with paragraphs (4) or (5), a joint public hearing of the commission and the governing bodies of the municipalities shall be held. The governing bodies of the municipalities to be consolidated or merged may, by agreement, modify any budget submitted by the commission. A governing body of a municipality to be consolidated or merged may approve appropriations to the commission in conformity with its share of the modified budget as determined in accordance with paragraph (7) or (7.1). Any unreasonable modification of the budget may be subject to an action as provided in paragraph (8) in the court of common pleas of any county wherein a municipality to be consolidated or merged lies.

(7) If a majority in each of the municipalities to be consolidated or merged vote in favor of establishing a commission, the municipalities may, by agreement, determine the share that each municipality shall appropriate to fund the estimated budget of the commission. If no agreement as to the respective amount that each municipality shall appropriate is reached, each municipality shall appropriate funds equal to its pro rata share of the total estimated budget of the commission based upon its share of population to the total population of the municipalities to be consolidated or merged.

(7.1) When a commission is formed to study consolidation or merger by a vote of the whole in the municipalities considering the question, the municipalities that vote in the affirmative shall be responsible for funding the budget of the commission. Any municipalities that vote in the negative on the question shall not be responsible for the budget costs of the commission.

(8) The commission may bring an action in the court of common pleas of the county where a municipality is located requesting that the court determine whether the municipality has failed to reasonably modify an estimated budget or to appropriate moneys in accordance with this subsection. The court may provide appropriate relief, including, but not limited to, ordering appropriation of funds in accordance with the budget:

- (i) as submitted by the commission or as modified by the municipalities; or
- (ii) as modified by the court.

(9) In all cases, the costs and fees of any action brought by the commission under this subsection shall be paid by the municipality or municipalities named as defendants.

(10) A municipality shall be entitled to a proportionate reimbursement or offset of its share of the budget by any publicly or privately contributed funds or services made available to the commission.

(m) Hearings and public forums.--A commission shall hold one or more public hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

(n) Report of findings and recommendations.--

(1) A commission shall report its findings and recommendations to the citizens of the proposed consolidated or merged municipalities within nine months from the date of its election, except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed new home rule charter and an additional two months if it chooses to provide for the election of its governing body by districts. It shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary of each municipality proposed to be consolidated or merged sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a new home rule charter, the report shall contain the complete plan as recommended.

(2) There shall be attached to each copy of the report of the commission, as a part thereof, a statement sworn to by the members of the commission listing in detail the funds, goods, materials and services, both public and private, used by the commission in the performance of its work and the preparation and filing of the report and identifying specifically the supplier of each item thereon.

(3) A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development.

(4) All the records, reports, tapes, minutes of meetings and written discussions of the commission shall, upon its discharge, be turned over to the municipal clerk or secretary of each municipality proposed to be consolidated or merged for permanent safekeeping and made available for public inspection at any time during regular business hours.

(o) Discharge of petition and amended reports.--

(1) A commission shall be discharged upon the filing of its report, but, if the commission's recommendations require further procedure in the form of a referendum on the part of the electors, the commission shall not be discharged until the procedure has been concluded. At any time prior to 60 days before the date of the referendum, the commission may modify or change any recommendation set forth in the final report by publishing an amended report.

(2) Whenever the commission issues an amended report pursuant to paragraph (1), the amended report shall supersede the final report, and the final report shall cease to have any legal effect.

(3) The procedure to be taken under the amended report shall be governed by the provisions of this subpart applicable to the final report of the commission submitted pursuant to subsection (n).

(p) Types of action recommended.--A commission shall report and recommend in accordance with this section:

(1) That a referendum shall be held that submits to the electors the question of consolidating or merging the named municipalities under a new home rule charter as prepared by the commission.

(2) That no referendum shall be held because consolidation or merger of the named municipalities under a new home rule charter is not recommended by the commission.

(3) That the named municipalities consider such other action as the commission recommends and deems advisable consistent with its functions as set forth in this section.

(q) Specificity of recommendations.--

(1) If a commission recommends the adoption of a new home rule charter, it shall specify the number of members to be on the governing body, all offices to be filled by election and whether elections shall be on an at-large, district or combination district and at-large basis.

(2) Notwithstanding any other provisions of this subpart, if an approved new home rule charter adopted pursuant to the provisions of this subpart specifies that the election of the governing body should be on an at-large, district or combination district and at-large basis and the basis recommended differs from the existing basis and therefore requires the elimination of districts or the establishment of revised or new districts, then election of municipal officials shall not take place on the new basis until the municipal election following the next primary election taking place more than 180 days after the election at which the referendum on the question of a consolidation or merger and new home rule charter has been approved by the electorate. The consolidation or merger and new home rule charter shall not go into effect until the first Monday in January following the election of municipal officials on the new basis as provided in section 738 (relating to effectuation of consolidation or merger). New or revised districts shall be established by the commission and included in the proposed charter.

(r) Form of question on consolidation or merger and new home rule charter.--If a commission recommends consolidation or merger and the adoption of a new home rule charter for the municipalities to be consolidated or merged, the question to be submitted to the voters for the adoption of consolidation or merger and a new home rule charter shall be submitted in the following form or such part as shall be applicable:

Shall the municipalities of (insert names of municipalities consolidating or merging) be (insert consolidated or merged) to become (insert name of new municipality, type and class of municipality) under a new home rule charter contained in the report, dated (insert date), of the commission?

(s) Submission of question on consolidation or merger and new home rule charter.--If a commission recommends that the question of adopting consolidation or merger and a new home rule charter authorized by this subpart should be submitted to the electors, the municipal clerk or secretary of each municipality proposed to be consolidated or merged shall, within five days thereafter, certify a copy of the commission's report to the county board of elections of the county in which the municipality, or the greater portion of its territory, is located, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at the time as the commission specifies in its report. The commission may cause

the question to be submitted to the electors at the next primary, municipal or general election occurring not less than 60 days following the filing of a copy of the commission's report with the county board of elections, at the time the commission's report directs. At the election, the question of adopting consolidation or merger and a new home rule charter recommended by the commission shall be submitted to the electors by the county board of elections in the same manner as other questions are submitted to the electors under the Pennsylvania Election Code. The commission shall frame the question to be placed upon the ballot as provided for in subsection (r) and, if it deems appropriate, an interpretative statement to accompany the question.

(t) Amendment of new home rule charter.--The procedure for amending the new home rule charter of the consolidated or merged municipality created under this subpart shall be through the initiative procedure and referendum or ordinance of the governing body as provided for in Subchapter C of Chapter 29 (relating to amendment of existing charter or optional plan).

(u) General powers and limitation of consolidated or merged municipality under new home rule charter.--Nothing in this section shall be construed as authorizing a consolidated or merged municipality adopting a new home rule charter to exercise powers not granted to a municipality adopting a home rule charter pursuant to Subpart E of Part III.

(v) Definition.--(Deleted by amendment).
(Oct. 23, 2003, P.L.180, No.29, eff. 60 days; Oct. 27, 2010, P.L.980, No.102, eff. 60 days; Sept. 24, 2014, P.L.2452, No.131, eff. 60 days)

2014 Amendment. Act 131 amended subsecs. (a), (d)(3), (e)(3), (g)(1) and (1)(6) and (7), added subsec. (1)(7.1) and deleted subsec. (c).

Cross References. Section 735.1 is referred to in sections 732, 733, 736, 738, 739, 740, 741 of this title.

§ 736. Conduct of referenda.

(a) Duty to place on ballot.--Following initiation of proceedings for consolidation or merger by the procedures set forth either in section 734 (relating to joint agreement of governing bodies) or 735 (relating to initiative of electors seeking consolidation or merger without new home rule charter), the question of consolidation or merger as set forth in the joint agreement or initiative petition shall be placed before the electors of each of the municipalities proposed to be consolidated or merged. A referendum shall be held at the first primary, municipal or general election occurring at least 13 weeks after either:

(1) the date of the general agreement entered into under the provisions of section 734; or

(2) the date of filing of the petition filed under the provisions of section 735.

(a.1) Referenda under section 735.1.--Referenda authorized under section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter) shall be placed on the ballot in accordance with section 735.1(d)(3) and (s).

(b) Approval.--Pursuant to sections 734, 735 and 735.1, consolidation or merger shall not be effective unless the referendum question is approved by a majority of the electors voting in each of the municipalities in which the referendum is held. If in any one of the municipalities in which the referendum is held a majority vote in favor of consolidation

or merger does not result, the referendum shall fail and consolidation or merger shall not take place. The same question in accordance with sections 734 or 735, or the same question described in the proposal for consolidation or merger with a new home rule charter in accordance with section 735.1, described in the consolidation or merger proposal shall not be voted on again for a period of five years.

(c) Subsequent referenda.--The five-year moratorium on voting the same consolidation or merger question as provided in subsection (b) shall be deemed not to apply to any subsequent referendum question involving a consolidation or merger of any combination of two or more contiguous municipalities if the referendum question differs or is dissimilar in any way from a previous referendum question which was not approved as provided for in subsection (b).

(Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

Cross References. Section 736 is referred to in section 741 of this title.

§ 737. Consolidation or merger agreement.

(a) Form.--Upon favorable action by the electorate on consolidation or merger, in cases where consolidation or merger was initiated by petition of electors under section 735 (relating to initiative of electors seeking consolidation or merger without new home rule charter), the governing bodies of the municipalities to be consolidated or merged shall meet as deemed necessary after the certification of the favorable vote and shall within one year after certification enter into a consolidation or merger agreement as follows:

(1) If the governing body, or part of the governing body, of the consolidated or merged municipality is to be elected on a district or ward basis, the agreement shall set forth the district or ward boundaries and the district or ward designation, by number, and the number of members of the municipal governing body to be elected from each district or ward. The boundaries of the districts or wards shall be established to achieve substantially equal representation.

(2) The agreement shall set forth terms for:

(i) The disposition of the existing assets of each municipality.

(ii) The liquidation of the existing indebtedness of each municipality.

(iii) The assumption, assignment and disposition of the existing liabilities of each municipality, either jointly, separately or in certain defined proportions, by separate rates of taxation within each of the constituent municipalities until consolidation or merger becomes effective pursuant to section 738 (relating to effectuation of consolidation or merger).

(3) The agreement shall set forth the governmental organization of the consolidated or merged municipality insofar as it concerns elected officers and shall contain a transitional plan and schedule applicable to elected officers.

(4) The agreement shall provide for common administration and uniform enforcement of ordinances within the consolidated or merged municipality.

(5) The agreement shall also provide, consistent with existing law, for the implementation of a uniform tax system throughout the consolidated or merged municipality which shall provide the revenue necessary to fund required municipal services.

(6) The agreement shall mandate full implementation of the consolidation or merger plan within four years following the date of certification.

(b) Filing.--Within 30 days following certification of electorate approval by the county boards of election, a copy of the consolidation or merger agreement under this section or the joint agreement under section 734 (relating to joint agreement of governing bodies) shall be filed with the Department of Community and Economic Development, the Department of Transportation, the Governor's Office of Policy Development or its successor, the Department of Education, the State Tax Equalization Board and the Legislative Data Processing Committee. A copy shall also be filed with the court of common pleas and the board of county commissioners of the county or counties in which municipalities affected are located.
(Oct. 23, 2003, P.L.180, No.29, eff. 60 days; Oct. 27, 2010, P.L.980, No.102, eff. 60 days)

Cross References. Section 737 is referred to in sections 738, 741 of this title.

§ 738. Effectuation of consolidation or merger.

Municipalities consolidated or merged shall continue to be governed as before consolidation or merger until the date stipulated in the transitional plan and schedule provided for in sections 734 (relating to joint agreement of governing bodies) and 737 (relating to consolidation or merger agreement), or the transitional plan provided for by a study commission pursuant to section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter). Subject to the provisions of section 735.1(q), new officials required to be elected shall take office on the first Monday of January following the municipal election designated in the transitional plan and schedule. At that municipal election, the necessary officers of the consolidated or merged municipality shall be elected in accordance with the terms of the general law affecting municipalities of the kind or class of the consolidated or merged municipality or, in case of a consolidated or merged municipality operating under a home rule charter or optional plan of government, in accordance with the charter or optional plan or with general law affecting home rule or optional plan municipalities, as applicable. The officers elected at that municipal election shall be elected for terms of office under the plan and schedule set forth in the consolidation or merger agreement authorized by section 734 or 737, or the transitional plan provided for by a commission pursuant to section 735.1, as the case may be. They shall take office as officers of the consolidated or merged municipality on the first Monday of January following the municipal election at which they were elected, and upon assumption of office, the consolidated or merged municipality shall begin to function and the former municipalities consolidated or merged into it shall be abolished.

(Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

Cross References. Section 738 is referred to in sections 734, 735.1, 737 of this title.

§ 739. Effect of transition on employees of consolidated or merged municipality.

(a) Transition.--As of the date when a consolidated or merged municipality shall begin to function, except for those officers and employees which are protected by any tenure of office, civil service provisions or collective bargaining

agreement, all appointive offices and positions then existing in all former municipalities involved in the consolidation or merger shall be subject to the terms of the consolidation or merger agreement or transitional plan as provided for in section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter). Provisions shall be made for instances in which there is duplication of positions, including, but not limited to, chief of police or manager, and for other matters such as varying length of employee contracts, different civil service regulations in the constituent municipalities and differing ranks and position classifications for similar positions.

(b) Exception.--Nothing in this section shall be deemed to apply to a consolidated or merged municipality if one or more of the consolidating or merging municipalities has been declared distressed under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act. In such case, the provisions of section 408 of that act shall control. (Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

2003 Amendment. Act 29 amended subsec. (a).

§ 740. Procedures.

(a) Ordinance book.--After consolidation becomes effective, a new ordinance book shall be used by the municipality, and, except for a municipality consolidated or merged under section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter), the first document to be recorded in it shall be the consolidation agreement.

(b) Ordinance codification.--No later than two years after consolidation goes into effect, codification of all the ordinances of the municipality shall be completed. The codification shall include tabulation or indexing of those ordinances of the component municipalities that are of permanent effect in the consolidated municipality.

(c) Vesting of rights, privileges, property and obligations.--All rights, privileges and franchises of each component municipality and all property belonging to each component municipality shall be vested in the consolidated or merged municipality. The title to real estate vested in any of those municipalities shall not revert or be in any way impaired by reason of the consolidation or merger. All liens and rights of creditors shall be preserved. Agreements and contracts shall remain in force. Debts, liabilities and duties of each of the municipalities shall be attached to the consolidated or merged municipality and may be enforced against it. (Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

2003 Amendment. Act 29 amended subsec. (a).

Cross References. Section 740 is referred to in section 735.1 of this title.

§ 741. Court review of transitional plan.

(a) General rule.--Except as provided in subsection (b), after the approval of a referendum pursuant to section 736 (relating to conduct of referenda), any person who is a resident of a municipality to be consolidated or merged may petition the court of common pleas to order the appropriate municipal governing bodies to:

(1) implement the terms of a transitional plan and schedule adopted pursuant to section 734 (relating to joint agreement of governing bodies) or 737 (relating to consolidation or merger agreement); or

(2) adopt or amend a transitional plan or schedule if the court finds that the failure to do so will result in the unreasonable perpetuation of the separate forms and classifications of government existing in the affected municipalities prior to the approval of the referendum.

(b) Exception.--After consolidation or merger pursuant to section 735.1 (relating to initiative of electors seeking consolidation or merger with new home rule charter), any person who is a resident of the newly consolidated or merged municipality may petition the court of common pleas to order the governing body of that municipality to act to accept or provide alternatives to the recommendations of the commission in accordance with section 735.1(k)(3)(iii).
(Oct. 23, 2003, P.L.180, No.29, eff. 60 days)

CHAPTER 9

MUNICIPAL REAPPORTIONMENT

Sec.

- 901. Short title and scope of chapter.
- 902. Definitions.
- 903. Reapportionment by governing body.
- 904. Reapportionment by court upon petition.
- 905. Compensation of commissioners and payment of costs.
- 906. Contest of reapportionment by governing body.
- 907. Costs and expenses of contest.
- 908. Retention in office and new elections.

Enactment. Chapter 9 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

Cross References. Chapter 9 is referred to in section 2941 of this title; section 601 of Title 8 (Boroughs and Incorporated Towns); section 10401 of Title 11 (Cities).

§ 901. Short title and scope of chapter.

(a) Short title of chapter.--This chapter shall be known and may be cited as the Municipal Reapportionment Act.

(b) Scope of chapter.--This chapter applies to the following entities:

- (1) Municipalities.
- (2) Units of government created and existing under Subpart E of Part III (relating to home rule and optional plan government).
- (3) Similar general purpose units of local government created by statute.

§ 902. Definitions.

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

"District." Includes a ward whenever wards are used as a subdivision for the election of members of the governing body.

"Governing body." A board of county commissioners, city council, borough council, incorporated town council, board of township commissioners or board of township supervisors, the governing council of any unit of government created and existing under Subpart E of Part III (relating to home rule and optional plan government) or the governing council of any similar general purpose unit of government created by statute.

§ 903. Reapportionment by governing body.

(a) General rule.--Within the year following that in which the Federal census, decennial or special, is officially and finally reported and at such other times as the governing body

deems necessary, each entity having a governing body not entirely elected at large shall be reapportioned into districts by its governing body. The governing body shall number the districts.

(b) Composition of districts.--Districts shall be composed of compact and contiguous territory as nearly equal in population as practicable as officially and finally reported in the most recent Federal census, decennial or special.

Cross References. Section 903 is referred to in sections 906, 2941 of this title; section 10403.2 of Title 11 (Cities).

§ 904. Reapportionment by court upon petition.

(a) Petition.--If there has not been a reapportionment by the governing body within the year following that in which the Federal census, decennial or special, is officially and finally reported, a petition signed by one or more electors who are residents of the entity may be submitted to the court of common pleas which may then reapportion in accordance with this chapter.

(b) Appointment of commissioners.--Upon receiving the petition to reapportion, the court may appoint three impartial persons as commissioners.

(c) Report to court.--The commissioners appointed by the court or any two of them shall make a report to the court within the time the court directs and shall include with it a plot showing the boundaries of the present districts and a plot showing the districts as proposed by them, along with pertinent information relating to population and area of the proposed districts.

(d) Action on report.--Upon presentation, the court shall confirm the report nisi and shall direct that notice of the filing of the report shall be given by publication once in a newspaper of general circulation stating that exceptions may be filed to the report within 30 days after the report was filed. If no exceptions are filed or if the court dismisses the exceptions, the court shall confirm the report absolutely and issue a decree. The court in its decree shall designate a number for each of the districts.

Cross References. Section 904 is referred to in section 906 of this title.

§ 905. Compensation of commissioners and payment of costs.

(a) Compensation of commissioners.--The commissioners appointed by the court shall each receive compensation for their services as the court shall fix.

(b) Payment of costs and expenses.--All cost and expenses incurred in the proceedings to reapportion shall be paid by the entity.

§ 906. Contest of reapportionment by governing body.

(a) General rule.--In the event there has been a reapportionment by the governing body pursuant to section 903(a) (relating to reapportionment by governing body) or 904 (relating to reapportionment by court upon petition), the reapportionment may be contested as not being in compliance with the criteria for reapportionment as set forth in section 903(b).

(b) Petition to court.--In order to contest a reapportionment, a petition signed by ten electors who are residents of the entity shall be submitted to the court of common pleas.

(c) Action on petition.--The court shall review the reapportionment plan and either accept the reapportionment plan and dismiss the petition or reject the reapportionment plan and

return it to the local governing body for correction and resubmission to the court.

(d) Appointment of commissioners.--If the court sets the reapportionment aside, the court may appoint three impartial persons as commissioners.

(e) Report to court.--The commissioners appointed by the court or any two of them shall make a report to the court within the time the court directs and shall include with it a plot showing the boundaries of the present districts and a plot showing the districts as proposed by them, along with pertinent information relating to population and area of the proposed districts.

(f) Action on report.--Upon presentation, the court shall confirm the report nisi and shall direct that notice of the filing of the report shall be given by publication once in a newspaper of general circulation stating that exceptions may be filed to the report within 30 days after the report was filed. If no exceptions are filed or if the court dismisses the exceptions, the court shall confirm the report absolutely and issue a decree. The court in its decree shall designate a number for each of the districts.

Cross References. Section 906 is referred to in section 907 of this title; section 602 of Title 8 (Boroughs and Incorporated Towns); section 10401.1 of Title 11 (Cities).

§ 907. Costs and expenses of contest.

(a) General rule.--All cost and expenses incurred in a proceeding described in section 906 (relating to contest of reapportionment by governing body) challenging a reapportionment shall be paid by the entity or the petitioners as the court directs, but, if the court reapportions the entity, the costs and expenses shall be paid by the entity.

(b) Bond to secure payment.--If a reapportionment is challenged by petition as described in section 906, the petitioners may be required to post a bond set by the court to secure the payment of costs and expenses.

Cross References. Section 907 is referred to in section 602 of Title 8 (Boroughs and Incorporated Towns); section 10401.1 of Title 11 (Cities).

§ 908. Retention in office and new elections.

(a) Retention of existing members in office.--The members of the governing body in office at the time of the reapportionment shall retain their offices until the end of their respective terms.

(b) Election of members following reapportionment.--The election of members of the governing body under the reapportionment shall be held in accordance with law relating to the entity and the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

PART III

GOVERNMENT AND ADMINISTRATION

Subpart

- A. General Provisions
- B. Governing Body
- C. Executive Departments, Officers and Employees
- D. Area Government and Intergovernmental Cooperation
- E. Home Rule and Optional Plan Government

Enactment. Part III was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBPART A
GENERAL PROVISIONS

Chapter

11. General Provisions

CHAPTER 11
GENERAL PROVISIONS

Subchapter

- A. (Reserved)
- B. Emergency Seat of Government
- C. Emergency Succession of Officers
- D. Miscellaneous Provisions

Enactment. Chapter 11 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A
(Reserved)

SUBCHAPTER B
EMERGENCY SEAT OF GOVERNMENT

Sec.

- 1121. Scope of subchapter.
- 1122. Establishment and designation.
- 1123. Exercise of powers and functions.
- 1124. Applicability of subchapter.

§ 1121. Scope of subchapter.

This subchapter applies to all political subdivisions.

§ 1122. Establishment and designation.

Whenever, due to an emergency resulting from the effects of enemy attack or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place, the governing body of each political subdivision of this Commonwealth may meet at any place within or without the territorial limits of the political subdivision. The meeting may be held on the call of the presiding officer or any two members of the governing body and shall proceed to establish and designate, by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location or locations of government where all or any part of the public business may be transacted and conducted during the emergency situation. These sites or places may be within or without the territorial limits of the political subdivision and may be within or without this Commonwealth.

§ 1123. Exercise of powers and functions.

During the period when the public business is being conducted at the emergency temporary location or locations, the governing body and other officers of a political subdivision of this Commonwealth shall exercise at the location or locations all of the executive, legislative and judicial powers and functions conferred upon the governing body and officers by law. These

powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to time-consuming procedures and formalities prescribed by law and pertaining to them, and all acts of the governing body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision.

§ 1124. Applicability of subchapter.

The provisions of this subchapter shall control, in the event it shall be employed, notwithstanding any statutory charter or ordinance provision to the contrary or in conflict with this subchapter.

SUBCHAPTER C

EMERGENCY SUCCESSION OF OFFICERS

Sec.

1131. Scope of subchapter.

1132. Declaration of policy.

1133. Definitions.

1134. Enabling authority for emergency interim successors for local offices.

1135. Emergency interim successors for local officers.

1136. Formalities of taking office.

1137. Succession period.

1138. Term and removal of designees.

§ 1131. Scope of subchapter.

This subchapter applies to all municipalities.

§ 1132. Declaration of policy.

Because of the existing possibility of attack upon the United States of unprecedented size and destructiveness and in order, in the event of such an attack, to assure continuity of government through legally constituted authority and responsibility in offices of the municipalities of this Commonwealth, to provide for the effective operation of government during an emergency and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for emergency interim succession to offices of the municipalities of this Commonwealth in the event the incumbents and their deputies authorized to exercise all of the powers and discharge the duties of these offices, referred to in this subchapter as deputies, are unavailable to exercise the powers and perform the duties of these offices.

§ 1133. Definitions.

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

"Attack." Any attack on the United States which causes or may cause substantial damage or injury to civilian persons or property in any manner by sabotage or by the use of bombs, missiles or shellfire or by atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

"Emergency interim successor." A person designated, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution of Pennsylvania, statutes, charters and ordinances or until the lawful incumbent is able to exercise the powers and discharge the duties of the office.

"Office." All local offices, the powers and duties of which are defined by the Constitution of Pennsylvania or a statute, charter or ordinance.

"Unavailable." When a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office or when the lawful incumbent of the office or any deputy exercising the powers and discharging the duties of an office because of a vacancy and his authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

§ 1134. Enabling authority for emergency interim successors for local offices.

With respect to local offices for which the legislative bodies of municipalities may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, the legislative bodies are authorized to enact resolutions or ordinances providing for emergency interim successors to offices. The resolutions and ordinances shall not be inconsistent with this subchapter.

Cross References. Section 1134 is referred to in section 1135 of this title.

§ 1135. Emergency interim successors for local officers.

This section is applicable to officers of municipalities not included in section 1134 (relating to enabling authority for emergency interim successors for local offices). Each officer, subject to any regulations as the executive head of the municipality may issue, shall designate by title, if feasible, or by named person emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this subchapter. The officer will designate a sufficient number of persons so that there will be not less than three deputies or emergency interim successors or any combination of them. If any officer or deputy of any municipality is unavailable, the powers of the office shall be exercised and the duties discharged by his designated emergency interim successors in the order specified. The emergency interim successors, in the order specified, shall exercise the powers and discharge the duties of the office to which designated until the vacancy is filled in accordance with the Constitution of Pennsylvania or statutes or until the officer, or his deputy or a preceding emergency interim successor, ceases to be unavailable.

§ 1136. Formalities of taking office.

Prior to taking up the duties to which they may temporarily succeed, emergency interim successors shall take an oath as may be required for the office to which they may succeed.

§ 1137. Succession period.

Emergency interim successors may exercise the powers and discharge the duties of an office as authorized in this subchapter only after an attack has occurred. The General Assembly, by concurrent resolution, may terminate the authority of the emergency interim successors to exercise the powers and discharge the duties of office as provided under this subchapter.

Cross References. Section 1137 is referred to in section 1138 of this title.

§ 1138. Term and removal of designees.

Until the persons designated as emergency interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this subchapter, including

section 1137 (relating to succession period), these persons may be removed or replaced by the designating authority at any time, with or without cause.

SUBCHAPTER D

MISCELLANEOUS PROVISIONS

Sec.

- 1141. Form of oaths of office.
- 1142. Residency during military service.

Enactment. Subchapter D was added July 9, 2008, P.L.999, No.76, effective in 60 days.

§ 1141. Form of oaths of office.

Whenever an elected or appointed official of a municipality is required to take, subscribe or file an oath or affirmation of office, the oath or affirmation shall be in the form prescribed in this section, as follows:

I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity.

Cross References. Section 1141 is referred to in sections 1002, 1061, 10A03, 1172 of Title 8 (Boroughs and Incorporated Towns); sections 10905, 14403 of Title 11 (Cities).

§ 1142. Residency during military service.

(a) General rule.--A person's active military duty shall not disqualify the person from fulfilling a residency requirement imposed by a municipal code or charter as a qualification of elected office or to fill a vacancy of elected office.

(b) Deemed residency.--For purposes of subsection (a), a person who is a resident of a municipality for at least one year immediately prior to the person's absence due to active military duty shall be deemed to be an ongoing resident of the municipality unless and until the person demonstrates an intent to establish a new domicile outside of the municipality.

(c) Definition.--As used in this section, the term "active military duty" shall include active service in any of the armed forces of the United States, including a National Guard or reserve component.

(Oct. 30, 2017, P.L.1141, No.54, eff. 60 days)

2017 Amendment. Act 54 added section 1142.

Cross References. Section 1142 is referred to in section 801 of Title 8 (Boroughs and Incorporated Towns).

SUBPART B

GOVERNING BODY

Chapter

- 13. General Provisions

CHAPTER 13

GENERAL PROVISIONS

Subchapter

- A. through E. (Reserved)

- F. Records
- G. Miscellaneous Provisions (Unconstitutional)

Enactment. Chapter 13 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTERS A through E
(Reserved)

SUBCHAPTER F
RECORDS

Sec.

- 1381. Short title and scope of subchapter.
- 1382. Definitions.
- 1383. Disposition of public records.
- 1384. Proposed retention and disposal schedules.
- 1385. Local Government Records Committee.
- 1386. Effect of approval of schedule.
- 1387. Nonliability of official.
- 1388. Recording and copying records.
- 1389. Applicability of other statutes.

Cross References. Subchapter F is referred to in section 3104 of Title 8 (Boroughs and Incorporated Towns); sections 11018.11, 12704, 127A02 of Title 11 (Cities).

§ 1381. Short title and scope of subchapter.

(a) **Short title of subchapter.**--This subchapter shall be known and may be cited as the Municipal Records Act.

(b) **Scope of subchapter.**--This subchapter applies to the following entities:

(1) A city of the third class, borough, incorporated town, township of the first class or township of the second class, including any municipal corporation as described in this paragraph which has adopted a home rule charter.

(2) Municipal authorities created by any municipal corporation which is subject to this subchapter.

This subchapter does not apply to cities of the first class, second class or second class A.

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days)

§ 1382. Definitions.

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

"Commission." The Pennsylvania Historical and Museum Commission.

"Committee." The Local Government Records Committee.

"Public records." Any papers, books, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by an entity under law or in connection with the exercise of its powers and the discharge of its duties.

§ 1383. Disposition of public records.

Public records may be disposed of if the disposition is in conformity with schedules and regulations which are promulgated by the committee as established by section 1385 (relating to Local Government Records Committee).

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days)

§ 1384. Proposed retention and disposal schedules.

The commission, in cooperation with the several associations of municipal officials and related Commonwealth agencies, shall make a study of public records and shall prepare proposed retention and disposition schedules for submission to the committee for its approval and advise each of them of all applicable operative schedules and prepare updates of these schedules as needed. No such schedule shall be operative unless approved by the committee.

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days)

§ 1385. Local Government Records Committee.

(a) Establishment.--There shall be established under the commission the Local Government Records Committee which shall consist of the Auditor General, the State Treasurer, the General Counsel, the Executive Director of the Pennsylvania Historical and Museum Commission, the Secretary of Community and Economic Development and five other members to be appointed by the Governor to represent each of the following municipal associations: the League of Cities, the State Association of Boroughs, the State Association of Township Commissioners, the State Association of Township Supervisors and the Municipal Authorities' Association. Each ex officio member of the committee may designate in writing a representative to act in place of the member. The Secretary of Community and Economic Development shall serve as chairman, and the executive director of the commission shall serve as secretary. Meetings of the committee shall be at the call of the chairman.

(b) Powers and duties.--The committee shall have the powers and duties vested in and imposed upon it by this subchapter and shall promulgate regulations not inconsistent with law necessary to adequately effectuate its powers and duties.

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days; May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendments. Act 27 amended the entire section and Act 50 amended subsec. (a). Act 50 overlooked the amendment by Act 27, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 1385.

Cross References. Section 1385 is referred to in section 1383 of this title.

§ 1386. Effect of approval of schedule.

(a) Disposition generally.--Whenever a schedule is approved by the committee, a copy shall be filed with the commission which shall, through appropriate means, notify the entities that the schedule has been approved. Upon such notification, the schedule becomes effective and may be acted upon by them until superseded by a subsequent duly approved schedule. Each entity shall declare its intent to follow the schedule by ordinance or resolution. Each individual act of disposition shall be approved by resolution of the governing body.

(b) Disposition of permanent retention records.--Original records scheduled for permanent retention may be disposed of if, in addition to the procedures listed in this section, the entity generates and maintains a copy of the original in conformance with section 1388 (relating to recording and copying records) and receives written permission from the commission to dispose of the records. Written permission from the commission is required only for disposition actions involving records scheduled for permanent retention, records not listed on the schedules and records selected for transfer to the State Archives.

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days)

§ 1387. Nonliability of official.

An official shall not be held liable on his official bond for damages for loss or in any other manner, civil or criminal, because of the disposition of public records pursuant to the provisions of this subchapter.

§ 1388. Recording and copying records.

(a) Authorized methods.--Records may be recorded or copied in conformance with section 1 of the act of May 9, 1949 (P.L.908, No.250), entitled "An act relating to public records of political subdivisions other than cities and counties of the first class; authorizing the recording and copying of documents, plats, papers and instruments of writing by photostatic, photographic, microfilm or other mechanical process, and the admissibility thereof and enlargements thereof in evidence; providing for the storage of duplicates and sale of microfilm copies of official records and for the destruction of other records deemed valueless; and providing for the services of the Department of Property and Supplies to political subdivisions," and applicable policies, standards and procedures adopted by the committee.

(b) Evidence of records.--Upon disposition of any public records under this subchapter, the copy shall be receivable in evidence in any court or proceeding and shall have the same force and effect as though the original public record had been produced and proved.

(Feb. 18, 1998, P.L.175, No.27, eff. 60 days)

References in Text. The title of the act of May 9, 1949 (P.L.908, No.250), referred to in subsec. (a), was amended by the act of February 18, 1998 (P.L.178, No.28), and the act of December 9, 2002 (P.L.1565, No.205).

Cross References. Section 1388 is referred to in section 1386 of this title.

§ 1389. Applicability of other statutes.

This subchapter is intended as a supplement to existing statutes. The existing statutes which provide for destruction may be utilized by officials in lieu of compliance with this subchapter. Nothing in this subchapter shall prevent officials from retaining records longer than the periods which may be provided in schedules approved by the committee.

SUBCHAPTER G
MISCELLANEOUS PROVISIONS
(Unconstitutional)

Sec.

1391. Acceptance of gifts or donations (Unconstitutional).

1392. Prohibition of fees for police services.

2013 Effectuation of Declaration of Unconstitutionality.

The Legislative Reference Bureau effectuated the 2004 unconstitutionality.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Enactment. Subchapter G was added December 30, 2002, P.L.2001, No.230, effective immediately.

§ 1391. Acceptance of gifts or donations (Unconstitutional).

2013 Effectuation of Declaration of Unconstitutionality.

The Legislative Reference Bureau effectuated the 2004 unconstitutionality.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 1392. Prohibition of fees for police services.

(a) Prohibition.--A municipality shall not charge a fee for or seek reimbursement of costs or expenses incurred as a result of municipal police responding to a motor vehicle accident, including, but not limited to, costs incurred for labor, materials, supplies or equipment used or provided in the response.

(b) Limitation.--Subsection (a) shall not be construed to authorize the imposition of any fee other than those fees or charges for furnishing copies of reports under 75 Pa.C.S. § 3751 (relating to reports by police) in the form prescribed by the Department of Transportation and for recovery of the actual costs in furnishing copies of any additional information separate from that provided in 75 Pa.C.S. § 3751 and any other fees or charges authorized in State law.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Municipal police." A public agency of a municipality having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws. The term shall include any regional police department from which the municipality receives police services or any police department which provides the municipality with police services pursuant to agreement or contract.

"Municipality." A county, city, borough, incorporated town, township or home rule municipality.
(Dec. 18, 2007, P.L.461, No.69, eff. 60 days)

2007 Amendment. Act 69 added section 1392.

Cross References. Section 1392 is referred to in section 1202 of Title 8 (Boroughs and Incorporated Towns).

SUBPART C

EXECUTIVE DEPARTMENTS, OFFICERS AND EMPLOYEES

Chapter

21. Employees

CHAPTER 21

EMPLOYEES

Subchapter

- A. through C. (Reserved)
- D. Municipal Police Education and Training
- E. Employee Benefits

Enactment. Chapter 21 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTERS A through C
(Reserved)

SUBCHAPTER D
MUNICIPAL POLICE EDUCATION AND TRAINING

Sec.

- 2161. Establishment of program and scope of subchapter.
- 2162. Definitions.
- 2163. Commission members.
- 2164. Powers and duties of commission.
- 2165. Meetings and quorum of commission.
- 2166. Applicability to civil service laws.
- 2166.1. Prohibition on political activity (Repealed).
- 2167. Police training.
- 2168. Automatic certification.
- 2169. In-service training by existing personnel.
- 2170. Reimbursement of expenses.
- 2171. Payment of certain county costs.
- 2172. Canine training standards for police officers.

Cross References. Subchapter D is referred to in section 1115 of Title 3 (Agriculture); section 13718 of Title 11 (Cities); sections 5702, 5749 of Title 18 (Crimes and Offenses); section 3711 of Title 22 (Detectives and Private Police); section 6202 of Title 27 (Environmental Resources); section 67A01 of Title 42 (Judiciary and Judicial Procedure); section 7202 of Title 44 (Law and Justice); section 711 of Title 51 (Military Affairs); sections 6302, 6304 of Title 61 (Prisons and Parole); section 6501 of Title 74 (Transportation).

§ 2161. Establishment of program and scope of subchapter.

(a) Municipal police officers' education and training program.--The commission shall establish a municipal police officers' education and training program in accordance with the provisions of this subchapter. The administration of this program shall be the responsibility of the Pennsylvania State Police.

(b) Scope of subchapter.--This subchapter applies to all municipalities.

§ 2162. Definitions.

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

"Approval." The assignment of an approval number to an instructor or school director who meets the requirements established by the commission.

"Certification." The assignment of a certification number to a police officer after successful completion of a mandatory basic training course or receipt of a waiver of basic training from the commission and successful completion of mandatory in-service training. Certification is for a period of not more than two years.

"College." A college which has a campus police department, as used in section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, certified by the Office of Attorney General as a criminal justice agency under the definition of "criminal justice agency" in 18 Pa.C.S. § 9102 (relating to definitions).

"Commission." The Municipal Police Officers' Education and Training Commission.

"Commissioner." The Commissioner of the Pennsylvania State Police.

"Instructor." An individual approved by the commission to teach in a basic police training course or an in-service police training course.

"Police department." Any of the following:

(1) A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws. This paragraph includes the sheriff's office in a county of the second class.

(2) A campus police or university police department, as used in section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, certified by the Office of Attorney General as a criminal justice agency under the definition of "criminal justice agency" in 18 Pa.C.S. § 9102 (relating to definitions).

(3) A railroad or street railway police department formed with officers commissioned under 22 Pa.C.S. Ch. 33 (relating to railroad and street railway police) or any prior statute providing for such commissioning.

(4) The Capitol Police.

(5) The Harrisburg International Airport Police.

(6) An airport authority police department.

(7) A county park police force under section 2511(b) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code.

"Police officer." Any of the following:

(1) A full-time or part-time employee assigned to criminal or traffic law enforcement duties of any of the following:

(i) A police department of a county, city, borough, town or township.

(ii) Any railroad or street railway police.

(iii) Any campus or university police department, including the State System of Higher Education and its member institutions.

(iv) The Capitol Police.

(v) The Harrisburg International Airport Police.

(vi) An airport authority police department.

(2) A deputy sheriff of a county of the second class.

(3) A security officer of a first class city housing authority or a police officer of a second class city housing authority.

(4) A county park police officer.

The term excludes persons employed to check parking meters or to perform only administrative duties and auxiliary and fire police.

"School." A training school or academy which provides a basic police training course within the functional organization of a police department or departments or any educational facility in this Commonwealth.

"School director." An individual who is approved by the commission and responsible for the daily operations of a training school or academy which provides a basic police training course within the functional organization of a police department or departments or any educational facility in this Commonwealth.

"University." A university which has a campus police department, as used in section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, certified by the Office of Attorney General as a criminal justice agency under the definition of "criminal justice agency" in 18 Pa.C.S. § 9102 (relating to definitions).

(Nov. 24, 1999, P.L.539, No.49, eff. 60 days; Dec. 30, 2003, P.L.450, No.65, eff. 60 days; Mar. 14, 2014, P.L.38, No.18, eff. 90 days; Nov. 3, 2022, P.L.1788, No.121, eff. imd.; Oct. 11, 2023, P.L.49, No.10, eff. 60 days)

2023 Amendment. Act 10 amended the def. of "certification" and added the defs. of "approval," "instructor" and "school director."

2022 Amendment. Act 121 amended the defs. of "college," "police department," "police officer" and "university." See section 4 of Act 121 in the appendix to this title for special provisions relating to law enforcement certification.

2014 Amendment. See section 1 of Act 18 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 2162 is referred to in section 8951 of Title 42 (Judiciary and Judicial Procedure).

§ 2163. Commission members.

(a) Selection.--The commission shall be composed of 20 members as follows:

(1) The following members shall serve by virtue of their office:

(i) The Commissioner of the Pennsylvania State Police who shall serve as chairman of the commission.

(ii) The Secretary of Community and Economic Development.

(iii) The Attorney General.

(iv) The police commissioner of a city of the first class or his designee.

(2) The following members shall be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives:

(i) A member of the Senate.

(ii) A member of the House of Representatives.

(3) The following members shall be appointed by the Governor:

(i) A borough official, a first class township official, a second class township official and a city official.

(ii) Four incumbent chiefs of police from the various municipalities of this Commonwealth, at least one to be a chief of a borough police department, at least one to be a chief of a township police department and at least one to be a chief of a city police department.

(iii) One member of the Pennsylvania Lodge Fraternal Order of Police.

(iv) One educator qualified in the field of law enforcement.

(v) One member representing the public at large.

(vi) Two noncommissioned police officers.

(vii) A director of one of the certified training schools.

(b) Terms of office.--All members of the commission appointed by the Governor shall serve for a period of three years. Any member of the commission, immediately upon termination of holding the position by virtue of which the member was eligible for membership or appointed as a member of the commission, shall cease to be a member of the commission.

(c) Vacancies.--A member appointed to fill a vacancy not created by the expiration of a term shall be appointed for the

unexpired term of the member whom he is to succeed in the same manner as the original appointment.

(d) Compensation and expenses.--The members of the commission shall serve without compensation but shall be reimbursed the necessary and actual expenses incurred in attending the meetings of the commission and in the performance of their duties under this subchapter.

(e) Removal from office.--Members of the commission may be removed by the Governor for cause after written notice from the Governor.

(f) Affiliation.--The designated public member may not at any time have been a police officer or have been affiliated with a police department or training school.

(May 5, 1998, P.L.301, No.50, eff. 60 days; Oct. 24, 2018, P.L.796, No.129, eff. 60 days)

2018 Amendment. Act 129 amended subsec. (a).

§ 2164. Powers and duties of commission.

The powers and duties of the commission shall be as follows:

(1) To establish and administer the minimum courses of study for basic and in-service training for police officers and to revoke an officer's certification when an officer fails to comply with the basic and in-service training requirements or is convicted of a criminal offense or the commission determines that the officer is physically or mentally unfit to perform the duties of his office.

(1.1) To provide training for police officers with respect to:

(i) Recognition of mental illness, intellectual disabilities and autism.

(ii) Proper techniques to interact with and de-escalate individuals engaging in behavior indicative of mental illness, intellectual disability or autism.

(iii) Instruction on services available to individuals with mental illness, intellectual disabilities or autism.

(iv) Instruction on interacting with individuals of diverse racial, ethnic and economic backgrounds.

(2) To approve or revoke the approval of any school which may be utilized to comply with the educational and training requirements as established by the commission.

(3) To establish the minimum qualifications for instructors and school directors, to approve or revoke the approval of any instructor or school director and to develop the requirements for continued approval.

(3.1) To suspend or revoke the certification of a police officer or the approval of an instructor or school director for a violation of 37 Pa. Code Ch. 203 (relating to administration of the program). The following shall apply:

(i) In the case of a suspension, a hearing examiner appointed by the commission shall recommend to the commission whether the certification of a police officer or the approval of an instructor or school director shall be suspended. If the certification or approval is suspended, the hearing examiner shall recommend a period of suspension which may be approved by the commission. At the end of the period of suspension, the police officer, instructor or school director may reapply for certification or approval.

(ii) A police officer, instructor or school director whose certification or approval is revoked before, on or after the effective date of this paragraph may apply

to the commission for reinstatement no sooner than one year following the date of revocation.

(iii) The commission shall develop standards and guidelines to determine whether certification or approval shall be reinstated. Separate standards shall be developed for suspension and revocations.

(4) To promote the most efficient and economical program for police training by utilizing existing facilities, programs and qualified Federal, State and local police personnel.

(5) To make an annual report to the Governor and to the General Assembly concerning the administration of the Municipal Police Officers' Education and Training Program and the activities of the commission, together with recommendations for executive or legislative action necessary for the improvement of law enforcement and the administration of justice.

(6) To require every police officer to attend a minimum number of hours of in-service training as provided for by regulation to maintain certification by the commission, unless the officer's employer files a show cause document with the commission requesting additional time for the officer to comply with the in-service training requirements. Approval of this request shall be made by the commission on a case-by-case basis. In-service training shall require annual instruction on the use of force, including deadly force, de-escalation and harm reduction techniques, and shall include on a biennial basis instruction in community and cultural awareness, implicit bias, procedural justice and reconciliation techniques as developed by the commission.

(7) To require all police officers to undergo a background investigation to determine the individual's suitability for employment as a police officer. This investigation shall be completed prior to the employment of the officer and shall include a criminal history check, a credit check, personal interviews and any other applicable means of determining eligibility. An applicant who has been convicted of a felony or serious misdemeanor shall not be eligible for employment as a police officer.

(7.1) To require any individual applying to the commission to attend basic police training at a school, or an individual applying to the commission for certification as a police officer or any individual applying to the commission for approval as an instructor or school director to submit fingerprints and other identifying information to the Pennsylvania State Police. The Pennsylvania State Police shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of a national criminal record check and the Pennsylvania State Police shall check the fingerprints against the Pennsylvania State Police central repository for the purposes of obtaining a criminal history record check. The following shall apply:

(i) Any criminal history information obtained under this section by the commission may be considered only to the extent to which it relates to the person's suitability to attend basic police training or to be certified as a police officer or approved to be an instructor or school director.

(ii) The provisions of 18 Pa.C.S. § 9121(b) (relating to general regulations) shall not apply to a request for a criminal history record check submitted under this section.

(8) To require minimum standards for physical fitness, psychological evaluation and education as prerequisites to employment as a police officer. The following shall apply:

(i) The minimum physical fitness standards for a school located in a city of the first class shall require an applicant for certification to score no lower than the 30th percentile of the Cooper standards, which coincides with the 30th percentile of the general population, for each required evaluation to be eligible for employment as a police officer. A school may not enroll an individual into a recruit training program certified by the commission unless the individual has obtained a score in the 15th percentile or higher for the individual's age and gender as specified in the Cooper standards for each required evaluation.

(ii) Subparagraph (i) shall expire five years after the effective date of this subparagraph.

(iii) The minimum education standards shall include a demonstration of reading comprehension through the use of a reading comprehension test approved by the commission. The commission shall:

(A) Immediately approve two reading comprehension tests.

(B) Evaluate additional reading comprehension tests that are submitted by a school or that otherwise come to the attention of the commission for review.

(C) Provide notice of a list of approved reading comprehension tests by:

(I) Transmitting notice of the list to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

(II) Posting the list on the publicly accessible Internet website of the commission.

(iv) Within 12 months of the effective date of this subparagraph, the Joint State Government Commission shall issue a report to the General Assembly on the impact that the current minimum standards for physical fitness, psychological evaluation and education prerequisites to employment as a police officer may or may not have on recruitment, education and training of individuals to serve as police officers in jurisdictions across this Commonwealth. This subparagraph shall expire upon transmission of the report to the General Assembly. The Joint State Government Commission shall provide notice to the Legislative Reference Bureau that the report has been sent to the General Assembly under this subparagraph.

(9) To appoint an executive director to administer the training program established by this subchapter. The position of executive director shall be filled by the commission which shall select the best qualified person from a list of three persons nominated by the chairman. The person who receives a simple majority of those members present and voting shall become the executive director. If the commission rejects all nominees, then the process shall be repeated until a person is selected. The executive director shall be directly responsible to the commission and may be dismissed only by two-thirds vote of the commission. The executive director shall employ a sufficient staff, including professional,

administrative and clerical personnel, to perform the tasks of the office, including the preparation of an annual budget.

(10) To consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for police officers.

(11) To consult and cooperate with departments and agencies of this Commonwealth and other states and the Federal Government concerned with police training.

(12) To certify police officers who have satisfactorily completed basic educational and training requirements as established by the commission and to issue appropriate certificates to those police officers.

(13) To visit and inspect approved schools at least once a year.

(14) To make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program for police officers.

(15) With respect to mandatory basic training:

(i) To grant waivers of mandatory basic training to police officers who have successfully completed previous equivalent training or who have acceptable full-time police experience, or both.

(ii) To grant waivers of portions of mandatory basic training to Federal law enforcement officers and military police officers who have successfully completed previous equivalent training. In order to be certified by the commission, Federal law enforcement officers and military police officers shall fulfill basic police training requirements and meet the minimum standards required for certification.

(16) To assess, in consultation with the Department of Military and Veterans Affairs, the Department of Health and other State, community or local organizations and agencies that have expertise in the field of traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD), the training needs of police officers on recognizing and interacting with veterans and other individuals suffering from TBI or PTSD. Should the commission determine that there is a need for specialized training on TBI and PTSD, the commission shall develop a training course that shall be made available to all police officers and law enforcement agencies within this Commonwealth.

(17) To train police officers with respect to:

(i) Recognizing child abuse.

(ii) The provisions regarding reporting suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(iii) The efficacy of conducting forensic interviewing of victims of child abuse within the setting of a children's advocacy center.

As used in this paragraph, the terms "child abuse" and "children's advocacy center" shall have the meanings given to them in 23 Pa.C.S. § 6303 (relating to definitions).

(18) To train police officers in trauma-informed care and with respect to recognizing and interacting with individuals with post-traumatic stress disorder, including intervening with or on behalf of other police officers exhibiting post-traumatic stress disorder.

(Dec. 30, 2002, P.L.2001, No.230, eff. imd.; Oct. 9, 2008, P.L.1385, No.105, eff. 60 days; Oct. 24, 2012, P.L.1316, No.165, eff. imd.; July 10, 2015, P.L.138, No.25, eff. 60 days; July

14, 2020, P.L.624, No.59; Oct. 11, 2023, P.L.49, No.10, eff. 60 days; Dec. 14, 2023, P.L.342, No.37, eff. imd.)

2023 Amendments. Act 10 amended pars. (3) and (3.1) and added (7.1) and Act 37 amended par. (8).

2020 Amendment. Act 59 amended pars. (1.1) and (6) and added pars. (17) and (18), effective immediately as to the amendment of pars. (1.1) and (6) and 60 days as to the addition of pars. (17) and (18).

2012 Amendment. Act 165 amended par. (15) and added pars. (3.1) and (16).

2008 Amendment. Act 105 amended par. (1).

2004 Unconstitutionality . Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 2164 is referred to in sections 2167, 2168, 2169 of this title.

§ 2165. Meetings and quorum of commission.

The commission shall meet at least four times each year. Special meetings may be called by the chairman of the commission or upon written request of five members. A quorum shall consist of 11 members.

§ 2166. Applicability to civil service laws.

This subchapter shall not be construed to exempt any police officer or other officer or employee from the provisions of the existing civil service or tenure laws.

§ 2166.1. Prohibition on political activity (Repealed).

2003 Repeal. Section 2166.1 was repealed December 30, 2003, P.L.450, No.65, effective immediately.

§ 2167. Police training.

(a) General rule.--All municipalities of this Commonwealth or groups of municipalities acting in concert and all colleges and universities shall be required to train all members of their police departments pursuant to this subchapter prior to their enforcing criminal laws, enforcing moving traffic violations under Title 75 (relating to vehicles) or being authorized to carry a firearm.

(b) Ineligibility for compensation.--Any person hired as a police officer shall be ineligible to receive any salary, compensation or other consideration for the performance of duties as a police officer unless the person has met all of the requirements as established by the commission and has been duly recertified as having met those requirements by the commission.

(c) Penalty.--Any person who orders, authorizes or pays as salary to a person in violation of the provisions of this subchapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100 or be imprisoned for a term not to exceed a period of 30 days. The commission may stop payment of all funds paid or payable to municipalities under this subchapter for any violation of this subchapter. It shall notify the State Treasurer to discontinue disbursement of any State funds until a municipality is in compliance with this subchapter.

(d) Mandatory waiver request.--If a police officer is unable to attend in-service training due to service in the military or National Guard or as a result of injury sustained in service as a police officer, the officer's employer shall request a waiver under section 2164(6) (relating to powers and duties of commission). A police officer whose employer fails to request a waiver as required under this subsection shall not be decertified unless, upon return to service, the officer fails

to participate in such in-service training as the commission deems appropriate in accordance with this chapter and 51 Pa.C.S. Ch. 75 (relating to professional and occupational licenses). (Dec. 30, 2003, P.L.450, No.65, eff. 60 days; Oct. 9, 2008, P.L.1385, No.105, eff. 60 days)

2008 Amendment. Act 105 added subsec. (d).

2003 Amendment. Act 65 amended subsecs. (b) and (c). See section 4 of Act 65 in the appendix to this title for special provisions relating to applicability.

§ 2168. Automatic certification.

(a) General rule.--All police officers, including deputy sheriffs in counties of the second class, hired prior to June 18, 1974, shall be automatically certified for basic training but shall be required to complete the in-service training as set forth in section 2164(7) (relating to powers and duties of commission).

(b) Campus or university police.--Any campus or university police officer who, as of August 27, 1993, has successfully completed a basic training course similar to that required under this subchapter shall, after review by the commission, be certified as having met the basic training requirements of this subchapter. Any campus or university police officer who, as of August 27, 1993, has not successfully completed a basic training course similar to that required under this subchapter which qualifies the police officer for certification under this subsection shall be able to perform the duties of a campus or university police officer until certified by the commission, but no later than August 29, 1994.

(c) Deputy sheriffs in counties of the second class.--Deputy sheriffs in counties of the second class who have successfully completed the basic training course under this subchapter prior to February 6, 1995, shall be assigned a certification number under this subchapter.

(d) Railroad and street railway police.--Any railroad or street railway police officer who, as of the effective date of this subsection, has successfully completed a basic training course similar to that required under this chapter shall, after review by the commission, be certified as having met the basic requirements of this chapter. Any railroad or street railway police officer who, as of the effective date of this subsection, has not successfully completed a basic training course similar to that required under this chapter which qualifies the police officer for certification shall be able to perform the duties of a railroad or street railway police officer until certified by the commission, but no longer than one year from the effective date of this subsection.

(e) School police officer certification.--Notwithstanding any other provision of law to the contrary, a school police officer, as defined in section 1301-C of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall be eligible to maintain certification if the school police officer meets the following:

(1) Satisfactorily completed the basic educational and training requirements established under this subchapter.

(2) Satisfactorily completed the minimum number of in-service training hours established by the commission and required to maintain certification.

(3) Either:

(i) has an active certification on or after the effective date of this subsection; or

(ii) was previously certified as a police officer by the commission, which certification lapsed within the last two years, and has been employed, with no lapse in service, as a school police officer in this Commonwealth under section 1302-C of the Public School Code of 1949. (May 5, 1998, P.L.301, No.50, eff. 60 days; Nov. 24, 1999, P.L.539, No.49, eff. 60 days; Nov. 3, 2022, P.L.1788, No.121, eff. imd.)

2022 Amendment. Act 121 added subsec. (e). See section 4 of Act 121 in the appendix to this title for special provisions relating to law enforcement certification.

1999 Amendment. Act 49 added subsec. (d).

1998 Amendment. Act 50 amended subsecs. (b) and (c).

§ 2169. In-service training by existing personnel.

The requirements of section 2164(7) (relating to powers and duties of commission) shall apply to every police officer.

§ 2170. Reimbursement of expenses.

(a) General rule.--The commission shall provide for reimbursement to each municipality of the entire amount of the allowable tuition and the ordinary and necessary living and travel expenses incurred by their police officers while attending certified municipal police basic training schools if the municipality adheres to the training standards established by the commission. The regular salary of police officers while attending approved schools shall be paid by the employing municipality. The commission shall reimburse the employing municipality for 60% of the regular salaries of police officers while attending schools approved under this subchapter. The commission shall require written documentation of all expenses incurred by municipalities relating to the training of municipal police officers for the purposes of reimbursement by the commission. All municipalities shall annually audit these funds as part of their annual audit and submit a copy of the audit to the commission. Failure to perform the audit and submit a copy of it to the commission shall render the municipality in violation of this subchapter.

(a.1) County park police.--A municipality shall be ineligible for reimbursement for tuition and expenses for the certified basic training of county park police.

(b) Grants for training other police.--The commission may approve in-service training grants for actual expenses incurred by municipalities for the providing for nonmandatory training programs to police officers in accordance with this subchapter.

(c) Application for funding.--All municipalities of this Commonwealth or groups of municipalities acting in concert may make application to the commission for funding pursuant to the provisions of this subchapter. The application shall be accompanied by a certified copy of a resolution adopted by its governing body. The resolution shall provide that, while receiving any State funds pursuant to this subchapter, the municipality agrees to adhere to the standards for training established by the commission. The application shall contain any information that the commission requests.

(d) Subsequent employment with another municipality.--If a police officer, within two years following certification, terminates his employment with the municipality by which the officer was employed at the time he was certified as having met the commission's requirement and subsequently obtains employment as a police officer with another municipality, the municipality which employs the previously certified police officer shall reimburse the municipality which formerly employed the police

officer for the nonreimbursable portion of the salary paid to the police officer while complying with the provisions of this subchapter.

(e) Payment of mandatory in-service training.--

(1) Except as set forth in paragraph (2), the commission may pay for the cost of mandatory in-service training for all police officers to the extent determined by the commission.

(2) All of the following shall be ineligible for reimbursement of any expense under this section incurred during their police officer training:

- (i) A college or university.
- (ii) Railroad and street railway police.
- (iii) The Capitol Police.
- (iv) The Harrisburg International Airport Police.
- (v) An airport authority police department.
- (vi) A housing authority security or police

department.

(Nov. 24, 1999, P.L.539, No.49, eff. 60 days; Dec. 30, 2003, P.L.450, No.65, eff. 60 days; Mar. 14, 2014, P.L.38, No.18, eff. 90 days)

2014 Amendment. Act 18 added subsec. (a.1). See section 1 of Act 18 in the appendix to this title for special provisions relating to legislative findings and declarations.

2003 Amendment. Act 65 amended subsec. (e).

Cross References. Section 2170 is referred to in section 6118 of Title 75 (Vehicles).

§ 2171. Payment of certain county costs.

(a) Second class counties.--Counties of the second class shall be liable for costs incurred for the certification of deputy sheriffs. The costs shall not exceed the sum per police officer assessed against municipalities.

(b) Counties generally.--Counties shall be liable for the costs incurred for any training required for the certification of county park police officers.

(Mar. 14, 2014, P.L.38, No.18, eff. 90 days)

2014 Amendment. See section 1 of Act 18 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 2172. Canine training standards for police officers.

(a) Establishment.--The commission, in collaboration with the Pennsylvania State Police and municipal police department canine units or officers, shall establish police officer canine training and certification standards, including all of the following:

- (1) Standards for initial certifications.
- (2) Standards for maintenance certifications.
- (3) Record-keeping policies and procedures for police department canine units or officers.

(b) Updates.--The commission shall review and update the standards under subsection (a) as the commission deems necessary and at least every two years.

(c) Notice.--The commission shall transmit notice of the standards established and updated under this section to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(July 11, 2022, P.L.719, No.60, eff. 60 days)

2022 Amendment. Act 60 added section 2172.

SUBCHAPTER E
EMPLOYEE BENEFITS

Sec.

2181. Health insurance ordinances.

Enactment. Subchapter E was added November 24, 1999, P.L.539, No.49, effective immediately.

§ 2181. Health insurance ordinances.

An ordinance adopted by a municipality which requires or the effect of which is to require the provision of health insurance or other employee health care benefits shall not apply to a State-owned or State-related college or university.

Municipal Ordinances. Section 5 of Act 49 of 1999 provided that any municipal ordinance in effect on the effective date of section 2181 that is inconsistent with section 2181 shall be void as it relates to a State-owned or State-related college or university.

SUBPART D
AREA GOVERNMENT AND INTERGOVERNMENTAL
COOPERATION

Chapter

- 23. General Provisions
- 25. Environmental Improvement Compacts

CHAPTER 23
GENERAL PROVISIONS

Subchapter

- A. Intergovernmental Cooperation
- B. Environmental Advisory Councils
- C. Regional Planning

Enactment. Chapter 23 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A
INTERGOVERNMENTAL COOPERATION

Sec.

- 2301. Scope of subchapter.
- 2302. Definitions.
- 2303. Intergovernmental cooperation authorized.
- 2304. Intergovernmental cooperation.
- 2305. Adoption of ordinance or resolution.
- 2306. Initiative and referendum.
- 2307. Content of ordinance or resolution.
- 2308. Bids for certain joint purchases.
- 2309. Direct purchases.
- 2310. Joint purchases with private educational establishments.
- 2311. Written or telephonic price quotations required.
- 2312. Division of transactions provided.
- 2313. Penalty.
- 2314. Required review of specified agreements.
- 2315. Effect of joint cooperation agreements.
- 2316. Recognition by Commonwealth departments and agencies.

2317. Agreements for fire protection services in cities of the second class.

Cross References. Subchapter A is referred to in sections 305, 5611, 6103, 8002 of this title; sections 1122, 1201.3, 1202, 1316, 1402, 1903, 2021, 2701, 2708 of Title 8 (Boroughs and Incorporated Towns); sections 11804.1, 12419, 12434, 13115, 14204 of Title 11 (Cities); section 7334 of Title 35 (Health and Safety); sections 8501, 8955 of Title 42 (Judiciary and Judicial Procedure); section 2107 of Title 68 (Real and Personal Property).

§ 2301. Scope of subchapter.

This subchapter applies to all local governments.

§ 2302. Definitions.

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

"Local government." A county, city of the second class, second class A and third class, borough, incorporated town, township, school district or any other similar general purpose unit of government created by the General Assembly after July 12, 1972.

§ 2303. Intergovernmental cooperation authorized.

(a) **General rule.**--Two or more local governments in this Commonwealth may jointly cooperate, or any local government may jointly cooperate with any similar entities located in any other state, in the exercise or in the performance of their respective governmental functions, powers or responsibilities.

(b) **Joint agreements.**--For the purpose of carrying the provisions of this subchapter into effect, the local governments or other entities so cooperating shall enter into any joint agreements as may be deemed appropriate for those purposes.

§ 2304. Intergovernmental cooperation.

A municipality by act of its governing body may, or upon being required by initiative and referendum in the area affected shall, cooperate or agree in the exercise of any function, power or responsibility with or delegate or transfer any function, power or responsibility to one or more other local governments, the Federal Government or any other state or its government.

§ 2305. Adoption of ordinance or resolution.

(a) **Ordinance or resolution.**--A local government may enter into intergovernmental cooperation with or delegate any functions, powers or responsibilities to another governmental unit, local government or authority as defined in section 5602 (relating to definitions) upon the passage of an ordinance or resolution by its governing body. If mandated by initiative and referendum in the area affected, the local government shall adopt such an ordinance or resolution.

(b) **Compliance by authorities.**--An authority as defined in section 5602 may not share or be delegated any function, power or responsibility through an agreement under this subchapter unless the function, power or responsibility is authorized by both the law under which the authority was created and the powers or purposes of the authority contained within its articles of incorporation.

(c) **Council of governing bodies.**--An intergovernmental agreement creating a council or consortium of governing bodies or similar entity separate from the organizing governing bodies may not be entered into unless by ordinance. A municipality may join an existing intergovernmental cooperation agreement of other municipalities whereby such an entity was created by resolution or by ordinance.

(Nov. 7, 2019, P.L.613, No.80, eff. 60 days)

2022 Editorial Change. The Legislative Reference Bureau made an editorial change by removing the comma after "created" in subsec. (c).

§ 2306. Initiative and referendum.

(a) Initiative.--An initiative under this subchapter shall be commenced by filing with the appropriate election officials at least 90 days prior to the next primary or general election a petition containing a proposal for referendum signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial election in each local government or area affected. The applicable election officials shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at the election. Initiative on a similar question shall not be submitted more often than once in five years.

(b) Referendum.--The question shall be placed on the ballot as a referendum and shall become effective by a majority vote of the electors voting thereon.

§ 2307. Content of ordinance or resolution.

The ordinance or resolution adopted by the governing body of a local government entering into intergovernmental cooperation or delegating or transferring any functions, powers or responsibilities to another local government, an authority as defined in section 5602 (relating to definitions) or to a council of governments, consortium or any other similar entity shall specify:

(1) The conditions of agreement in the case of cooperation with or delegation to other local governments, the Commonwealth, other states or the Federal Government.

(2) The duration of the term of the agreement.

(3) The purpose and objectives of the agreement, including the powers and scope of authority delegated in the agreement.

(4) The manner and extent of financing the agreement.

(5) The organizational structure necessary to implement the agreement.

(6) The manner in which real or personal property shall be acquired, managed, licensed or disposed of.

(7) That the entity created under this section shall be empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for its employees.

(Nov. 7, 2019, P.L.613, No.80, eff. 60 days)

§ 2308. Bids for certain joint purchases.

(a) Notice.--All joint purchases involving an expenditure of more than a base amount of \$18,500, subject to adjustment under subsection (b), shall be made by contract, in writing, only after notice for bids once a week for two weeks in at least one and not more than two newspapers of general circulation in the joining local governments. All contracts shall be let to the lowest responsible bidder. Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(b) Adjustments.--Adjustments to the base amounts specified under subsection (a) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States

City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsection (a).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsection (a).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a) for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

Cross References. Section 2308 is referred to in sections 2309, 2312, 2313 of this title.

§ 2309. Direct purchases.

In addition to joint purchases authorized by section 2308 (relating to bids for certain joint purchases), local governments may make direct purchases from vendors or suppliers of goods, materials or equipment without compliance with existing and otherwise applicable statutory requirements governing competitive bidding and execution of contracts as follows:

(1) Any county may by appropriate resolution, and subject to such reasonable regulations as it may prescribe, permit any local government within the county to participate in or purchase off contracts for goods, materials or equipment entered into by the county.

(2) Any local government desiring to participate in purchase contracts shall file with the county purchasing agency and with the county solicitor a certified copy of an ordinance or resolution of its governing body requesting that it be authorized to participate in purchase contracts of the county and agreeing that it will be bound by the terms and conditions as the county prescribes and that it will be responsible for payment directly to the vendor under each purchase contract.

(3) The county may permit participation by local governments only where the solicitation for bids and specifications for the county contracts, and the contracts themselves, expressly provide for and inform prospective and successful bidders that the contract to be let is intended to be subject to this subchapter and to regulations adopted by the county.

(4) Among the terms and conditions as the county may specify, it shall prescribe that all prices shall be F.O.B. destination.

§ 2310. Joint purchases with private educational establishments.

Any local government may, by ordinance or resolution, authorize joint purchases of materials, supplies and equipment with any private school, parochial school, private college or university or nonprofit human services agency within the local government. The ordinance or resolution shall require that the school, college or agency shall be bound by the terms and conditions of purchasing agreements which the local government prescribes and that the school, college or agency shall be responsible for payment directly to the vendor under each purchase contract. Schools, colleges and agencies shall be exempt from any existing statutory requirements governing competitive bidding and execution of contracts with respect to purchases under this section.

(Nov. 7, 2019, P.L.613, No.80, eff. 60 days)

§ 2311. Written or telephonic price quotations required.

(a) **Amount.**--Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for all contracts in excess of the base amount of \$10,000, subject to adjustment under subsection (b), but are less than the amount requiring advertisement and competitive bidding, or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price, written price quotations, written

records of telephonic price quotations, and memoranda shall be retained for a period of three years.

(b) Adjustments.--Adjustments to the base amounts specified under subsection (a) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsection (a).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsection (a).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which written or telephonic price quotations are required under subsection (a), for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

§ 2312. Division of transactions provided.

No local government shall evade the provisions of section 2308 (relating to bids for certain joint purchases) as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under a base amount of \$18,500, subject to adjustment under section 2308(b), upon transactions which should in the exercise of reasonable discretion and prudence be conducted as one transaction amounting to more than a base amount of \$18,500, subject to adjustment under section 2308(b). This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below such price when in either case the transaction involved should have been made as one transaction for one price.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

§ 2313. Penalty.

Any member of a governing body of a local government who votes to unlawfully evade the provisions of section 2308 (relating to bids for certain joint purchases) and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

§ 2314. Required review of specified agreements.

(a) **General rule.**--An agreement between a local government and the Federal Government, the Commonwealth, any other state or government of another state under the provisions of this subchapter shall, prior to and as a condition precedent to enactment of an ordinance or resolution, be submitted to the Local Government Commission for review and recommendation. An agreement exclusively between a local government and an authority as defined in section 5602 (relating to definitions) shall not be subject to the requirements under this section.

(b) **Commission review.**--

(1) The commission shall, within 90 days of receipt of the agreement, provide to the local government or other party submitting the agreement an advisory written response of its review of, and any recommended changes to, the agreement with regard to form and compatibility with the laws of this Commonwealth.

(2) If an agreement has been submitted to the commission for review as required by this subsection, the failure of the commission to provide an advisory written response within 90 days of receipt of the agreement shall not bar or impede the effectiveness or implementation of the agreement.

(c) **Exceptions.**--This section shall not apply to the following contracts, agreements or transactions:

(1) Contracts or agreements between a local government and the Commonwealth that are of a routine nature or are

performed on a periodic basis, such as those for public improvements or maintenance.

(2) State grants and loans that are administered by the Commonwealth pursuant to statute or regulation.

(3) Contracts or agreements for cooperative purchasing.

(4) Contracts, agreements or memoranda of understanding between the Commonwealth and a local government that are expressly authorized by statute or regulation and by which the Commonwealth delegates all or a portion of its enforcement duties or responsibilities to a local government.

(5) Contracts or agreements between the Commonwealth and a local government that are expressly authorized by statute or regulation and through which the local government provides a service on behalf of the Commonwealth.

(6) Contracts or agreements relating to the purchase, right to capacity, sale, exchange, interchange, wheeling, pooling, transmission or development of electric power and associated energy and related services.

(July 5, 2012, P.L.910, No.92, eff. 60 days; Nov. 7, 2019, P.L.613, No.80, eff. 60 days)

2019 Amendment. Act 80 amended subsec. (a).

§ 2315. Effect of joint cooperation agreements.

Any joint cooperation agreement shall be deemed in force as to any local government when the agreement has been adopted by ordinance or resolution by all cooperating local governments. After adoption by all cooperating local governments, the agreement shall be binding upon the local government, and its covenants may be enforced by appropriate remedy by any one or more of the local governments against any other local government which is a party to the agreement.

(Nov. 7, 2019, P.L.613, No.80, eff. 60 days)

§ 2316. Recognition by Commonwealth departments and agencies.

All Commonwealth departments and agencies in the performance of their administrative duties shall deem a council of governments, consortiums or other similar entities established by two or more municipalities under this subchapter as a legal entity.

(May 30, 2001, P.L.102, No.13, eff. 60 days)

2001 Amendment. Act 13 added section 2316.

§ 2317. Agreements for fire protection services in cities of the second class.

(a) Absorption of certain firefighters.--Notwithstanding the provisions of the act of May 23, 1907 (P.L.206, No.167), entitled "An act to regulate and improve the civil service of the cities of the second class in the Commonwealth of Pennsylvania; making violations of its provisions to be misdemeanors, and providing penalties for violations thereof," and the act of June 27, 1939 (P.L.1207, No.405), entitled, as amended, "An act regulating the appointment, promotion, suspension, reduction, removal, and reinstatement of employes (except chiefs and chief clerks) in bureaus of fire and fire alarm operators and fire box inspectors in bureaus of electricity, in cities of the second class; defining the powers and duties of Civil Service Commissions for such purpose in said cities; and repealing inconsistent legislation," in the case of an original appointment of a full-time firefighter in a borough with a population between 18,000 and 19,500 according to the 2000 census that is located in a county of the second class and is contiguous with a city of the second class, when the full-time firefighter is absorbed by appointment into the

classified service in the bureau of fire of a city of a second class under an intergovernmental cooperation agreement for fire protective services, the full-time firefighter shall be:

(1) Subject only to a physical examination of the scope given for promotion.

(2) Subject to a probationary period of six months.

(3) Appointed from outside a certified eligibility list.

(4) Exempted from an eligibility examination.

(5) Exempted from a residency requirement at the time of original appointment. The firefighter shall be required, however, to become a bona fide resident of the city of the second class on or before the first anniversary of the original appointment.

(b) Eligible lists and appointments.--Under this section only, the civil service commission of the city of the second class shall not be required to generate eligible lists or indicate appointment thereon, and no individual who is on an existing eligibility list for original appointment into the classified service of the bureau of fire of a city of a second class shall have a right to be appointed until the eligible full-time firefighters of the borough are appointed under the intergovernmental cooperation agreement.

(Oct. 27, 2010, P.L.895, No.93, eff. Jan. 1, 2011)

2010 Amendment. Act 93 added section 2317.

SUBCHAPTER B

ENVIRONMENTAL ADVISORY COUNCILS

Sec.

2321. Scope of subchapter.

2322. Establishment of environmental advisory council.

2323. Composition and organization of council.

2324. Powers and duties of council.

2325. Records and reports.

2326. Appropriations for expenses of council.

2327. Status of existing agencies unaffected.

2328. Assistance from State Conservation Commission.

2329. Assistance from Department of Community and Economic Development.

§ 2321. Scope of subchapter.

This subchapter applies to all municipal corporations.

§ 2322. Establishment of environmental advisory council.

The governing body of any municipal corporation or group of two or more municipal corporations may by ordinance establish an environmental advisory council to advise other local governmental agencies, including, but not limited to, the planning commission, park and recreation boards and elected officials, on matters dealing with protection, conservation, management, promotion and use of natural resources, including air, land and water resources, located within its or their territorial limits.

§ 2323. Composition and organization of council.

(a) Composition.--An environmental advisory council shall be composed of no less than three nor more than seven residents of the municipal corporation establishing the council, who shall be appointed and all vacancies filled by the governing body. Where two or more municipal corporations jointly establish an environmental advisory council, the members shall be appointed in the same manner by each of the respective municipal corporations establishing the council, each constituent

municipal corporation to have equal membership on the joint council.

(b) Term of office.--Council members shall serve for three years except that initial appointments shall be so staggered that the terms of approximately one-third of the membership shall expire each year, the terms of their successors to be of three years each.

(c) Compensation and expenses.--Members shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

(d) Chairman.--The appointing authority shall designate the chairman of the council except that in joint councils the chairman shall be elected by the duly selected members. Whenever possible, one member shall also be a member of the municipal planning board.

§ 2324. Powers and duties of council.

(a) General rule.--An environmental advisory council shall have the power to:

(1) Identify environmental problems and recommend plans and programs to the appropriate agencies for the promotion and conservation of the natural resources and for the protection and improvement of the quality of the environment within its territorial limits.

(2) Make recommendations as to the possible use of open land areas of the municipal corporations within its territorial limits.

(3) Promote a community environmental program.

(4) Keep an index of all open areas, publicly or privately owned, including flood-prone areas, swamps and other unique natural areas, for the purpose of obtaining information on the proper use of those areas.

(5) Advise the appropriate local government agencies, including the planning commission and recreation and park board or, if none, the elected governing body or bodies within its territorial limits, in the acquisition of both real and personal property by gift, purchase, grant, bequest, easement, devise or lease, in matters dealing with the purposes of this subchapter.

(b) Limitation.--An environmental advisory council shall not exercise any powers or perform any duties which by law are conferred or imposed upon a Commonwealth agency.

§ 2325. Records and reports.

An environmental advisory council shall keep records of its meetings and activities and shall make an annual report which shall be printed in the annual report of the municipal corporation or, if none, otherwise made known and available.

§ 2326. Appropriations for expenses of council.

The governing body of any municipal corporation establishing an environmental advisory council may appropriate funds for the expenses incurred by the council. Appropriations may be expended for those administrative, clerical, printing and legal services as may be required and as shall be within the limit of funds appropriated to the council. The whole or any part of any funds so appropriated in any year may be placed in a conservation fund and allowed to accumulate from year to year or may be expended in any year.

§ 2327. Status of existing agencies unaffected.

This subchapter shall not be construed to require a municipal corporation to abolish an existing commission with a related responsibility or to prevent its establishment.

§ 2328. Assistance from State Conservation Commission.

The State Conservation Commission shall establish a program of assistance to environmental advisory councils that may include educational services, exchange of information, assignment of technical personnel for natural resources planning assistance and the coordination of State and local conservation activities.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2329. Assistance from Department of Community and Economic Development.

The Department of Community and Economic Development shall establish a program of assistance to environmental advisory councils in planning for the management, use and development of open space and recreation areas.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

SUBCHAPTER C
REGIONAL PLANNING

Sec.

2341. Short title and scope of subchapter.

2342. Definitions.

2343. Declaration of policy.

2344. Establishment and organization of regional planning commission.

2345. Finances, staff and program.

2346. Commission to prepare master plan.

2347. Cooperation between commission, municipalities and others.

2348. Interstate participation.

§ 2341. Short title and scope of subchapter.

(a) **Short title of subchapter.**--This subchapter shall be known and may be cited as the Regional Planning Law.

(b) **Scope of subchapter.**--This subchapter applies to all municipalities, but it shall not operate as a reenactment of any provisions repealed by section 1202 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

§ 2342. Definitions.

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

"Commission." A regional planning commission created in accordance with the terms of this subchapter.

"Governing body." The body or board authorized by law to enact ordinances or adopt resolutions for the municipality.

"Region." An area comprised of two or more municipalities which have joined in creating a regional planning commission.

§ 2343. Declaration of policy.

For the purpose of promoting health, safety, morals and the general welfare of the regions in this Commonwealth through effective development, the powers set forth in this subchapter for the establishment of regional planning commissions are granted.

§ 2344. Establishment and organization of regional planning commission.

(a) **General rule.**--The governing body of two or more municipalities may, by ordinance or resolution, authorize the establishment or membership in and support of a regional planning commission. The number and qualifications of the members of any commission and their terms and method of appointment or removal shall be determined and agreed upon by

the governing bodies. A majority of the members of the commission shall at the time of appointment to the commission and throughout the duration of their service on the commission be locally elected officials. Members of the commission shall serve without salary but may be paid expenses incurred in the performance of their duties. The commission shall elect a chairman whose term shall not exceed one year and who shall be eligible for reelection. The commission may create and fill other offices as it may determine.

(b) Rules and records.--The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(c) Assistance from municipality.--Any municipality may, upon the request of the commission, assign or detail to the commission any employees of a municipality to make special surveys or studies requested by the commission.

§ 2345. Finances, staff and program.

(a) General rule.--The governing bodies of municipalities may appropriate funds for the purpose of contributing to the operation of the commission. The commission may, with the consent of all the governing bodies, also receive grants from the Federal or State governments or from individuals or foundations and shall have the authority to contract therewith. The commission may appoint such employees and staff as it deems necessary for its work and contract with planners and other consultants for the services it may require. The commission may also perform planning services for any municipality which is not a member thereof and may charge fees for the work. The commission may also prepare and sell maps, reports, bulletins or other material and establish reasonable charges therefor.

(b) Planning assistance.--The commission may provide planning assistance and do planning work, including surveys, land use studies, urban renewal plans, technical services and other elements of comprehensive planning programs, for any municipalities within the region. For this purpose, the commission may, with the consent of all the governing bodies, accept any funds, personnel or other assistance made available by the Federal or State government or from individuals or foundations, and, for the purposes of receiving and using Federal or State planning grants for provision of urban planning assistance, the commission may enter into contracts regarding the acceptance or use of the funds or assistance.

§ 2346. Commission to prepare master plan.

The commission shall prepare a master plan, and the surveys and studies essential thereto, for the guidance of the physical development of the region.

§ 2347. Cooperation between commission, municipalities and others.

The commission shall encourage the cooperation of the municipalities within the region in matters which concern the integrity of the master plan or maps prepared by the commission, and, as an aid toward coordination, all municipalities and public officials shall, upon request, furnish the commission within a reasonable time the available maps, plans, reports and statistical or other information it may require for its work.

§ 2348. Interstate participation.

Whenever a regional planning commission has been or is being established to serve the Pennsylvania portion of an area which, for planning purposes, constitutes a logical region as approved by the State Planning Board and which extends beyond the boundaries of this Commonwealth, the commission may admit to

membership municipalities that are part of the same region but located in other states. Municipalities may participate, through membership and financial support, in commissions that have been or are being established in other states when the municipalities are part of the same region served by the out-of-State commission.

CHAPTER 25

ENVIRONMENTAL IMPROVEMENT COMPACTS

Subchapter

- A. Preliminary Provisions
- B. Initiative
- C. Municipal Referendum Ordinance
- D. Referendum
- E. Election of Board
- F. Organization of Board

Enactment. Chapter 25 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

2501. Short title and scope of chapter.

2502. Definitions.

§ 2501. Short title and scope of chapter.

(a) **Short title of chapter.**--This chapter shall be known and may be cited as the Environmental Improvement Compact Act.

(b) **Scope of chapter.**--This chapter applies to all municipalities.

§ 2502. Definitions.

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

"Board." The Environmental Improvement Compact Board elected under this chapter.

"Election officials." The county boards of election, except in Philadelphia where the term means the city commissioners.

"Electors." The registered voters of any municipality involved in proceedings relating to the environmental improvement compact.

"Environmental improvement compact." A structure of government and powers concerning one or more municipal functions involving two or more municipalities in this Commonwealth under procedures provided in this chapter.

SUBCHAPTER B

INITIATIVE

Sec.

2511. Proposal by electors.

2512. Initiative petition.

2513. Review of initiative petition.

2514. Petition as public record.

2515. Distribution of petition.

Cross References. Subchapter B is referred to in section 2531 of this title.

§ 2511. Proposal by electors.

A referendum on the question of the creation of an environmental improvement compact may be initiated by electors of two or more municipalities as provided in this chapter.

§ 2512. Initiative petition.

(a) **Filing.**--A petition containing a proposal for referendum on the question of adopting an environmental improvement compact on one or more municipal functions, signed by electors comprising 2% of the number of electors voting for the office of Governor in the last gubernatorial general election in each municipality involved, may be filed with the election officials at least 90 days prior to the next primary held in an even-numbered year or general election.

(b) **Size of board.**--The petition shall designate a five, seven or nine member board.

(c) **Designation of petitioners.**--The name and address of the person filing the petition shall be clearly stated on the petition.

§ 2513. Review of initiative petition.

The election officials shall, within ten days after filing, review the initiative petition as to the number and qualifications of signers. If the petition appears to be defective, the election officials shall immediately notify the person filing the petition of the defect.

§ 2514. Petition as public record.

The initiative petition as submitted to the election officials along with the list of signatories shall be open to public inspection in the office of the election officials.

§ 2515. Distribution of petition.

When the election officials find that the petition as submitted is in proper order, they shall send copies of the initiative petition without signatures thereon to the governing body of the municipalities involved and to the Department of Community and Economic Development.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

SUBCHAPTER C
MUNICIPAL REFERENDUM ORDINANCE

Sec.

2521. Referendum ordinance.

2522. Filing of referendum ordinance.

2523. Notice to governing bodies of referendum date.

Cross References. Subchapter C is referred to in section 2531 of this title.

§ 2521. Referendum ordinance.

The governing bodies of two or more municipalities may, by ordinance in each municipality, provide for a referendum on the question of adopting an environmental improvement compact. The ordinance shall designate a five, seven or nine member board.

§ 2522. Filing of referendum ordinance.

(a) **Election officials.**--The referendum ordinance shall be filed with the election officials at least 90 days prior to the next primary or general election.

(b) **Department of Community and Economic Development.**--When the ordinances are filed with the election officials, copies

of the referendum ordinance shall be immediately filed with the Department of Community and Economic Development.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).

§ 2523. Notice to governing bodies of referendum date.

The election officials shall notify the governing bodies of the municipalities involved of the date set for the referendum election on the proposal at least 30 days before the election.

SUBCHAPTER D
REFERENDUM

Sec.

2531. Referendum procedures.

2532. Placing question on ballot.

2533. Date of election.

2534. Public notice of referendum.

2535. Approval.

2536. Results of election.

§ 2531. Referendum procedures.

(a) **Authorization.--**A referendum on the question of the adoption of an environmental improvement compact shall be held when initiated by electors of the municipalities in accordance with Subchapter B (relating to initiative) or after authorization by ordinance of the governing bodies of the municipalities in accordance with Subchapter C (relating to municipal referendum ordinance).

(b) **Procedure.--**The procedure for the referendum shall be governed by the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

§ 2532. Placing question on ballot.

When the election officials find the ordinances authorized by the governing bodies of the municipalities or the initiative petition as submitted by the electors meets the requirements of this chapter, they shall place the proposal on the ballot in a manner fairly representing the content of the ordinances or of the initiative petition for decision by referendum at the proper election.

§ 2533. Date of election.

The election officials shall certify the date for the referendum and shall so notify the governing bodies of the municipalities at least 30 days prior to that date.

§ 2534. Public notice of referendum.

At least 30 days' notice of the referendum shall be given by proclamation of the mayors of the cities, boroughs or incorporated towns, by the chairmen of the boards of county commissioners, by the presidents of the boards of township commissioners or by the chairmen of the boards of township supervisors, as the case may be. A copy of the proclamation shall be posted at each polling place of the municipalities on the day of the election and shall be published once in at least one newspaper of general circulation in the municipalities during the 30-day period prior to the election.

§ 2535. Approval.

Approval of a referendum for the adoption of an environmental improvement compact shall be by a majority vote of those voting in each municipality involved.

§ 2536. Results of election.

The election officials shall certify the results of the referendum to the governing bodies and the Department of Community and Economic Development.
(May 5, 1998, P.L.301, No.50, eff. 60 days)

SUBCHAPTER E

ELECTION OF BOARD

Sec.

- 2541. Election of board.
- 2542. Nomination of candidates.
- 2543. Election returns.

Cross References. Subchapter E is referred to in section 2551 of this title.

§ 2541. Election of board.

(a) Petition for election.--If a referendum for the adoption of an environmental improvement compact is approved by a majority of voters in each municipality involved, the governing bodies shall, within 30 days of the certification of the results of the referendum election, submit to the election officials a petition to provide for the election of the board.

(b) Terms of office.--The majority of the members to be elected to the first board receiving the highest number of votes in the election shall serve for four-year terms, while the remainder shall serve for two-year terms. Thereafter, all candidates for the board shall have four-year terms.

(c) Election.--Members of the board shall be elected at the next municipal election not less than 90 days from the date of the referendum.

§ 2542. Nomination of candidates.

Candidates for membership on the board shall be electors of the municipalities involved. Each shall be nominated by nomination papers signed by a number of electors in their municipality or residence which is affected by the compact equal to at least 2% of the largest vote cast for any elected officer of the municipality elected at the last preceding municipal election. Nomination shall be in the manner provided by and subject to the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which relate to the nomination of candidates nominated by nomination papers filed by political bodies for other offices elected by the voters of the municipality. Nomination papers shall not be circulated prior to 30 days before the last day on which the papers may be filed and shall be filed with the election officials not less than 44 days prior to the date of the election.

§ 2543. Election returns.

The result of the votes cast for members of the board at the municipal election shall be returned by the election officials to the governing bodies of municipalities involved and to the Department of Community and Economic Development.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

SUBCHAPTER F

ORGANIZATION OF BOARD

Sec.

- 2551. Membership of board.
- 2552. Compensation of board.

2553. Organization of board.

2554. Secretary and treasurer of board.

2555. Purposes and powers of board.

§ 2551. Membership of board.

The board shall be composed of five, seven or nine members as provided in Subchapter E (relating to election of board).

§ 2552. Compensation of board.

A majority of all the members of the governing bodies of the municipalities involved shall set the annual compensation for the members of the board.

§ 2553. Organization of board.

On the first Monday of January following the municipal election, members of the board shall assemble at a designated meeting place and shall organize by electing one of their own members as chairman. This member shall preside at all meetings and perform other duties as the board may prescribe. In the absence of the chairman, the board shall elect a temporary presiding officer. The board shall adopt rules for its procedure and conduct of business. Any vacancy shall be filled by an elector from the municipalities involved appointed by the remaining members of the board.

§ 2554. Secretary and treasurer of board.

(a) **Secretary.**--The board shall appoint a secretary who shall keep the records and minutes of the board proceedings, maintain a record of other official activities and perform other functions as required by law.

(b) **Treasurer.**--The board shall appoint a treasurer. The treasurer shall collect or receive taxes, assessments and other funds due the board.

§ 2555. Purposes and powers of board.

(a) **Status and purposes.**--Every board created under this chapter shall be a body corporate and politic and shall be for the purpose of acquiring, holding, constructing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, for any government function of two or more municipalities.

(b) **Powers and duties.**--The board shall have and may exercise all powers necessary or convenient for the carrying out of the purposes under subsection (a), including the following powers and duties:

(1) Sue and be sued.

(2) Adopt, use and alter at will a seal of the board.

(3) Acquire, purchase, hold, lease as lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the board, and sell, lease as lessor, transfer and dispose of any property or interest acquired by it.

(4) Acquire by purchase, lease or otherwise and construct, improve, maintain, repair and operate projects.

(5) Make bylaws for the management and regulation of its affairs.

(6) Appoint officers, agents, employees and servants, prescribe their duties and fix their compensation.

(7) Fix and collect taxes not to exceed two mills of real estate within the municipalities involved and charge and collect rates and other charges in the area served by its facilities, at reasonable and uniform rates to be determined by it, for the purpose of providing for the payment of the expenses of the board, the construction, improvement, repair, maintenance and operation of its facilities and properties and the payment of the principal

and interest on its obligations and to fulfill the terms of any agreements made with the holders of any such obligations or with municipalities served or to be served by the board. Any person questioning the reasonableness or uniformity of any rate fixed by the board or the adequacy, safety and reasonableness of the board's services may bring suit against the board in the court of common pleas of the county where the project is located. If the project is located in more than one county, the suit may be brought in the court of common pleas of the county where the principal office of the project is located.

(8) Borrow money and make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations of the board. These instruments shall have a maturity date not longer than 30 years from the date of issue, except that no refunding bonds shall have a maturity date later than the life of the board. The board may secure the payment of the instruments or any part of them by pledge or deed of trust of all or any of its revenues and receipts and make agreements with the holders of these instruments, or with others in connection with these instruments, whether issued or to be issued, as the board deems advisable. The board shall provide for the security for these instruments and the rights of the holders of them, and in respect to any project constructed and operated under agreement with any board or any public authority of any adjoining state, and may borrow money and issue notes, bonds and other evidences of indebtedness and obligations jointly with any authority.

(9) Make contracts and execute all instruments necessary or convenient for the carrying on of its powers and duties.

(10) Without limitation of the foregoing, borrow money and accept grants from and enter into contracts, leases or other transactions with any Federal agency or Commonwealth municipality, school district, corporation or authority.

(11) Have the power of eminent domain, with the consent of the county commissioners of the county where the land is located and with the consent of council in cities of the first class.

(12) Pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the board as security for the obligations of the board.

(13) Do all acts and things necessary or convenient for the promotion of its business and the general welfare of the board in order to carry out the powers granted to it by this chapter or any other statutes.

(14) Enter into contracts of group insurance for the benefit of its employees and set up a retirement or pension fund for employees.

SUBPART E

HOME RULE AND OPTIONAL PLAN GOVERNMENT

Chapter

- 29. General Provisions
- 30. Types of Optional Plans of Government
- 31. General Provisions Common to Optional Plans

CHAPTER 29

GENERAL PROVISIONS

Subchapter

- A. Preliminary Provisions
- B. Procedure for Adoption of Home Rule Charter or Optional Plan of Government
- C. Amendment of Existing Charter or Optional Plan
- D. Conduct of Election
- E. General Powers and Limitations of Home Rule Charter Municipalities
- F. General Provisions and Limitations for Optional Plan Municipalities
- G. Miscellaneous Provisions

Enactment. Chapter 29 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

2901. Short title and scope of subpart.

2902. Definitions.

§ 2901. Short title and scope of subpart.

(a) **Short title of subpart.**--This subpart shall be known and may be cited as the Home Rule Charter and Optional Plans Law.

(b) **Scope of subpart.**--This subpart applies to all municipalities except cities of the first class and counties of the first class.

§ 2902. Definitions.

Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Council." County commissioner, city council, borough council, town council, township commissioner in a township of the first class and supervisor in a township of the second class.

"Election officials." The county boards of elections.

"Electors." The registered voters of any municipality involved in proceedings relating to the adoption and repeal of optional forms of government.

"Governing body." Board of county commissioners, city council, borough or incorporated town council, commissioners of a township of the first class and supervisors of a township of the second class or their successor forms of government.

"Government study commission" or "commission." The body elected under the provisions of Subchapter B (relating to procedure for adoption of home rule charter or optional plan of government).

"Home rule charter." A written document defining the powers, structure, privileges, rights and duties of the municipal government and limitations thereon. The charter shall also provide for the composition and election of the governing body, which in all cases shall be chosen by popular elections.

"Local municipality." Municipal corporation except a city of the first class.

"Nonresident." Any person or entity not a resident within the meaning of this subpart.

"Optional forms." Includes home rule charters and optional plans.

"Optional plans." Optional municipal powers, procedures and administrative structures as provided by this subpart.

"Rate of taxation." The amount of tax levied by a municipality on a permissible subject of taxation.

"Resident." Any person or other entity living in or maintaining a permanent or fixed place of abode in a municipality or conducting or engaging in a business for profit within a municipality.

"Subject of taxation." Any person, business, corporation, partnership, entity, real property, tangible or intangible personal property, property interest, transaction, occurrence, privilege, transfer, occupation or any other levy which is determined to be taxable by the General Assembly. The term shall not be construed to mean the rate of tax which may be imposed on a permissible subject of taxation.

SUBCHAPTER B

PROCEDURE FOR ADOPTION OF HOME RULE CHARTER OR OPTIONAL PLAN OF GOVERNMENT

Sec.

- 2911. Submission of question for election of government study commission.
- 2912. Election of members of commission.
- 2913. Nomination of candidates.
- 2914. Results of election.
- 2915. Oath of office of members of commission.
- 2916. First meeting of commission.
- 2917. Vacancies.
- 2918. Function and duty of commission.
- 2919. Compensation and personnel.
- 2920. Hearings and public forums.
- 2921. Report of findings and recommendations.
- 2922. Discharge of petition and amended reports.
- 2923. Types of action recommended.
- 2924. Specificity of recommendations.
- 2925. Form of question on form of government.
- 2926. Submission of question on form of government.
- 2927. Limitation on enactment of ordinance or filing of petition.
- 2928. Time when change of form of government takes effect.
- 2929. Limitation on changing new form of government.
- 2930. Status of forms of government provided in subpart.

Cross References. Subchapter B is referred to in sections 733, 2902, 3094, 3171 of this title.

§ 2911. Submission of question for election of government study commission.

(a) General rule.--Whenever authorized by ordinance of the governing body or upon petition of the electors to the county board of electors of the county wherein the municipality is located, an election shall be held upon one of the following questions:

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter and, if advisable, to draft and to recommend a home rule charter?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government or a home rule charter, to recommend the adoption of an optional form of government or to draft and recommend a home rule charter?

(b) Petition for election.--The petition calling for the election shall be in the form required by subsection (e) and shall be signed by electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial general election.

(c) Ordinance authorizing election.--Within five days after the final enactment of an ordinance authorizing the election, the municipal clerk or secretary shall file a certified copy of the ordinance with the county board of elections, together with a copy of the question to be submitted to the electors.

(d) Duty of election board.--At the next general or municipal or primary election occurring not less than the 13th Tuesday after the filing of the ordinance or the petition with the county board of elections, it shall cause the appropriate question to be submitted to the electors as other questions are submitted under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(e) Requirements for petitions.--A referendum petition under this section shall be filed not later than the 13th Tuesday prior to the election, and the petition and the proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as those provisions are applicable. No referendum petition may be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. No candidate's nomination petition may be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the election. Any petition under this section shall be filed on or before the tenth Tuesday before the election.

Cross References. Section 2911 is referred to in sections 2923, 2927 of this title.

§ 2912. Election of members of commission.

(a) General rule.--A governmental study commission of seven, nine or eleven members, as designated in the question, shall be elected by the qualified voters at the same election the question is submitted to the electors.

(b) Nomination of candidates.--Each candidate for the office of member of the commission shall be nominated and placed upon the ballot containing the question in the manner provided by and subject to the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, which relate to the nomination of a candidate nominated by nomination papers filed for other offices elective by the voters. Each candidate shall be nominated and listed without any political designation or slogan, and no nomination paper shall be signed or circulated prior to the 13th Tuesday before the election nor later than the tenth Tuesday before the

election. No signature shall be counted unless it bears a date within this period.

(c) Instructions to electors.--Each elector shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for the designated number of members of a government study commission who shall serve if the question is or has been determined in the affirmative.

(d) Insufficient number of candidates or members.--If an insufficient number of nominating papers is filed to fill all of the designated positions on the study commission, the question of establishing a commission shall be placed on the ballot, and, unless a sufficient number of study commission members are elected by receiving at least as many votes as signatures are required to file a nominating position, then the question of creating a study commission shall be deemed to have been rejected.

§ 2913. Nomination of candidates.

(a) General rule.--All candidates for the government study commission shall be electors. Each candidate shall be nominated by nomination papers signed by a number of electors equal at least to 2% of the number of electors voting for the office of Governor in the last gubernatorial general election or 200 electors, whichever is less, and filed with the county board of elections not later than the tenth Tuesday prior to the date of the election.

(b) Content and signing of nomination papers.--Each nomination paper shall set forth the name, place of residence and post office address of the candidate thereby nominated, that the nomination is for the office of government study commissioner and that the signers are legally qualified to vote for the candidate. An elector may not sign nomination papers for more candidates for the commission than he could vote for at the election. Every elector signing a nomination paper shall write his place of residence, post office address and street number, if any, on the petition.

(c) Acceptance by candidate.--Each nomination paper shall, before it may be filed with the county board of elections, contain under oath of the candidate an acceptance of the nomination in writing, signed by the candidate therein nominated, upon or annexed to the paper, or, if the same person be named in more than one paper, upon or annexed to one of the papers. The acceptance shall certify that the candidate is an elector, that the nominee consents to run as a candidate at the election and that, if elected, the candidate agrees to take office and serve.

(d) Verification of nomination papers.--Each nomination paper shall be verified by an oath of one or more of the signers, taken and subscribed before a person qualified under the laws of this Commonwealth to administer an oath, to the effect that the paper was signed by each of the signers in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, electors and that the nomination paper is prepared and filed in good faith for the sole purpose of endorsing the person named therein for election as stated in the paper.

§ 2914. Results of election.

The result of the votes cast for and against the question as to the election of a government study commission shall be returned by the election officers, and a canvass of the election had, as is provided by law in the case of other public questions put to the electors. The votes cast for members of the commission shall be counted and the result returned by the

county board of electors, and a canvass of the election had, as is provided by law in the case of election of members of municipal councils or boards. The designated number of candidates receiving the greatest number of votes shall be elected and shall constitute the commission. If a majority of those voting on the question vote against the election of a commission, none of the candidates shall be elected. If two or more candidates for the last seat shall be equal in number of votes, they shall draw lots to determine which one shall be elected.

§ 2915. Oath of office of members of commission.

(a) **Members elected on countywide basis.**--As soon as possible and in any event no later than ten days after its certification of election, the members of a government study commission elected on a countywide basis shall, before a judge of a court of common pleas, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(b) **Other members.**--As soon as possible and in any event no later than ten days after its certification of election, the members of a government study commission elected on other than a countywide basis shall, before a magisterial district judge, make oath to support the Constitution of the United States and the Constitution of Pennsylvania and to perform the duties of the office with fidelity.

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2016 Correction. Incorrect language was carried in the publication of the 2004 amendment of subsec. (b). The correct version of subsec. (b) appears in this publication.

2004 Amendment. Act 207 amended subsec. (b). See sections 28 and 29 of Act 207 in the appendix to this title for special provisions relating to applicability and construction of law.

§ 2916. First meeting of commission.

(a) **Procedure.**--As soon as possible and in any event no later than 15 days after its certification of election, the government study commission shall organize and hold its first meeting and elect one of its members chairman and another member vice chairman, fix its hours and place of meeting and adopt rules for the conduct of its business it deems necessary and advisable.

(b) **Quorum.**--A majority of the members of the commission shall constitute a quorum for the transaction of business, but no recommendation of the commission shall have any legal effect unless adopted by a majority of the whole number of the members of the commission.

§ 2917. Vacancies.

In case of a vacancy in the government study commission, the remaining members of the commission shall fill it by appointing thereto some other properly qualified elector.

§ 2918. Function and duty of commission.

The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.

§ 2919. Compensation and personnel.

(a) **Compensation and expenses of members.**--Members of the government study commission shall serve without compensation,

but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties. Council shall appropriate moneys necessary for this purpose.

(b) Appointment and compensation of personnel.--Within the limits of the appropriations and other public and privately contributed funds and services made available to it, the commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix reasonable compensation therefor to be paid the consultants and clerical and other assistants.

§ 2920. Hearings and public forums.

The government study commission shall hold one or more public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

§ 2921. Report of findings and recommendations.

(a) General rule.--The government study commission shall report its findings and recommendations to the citizens of the municipality within nine months from the date of its election except that it shall be permitted an additional nine months if it elects to prepare and submit a proposed home rule charter and an additional two months if it chooses to elect its municipal council by districts. It shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary sufficient copies of the report to supply it to any interested citizen upon request. If the commission recommends the adoption of a home rule charter or any of the optional plans of government as authorized in this subpart, the report shall contain the complete plans as recommended.

(b) List of resources used.--There shall be attached to each copy of the report of the commission, as a part thereof, a statement sworn to by the members of the commission listing in detail the funds, goods, materials and services, both public and private, used by the commission in the performance of its work and the preparation and filing of the report. In addition, the list shall identify specifically the supplier of each item thereon.

(c) Filing copy with Department of Community and Economic Development.--A copy of the final report of the commission with its findings and recommendations shall be filed with the Department of Community and Economic Development.

(d) Disposition of records.--All the records, reports, tapes, minutes of meetings and written discussions of the commission shall, upon its discharge, be turned over to the municipal clerk or secretary for permanent safekeeping and made available for public inspection at any time during regular business hours.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (c).

Cross References. Section 2921 is referred to in section 2922 of this title.

§ 2922. Discharge of petition and amended reports.

(a) General rule.--The government study commission shall be discharged upon the filing of its report, but, if the commission's recommendations require further procedure in the form of a referendum on the part of the electors, the commission shall not be discharged until the procedure has been finally concluded. At any time prior to 60 days before the date of the referendum, the commission may modify or change any

recommendation set forth in the final report by publishing an amended report.

(b) Effect of amended report.--Whenever a commission issues an amended report pursuant to subsection (a), the amended report shall supersede the final report and the final report shall cease to have any legal effect.

(c) Procedure under amended report.--The procedure to be taken under the amended report shall be governed by the provisions of this subpart applicable to the final report of a commission submitted pursuant to section 2921 (relating to report of findings and recommendations).

§ 2923. Types of action recommended.

The government study commission shall report and recommend in accordance with the question presented to the electorate as provided in section 2911 (relating to submission of question for election of government study commission):

(1) That a referendum shall be held to submit to the electors the question of adopting one of the optional plans of government authorized by this subpart to be specified by the commission.

(2) That a referendum shall be held to submit to the electors the question of adopting a home rule charter as prepared by the commission and as authorized by this subpart.

(3) That the form of government shall remain unchanged.

(4) Such other action as it deems advisable consistent with its functions as set forth in this subpart.

§ 2924. Specificity of recommendations.

(a) Optional plan of government.--

(1) If the government study commission report recommends the adoption or the amendment of any of the optional plans of government set forth in this subpart, except the optional county plan, the report of the commission may specify the following:

(i) That the municipal council shall consist of three, five, seven or nine members, except that under the small municipality plan and under the optional county plan the number of council members shall be as provided in sections 3073 (relating to election of council members) and 3092 (relating to county officers).

(ii) That the office of treasurer shall be omitted or that it shall be filled by election by the electors rather than by appointment.

(iii) That the office of controller shall be omitted or that it shall be filled by election by the electors rather than by appointment.

(2) If a commission report, initiative petition or ordinance shall recommend any optional plan, except for the optional county plan, it may specify that the then existing basis for electing council members shall be changed to an at-large or district or combination at-large and district basis.

(3) If a commission report, initiative petition or ordinance recommends the adoption of the council-manager form of government, it may specify that the mayor or president of council or chairman be elected directly by the electors rather than by council.

(4) If a commission report, initiative petition or ordinance for a county recommends the adoption of any of the optional plans, except the optional county plan, it may specify that the sheriff be elected directly by the voters of the county as provided in section 3094 (relating to additional options for election of county sheriff).

(5) In all cases, except for the council-manager plan, the commission report, initiative petition or ordinance shall specify whether the executive (mayor) shall be called "executive" or "mayor."

(b) Home rule charter.--If the commission recommends the adoption of a home rule charter, it shall specify the number to be on the municipal council, all offices to be filled by election and whether elections shall be on an at-large, district or combination district and at-large basis.

(c) Elections in new or revised districts.--Notwithstanding any other provisions of this subpart, if an approved home rule charter or optional plan of government or other form of government adopted pursuant to the provisions of this subpart specifies that the election of the municipal council shall be on an at-large or district or combination district and at-large basis and the basis recommended differs from the existing basis and therefore requires eliminating districts or establishing revised or new districts, then election of municipal officials shall not take place on the new basis until the municipal election following the next primary election taking place more than 180 days after the election at which the referendum on the question of a new form of government has been approved by the electorate. The new form of government shall not go into effect until the first Monday in January following the election of municipal officials on the new basis. New or revised districts shall be established by the government study commission and included in the proposed charter.

Cross References. Section 2924 is referred to in sections 2942, 3004, 3052, 3054, 3056, 3073, 3161 of this title.

§ 2925. Form of question on form of government.

The question to be submitted to the voters for the adoption of a home rule charter or any of the optional plans of government authorized by this subpart shall be submitted in one of the following forms or such part of them as shall be applicable.

Shall the Home Rule Charter contained in the report, dated (insert date), of the government study commission, prepared in accordance with the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall (insert name of plan), including recommendations pertaining to optional provisions contained in the report of the government study commission, dated (insert date), as authorized by the Home Rule Charter and Optional Plans Law, be adopted by the (insert type and name of municipality)?

Shall the (Home Rule Charter) (Optional Plan) of the (insert type and name of municipality) be repealed and the form of government recommended in the report of the government study commission, dated (insert date), be adopted as authorized by the Home Rule Charter and Optional Plans Law?

Shall an Optional Plan for the (insert type and name of municipality) be amended as specified in the report of the government study commission filed with the election officials of the County of (insert name of county), on (insert date), as authorized by the Home Rule Charter and Optional Plans Law?

Cross References. Section 2925 is referred to in section 2926 of this title.

§ 2926. Submission of question on form of government.

If the government study commission recommends that the question of adopting a home rule charter or one of the optional plans of government authorized by this subpart shall be

submitted to the electors, the municipal clerk or secretary shall, within five days thereafter, certify a copy of the commission's report to the county board of elections, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at the time as the commission specifies in its report. The commission may cause the question to be submitted to the electors at the next primary, municipal or general election occurring not less than 60 days following the filing of a copy of the commission's report with the county board of elections, at the time the commission's report directs. At the election, the question of adopting that form of government recommended by the commission shall be submitted to the electors by the county board of elections in the same manner as other questions are submitted to the electors under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The commission shall frame the question to be placed upon the ballot as provided for in section 2925 (relating to form of question on form of government) and, if it deems appropriate, an interpretative statement to accompany the question.

§ 2927. Limitation on enactment of ordinance or filing of petition.

(a) **General rule.**--An ordinance may not be passed and a petition may not be filed for the election of a government study commission pursuant to section 2911 (relating to submission of question for election of government study commission) while proceedings are pending under any other petition or ordinance filed or passed under the authority of this subpart nor on the same question if it has been defeated within four years after an election has been held pursuant to any such ordinance or petition passed or filed.

(b) **Time for commencement of proceedings.**--For the purpose of this section, proceedings shall be considered as having started:

(1) In the case of an ordinance, upon the final vote of council in favor of the ordinance, notwithstanding the fact that the ordinance cannot take effect until a certain number of days thereafter.

(2) In the case of a petition, as soon as it is properly signed by one-third of the number of registered voters required for the petition and written notice thereof filed in the office of the county board of elections and in the office of the municipal clerk or secretary, who shall cause the notice to be immediately posted in a conspicuous place in the office, open to public inspection.

§ 2928. Time when change of form of government takes effect.

Whenever the electors by a majority of those voting on the question vote in favor of adopting a change in their form of government pursuant to this subpart, the proposed form shall take effect according to its terms and the provisions of this subpart.

§ 2929. Limitation on changing new form of government.

The voters of any municipality which has adopted a home rule charter or an optional plan of government pursuant to this subpart may not vote on the question of changing the form of government until five years after the home rule charter or optional plan became effective.

§ 2930. Status of forms of government provided in subpart.

For the purposes of this subpart, each of the optional forms of government provided by this subpart and each of those optional forms as modified by any available provisions concerning size of council, election of municipal officials and

the basis for electing councilmen is hereby declared to be a complete and separate form of government provided by the General Assembly for submission to the electors.

SUBCHAPTER C

AMENDMENT OF EXISTING CHARTER OR OPTIONAL PLAN

Sec.

- 2941. Procedure for amendment of charter or optional plan.
- 2942. Initiation of amendment by electors or council.
- 2943. Petition for referendum or ordinance proposing amendment.
- 2944. Time and manner of submission of question.

Cross References. Subchapter C is referred to in section 735.1 of this title.

§ 2941. Procedure for amendment of charter or optional plan.

(a) **Procedure.**--The procedure for amending a home rule charter or optional plan of government shall be through the initiative procedure and referendum or ordinance of the governing body as provided for in this subpart.

(b) **Changes in method of election.**--Changes in the method of election of a municipal governing body from at-large elections to elections by district, maintain at-large elections or a combination of at-large elections and elections by district may be implemented by amending a home rule charter or optional plan without creation of a government study commission.

(c) **Conflict in the question.**--If two or more questions appear on the ballot at the same election and such questions are in conflict and more than one receives the approval of the voters, the question which receives the largest number of affirmative votes shall prevail over the others.

(d) **Initial apportionment.**--If the referendum on the question results in the approval by the voters to amend the home rule charter or optional plan to provide for the election of the governing body either by districts or partially by districts and partially at large or in a change in the number of members of the governing body, the initial apportionment of the districts shall be made as follows:

(1) Except as provided in paragraph (2), by an apportionment commission consisting of seven members, all of whom shall reside in the municipality. Two members of the apportionment commission shall be appointed by the mayor. Two members of the apportionment commission shall be appointed by the governing body, one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the highest number of votes cast in the most recent mayoral election and one shall be appointed by the mayor from a list of at least three qualified persons recommended by the municipal committee of the political party whose mayoral candidate received the second highest votes in the most recent mayoral election. The seventh member of the commission shall be elected at large by a majority vote of the other six members and shall serve as chairperson of the commission.

(2) At the option of a municipality with a mayor, or for a municipality without a mayor, the initial apportionment shall be made by the members of the governing body of the municipality consistent with section 903 (relating to reapportionment by governing body).

(e) Subsequent apportionment.--For any municipality, including a municipality with a mayor, a subsequent apportionment shall be under Chapter 9 (relating to municipal reapportionment).
(Oct. 30, 2017, P.L.1140, No.53, eff. 60 days)

2017 Amendment. Act 53 amended subsec. (d) and added subsec. (e).

§ 2942. Initiation of amendment by electors or council.

A referendum on the question of amendment of a home rule charter or an optional plan of government may be initiated by petition of the electors or such a referendum may be initiated by an ordinance of the governing body. A proposal for amendment of an optional plan shall be limited to the additional options provided for in section 2924 (relating to specificity of recommendations).

Cross References. Section 2942 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2943. Petition for referendum or ordinance proposing amendment.

(a) Filing.--A petition containing a proposal for referendum on the question of amending a home rule charter or an optional plan of government signed by electors comprising 10% of the number of electors voting for the office of Governor in the last gubernatorial general election in the municipality or an ordinance of the municipal governing body proposing amendment of a home rule charter or an optional plan shall be filed with the election officials not later than the 13th Tuesday prior to the next primary, municipal or general election. The petition and the proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions insofar as such provisions are applicable, except that no referendum petition shall be signed or circulated prior to the 20th Tuesday before the election nor later than the 13th Tuesday before the election. The name and address of the person filing the petition shall be clearly stated on the petition.

(b) Review and disposition of petition.--The election officials shall review the initiative petition as to the number and qualifications of signers. If the petition appears to be defective, the election officials shall immediately notify the persons filing the petition of the defect. When the election officials find that the petition as submitted is in proper order, they shall send copies of the initiative petition without signatures thereon to the governing body and to the Department of Community and Economic Development. The initiative petition as submitted to the election officials, along with a list of signatories, shall be open to inspection in the office of the election officials.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (b).

Cross References. Section 2943 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

§ 2944. Time and manner of submission of question.

A referendum on the question of the amendment of a home rule charter or an optional plan of government shall be held when the election officials find that the initiative petition or ordinance of the governing body is in proper order. The referendum shall be governed by the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania

Election Code. The election officials shall cause the question to be submitted to the electors at the next primary, general or municipal election occurring not less than the 13th Tuesday following the filing of the initiative petition or ordinance with county board of elections. At the election, the question shall be submitted to the voters in the same manner as other questions are submitted under the Pennsylvania Election Code. The county board of elections shall frame the question to be placed upon the ballot.

Cross References. Section 2944 is referred to in sections 3004, 3054, 3056, 3073, 3094, 3163, 3171 of this title.

SUBCHAPTER D

CONDUCT OF ELECTION

Sec.

2951. Conduct and results of election.

2952. Notice of election.

§ 2951. Conduct and results of election.

All elections provided for in this subpart shall be conducted by the election officials for such municipality in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The election officials shall count the votes cast and make return thereof to the county board of elections. The results of the election shall be computed by the county board of elections in the same manner as is provided by law for the computation of similar returns. Certificates of the results of the election shall be filed by the county board of elections with the municipal council or board, the Department of State and the Department of Community and Economic Development.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2952. Notice of election.

At least 30 days' notice of each election provided for under this subpart shall be given by the clerk or secretary of the municipality. A copy of the notice shall be posted at each polling place on the day of the election and shall be published in at least one newspaper of general circulation in the municipality once a week for three consecutive weeks during the period of 30 days prior to the election.

SUBCHAPTER E

GENERAL POWERS AND LIMITATIONS OF HOME RULE CHARTER MUNICIPALITIES

Sec.

2961. Scope of powers of home rule.

2962. Limitation on municipal powers.

2963. Exercise of municipal powers by home rule county.

2964. General powers of municipalities.

2965. Recording and filing of charter.

2966. Continuation of office of existing elective officials.

2967. Repeal of home rule charter.

§ 2961. Scope of powers of home rule.

A municipality which has adopted a home rule charter may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter. All grants of municipal power to municipalities governed by a home rule charter under this subchapter, whether

in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2962. Limitation on municipal powers.

(a) Powers granted by statute.--With respect to the following subjects, the home rule charter shall not give any power or authority to the municipality contrary to or in limitation or enlargement of powers granted by statutes which are applicable to a class or classes of municipalities:

(1) The filing and collection of municipal tax claims or liens and the sale of real or personal property in satisfaction of them.

(2) The procedures in the exercise of the powers of eminent domain and the assessment of damages and benefits for property taken, injured or destroyed.

(3) Boundary changes.

(4) Regulation of public schools.

(5) The registration of electors and the conduct of elections.

(6) The fixing of subjects of taxation.

(7) The fixing of the rates of nonproperty or personal taxes levied upon nonresidents.

(8) The assessment of real or personal property and persons for taxation purposes.

(9) Defining or providing for the punishment of any felony or misdemeanor.

(10) Municipal planning under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

(11) The procedure for the filling of vacancies in the office of district attorney.

(b) Taxing power.--Unless prohibited by the Constitution of Pennsylvania, the provisions of this subpart or any other statute or its home rule charter, a municipality which has adopted a home rule charter shall have the power and authority to enact and enforce local tax ordinances upon any subject of taxation granted by statute to the class of municipality of which it would be a member but for the adoption of a home rule charter at any rate of taxation determined by the governing body. No home rule municipality shall establish or levy a rate of taxation upon nonresidents which is greater than the rate which a municipality would have been authorized to levy on nonresidents but for the adoption of a home rule charter. The governing body shall not be subject to any limitation on the rates of taxation imposed upon residents.

(c) Prohibited powers.--A municipality shall not:

(1) Engage in any proprietary or private business except as authorized by statute.

(2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.

(3) Be authorized to diminish the rights or privileges of any former municipal employee entitled to benefits or any present municipal employee in his pension or retirement system.

(4) Enact or promulgate any ordinance or regulation with respect to definitions, sanitation, safety, health, standards of identity or labeling pertaining to the manufacture, processing, storage, distribution and sale of any foods, goods or services subject to any Commonwealth statutes and regulations unless the municipal ordinance or regulation is uniform in all respects with the Commonwealth statutes and regulations thereunder. This paragraph does not

affect the power of any municipality to enact and enforce ordinances relating to building codes or any other safety, sanitation or health regulation pertaining thereto.

(5) Enact any provision inconsistent with any statute heretofore enacted prior to April 13, 1972, affecting the rights, benefits or working conditions of any employee of a political subdivision of this Commonwealth.

(d) Reduction of police force.--Notwithstanding any provision of this subpart or any other statute to the contrary, any municipality that is or was a city of the second class A may reduce its police force or its firefighting force for economic reasons, as determined by ordinance.

(e) Statutes of general application.--Statutes that are uniform and applicable in every part of this Commonwealth shall remain in effect and shall not be changed or modified by this subpart. Statutes shall supersede any municipal ordinance or resolution on the same subject.

(f) Regulation of business and employment.--A municipality which adopts a home rule charter shall not determine duties, responsibilities or requirements placed upon businesses, occupations and employers, including the duty to withhold, remit or report taxes or penalties levied or imposed upon them or upon persons in their employment, except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities. This subsection shall not be construed as a limitation in fixing rates of taxation on permissible subjects of taxation.

(g) Regulation of firearms.--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.

(h) Levying taxes.--This section does not limit or take away any right of a municipality which adopts a home rule charter from levying any tax which it had the power to levy had it not adopted a home rule charter.

(i) Establishment of rates of taxation.--No provision of this subpart or any other statute shall limit a municipality which adopts a home rule charter from establishing its own rates of taxation upon all authorized subjects of taxation except those specified in subsection (a)(7).

(j) Retroactive fee increase prohibited.--A municipality which adopts a home rule charter may not retroactively increase any fee or charge for any municipal service which has been provided.

(Mar. 23, 2021, P.L.35, No.9, eff. imd.)

2021 Amendment. Act 9 added subsec. (a)(11). Section 2 of Act 9 provided that the addition of subsec. (a)(11) is intended to preempt and supersede any contrary provision in a county home rule charter, ordinance or local administrative code.

§ 2963. Exercise of municipal powers by home rule county.

A county which has adopted a home rule charter shall not at any time thereafter exercise within any municipality in the county a power or function being exercised by that municipality, except under all of the following conditions:

(1) The exercise of such power or function by the county shall be authorized by ordinance of the governing body of the county, which ordinance, in addition to such other filings as may be required by law, shall be filed with the clerk or secretary of each local municipality within the county within 30 days of its enactment.

(2) The transfer of a power or function to the county from any local municipality within the county, as authorized by the ordinance, shall not become effective for at least 15 months from the date of adoption of the ordinance.

(3) Within 120 days from the adoption of the ordinance, the governing body of any local municipality, exercising on the date of the adoption of the ordinance any power or function authorized by ordinance of the county to be exercised by the county, may elect by ordinance to be excluded from the county's exercise of the power or function. Within 60 days after the date of adoption by the governing body of a local municipality of an ordinance excluding the local municipality from the exercise by the county of a power or function or in the absence of any action of the governing body, the qualified electors of the local municipality may initiate a petition requiring that the question of inclusion or exclusion from the exercise of the power or function by the county be submitted to a referendum of the electorate at the election held on the date of the next ensuing primary, municipal or general election not less than 60 days after the filing of the initiative petition with the county board of elections. The initiative and referendum procedures set forth in this subchapter or Subchapter F (relating to general provisions and limitations for optional plan municipalities) shall be followed, except where the same may be inconsistent with any of the provisions of this section. In the event the county determines there is insufficient interest or that it is not feasible to establish the proposed municipal function or power as provided for in the ordinance passed by the county, the county may repeal the county ordinance prior to the effective date of the ordinance.

(4) The governing body of any local municipality may by ordinance, subsequent to the time limit for action as set forth in paragraph (3), request the county to be included in a municipal power or function being exercised by the county. However, the county may specify the terms and conditions for acceptance or denial of the power or function requested by the local municipality to be exercised by the county, which shall be subject to court review if the local municipality determines that the terms and conditions as set forth by the county are unreasonable.

(5) No assessment, tax, fee or levy in the nature thereof made by the governing body of a county in support of the exercise of a power or function as authorized by ordinance of the county shall be applicable in any local municipality within the county which is providing the same municipal power or function.

(6) If the electors of a local municipality by referendum vote to exclude the local municipality from the exercise of a power or function by the county, a petition may not be initiated nor may a referendum be held on the same question more often than every five years thereafter.

(7) A local municipality may, by action of the governing body or by initiative and referendum, withdraw from a power or function which it was exercising at the date of the adoption of the county home rule charter which it transferred to a county, provided it again assumes and exercises the power or function, but may not vote on the question of withdrawing sooner than four years from the time the county assumed the power or function of the local municipality.

§ 2964. General powers of municipalities.

Municipalities adopting a home rule charter shall have the power to:

- (1) Sue and be sued.
- (2) Have a corporate seal.
- (3) Contract and be contracted with.
- (4) Buy, sell, lease, hold and dispose of real and personal property.
- (5) Appropriate and expend moneys.
- (6) Adopt, amend and repeal any ordinances and resolutions as may be required.

§ 2965. Recording and filing of charter.

The municipal clerk or secretary shall have the new charter as approved by the qualified electors recorded in the ordinance books and shall also file a certified copy of the charter with the Department of State, the Department of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2966. Continuation of office of existing elective officials.

All elective officials in office at the time of the adoption of a home rule charter shall continue in office until their terms expire.

§ 2967. Repeal of home rule charter.

(a) **General rule.**--The procedure for repeal of a home rule charter shall be the same as for adoption of a home rule charter. Whenever the electors, by a majority vote of those voting on the question, vote in favor of repeal of a home rule charter and the establishment of a particular form of government, the municipality shall be governed under the form of government selected by the electors from the first Monday of January following the municipal election at which the elective officials of the form of government selected by the electors shall have been elected. The government study commission shall provide in its report for the new form of government to be established.

(b) **Election of new officials.**--The elective officials under a new form of government selected by the electors shall be elected at the first municipal election held after the referendum on the repeal of a home rule charter or at a later date as may be specified by the commission in its report.

SUBCHAPTER F

GENERAL PROVISIONS AND LIMITATIONS FOR OPTIONAL PLAN MUNICIPALITIES

Sec.

2971. Law applicable to optional plan.
2972. Recording and filing of plan.
2973. Scope of powers of optional plan.
2974. Limitation on powers of optional plan.

Cross References. Subchapter F is referred to in sections 2963, 3001, 3031, 3041, 3051, 3071, 3091, 3095 of this title.

§ 2971. Law applicable to optional plan.

Upon the adoption by the electors of any of the optional plans of government as set forth in this subpart, the municipality shall thereafter be governed by the plan adopted and by the provisions of general law applicable to that class or classes of municipality except as otherwise provided in this subpart. Until the municipality adopts another form of government, the plan adopted and the provisions of general law applicable to that class or classes of municipality shall be

law. All statutes affecting the organization, government and powers of the municipality which are not inconsistent or in conflict with this subpart shall remain in full force until modified or repealed.

§ 2972. Recording and filing of plan.

The municipal clerk or secretary shall immediately cause the new plan of government as adopted to be recorded in the ordinance book of the municipality and shall also file a certified copy thereof with the Department of State, the Secretary of Community and Economic Development and the county board of elections.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

§ 2973. Scope of powers of optional plan.

The general grant of municipal power under this subpart is intended to confer the greatest power of self government consistent with the Constitution of Pennsylvania and with the provisions of and the limitations prescribed by this subpart. Any specific enumeration of municipal powers contained in this subpart or in other statutes does not limit the general description of power contained in this subpart. Any specifically enumerated municipal powers are in addition and supplementary to the powers conferred in general terms by this subchapter. All grants of municipal power to municipalities governed by an optional plan under this subpart, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

§ 2974. Limitation on powers of optional plan.

The optional plan of any municipality adopted in accordance with this subpart shall not give any power or authority to diminish any rights or privileges of any present municipal employee in his pension or retirement system. No municipality shall exercise any powers or authority beyond the municipal limits except those conferred by statute, and no municipality shall engage in any proprietary or private business except as authorized by the General Assembly.

SUBCHAPTER G
MISCELLANEOUS PROVISIONS

Sec.

2981. Limitation on local municipality.

2982. Retention of existing form of government.

2983. Retention of existing form of government when electors disapprove proposal.

2984. Assumption of functions previously assumed by other municipality.

§ 2981. Limitation on local municipality.

No local municipality within a county shall supersede or exercise any power, function or service presently exercised by the county.

§ 2982. Retention of existing form of government.

Each municipality which does not adopt a home rule charter or an optional plan under this subpart shall retain its existing form of government as otherwise provided by law.

§ 2983. Retention of existing form of government when electors disapprove proposal.

In case the electors of any municipality disapprove a proposal to adopt a home rule charter or an optional plan of government, the municipality shall retain its existing form of government.

§ 2984. Assumption of functions previously assumed by other municipality.

(a) Assumption of indebtedness.--A municipality assuming a function previously performed by another municipality under the terms of this subchapter shall also assume all the indebtedness and obligations of the municipality relating to the function. If property, indebtedness or obligations of another municipality not within the boundaries of the municipality assuming the function is involved, the governing bodies of the respective municipalities shall make an adjustment and apportionment of all public property involved.

(b) Procedure for adjustment and apportionment.--The adjustment and apportionment shall be reduced to a written agreement which shall be filed with the court of common pleas of the county and the Department of Community and Economic Development.

(c) Petition for adjustment and apportionment.--In case the municipalities cannot make an amicable adjustment and apportionment of the property, obligations and indebtedness within six months after the function is assumed, any of the municipalities may present a petition to the court of common pleas. The court shall then appoint three disinterested commissioners, all residents and taxpayers of the county, but none residing in or owners of real property in any of the municipalities. After hearing, notice of which shall be given to the municipalities as the court shall direct, the commissioners shall file a report with the court making an adjustment and apportionment of all the property as well as the obligations or indebtedness. The report shall state the amount that shall be due and payable from each municipality, the forms of payment and the amount of obligations and indebtedness that shall be assumed by each.

(d) Notice to municipalities.--The commissioners shall give the municipalities at least five days' written notice of the filing of their report. Unless exceptions are filed to the report within 30 days after the date of the filing, the report shall be confirmed by the court absolutely. Any sum awarded by the report shall be a legal and valid claim in its favor against the municipality charged. Any real or personal property given to a municipality shall become its property. Any claim or indebtedness charged against the municipality may be collected from it.

(e) Exceptions to report.--If exceptions are filed to the report of the commissioners, the court shall dispose of them, taking testimony if it deems advisable. The court shall enter its decree confirming the award of the commissioners or modifying the same as appears just and proper.

(f) Compensation to commissioners.--The commissioners shall be allowed any compensation and expenses for their services as the court shall fix. The costs of the proceedings, including the compensation and expenses of the commissioners, shall be apportioned by the court between the municipalities as it deems proper.

(g) Jurisdiction of court.--If a municipality or part of a municipality is located in two or more counties, the court of common pleas of the county where the larger part of the municipality assuming the function is located shall have exclusive jurisdiction over the proceedings.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

CHAPTER 30
TYPES OF OPTIONAL PLANS OF GOVERNMENT

Subchapter

- A. Executive (Mayor) - Council Plan A
- B. Executive (Mayor) - Council Plan B
- C. Executive (Mayor) - Council Plan C
- D. Council-Manager Plan
- E. Small Municipality Plan
- F. Optional County Plan

Enactment. Chapter 30 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

Cross References. Chapter 30 is referred to in section 14406.1 of Title 11 (Cities).

SUBCHAPTER A
EXECUTIVE (MAYOR) - COUNCIL PLAN A

Sec.

- 3001. Designation and applicability of plan.
- 3002. Officers and employees.
- 3003. Election and term of office of officials.
- 3004. Election and term of office of council members.
- 3005. First election of council members.
- 3006. Legislative power vested in council.
- 3007. Organization of council.
- 3008. Powers of council concerning officers and agencies.
- 3009. Appointment and duties of municipal clerk or secretary.
- 3010. Executive power vested in executive.
- 3011. Powers and duties of executive.
- 3012. Approval or veto of ordinances.
- 3013. Mayor, departments and department heads.
- 3014. Department of administration.
- 3015. Budget.
- 3016. Form and adoption of budget.
- 3017. Amended budget.
- 3018. Council amendments to budget.

Cross References. Subchapter A is referred to in sections 3031, 3041 of this title.

§ 3001. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Executive (Mayor) - Council Plan A" and shall, together with the laws applicable to that class of municipality and Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Chapter 31 (relating to general provisions common to optional plans), govern any municipality the electors of which have adopted it under this subpart.

§ 3002. Officers and employees.

Each municipality under this subchapter shall be governed by an elected council, an elected executive who may be called mayor, as determined by the government study commission, an elected district attorney in the case of counties and, when recommended by the commission and adopted by the voters, an elected treasurer, an elected controller and by such other officers and employees as may be duly appointed pursuant to this subchapter or other applicable law.

§ 3003. Election and term of office of officials.

The executive (mayor), the treasurer, if elected, the district attorney in the case of counties and the controller, if elected, shall be elected by the electors at a regular municipal election and shall serve for a term of four years beginning on the first Monday of January next following his election.

§ 3004. Election and term of office of council members.

The council shall consist of five members unless, under the authority granted under section 2924 (relating to specificity of recommendations), the municipality shall be governed by a council of three, seven or nine members. Members of the council shall be elected at large by the electors unless, under the authority granted pursuant to section 2924, members shall be elected on a district basis in which each district is as equal in population as is feasible, or on a combination at-large and district basis as determined by the government study commission, or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) at a regular municipal election and shall serve for a term of four years, except as otherwise provided in this subchapter, beginning on the first Monday of January next following their elections.

§ 3005. First election of council members.

At the first municipal election following the adoption of this plan, council members shall be elected and shall serve for the terms as provided in section 3162 (relating to status and term of office of officials).

§ 3006. Legislative power vested in council.

The legislative power of the municipality as provided by laws applicable to that class of municipality shall be exercised by the municipal council, except as may otherwise be provided for under this subpart.

§ 3007. Organization of council.

On the first Monday of January following the regular municipal election, the members of council shall assemble at the usual place of meeting, organize and elect a president from among its members who shall preside at its meetings and perform such other duties as council may prescribe and a vice president who shall preside in the absence of the president. If the first Monday is a legal holiday, the meeting shall be held on the next day.

§ 3008. Powers of council concerning officers and agencies.

The council, in addition to other powers and duties as may be conferred upon it by general law, may require any municipal officer to prepare and submit sworn statements regarding the performance of the officer's official duties and may otherwise investigate the conduct of any department, office or agency of the municipal government.

§ 3009. Appointment and duties of municipal clerk or secretary.

A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance as provided pursuant to section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform such functions as may be required by law or by local ordinance. The municipal clerk shall, prior to the appointment, have been qualified by training or experience to perform the duties of the office.

§ 3010. Executive power vested in executive.

The executive power of the municipality shall be exercised by the executive (mayor).

§ 3011. Powers and duties of executive.

The executive (mayor) shall enforce the plan and ordinances of the municipality and all general laws applicable to them. The executive shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall from time to time make these recommendations for action by the council as he deems in the public interest. He shall supervise the departments of the municipal government and shall require each department to make annual and other reports of its work as he deems desirable.

Cross References. Section 3011 is referred to in section 3041 of this title.

§ 3012. Approval or veto of ordinances.

(a) **General rule.**--Ordinances adopted by the council shall be submitted to the executive (mayor) who shall, within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or veto the ordinance by delivering it to the municipal clerk together with a statement setting forth his objections. The clerk shall immediately notify the council of the veto. No ordinance or any item or part thereof shall take effect without the executive's (mayor's) approval unless the executive (mayor) fails to return an ordinance to the clerk within ten days after it has been presented to him or unless council upon reconsideration of the veto on or after the third day following its return by the executive (mayor) shall override the executive's (mayor's) veto by a vote of a majority plus one of the members.

(b) **Attendance at meetings of council.**--The executive (mayor) may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

§ 3013. Mayor, departments and department heads.

(a) **Inability of executive to perform duties.**--The executive (mayor) shall designate any department head to act as executive (mayor) whenever the executive (mayor) shall be prevented, by absence from the municipality, disability or other cause, from attending to the duties of his office. During such time, the person so designated by the executive (mayor) shall possess all the rights, powers and duties of the executive (mayor). Whenever the executive (mayor) has been unable to attend to the duties of his office for a period of 60 consecutive days for any of the reasons stated in this subsection, a member of council shall be appointed by the council as acting executive (mayor), who shall succeed to all the rights, powers and duties of the executive (mayor) or the then acting executive (mayor), until he shall return or his disability ceases.

(b) **Establishment and exercise of functions of department.**--The municipality may have a department of administration and shall have such other departments as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer, if elected, and controller, shall be assigned among and within the departments.

(c) **Appointment and term of department heads and solicitor.**--Each department shall be headed by a director who shall be appointed by the executive (mayor) with the advice and

consent of the council. Each municipality shall also have a solicitor who shall be appointed by the executive (mayor) with the advice and consent of the council. Each department head and the solicitor shall serve during the term of office of the executive (mayor) appointing him and until the appointment and qualification of his successor. No member of municipal council shall head a department.

(d) Removal of department head.--The executive (mayor) may remove any department head after notice and an opportunity to be heard. Prior to removing a department head, the executive (mayor) shall first file written notice of his intention with the council. The removal shall become effective 20 days after the filing of the notice.

(e) Department officers and employees.--Department heads shall appoint subordinate officers and employees within their departments under procedures established in section 3122 (relating to appointment of subordinate officers and employees).

Cross References. Section 3013 is referred to in section 3031 of this title.

§ 3014. Department of administration.

(a) Department heads.--Where a department of administration is established, it shall be headed by a director. The director shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office. At the time of appointment, the director need not be a resident of the municipality or this Commonwealth. He shall have, exercise and discharge the functions, powers and duties of the department.

(b) Department functions.--The department, under the direction and supervision of the executive (mayor), shall have the following powers and duties:

- (1) To assist in the preparation of the budget.
- (2) To administer a centralized purchasing system.
- (3) To establish and administer a centralized personnel system.
- (4) To establish and maintain a centralized accounting system which shall be so designed as to accurately reflect the assets, liabilities, receipts and expenditures of the municipality.
- (5) To perform any other duties as council may prescribe through the administrative ordinance or as the executive (mayor) may direct.

Cross References. Section 3014 is referred to in section 3032 of this title.

§ 3015. Budget.

The municipal budget shall be prepared by the executive (mayor) with the assistance of the director of the department of administration or other officer designated by the executive (mayor).

§ 3016. Form and adoption of budget.

The budget shall be in the form required by council and shall have appended to it a detailed analysis of the various items of expenditure and revenue. The budget as submitted and adopted shall be balanced. Council may reduce any item or items in the executive's (mayor's) budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of a majority plus one of the members of council. Council shall, upon the introduction of the proposed budget, fix a date for adoption

which shall except as otherwise provided be not later than December 31 immediately following.

Cross References. Section 3016 is referred to in section 3017 of this title.

§ 3017. Amended budget.

During January next following any municipal election, the executive (mayor) may submit an amended budget to council. Council shall consider it in the same manner as provided in section 3016 (relating to form and adoption of budget), but final consideration of the amended budget shall be completed by February 15 of the same year.

§ 3018. Council amendments to budget.

Council may amend the budget during January next following any municipal election. Final adoption of the amended budget shall be completed by February 15 of the same year.

SUBCHAPTER B

EXECUTIVE (MAYOR) - COUNCIL PLAN B

Sec.

3031. Designation and applicability of plan.

3032. Departments.

3033. Mandatory department of administration.

§ 3031. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Executive (Mayor) - Council Plan B" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities), Subchapter A of Chapter 30 (relating to executive (mayor) - council plan A) and Subchapter A of Chapter 31 (relating to officers and employees), with the exception of section 3013(b) (relating to mayor, departments and department heads), govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3032. Departments.

The municipality shall have a department of administration and shall have such other departments as council may establish by ordinance. The administrative functions, powers and duties of the municipality, other than those vested in the office of the clerk, treasurer and controller, if provided for, shall be allocated and assigned among and within the departments except that the functions specified in section 3014 (relating to department of administration) shall be assigned to the department of administration.

§ 3033. Mandatory department of administration.

Under Executive (Mayor) - Council Plan B a department of administration shall be established.

SUBCHAPTER C

EXECUTIVE (MAYOR) - COUNCIL PLAN C

Sec.

3041. Designation and applicability of plan.

3042. Powers and duties of executive.

3043. Appointment and duties of managing director.

§ 3041. Designation and applicability of plan.

The form of government provided in this subpart shall be known as the "Executive (Mayor) - Council Plan C" and shall, together with Subchapter F of Chapter 29 (relating to general

provisions and limitations for optional plan municipalities), Subchapter A of Chapter 30 (relating to executive (mayor) - council plan A) and Subchapter A of Chapter 31 (relating to officers and employees), with the exception of section 3011 (relating to powers and duties of executive), govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3042. Powers and duties of executive.

The executive (mayor) shall enforce the plan and ordinances of the municipality and all general laws applicable thereto. The executive shall, annually, report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall from time to time make those recommendations for action by the council he deems in the public interest.

§ 3043. Appointment and duties of managing director.

(a) **General rule.**--The executive (mayor) shall appoint, with the advice and consent of the council, a managing director who shall supervise the departments of government and who shall be the contact officer between the mayor and the departments. The managing director shall make periodic reports with those recommendations as he deems appropriate to the executive (mayor) concerning the affairs of municipal government and particularly of the departments.

(b) **Removal.**--The executive (mayor) may remove a managing director after notice and an opportunity to be heard. Prior to removing a managing director, the executive (mayor) shall first file written notice of his intention with the council. The removal shall become effective 20 days after the filing of the notice.

SUBCHAPTER D
COUNCIL-MANAGER PLAN

Sec.

- 3051. Designation and applicability of plan.
- 3052. Officers and employees.
- 3053. Election and term of office of elected officials.
- 3054. Election and term of office of council members.
- 3055. First election of council members.
- 3056. Selection of mayor, council president or chairman.
- 3057. Appointment and duties of municipal clerk or secretary.
- 3058. Powers and duties of council.
- 3059. Qualifications of municipal manager.
- 3060. Removal of municipal manager from office.
- 3061. Inability of municipal manager to perform duties.
- 3062. Powers and duties of municipal manager.
- 3063. Preparation and adoption of budget.
- 3064. Amended budget.

§ 3051. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Council-Manager Plan" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), govern any municipality the voters of which have adopted this plan pursuant to this subpart.

§ 3052. Officers and employees.

Each municipality under this subchapter shall be governed by an elected council, one member of which shall be the mayor or president of council or chairman chosen under sections 2924

(relating to specificity of recommendations) and 3056 (relating to selection of mayor, council president or chairman), an elected district attorney in the case of counties and an appointed municipal manager, and, if so provided under the plan, an elected treasurer, an elected controller and by those other officers and employees as may be duly appointed pursuant to this subchapter, general law or ordinance.

§ 3053. Election and term of office of elected officials.

The district attorney in the case of counties and the treasurer and controller, if provided for and if elected, shall be elected by the electors at a regular municipal election and shall serve for a term of four years beginning the first Monday of January next following the election.

§ 3054. Election and term of office of council members.

The municipal council shall consist of five members unless, under the authority granted pursuant to section 2924 (relating to specificity of recommendations), the municipality shall be governed by a council of three, seven or nine members. Members of the municipal council shall be elected at large by the electors unless, pursuant to the authority granted under section 2924, members shall be elected on a district basis in which each district is as equal in population as is feasible, or on a combination at-large and district basis as determined by the charter study commission or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question), at a regular municipal election. The members shall serve for a term of four years, except as provided in this subchapter, beginning on the first Monday of January next following their election.

§ 3055. First election of council members.

At the first municipal election following the adoption by a municipality of this charter plan, council members shall be elected and shall serve for the terms as provided in section 3162 (relating to status and term of office of officials).

§ 3056. Selection of mayor, council president or chairman.

(a) **General rule.**--On the first Monday of January following the municipal election, the members of the municipal council shall assemble at the usual place of meeting, organize and elect one of their number as mayor or president of council or chairman unless otherwise provided. The mayor or president of council or chairman shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within two days of the organization meeting, to elect a mayor or president of council or chairman, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor, president of council or chairman. If that person declines to accept the office, then the person receiving the next highest vote shall be the mayor, president of council or chairman and so on until the office is filled. The mayor or president of council or chairman shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings.

(b) **Election of mayor.**--On the recommendation of the government study commission as provided under section 2924 (relating to specificity of recommendations) or as specified in an initiative petition or ordinance of the governing body as authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition

for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question), the mayor shall be elected directly by the electors at the regular municipal election in lieu of being chosen as provided in subsection (a).

Cross References. Section 3056 is referred to in section 3052 of this title.

§ 3057. Appointment and duties of municipal clerk or secretary.

A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance as provided in section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform any functions as may be required by law or ordinance. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

§ 3058. Powers and duties of council.

(a) General rule.--All powers as provided by laws applicable to that class of municipality shall be vested in the municipal council, except as otherwise provided by this subchapter, and the council shall provide for the exercise thereof and for the performance of all duties imposed on the municipality by law.

(b) Adoption of administrative ordinance.--The council shall by ordinance adopt an administrative ordinance defining the responsibilities of the municipal departments and agencies as it deems necessary and proper for the efficient conduct of municipal affairs.

(c) Appointment of municipal manager.--The municipal council shall appoint a municipal manager. The office of municipal manager and municipal clerk or secretary may be held by the same person.

(d) Investigations.--The council may make investigations into the affairs of the municipality and the conduct of any municipal department, office or agency.

(e) Administrative departments, boards and offices.--The municipal council shall continue or create and determine and define the powers and duties of any executive and administrative departments, boards and offices, in addition to those provided for in this subpart, as it deems necessary for the proper and efficient conduct of the affairs of the municipality, including the office of deputy manager. Any department, board or office so continued or created may be abolished by the municipal council. No member of municipal council shall head an administrative department.

(f) Additional powers and limitations.--It is the intention of this subchapter that the municipal council shall act in all matters as a body, and it is contrary to the spirit of this subchapter for any of its members to seek individually to influence the official acts of the municipal manager or any other officer, or for the council or any of its members to direct or request the appointment of any person to or his removal from office, or to interfere in any way with the performance by the officers of their duties. The council and its members shall deal with the administrative service solely through the municipal manager and shall not give orders to any subordinates of the municipal manager, either publicly or privately. This subchapter does not prevent the municipal council from appointing committees of its own members or of citizens to conduct investigations into the conduct of any

officer or department, or any matter relating to the welfare of the municipality, and delegating to those committees such powers of inquiry as the municipal council deems necessary.

§ 3059. Qualifications of municipal manager.

The municipal manager shall be chosen by the council on the basis of his executive and administrative qualifications. At the time of his appointment, he need not be a resident of the municipality or this Commonwealth. The municipal manager shall not hold any elective governmental office.

§ 3060. Removal of municipal manager from office.

The municipal manager shall be appointed for an indefinite term and may be removed by a majority vote of the council. At least 30 days before the removal becomes effective, the council shall notify the municipal manager of its decision to remove him from office, by a majority vote of its members, stating the reasons for his removal. The municipal manager may reply in writing and may request a public hearing which shall be held not earlier than 20 days nor later than 30 days after the filing of the request. After the public hearing, if one is requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the council may suspend the municipal manager from duty but may in any case cause to be paid immediately any unpaid balance of his salary and his salary for the next three calendar months.

§ 3061. Inability of municipal manager to perform duties.

The municipal manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make a designation or if the absence or disability continues more than 30 days, the council may appoint an officer of the municipality to perform the duties of the manager during the absence or disability until the manager returns or his disability ceases.

§ 3062. Powers and duties of municipal manager.

The municipal manager shall have the following powers and duties:

- (1) To be the chief executive and administrative official of the municipality.
- (2) To execute all laws and ordinances.
- (3) To appoint and remove department heads and the deputy manager, if one is authorized by council, and appoint subordinate officers and employees under procedures established in section 3122 (relating to appointment of subordinate officers and employees).
- (4) To negotiate contracts for the municipality, subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements and execute municipal improvements as determined by the municipal council.
- (5) To assure that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed and, upon knowledge of any violation, to call the same to the attention of the municipal council.
- (6) To prepare the agenda for and attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote.
- (7) To make such recommendations to the council concerning policy formulation as he deems desirable and keep the council and the public informed as to the conduct of municipal affairs.

(8) To prepare and submit the annual budget to the council together with such explanatory comment as he deems desirable and to administer the municipal budget.

(9) To perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

(10) To be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

§ 3063. Preparation and adoption of budget.

The municipal manager shall submit to council his recommended budget, together with any explanatory comment or statement he deems desirable. The budget shall be in such form as is required by council for municipal budgets and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. The budget as submitted and adopted shall be balanced. Council shall upon introduction of the proposed budget fix a date for adoption thereof which shall be not later than December 31 immediately following submission.

Cross References. Section 3063 is referred to in section 3064 of this title.

§ 3064. Amended budget.

During January next following any municipal election, council may request the manager to submit an amended budget to council which shall consider it in the same manner as provided in section 3063 (relating to preparation and adoption of budget), except that final adoption of the amended budget shall not be later than February 15 of the same year.

SUBCHAPTER E
SMALL MUNICIPALITY PLAN

Sec.

- 3071. Designation and applicability of plan.
- 3072. Officers.
- 3073. Election of council members.
- 3074. Organization of council.
- 3075. Powers and duties of council.
- 3076. Municipal clerk or secretary, solicitor and agencies.
- 3077. Powers and duties of executive.
- 3078. Appointment of officers and employees by executive.
- 3079. Preparation and adoption of budget.
- 3080. Amended budget.

§ 3071. Designation and applicability of plan.

The form of government provided in this subchapter shall be known as the "Small Municipality Plan." It may be adopted by any municipality having a population of less than 7,500 inhabitants by the last Federal census. The plan, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), shall govern any municipality the voters of which have adopted it pursuant to this subpart.

§ 3072. Officers.

Each municipality shall be governed by an elected executive (mayor) and council members, an elected district attorney in the case of counties and, if so provided under the plan, an elected treasurer or elected controller and any other officers

as shall be appointed pursuant to this subchapter, general law or ordinance.

§ 3073. Election of council members.

The council shall consist of the executive (mayor), who shall be elected at large, and two council members unless pursuant to the authority granted under section 2924 (relating to specificity of recommendations) the municipality is governed by an executive (mayor) and four council members, an executive (mayor) and six council members or an executive (mayor) and eight council members. Members of the council shall be elected at large unless the plan provides that members shall be elected on a district basis in which each district is as equal in population as is feasible or on a combination at-large and district basis as determined by the government study commission or as specified in an initiative petition or ordinance of the governing body under the provisions of sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) at a regular municipal election by the voters of the municipality. The members of the council shall serve a term of four years beginning on the first Monday in January next following their election, except as provided in this subpart.

Cross References. Section 3073 is referred to in section 2924 of this title.

§ 3074. Organization of council.

On the first Monday of January following the regular municipal election, the members of the council shall assemble at the usual place of meeting and organize. The executive (mayor) shall preside at all meetings of the council and shall have a voice and vote on its proceedings. The council shall select from among its members a president of the council who shall serve in place of the executive (mayor) in the event of his absence or disability.

§ 3075. Powers and duties of council.

The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. A majority of the whole number of the council shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time.

§ 3076. Municipal clerk or secretary, solicitor and agencies.

(a) Municipal clerk or secretary.--A municipal clerk or secretary shall be appointed in the manner set forth in the administrative ordinance, as provided pursuant to section 3146 (relating to passage of administrative ordinance). The municipal clerk or secretary shall serve as clerk of the council, keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this subpart requires and perform any functions as may be required by law. The clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

(b) Solicitor and agencies.--The council may, consistent with statutes applicable to that class of municipality, provide for the manner of appointment of a solicitor, any planning board, zoning board of adjustment, zoning hearing board or personnel board in the municipality and may create commissions and other bodies with advisory powers.

§ 3077. Powers and duties of executive.

The executive power of the municipality shall be exercised by the executive (mayor). The executive shall see that all laws and ordinances in force and effect within the municipality are

observed. He shall address the council and report to the residents, annually and at any other times as he deems desirable, on the condition of the municipality and upon its problems of government. The executive (mayor) shall also appoint a finance committee of the council, which shall consist of one or more council members, and may appoint and designate other committees of council of similar composition.

§ 3078. Appointment of officers and employees by executive.

The executive (mayor) shall appoint subordinate officers and employees with the advice and consent of council under procedures established in section 3122 (relating to appointment of subordinate officers and employees), except that, in counties, the office of prothonotary and clerk of courts, register of wills and clerk of orphans court shall be filled by appointment by the president judge of the appropriate court with advice and consent of a majority of the council.

§ 3079. Preparation and adoption of budget.

The municipal budget shall be prepared by the executive (mayor) and shall be submitted to council in the form required by council. The budget as submitted and adopted shall be balanced. Council shall, upon introduction of the proposed budget, fix a date for adoption thereof which shall be not later than December 31 immediately following.

Cross References. Section 3079 is referred to in section 3080 of this title.

§ 3080. Amended budget.

During the month of January next following any municipal elections, the executive (mayor), upon his own initiative or at the request of council, may submit an amended budget to council which shall consider it in the same manner as provided in section 3079 (relating to preparation and adoption of budget), except that final adoption of the amended budget shall not be later than February 15 of the same year.

SUBCHAPTER F
OPTIONAL COUNTY PLAN

Sec.

- 3091. Designation and applicability of plan.
- 3092. County officers.
- 3093. Powers.
- 3094. Additional options for election of county sheriff.
- 3095. Approval of plan.

Cross References. Subchapter F is referred to in sections 3111, 3131, 3151, 3153, 3163 of this title.

§ 3091. Designation and applicability of plan.

The form of government provided in this subpart shall be known as the "Optional County Plan" and shall, together with Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), govern any county the voters of which have adopted this plan pursuant to this subpart. This option shall be available only to counties.

Cross References. Section 3091 is referred to in section 3095 of this title.

§ 3092. County officers.

- (a) **Enumeration.**--The county officers shall be as follows:
 - (1) County commissioner.

- (2) Controller or auditor.
- (3) District attorney.
- (4) Public defender.
- (5) Treasurer.
- (6) Sheriff.
- (7) Register of wills.
- (8) Recorder of deeds.
- (9) Prothonotary.
- (10) Clerk of the courts.

(b) Election and term of office.--County officers, except for public defenders, who shall be appointed as provided by law, shall be elected at the municipal election and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors are duly qualified. Vacancies shall be filled in the manner provided by law.

(c) Salaries and fees.--County officers shall be paid only by salary as provided by law for services performed for the county or any other governmental unit. Fees incidental to the conduct of any county office shall be payable directly to the county or the Commonwealth or as otherwise provided by law.

(d) County commissioners.--Three county commissioners shall be elected in each county. In the election of these officers, each qualified elector shall vote for not more than two persons, and the three persons receiving the highest number of votes shall be elected.

(e) Coroner or medical examiner.--The coroner or medical examiner shall be a statutory office elected at the municipal election and shall hold the office for the term of four years, beginning on the first Monday of January next after election, and until his successor is duly qualified. He shall be paid only by salary as provided by law. Vacancies shall be filled in the manner provided by law.

(f) Jury commissioners.--Jury commissioners shall be statutory officers and shall be elected at the municipal election and shall hold their office for the term of four years, beginning on the first Monday of January next after election, and until their successors are duly qualified. The salary board shall fix the salary of the jury commissioners. Vacancies in the office of jury commissioner shall be filled by the president judge of the court of common pleas.

Cross References. Section 3092 is referred to in section 2924 of this title.

§ 3093. Powers.

All county officers may exercise those powers granted by general law to county offices of the class of county to which it belongs.

§ 3094. Additional options for election of county sheriff.

A government study commission created and constituted as provided in Subchapter B of Chapter 29 (relating to procedure for adoption of home rule charter or optional plan of government) for counties or an initiative petition or ordinance of the governing body as authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question) may recommend and cause to be placed on the ballot, as a part of the question submitted to the voters for approval, additional options as part of the optional plans as set forth in this chapter providing for the election of the county sheriff.

Cross References. Section 3094 is referred to in section 2924 of this title.

§ 3095. Approval of plan.

If the optional plan, including an additional option or options as provided in section 3091 (relating to designation and applicability of plan), is approved by the voters, the county shall be governed by the provisions of the subchapter providing the basic optional plan and by the provisions of Subchapter F of Chapter 29 (relating to general provisions and limitations for optional plan municipalities) and Subchapter A of Chapter 31 (relating to officers and employees), except that the elected sheriff shall be subject to the provisions pertaining to that office as provided in this subchapter.

CHAPTER 31

GENERAL PROVISIONS COMMON TO OPTIONAL PLANS

Subchapter

- A. Officers and Employees
- B. Treasurer
- C. Appointment Power and Personnel
- D. Filling Vacancies in Elected Office
- E. Legislation by Council
- F. Audit and Control
- G. Transition to Optional Plan Government
- H. Repeal of Optional Plan

Enactment. Chapter 31 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

Cross References. Chapter 31 is referred to in section 3001 of this title; section 14406.1 of Title 11 (Cities).

SUBCHAPTER A

OFFICERS AND EMPLOYEES

Sec.

- 3101. Adverse interest in contracts for purchase or services.
- 3102. Acceptance of services at more favorable terms.
- 3103. Gift or promise of thing of value to influence political support.
- 3104. Refusal or failure to appear or testify before court.

Cross References. Subchapter A is referred to in sections 3031, 3041, 3051, 3071, 3091, 3095 of this title.

§ 3101. Adverse interest in contracts for purchase or services.

(a) General rule.--If a municipal officer or official elected or appointed knows or by the exercise of reasonable diligence should know that he is interested to any appreciable degree, either directly or indirectly, in any contract for the sale or furnishing of any personal property for the use of the municipality or for any services to be rendered for the municipality involving the expenditure of more than \$300 in any year, he shall notify council. Any such contract shall not be passed and approved by council except by an affirmative vote of at least three-fourths of the members. If the interested officer is a member of council, he shall refrain from voting upon the contract.

(b) Exception.--This section does not apply to cases where the officer or official is an employee of the person, firm or

corporation to which money is to be paid in a capacity with no possible influence on the transaction and in which he cannot possibly be benefited either financially or in any other material manner.

(c) Penalties.--Any officer or official who knowingly violates this section shall be liable to the municipality upon his bond, if any, or personally, to the extent of the damage shown to be sustained by the municipality, and to ouster from office and commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$500, or imprisonment not exceeding one year, or both.

§ 3102. Acceptance of services at more favorable terms.

An officer or employee shall not accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality any interurban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service or accept or receive, directly or indirectly, from any person any other service upon terms more favorable than is granted to the public generally, except that the prohibition of free transportation shall not apply to police officers or firefighters in uniform. Free service to the municipal officials provided by any franchise or ordinance shall not be affected by this section.

§ 3103. Gift or promise of thing of value to influence political support.

(a) General rule.--A candidate for office, appointment or employment or an officer, appointee or employee in any municipality shall not, directly or indirectly, give or promise to any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person.

(b) Penalty.--Any person who violates subsection (a) shall be disqualified to hold the office or employment to which he may be or may have been elected or appointed.

§ 3104. Refusal or failure to appear or testify before court.

Any person elected or appointed to any office or position in a municipality governed under this subpart who, after lawful notice or process, willfully refuses or fails to appear before any court, any legislative committee or the Governor, or having appeared refuses to testify or to answer any question regarding the property, government or affairs of the municipality or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or refuses to waive immunity from prosecution on account of any matter in relation to which he may be asked to testify, may be removed from office by the council of the municipality.

SUBCHAPTER B
TREASURER

Sec.

3111. Selection and duties of municipal treasurer.

§ 3111. Selection and duties of municipal treasurer.

(a) General rule.--Under any of the optional plans as set forth in this subpart, except for the plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), the office of municipal treasurer may be omitted or may be filled by appointment or by election, as provided in the plan. If the office of municipal treasurer is to be filled by

appointment, the appointment shall be made in accordance with the appointment procedures for other department heads.

(b) Powers and duties of elected treasurer.--The municipal treasurer, if elected, shall perform the functions and duties and have the powers relating to the collection, receiving, safekeeping and payment over of public moneys, including municipal, county, institution district and school district taxes, as provided by law and shall have any other functions, powers and duties assigned to him by the executive of the municipality.

SUBCHAPTER C

APPOINTMENT POWER AND PERSONNEL

Sec.

3121. Appointment of members of boards and commissions.

3122. Appointment of subordinate officers and employees.

§ 3121. Appointment of members of boards and commissions.

The appointment power of the chief executive of the municipality under any of the plans authorized by this subpart shall include the appointment of members of boards and commissions authorized by this subpart, by law or by action of municipal council. All such appointments shall be with the advice and consent of a majority of municipal council.

§ 3122. Appointment of subordinate officers and employees.

(a) General rule.--Appointments and promotions of subordinate officers and employees within departments shall be made by the department head on the basis of a personnel system which shall include written procedures for appointment and promotion based on merit and fitness as demonstrated by examination or other evidence of competence for the position.

(b) Personnel rules.--The personnel system shall be governed by personnel rules which shall be prepared by the executive (mayor) or manager and submitted to the municipal council which shall adopt them with or without amendments unless otherwise provided for or arrived at by collective bargaining. The personnel rules may provide for:

(1) The classification of all municipal positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by change of circumstances.

(2) A pay plan for all municipal positions.

(3) Methods for determining the merit and fitness of candidates for appointment or promotion.

(4) The policies and procedures regulating reduction in force and disciplinary action, including suspension and removal of employees.

(5) The hours of work and provisions for sick and vacation leave and holidays and overtime compensation.

(6) Grievance procedures, including procedures for the hearing of grievances.

(7) Other practices and procedures necessary to the administration of the municipal personnel system.

Cross References. Section 3122 is referred to in sections 3013, 3062, 3078 of this title.

SUBCHAPTER D

FILLING VACANCIES IN ELECTED OFFICE

Sec.

3131. Applicability of subchapter.

3132. Manner of filling vacancies in office.

§ 3131. Applicability of subchapter.

This subchapter shall apply to the filling of vacancies in elected office in all optional plans and options except those set forth in Subchapter F of Chapter 30 (relating to optional county plan).

§ 3132. Manner of filling vacancies in office.

(a) Members of council.--

(1) If a vacancy exists in the municipal council, the municipal council shall, by a majority of its remaining members, fill the vacancy within 30 days thereafter by electing a qualified person to serve until that first Monday of January when his successor is duly sworn into office for the remainder of the term of the person originally elected to the office. The successor shall be elected at the next municipal election occurring at least 50 days after the vacancy begins.

(2) In case vacancies should exist whereby the offices of a majority or more members of the municipal council become vacant, the remaining members shall fill the vacancies, one at a time, giving each new appointee reasonable notice of his appointment as will enable him to meet and act with the then qualified member or members of the municipal council in making further appointments until a bare majority of members of municipal council members have been qualified. At that time these members shall appoint persons to fill the remaining vacancies at a meeting attended by the majority members of municipal council, such appointees to receive a majority of the votes of the members present at the meeting. Each person selected to fill the vacancy or vacancies shall hold his office as provided in this subsection.

(3) If, by reason of a tie vote or otherwise, the vacancy shall not have been filled by the remaining members of municipal council within the time as limited in this subsection, the court of common pleas upon the petition of ten or more qualified electors shall fill the vacancy by the appointment of a qualified person for the portion of the unexpired term as provided in this subsection.

(b) Other officers.--

(1) If a vacancy occurs in the office of executive (mayor), municipal treasurer, if elected, municipal controller, if elected, county district attorney or county sheriff, if elected, the municipal council shall fill the vacancy within 30 days thereafter by choosing an executive (mayor), a municipal treasurer, a municipal controller, a county district attorney or a county sheriff, as the case may be, to serve until his successor is elected by the qualified electors at the next municipal election occurring at least 50 days after the vacancy occurs and is duly sworn into office. The person so elected shall serve from the first Monday of January next succeeding his election for the remainder of the term of the person originally elected to the office.

(2) If, by reason of a tie vote or otherwise, a vacancy in the office of executive (mayor), treasurer, controller, county district attorney or county sheriff has not been filled by council within the time as limited in this subsection, the court of common pleas, upon petition of ten or more qualified electors, shall fill the vacancy by the

appointment of a qualified person for the portion of the unexpired term as provided in this subsection.

SUBCHAPTER E

LEGISLATION BY COUNCIL

Sec.

- 3141. Regular and special meetings of council.
- 3142. Procedure and functions of council.
- 3143. Adoption of ordinances.
- 3144. Recording and compilation of ordinances and resolutions.
- 3145. Filing and publication of rules and regulations.
- 3146. Passage of administrative ordinance.

§ 3141. Regular and special meetings of council.

The council shall, by ordinance or resolution, designate the time of holding regular meetings which shall be at least monthly. The executive (mayor) or the president of council may and, upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call, he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk or secretary shall keep a journal of its proceedings and record the minutes of every meeting.

§ 3142. Procedure and functions of council.

(a) **Rules of procedure.**--Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, and no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

(b) **Adoption of ordinances and resolutions.**--Each ordinance or resolution shall be presented and considered as determined by council rules of procedure. The vote upon every motion, resolution or ordinance shall be taken by roll call, and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at the meeting and by the municipal clerk or secretary.

(c) **Administrative ordinance.**--Council shall adopt by ordinance an administrative ordinance which shall provide for the establishment and filling of additional administrative offices which it deems necessary and shall provide for administrative procedures not otherwise provided for in this subpart or by general law.

(d) **Compensation of controller and treasurer.**--The compensation of the controller and treasurer shall be fixed by the council.

§ 3143. Adoption of ordinances.

(a) **General rule.**--Except as may otherwise be provided in this subpart, all ordinances shall be adopted and published as provided by law. Any ordinance may incorporate by reference any standard technical regulation or code, official or unofficial, which need not be so published whenever ten copies of the regulations or code have been placed on file in the office of the municipal clerk or secretary and in the office of the body or department charged with the enforcement of the ordinance.

(b) **Effective date.**--No ordinance, other than the local budget ordinance, shall take effect less than ten days after its final passage by council and approval by the executive (mayor) where that approval is required, unless the council adopts a resolution declaring an emergency and at least a

majority plus one of all the members of the council vote in favor of the resolution.

§ 3144. Recording and compilation of ordinances and resolutions.

The municipal clerk or secretary shall record all ordinances and resolutions adopted by council and, at the close of each year, with the advice and assistance of the municipal solicitor, shall bind, compile or codify all the ordinances and resolutions or true copies thereof which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

§ 3145. Filing and publication of rules and regulations.

No rule or regulation made by any department, officer, agency or authority of the municipality, except as it relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or secretary or in any other manner provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

§ 3146. Passage of administrative ordinance.

The council shall prepare and pass an administrative ordinance which shall provide for the manner of appointment of a solicitor, clerk or secretary, may create commissions and other bodies with advisory powers and may include additional provisions relating to the internal structure of the municipality as long as the provisions of the administrative ordinance are not in conflict with this subpart.

Cross References. Section 3146 is referred to in sections 3009, 3057, 3076 of this title.

SUBCHAPTER F
AUDIT AND CONTROL

Sec.

3151. Exercise of financial management control functions.

3152. Post audits by independent auditor.

3153. Selection of controller.

§ 3151. Exercise of financial management control functions.

The council shall provide by separate ordinance or in the administrative ordinance for the exercise of a control function in the management of the finances of the municipality by the municipal controller or an independent auditor or, in the case of the optional plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), by the controller or auditors.

§ 3152. Post audits by independent auditor.

The council may provide for annual post audits of all accounts by an independent auditor who shall be a certified public accountant registered in this Commonwealth or a firm of certified public accountants registered in this Commonwealth.

§ 3153. Selection of controller.

Under any of the optional plans as set forth in this subpart, except for the plans set forth in Subchapter F of Chapter 30 (relating to optional county plan), the office of controller may be omitted or it may be filled by election by the electors rather than by appointment when recommended by the government study commission and adopted by the electors. If the office of controller is to be filled by appointment, a controller shall be appointed for an indefinite term by a majority of the members of the governing body.

SUBCHAPTER G
TRANSITION TO OPTIONAL PLAN GOVERNMENT

Sec.

- 3161. Applicability of plan.
- 3162. Status and term of office of officials.
- 3163. Compensation of elected officials.
- 3164. Status of existing ordinances and resolutions.
- 3165. Abolishment of existing appointive offices.
- 3166. Pending actions and proceedings.

§ 3161. Applicability of plan.

Whenever the electors of a municipality adopt any of the optional plans provided by this subpart at any election for that purpose, the municipality shall be governed under the provisions of that plan, the provisions of law applicable to that class of municipality and this subpart from the first Monday in January following the municipal election occurring after the next succeeding primary election, except as provided in section 2924 (c) (relating to specificity of recommendations).

Cross References. Section 3161 is referred to in section 3162 of this title.

§ 3162. Status and term of office of officials.

(a) Existing elected official.--Any elected municipal official in office at the time of the adoption of any optional plan provided by this subpart shall continue in office only until the new plan of government goes into effect as provided in section 3161 (relating to applicability of plan), except as otherwise provided in subsections (c) and (d).

(b) Members of council.--At the municipal election next succeeding the adoption of one of the optional plans provided for in this subpart, if four or fewer council members are elected, they shall serve for terms of four years. If five are elected, the four successful candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the candidate receiving the next highest percentage of votes shall serve for a term of two years. If six or more council members are elected, the five candidates receiving the highest percentage of the votes cast for the office to which they are elected shall serve for terms of four years, and the remaining successful candidates receiving the next highest percentage of votes shall serve for terms of two years. Thereafter, all council members shall be elected for terms of four years. Where the term of office for council members under the adopted plan is different from the term of office for council members under an existing form of government, the terms of office for council members so elected shall be established so that, at each subsequent municipal election at which council members are elected, the number of council members to be elected shall be as nearly equal as possible to the number of council members to be elected at every other regular municipal election at which council members are elected.

(c) Treasurer, controller, district attorney and sheriff.--If an elected municipal treasurer or elected municipal controller, elected county district attorney or elected county sheriff is in office at the time of the adoption of an optional plan under the provisions of this subpart, a treasurer, controller, district attorney or sheriff, as the case may be,

shall not be elected or appointed to take office until after the resignation, death, removal or expiration of the term of the incumbent in the office. At the expiration of the term of the incumbent, a treasurer, controller, district attorney or sheriff, as the case may be, shall be elected or appointed for the full term for the office as provided by the optional plan adopted.

(d) Continuation of existing members of council in office.--Any member of a municipal governing body in office at the time of the adoption of an optional plan shall remain in office, continuing as an at-large or district council member, as the case may be, until the expiration of this term in office and shall receive the compensation provided by law at that time:

(1) If that council member was elected on an at-large basis, the newly adopted optional plan provides for a total number of at-large council members equal to or exceeding the total number of at-large council members under the existing form of government.

(2) If that council member was elected on a district basis, the district from which that council member was elected remains unchanged and continues to encompass the exact same geographical area under the newly adopted optional plan as under the existing form of government and the number of council members to be elected from that district under the newly adopted optional plan is equal to or exceeds the number elected from that district under the existing form of government.

Any council member may, by writing filed with the municipal treasurer, direct that any portion of his annual compensation for serving in office be returned to the municipal treasury. For the purpose of this section, an executive or mayor who is also a member of the council under an existing plan shall be considered as a member of the council, and, after the new plan goes into effect, his duties shall be only those of a member of council as prescribed by the new plan.

(e) Number of members of council to be elected.--At the municipal election next succeeding the adoption of one of the optional plans provided for in this subpart, the number of council members prescribed by the terms in the plan less the number of council members then in office whose terms do not expire on the first Monday of January next following, as may be determined by subsection (d), shall be elected.

(f) Filling vacancies on council existing prior to election.--If there are vacancies in council occurring by reason of resignation, death or removal 90 days or more before the election, they shall be filled for the remainder of the term of the person originally elected to that office.

Cross References. Section 3162 is referred to in sections 3005, 3055 of this title.

§ 3163. Compensation of elected officials.

(a) Officials elected prior to transition year.--The annual compensation of the executive (mayor) and council members elected to their offices in the year prior to the transition year under any of the optional plans, except the plan set forth in Subchapter F of Chapter 30 (relating to optional county plan), adopted pursuant to this subpart shall be established by the commission as part of its recommendations or by the initiative petition or ordinance of the governing body authorized by sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for

referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question).

(b) Officials elected subsequent to transition.--The compensation of the executive (mayor), council members, controller and treasurer elected to their offices subsequent to the transition to any of the optional plans set forth in this subpart, except for the plan set forth in Subchapter F of Chapter 30, shall be fixed by ordinance of council adopted at least two days prior to the last day fixed by law for candidates to withdraw their names from nomination previous to the municipal election. After the compensation is fixed by ordinance, only an increase or decrease thereof need be fixed by the ordinance.

§ 3164. Status of existing ordinances and resolutions.

On the effective date of an optional plan adopted pursuant to this subpart, all ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this subpart shall remain in full force and effect.

§ 3165. Abolishment of existing appointive offices.

(a) General rule.--On the effective date of an optional plan adopted pursuant to this subpart, all appointive offices then existing in such municipality shall be abolished and the terms of all appointed officers shall immediately cease and terminate. This section does not abolish the office or terminate the terms of office of any alderman or constable or of any official or employee now protected by any tenure of office or civil service law or of any police officer or firefighter whether or not protected by a tenure of office law.

(b) Use of resolution to govern interim proceedings.--Provisions for officers and for the organization and administration of the municipal government under the optional plan may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than 60 days after the effective date of the optional plan.

§ 3166. Pending actions and proceedings.

All actions and proceedings of a legislative, executive or judicial character, pending upon the effective date of an optional plan, may continue. The appropriate officer or employee under the optional plan shall be substituted for the officer or employee exercising or discharging the function, power or duty involved in the action or proceeding before the effective date.

SUBCHAPTER H

REPEAL OF OPTIONAL PLAN

Sec.

3171. Repeal of optional plan and establishment of new form of government.

§ 3171. Repeal of optional plan and establishment of new form of government.

(a) General rule.--The procedure for repeal of an optional plan shall be the same as for adoption of an optional plan as provided in Subchapter B of Chapter 29 (relating to procedure for adoption of home rule charter or optional plan of government), excluding the procedure provided in sections 2942 (relating to initiation of amendment by electors or council), 2943 (relating to petition for referendum or ordinance proposing amendment) and 2944 (relating to time and manner of submission of question). Whenever the electors, by a majority vote of those

voting on the question, vote in favor of repeal of an optional plan and the establishment of a particular form of government, the municipality shall be governed under the form of government selected by the electors. The form of government so approved shall take effect on the first Monday of January following the municipal election at which the elective officials of the form of government selected by the electors shall have been elected. The government study commission shall provide in its report for the new form of government to be established.

(b) Amendment procedure.--This section does not prohibit or limit the procedure provided in sections 2942, 2943 and 2944 to amend an optional plan.

PART V

PUBLIC IMPROVEMENTS, UTILITIES AND SERVICES

Subpart

A. General Provisions

Enactment. Part V was added December 19, 1996, P.L.1158, No.177, effective in 60 days, unless otherwise noted.

SUBPART A

GENERAL PROVISIONS

Chapter

- 54. Business Improvement Districts
- 55. Parking Authorities
- 56. Municipal Authorities
- 57. Taxicabs and Limousines in First Class Cities
- 57A. Transportation Network Companies
- 57B. Regulation of Taxicabs and Limousines in Cities of the First Class
- 58. Contractors' Bonds and Financial Security for Redevelopment Contracts (Repealed)
- 59. Pennsylvania Convention Center Authority (Repealed)
- 60. Optional Affordable Housing Funding
- 61. Neighborhood Blight Reclamation and Revitalization

CHAPTER 54

BUSINESS IMPROVEMENT DISTRICTS

Sec.

- 5401. Short title and scope of chapter.
- 5402. Definitions.
- 5403. Powers of governing body.
- 5404. Administrative services provided by cities of the second class.
- 5405. Assessment authorized.
- 5406. Method and payment of assessment.

Enactment. Chapter 54 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

§ 5401. Short title and scope of chapter.

(a) Short title of chapter.--This chapter shall be known and may be cited as the Business Improvement District Act.

(b) Scope of chapter.--This chapter applies to municipal corporations.

§ 5402. Definitions.

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

"Costs of improvements." Engineering, architectural, attorney or other consulting fees, preliminary planning, feasibility studies, financing costs and other costs necessary and incidental to the completion of the improvement.

"Municipal corporation." Any city, borough or incorporated town.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 added the def. of "municipal corporation."

§ 5403. Powers of governing body.

The governing body of every municipal corporation shall have the power:

(1) To establish within the municipal corporation an area or areas designated as a business improvement district, which district or districts may be designated as all or part of any community which is zoned commercial or which is used for general commercial purposes.

(2) To appropriate and expend those amounts as may be necessary for preliminary planning or feasibility studies to determine needed improvements in business improvement districts, to recommend improvement to individual properties and to provide where required basic design criteria. Public hearings shall be required before passage of the enabling ordinance at which any interested party may be heard. Notice of the hearings shall be advertised at least ten days prior thereto in a newspaper circulating in the municipal corporation. The ordinance shall specify improvements, with respective costs. The ordinance shall not become effective if, before the expiration of 20 days after its enactment, property owners of the proposed district whose property valuation as assessed for taxable purposes amounts to more than 50% of the total property valuation of the district sign and file in the office of the prothonotary of the court of common pleas a written protest against the ordinance.

(3) To appropriate and expend in accordance with the specific provisions of the enabling ordinance such amounts as may be required to acquire by purchase or lease real or personal property to effectuate the purposes of the improvement district, including sidewalks, retaining walls, street paving, street lighting, parking lots, parking garages, trees and shrubbery purchased and planted, pedestrian walks, sewers, water lines and rest areas and acquisition and remodeling or demolition of blighted buildings and similar or comparable structures. No improvement shall be made to property which has not been acquired.

(4) To acquire by gift, purchase or eminent domain, land, real property or rights-of-way which may be needed for the purposes of the projected improvements within the district.

(5) To issue bonds, notes or guarantees in accordance with the provisions of general laws authorizing borrowing by cities of the first class or in accordance with Subpart B of Part VII (relating to indebtedness and borrowing), whichever is applicable, in the amounts and for the periods necessary to finance the projected improvements for any district.

Cross References. Section 5403 is referred to in section 5404 of this title.

§ 5404. Administrative services provided by cities of the second class.

In addition to the powers of the governing body established in section 5403 (relating to powers of governing body), cities of the second class shall have the power to provide administrative services: that is, those services which improve the ability of the commercial establishments of the district to serve the consumer, including, but not limited to, free or reduced fee parking for customers, transportation repayments, public relations programs, group advertising and district maintenance and security services.

§ 5405. Assessment authorized.

The governing body may impose an assessment on each benefited property within a business improvement district which shall be determined by the total cost of the improvements in the district but not in excess of the amount legally assessable.

§ 5406. Method and payment of assessment.

(a) Method.--The total cost of the administrative services or improvements in the district shall be assessed to all of the benefited properties in the district by one of the following methods:

(1) By an assessment determined by multiplying the total service and improvement cost by the ratio of the assessed value of the benefited property to the total assessed valuation of all benefited properties in the district.

(2) By an assessment upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with law.

(3) In the case of improvements by an assessment upon the several properties in the district abutting the improvements or benefiting from the services, or, where more than one type of improvement or service is involved, designated types, by the front-foot method, with equitable adjustments for corner properties and other cases provided for in the assessment ordinance. Any property which cannot be equitably assessed by the front-foot method may be assessed by the method provided in paragraph (2).

(b) Payment.--The governing body may by ordinance authorize the payment of the assessment in equal annual or more frequent installments over such time and bearing interest at the rate specified in the ordinance. If bonds have been issued and sold, or notes or guarantees have been given or issued, to provide for the cost of the services and improvements, the assessment in equal installments shall not be payable beyond the term for which the bonds, notes or guarantees are payable.

(c) Claims to secure assessments.--Claims to secure the assessments shall be entered in the prothonotary's office at the time and in the form and shall be collected in the manner that municipal claims are filed and collected. If installment payments are authorized pursuant to subsection (b), the ordinance may contain any or all of the following provisions:

(1) Notwithstanding the filing of the claims, all assessments which are made payable in installments shall constitute liens and encumbrances upon the respective benefited properties, at the beginning of each calendar year, except as provided in paragraph (2), only in an amount equal to the sum of:

(i) the annual or other installments becoming payable in such year, with interest and penalties, if any, thereon; and

(ii) the total of all installments, with interest and penalties thereon, which became due during prior years and which remain due and unpaid at the beginning of the current year.

(2) In the case of default in the payment of any installment and interest for a period of 90 days after the payment becomes due, the assessment ordinance may provide either for the entire assessment, with accrued interest and penalties to become due and become a lien from the due date of the installment, or may provide solely for the enforcement of the claim as to the overdue installment, with interest and penalties, in which case the ordinance shall further provide that, if any installment or portion thereof remains due and unpaid for one year after it has become due and payable, then the entire assessment with accrued interest and penalties shall become due and become a lien from the due date of the installment.

(3) No action taken to enforce a claim for any installment or installments shall affect the status of any subsequent installment of the same assessment, each of which shall continue to become a lien upon the property annually pursuant to paragraph (1).

(4) The ordinance may contain any other provision relating to installment assessments which is not inconsistent with applicable law.

(d) Payment in full.--Any owner of property against whom an assessment has been made may pay the assessment in full, at any time, with accrued interest and costs thereon, and such a payment shall discharge the lien of the assessment, or installments then constituting a lien, and shall also release the claim to any later installments.

(e) Benefits from administrative services.--No residential property shall be assessed under this chapter for any benefit received from administrative services.

(f) Construction of chapter.--Any reference in this chapter to services shall mean only those services provided by a city of the second class.

CHAPTER 55 PARKING AUTHORITIES

Sec.

- 5501. Scope of chapter.
- 5502. Declaration of policy.
- 5503. Definitions.
- 5504. Method of incorporation.
- 5505. Purposes and powers.
- 5506. Bonds.
- 5507. Bondholders.
- 5508. Governing body.
- 5508.1. Special provisions for authorities in cities of the first class.
- 5508.2. Additional special provisions for authorities in cities of the first class; mixed-use projects.
- 5508.3. Restrictions on authorities in cities of the first class.
- 5508.4. Granting of interests and mixed-use projects for authorities in cities of the second class.
- 5509. Acquisition of lands.
- 5510. Money of authority.

- 5510.1. Management of authority funds in cities of the first class.
- 5510.2. Special funds in cities of the first class.
- 5510.3. Bonds in cities of the first class.
- 5510.4. Contracts with obligees of an authority in cities of the first class.
- 5510.5. Commonwealth pledges in cities of the first class.
- 5510.6. Provisions of bonds and trust indentures in cities of the first class.
- 5510.7. Funds collected on behalf of a municipality (Deleted by amendment).
- 5510.8. Bonds to be legal investments.
- 5510.9. Validity of pledge.
- 5510.10. Security interest in funds and accounts.
- 5510.11. Limitation on authority under Federal bankruptcy code.
- 5511. Competition in award of contracts.
- 5512. Use of projects.
- 5513. Pledge by Commonwealth.
- 5514. Termination of authority.
- 5515. Exemption from taxation; payments in lieu of taxes.
- 5516. Transfer of existing facilities to authority.
- 5517. Severability.

Enactment. Chapter 55 was added June 19, 2001, P.L.287, No.22, effective immediately.

Special Provisions in Appendix. See section 5 of Act 22 of 2001 in the appendix to this title for special provisions relating to continuation of Parking Authority Law.

Cross References. Chapter 55 is referred to in section 57A01 of this title; section 12402.1 of Title 11 (Cities); sections 102, 6109 of Title 75 (Vehicles).

§ 5501. Scope of chapter.

This chapter deals with parking authorities.

§ 5502. Declaration of policy.

The General Assembly finds and declares as follows:

(1) Residential decentralization in municipalities has been accompanied by an ever-increasing trend in the number of persons entering the business sections by private automobile and other types of motor vehicles.

(2) The free circulation of traffic of all kinds through the streets of municipalities is necessary for the health, safety and general welfare of the public, whether residing in or traveling to, through or from such municipalities in the course of lawful pursuits.

(3) The greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion on the streets of municipalities.

(4) The parking or standing of motor vehicles of all kinds on the streets has contributed to this congestion to such an extent as to interfere seriously with the primary use of such streets for the movement of traffic.

(5) Parking or standing prevents the free circulation of traffic in, through and from the municipality; impedes rapid and effective fighting of fires and the disposition of police forces in the district; and endangers the health, safety and welfare of the general public.

(6) Parking or standing threatens irreparable loss in valuations of property in the municipality which can no longer be readily reached by vehicular traffic.

(7) This parking crisis, which threatens the welfare of the community, can be reduced by administering and enforcing an efficient system of on-street regulations and

by providing sufficient off-street parking and parking terminal facilities properly located in the several residential, commercial and industrial areas of the municipality.

(8) The establishment of authorities will promote the public safety, convenience and welfare.

(9) It is intended that the authority cooperate with all existing parking and parking terminal facilities so that private enterprise and government may mutually provide adequate parking services for the convenience of the public.

(10) The safety and welfare of the inhabitants of this Commonwealth is promoted by the creation in municipalities of authorities which shall exist and operate for the purposes contained in this chapter. Such purposes are declared to be public uses for which public money may be spent, and private property may be acquired by the exercise of the power of eminent domain.

§ 5503. Definitions.

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

"Authority." A body politic and corporate established under this chapter.

"Board." The governing body of an authority.

"Bond." Includes a note, bond, refunding bond and other evidence of indebtedness or obligations which the authority is authorized to issue under section 5505 (relating to purposes and powers).

"Boot." To place on a parked vehicle a mechanical device which is designed to be attached to the wheel or tire of the vehicle so as to prohibit its movement, for the enforcement of on-street parking regulations or delinquent parking tickets or fines.

"Cash flow deficit." A cash deficit occurring solely because revenues and expenditures, even when in balance on a fiscal year basis or with respect to any other period of computation, are not received and disbursed at equivalent rates throughout the fiscal year or other period of computation.

"City." A city of the first class, second class, second class A or third class.

"Construct." Includes acquire in a manner deemed desirable.

"Construction." Includes acquisition.

"Facility." A lot, building or structure above, at or below the surface of the earth. The term includes equipment, entrances, exits, fencing and all other accessories necessary or desirable for the safety and convenience of the parking of vehicles.

"Federal agency." The Federal Government, the President of the United States and any department or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the Federal Government.

"Government agency." The Governor, departments, boards, commissions, authorities and other officers and agencies of this Commonwealth, including, but not limited to, those which are not subject to the policy supervision and control of the Governor, any political subdivision, municipality, municipal or other local authority and any officer or agency of any such political subdivision or local authority. The term does not include any court or other officer or agency of the unified judicial system or the General Assembly or its officers and agencies.

"Government obligations."

(1) Direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the Federal Government, including, but not limited to, evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the Federal Government, which obligations are held in a custody account by a custodian under the terms of a custody agreement.

(2) The term includes obligations issued by any state of the United States or any political subdivision, public instrumentality or public authority of any state of the United States, provision for the full and timely payment of the principal or premium of and interest on which shall have been made by deposit with a trustee or escrow agent under an irrevocable security agreement of obligations described in paragraph (1).

"Improve." Includes extend and enlarge in a manner deemed desirable.

"Improvement." Includes extension and enlargement.

"Legislative body." The council of a city or borough and the board of commissioners of a first class township.

"Municipality." Any of the following:

(1) A city.

(2) A borough.

(3) A township of the first class.

"Obligee of an authority." Any holder or owner of any bond of an authority or any trustee or other fiduciary for any such holder or any provider of a letter of credit, policy of municipal bond insurance or other credit enhancement or liquidity facility for bonds of an authority.

"Off-street parking." Parking of vehicles in locations other than public streets or thoroughfares. The term includes all facilities of an authority and private and public parking lots and parking garages.

"On-street parking." Parking of vehicles on public streets or thoroughfares located within the physical boundaries of a municipality.

"Parent municipality." A municipality which establishes an authority.

"Project." Any structure, facility or undertaking which an authority is authorized to acquire, construct, improve, maintain or operate under this chapter.

"Qualified financial institution." A bank, bank and trust company, trust company, national banking association, insurance company or other financial services company whose unsecured long-term debt obligations in the case of a bank, trust company, national banking association or other financial services company or whose claims-paying abilities in the case of an insurance company are rated in any of the three highest rating categories without reference to subcategories by a rating agency. For purposes of this definition, the term "financial services company" includes any investment banking firm or any affiliate or division thereof which may be legally authorized to enter into the transactions described in this chapter pertaining, applicable or limited to a qualified financial institution.

"Rating agency."

(1) The term includes the following:

(i) Standard & Poor's Corporation and any successor thereto.

(ii) Moody's Investors Service and any successor thereto.

(iii) Fitch Investors Service, Inc., and any successor thereto.

(2) If the rating agencies cited in paragraph (1) shall no longer perform the functions of a securities rating service, the term shall mean any other nationally recognized rating service or services.

(Dec. 30, 2002, P.L.2001, No.230, eff. imd.; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted the defs. of "cash flow deficit," "Federal agency," "government agency," "government obligations," "obligee of an authority," "qualified financial institution" and "rating agency."

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5504. Method of incorporation.

(a) Procedure.--

(1) If a legislative body desires to organize an authority under this chapter, it shall adopt a resolution or ordinance signifying intention to do so.

(2) If the resolution or ordinance sets forth the proposed articles of incorporation in full, it shall not be required, any law to the contrary notwithstanding, in publishing the resolution or ordinance under the provisions of existing law, to publish the proposed articles of incorporation in full, but it shall be sufficient compliance with such law in the publication to set forth briefly the substance of the proposed articles of incorporation and to refer to the provisions of this chapter.

(3) Upon adoption under paragraph (1), the legislative body shall cause a notice of the resolution or ordinance to be published at least once in the legal newspaper of the county in which the authority is to be organized and at least once in a newspaper of general circulation in that county. The notice must:

(i) contain a brief statement of the substance of the resolution or ordinance, including the substance of the articles of incorporation, making reference to this chapter; and

(ii) state that, on a day certain not less than three days after publication of the notice, articles of incorporation of the proposed authority will be filed with the Secretary of the Commonwealth.

(b) Filing.--

(1) By the day specified in the notice under subsection (a)(3)(ii), the legislative body shall file with the secretary articles of incorporation and notice of publication of the notice under subsection (a)(3).

(2) The articles of incorporation must set forth all of the following:

(i) The name of the authority.

(ii) A statement that the authority is formed under this chapter.

(iii) The name of the municipality and the names and addresses of the members of the legislative body.

(iv) The names, addresses and terms of office of the first members of the board.

(3) The matters in the articles of incorporation under paragraph (2) shall be determined in accordance with this chapter.

(4) The articles of incorporation must be executed by the parent municipality by its proper officer and under its municipal seal.

(c) Certificate.--If the secretary finds that the articles of incorporation conform to law, the secretary shall, not prior to the day specified in subsection (a) (3) (ii), endorse approval on the articles. When proper fees and charges have been paid, the secretary shall file the articles and issue a certificate of incorporation to which shall be attached a copy of the approved articles. After issuance of the certificate of incorporation by the secretary, the corporate existence of the authority shall begin when the certificate has been recorded in the office for the recording of deeds in the county where the principal office of the authority is to be located. The certificate of incorporation shall be conclusive evidence of the fact that the authority has been incorporated. Proceedings may be instituted by the Commonwealth to dissolve an authority formed without substantial compliance with the provisions of this section.

(d) Certification.--When an authority has been organized and its officers have been elected, the secretary of the authority shall certify to the secretary the names and addresses of its officers and the principal office of the authority. Any change in the location of the principal office shall be certified to the secretary within ten days after the change.

Cross References. Section 5504 is referred to in section 5505 of this title.

§ 5505. Purposes and powers.

(a) General.--

(1) The authority shall constitute a public body corporate and politic, exercising public powers of the Commonwealth as an agency of the Commonwealth.

(2) The authority shall be known as the parking authority of the municipality.

(3) The authority shall not be deemed to be an instrumentality of the municipality.

(4) The authority may not engage in the performance of a municipal function except a function delegated to it by municipal ordinance or resolution passed under section 5504(a) (1) (relating to method of incorporation).

(b) Purposes.--The authority shall exist for the following purposes:

(1) Conduct necessary research activity to maintain current data leading to efficient operation of off-street parking and parking terminal facilities for the fulfillment of public needs in relation to such parking.

(2) Administer and enforce an efficient and coordinated system of on-street parking regulations where authorized by municipal ordinance or resolution.

(3) Establish a permanent, coordinated system of parking and parking terminal facilities.

(4) Plan, design, locate, acquire, hold, construct, improve, maintain and operate, own, lease as lessor or lessee land and facilities devoted to the parking of vehicles. The authority shall not have the power to engage in the sale of gasoline, the sale of automobile accessories, automobile repair and service or any other garage service and shall not engage in the sale of any commodity of trade or commerce.

(c) Partial leasing.--

(1) Except as set forth in paragraph (2), the authority has the power to lease portions of the street level or other

floors of the parking facilities for commercial use and for any use in addition to parking, including emergency automobile repair service and the sale by the lessee of a commodity of trade or commerce or of a service if, in the opinion of the authority, leasing is desirable and feasible in order to assist in defraying the expenses of the authority. Leases under this paragraph shall be granted on a fair, competitive basis or a negotiated or competitive basis as the authority may deem best suited to accomplish the purpose of this paragraph. Nothing in this paragraph shall be construed to prohibit the sale or leasing by the authority, upon a negotiated or competitive basis as it may determine, of the right to occupy and use the space above or under a parking facility for any use in addition to parking, together with the right to use and occupy space within the parking facility as necessary for the purpose of access to and support of structures occupying the space above the parking facility.

(2) Paragraph (1) does not apply to the sale of:

- (i) gasoline; or
- (ii) automobile accessories.

(d) Powers.--An authority has all powers necessary or convenient for the carrying out of the purposes under this section, including:

(1) To have existence for a term of 50 years as a corporation. The term may be extended by the adoption of an ordinance by the legislative body of the parent municipality. The ordinance must specify an extended term not to exceed 50 years from the date of adoption. The ordinance must be certified, published and filed in the manner provided in section 5504(a).

(2) To sue and be sued.

(3) To adopt, use and alter a corporate seal.

(4) To acquire, purchase, hold, lease as lessee and use any property and any property interest necessary or desirable for carrying out the purpose of the authority. This paragraph includes franchises and property which is real, personal or mixed and which is tangible or intangible.

(5) To sell, lease as lessor, exchange, transfer and dispose of property or any property interest at any time required by it.

(6) To acquire a project by purchase, lease or otherwise and to construct, improve, maintain, repair and operate a project.

(7) To make bylaws for the management and regulation of its affairs.

(8) To appoint officers, agents, employees and servants, to prescribe their duties and to fix their compensation.

(9) To fix, alter, charge and collect rates and other charges for its facilities at reasonable rates to be determined exclusively by it, subject to appeal under this paragraph, for the purposes of providing for the payment of the expenses of the authority; for the construction, improvement, repair, maintenance and operation of its facilities and properties; for the payment of the principal of and interest on its obligations; and for fulfilling the terms and provisions of agreements made with the purchasers or holders of such obligations or with the municipality. Any person questioning the reasonableness of rates fixed by the authority may bring suit against the authority in the court of common pleas of the judicial district where the project is located. The court of common pleas shall have exclusive

jurisdiction to determine the reasonableness of the rates and other charges. This paragraph supersedes a contrary provision in any home rule charter, ordinance or resolution.

(10) To borrow money and to make and issue bonds. A bond shall have a maturity date not longer than 40 years from the date of issue, except that no refunding bonds shall have a maturity date longer than the life of the authority.

(11) To secure the payment of a bond under paragraph (10) by pledge or deed of trust of all or any of its revenues and receipts.

(12) To make agreements with the purchasers or holders of bonds or with others in connection with bonds, whether issued or to be issued, as the authority deems advisable and in general to provide for the security for bonds and the rights of the holders of bonds.

(13) To make contracts and to execute instruments necessary or convenient for the carrying on of its business.

(14) Without limitation of the powers in paragraphs (1) through (13), to borrow money and accept grants from, and to enter into contracts, leases or other transactions with, any Federal agency, the Commonwealth, a county, a city, a borough, a town, a township, a corporation or an authority.

(15) To have the power of eminent domain.

(16) To pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the authority as security for all or any of the obligations of the authority.

(17) To do all acts and things necessary:

(i) for the accomplishment of its purposes;

(ii) for the promotion of its business;

(iii) for the general welfare of the authority; and

(iv) to carry out the powers granted to the

authority by this chapter or any other statute.

(18) To enter into contracts with the Commonwealth, a municipality, a county, a town, a township of the second class, a corporation or an authority for the use of a project of the authority and fixing the amount to be paid for the contract.

(19) To enter into contracts of group insurance for the benefit of its employees.

(20) To set up a retirement or pension fund for its employees similar to that existing in the municipality where the principal office of the project is located.

(21) Notwithstanding anything to the contrary contained in this chapter, if authorized by resolution or ordinance of the legislative body of the parent municipality, to administer, supervise and enforce an efficient system of on-street parking regulation. This paragraph includes the power:

(i) to conduct research and maintain data related to on-street parking activities;

(ii) to issue parking tickets for illegally parked vehicles;

(iii) to collect on behalf of a municipality rates and other charges, including fines and penalties, for uncontested on-street parking violations;

(iv) to boot or tow a vehicle which is illegally parked or the owner of which is delinquent in payment of previously issued parking tickets; and

(v) to own or lease personal property used in connection with the exercise of any power provided in this paragraph.

The exercise by the authority of any power under this paragraph shall not be construed to constitute the prosecution of a summary offense under 42 Pa.C.S. Ch. 13 (relating to traffic courts).

(22) In cities of the first class, to serve as the exclusive impoundment official, exclusive impounding agent or exclusive towing agent for the enforcement of impoundment orders pursuant to 75 Pa.C.S. Ch. 63 (relating to enforcement) and to authorize towing and storage of vehicles and combinations by private towing agents for such purpose as necessary.

(23) In cities of the first class, to act as an independent administrative commission for the regulation of taxicabs and limousine service.

(24) In cities of the first class, to investigate and examine the condition and management of any entity providing taxicab and limousine service.

(25) In cities of the first class, to appoint and fix the compensation of chief counsel and assistant counsel to provide it with legal assistance. The provisions of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, shall not apply to parking authorities in cities of the first class.

(26) In cities of the first class, to pledge, hypothecate or otherwise encumber all or any of the real or personal property of the authority as security for all or any of the obligations of the authority.

(e) Prohibition.--

(1) The authority shall have no power to pledge the credit or taxing power of the Commonwealth or a political subdivision.

(2) An obligation of an authority shall not be deemed to be an obligation of the Commonwealth or a political subdivision.

(3) Neither the Commonwealth nor a political subdivision shall be liable for the payment of principal or of interest on an obligation of an authority.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.; Dec. 30, 2002, P.L.2001, No.230, eff. imd.; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted subsec. (d)(9), (22), (23) and (24) and added subsec. (d)(25) and (26). See sections 20(1), 22 and 24 of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts, applicability and publication in Pennsylvania Bulletin.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

2001 Amendment. Act 110 amended subsec. (d)(4) and (18), retroactive to June 19, 2001.

Cross References. Section 5505 is referred to in sections 5503, 5506, 5508.1, 5508.2, 5508.4, 5510, 5510.1 of this title.

§ 5506. Bonds.

(a) Authorization.--

(1) A bond must be authorized by resolution of the board. The resolution must specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

(iii) Interest.

- (iv) Denomination.
- (v) Form, either coupon or fully registered without coupons.
- (vi) Registration, exchangeability and interchangeability privileges.
- (vii) Medium of payment and place of payment.
- (viii) Terms of redemption not exceeding 105% of the principal amount of the bond.
- (ix) Priorities in the revenues or receipts of the authority.

(2) A bond must be signed by such officers as the authority determines. Coupon bonds must have attached interest coupons bearing the facsimile signature of the treasurer of the authority as prescribed in the authorizing resolution. A bond may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bond is actually delivered.

(3) A bond may be sold at public or private sale for a price determined by the authority. No bonds may be sold at less than 98% of the principal amount plus interest charges.

(4) Pending the preparation of a definitive bond, interim receipts or temporary bonds with or without coupons may be issued to the purchaser and may contain terms and conditions as the authority determines.

(b) Provisions.--A resolution authorizing bonds may contain provisions, which shall be part of the contract with the bondholder, as to the following:

(1) Pledging the full faith and credit of the authority for the obligation or restricting the full faith and credit of the authority to all or any of the revenue of the authority from all or any projects or properties.

(2) The construction, improvement, operation, extension, enlargement, maintenance and repair of the project and the duties of the authority with reference to these matters.

(3) Terms and provisions of the bond.

(4) Limitations on the purposes to which the proceeds of a bond then or thereafter issued or of a loan or grant by the United States may be applied.

(5) Rate of tolls and other charges for use of the facilities of or for the services rendered by the authority.

(6) Setting aside of reserves and sinking funds and the regulation and disposition of reserves and sinking funds.

(7) Limitations on the issuance of additional bonds.

(8) Terms and provisions of any deed of trust or indenture securing the bond or under which any deed of trust or indenture may be issued.

(9) Other additional agreements with the holder of the bond.

(c) Deeds of trust.--An authority may enter into any deed of trust, indenture or other agreement with any bank or trust company or other person in the United States having power to enter into such an arrangement, including any Federal agency, as security for a bond and may assign and pledge all or any of the revenues or receipts of the authority under such deed, indenture or agreement. The deed of trust, indenture or other agreement may contain provisions as may be customary in such instruments or as the authority may authorize, including provisions as to:

(1) construction, improvement, operation, maintenance and repair of a project and the duties of the authority with reference to these matters;

(2) application of funds and the safeguarding of funds on hand or on deposit;

(3) rights and remedies of trustee and bondholder, including restrictions upon the individual right of action of a bondholder; and

(4) terms and provisions of the bond or the resolution authorizing the issuance of the bond.

(d) Negotiability.--A bond shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

(e) Revenue and receipts.--Money collected or received by the authority on behalf of a municipality under section 5505(d)(21) (relating to purposes and powers) shall not be deemed to constitute revenues and receipts of the authority under this chapter or be subject to any debt or obligation of the authority.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (a)(1)(iii) and (3), retroactive to June 19, 2001.

§ 5507. Bondholders.

(a) Rights and remedies.--The rights and the remedies conferred upon bondholders under this section shall be in addition to and not in limitation of rights and remedies lawfully granted them by the resolution for the bond issue or by any deed of trust, indenture or other agreement under which the bond is issued.

(b) Trustee.--

(1) The holders of 25% of the aggregate principal amount of outstanding bonds may appoint a trustee to represent the bondholders for purposes of this chapter if any of the following apply:

(i) The authority defaults in the payment of principal or interest on a bond at maturity or upon call for redemption and the default continues for 30 days.

(ii) The authority fails to comply with this chapter.

(iii) The authority defaults in an agreement made with the bondholders.

(2) The trustee must be appointed by instrument:

(i) filed in the office of the recorder of deeds of the county where the authority is located; and

(ii) proved or acknowledged in the same manner as a deed to be recorded.

(3) A trustee under this subsection and a trustee under any deed of trust, indenture or other agreement may and, upon written request of the holders of 25% of the aggregate principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, shall in the trustee's name do any of the following:

(i) By action at law or in equity enforce rights of the bondholders. This subparagraph includes the right to require the authority to:

(A) collect rates, rentals or other charges adequate to carry out any agreement as to or pledge of revenues or receipts of the authority;

(B) carry out any other agreements with or for the benefit of bondholders; and

(C) perform its and their duties under this chapter.

(ii) Bring suit upon the bond.

(iii) By action in equity require the authority to account as if it were the trustee of an express trust for the bondholders.

(iv) Enjoin an action which may be unlawful or in violation of the rights of the bondholders.

(v) By notice in writing to the authority declare all bonds due and payable and, if all defaults are made good, with the consent of the holders of 25% of the principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, to annul such declaration and its consequences.

(4) A trustee under this subsection or a trustee under any deed of trust, indenture or other agreement, whether or not all bonds have been declared due and payable, shall be entitled to the appointment of a receiver.

(5) A receiver under paragraph (4):

(i) may enter and take possession of a facility of the authority or any part of a facility the revenues or receipts from which are or may be applicable to the payment of the bonds in default;

(ii) may operate and maintain the facility or part;

(iii) may collect and receive all rentals and other revenues arising from the facility after entry and possession in the same manner as the authority or the board might do; and

(iv) shall deposit money collected under subparagraph (iii) in a separate account and apply the money as the court directs.

(6) Nothing in this chapter authorizes a receiver appointed under paragraph (4) to sell, assign, mortgage or otherwise dispose of assets of whatever kind and character belonging to the authority. It is the intention of this chapter to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court directs. No bondholder or trustee shall have the right in an action at law or in equity to compel a receiver, nor shall a receiver be authorized or a court empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of assets of whatever kind or character belonging to the authority.

(7) The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth in this subsection or incidental to the general representation of the bondholders in the enforcement and protection of their rights.

(c) Jurisdiction.--The court of common pleas of the judicial district in which the authority is located shall have jurisdiction of an action by the trustee on behalf of the bondholders.

(d) Costs and fees.--In an action by the trustee, the court costs, attorney fees and expenses of the trustee and of the receiver and all costs and disbursements allowed by the court shall be a first charge on revenue and receipts derived from the facilities of the authority, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default.

§ 5508. Governing body.

(a) Scope.--This section does not apply to cities of the first class.

(b) Board.--

(1) The powers of an authority shall be exercised by a board composed of five members. The majority of the members must be residents of the municipality where the authority is located. Each member must be a resident of the county in which the municipality is located or maintain a business in the municipality served by the authority.

(2) The mayor of the city, the president of the borough council, the president of the board of township commissioners, as applicable, shall appoint the members of the board.

(3) Beginning on June 1, 1947:

- (i) one member shall serve for one year;
- (ii) one member shall serve for two years;
- (iii) one member shall serve for three years;
- (iv) one member shall serve for four years; and
- (v) one member shall serve for five years.

(4) After initial terms, the appointing officer shall, not sooner than 60 days nor later than 30 days prior to June 1 in each year in which a vacancy occurs, appoint a member of the board for a term of five years to fill the vacancy.

(5) A vacancy for an unexpired term which occurs more than 60 days before the end of a term shall be promptly filled by appointment by appointing authority.

(6) Members of the board may be removed at the will of the appointing authority.

(c) Succession.--A member shall hold office until a successor has been appointed. A member may succeed himself or herself.

(d) Compensation.--A member shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties.

(e) Officers.--The members of the board shall select from among themselves a chair, a vice chair and other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and technical experts and other agents and employees, permanent or temporary, as it requires and may determine the qualifications and fix the compensation of such individuals.

(f) Quorum.--Three members of the board constitute a quorum for meetings.

(g) Liability.--A member of the board shall not be liable personally on a bond or other obligations of the authority. Rights of creditors shall be solely against the authority.

(h) Delegation.--The board may delegate to an agent or employee powers as it deems necessary to carry out the purposes of this chapter, subject to the supervision and control of the board.

(i) Management.--The board has authority to manage the property and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and in which the powers granted to the authority may be exercised.

(Feb. 10, 2004, P.L.69, No.9, eff. 60 days)

2004 Amendment. Act 9 amended subsec. (b) (1).

§ 5508.1. Special provisions for authorities in cities of the first class.

(a) Scope.--This section applies only to cities of the first class.

(b) Initial.--Beginning on the effective date of this chapter, the powers of each authority shall be exercised by a board composed of not less than five nor more than 11 members.

(c) Subsequent.--Beginning June 1, 2006, the board shall be composed of six members.

(d) Residence.--In all cases, board members must be residents of the city.

(e) Appointment.--

(1) The Governor shall appoint six additional members of the board.

(2) Gubernatorial appointments shall be made as follows: two upon the Governor's own discretion, two from a list of at least three nominees prepared and submitted to the Governor by the President pro tempore of the Senate and two from a list of at least three nominees prepared and submitted to the Governor by the Speaker of the House of Representatives.

(3) The Governor shall select members from the lists provided from the President pro tempore of the Senate and the Speaker of the House of Representatives within 30 days of receipt of each list or may request one substitute list of nominees from either or both the President pro tempore of the Senate and the Speaker of the House of Representatives. If a substitute list requested by the Governor is not submitted within 30 days of the request, the Governor may at his discretion appoint board members to positions for which substitute lists of nominees were not submitted.

(4) In the event that the Governor fails to select a member from an original list of nominees within 30 days of the receipt of the list and fails to request a substitute list or should the Governor fail to select a member from a substitute list within 30 days of receipt of the list, the legislative presiding officer who prepared the list may appoint members to serve on the board.

(f) Terms.--

(1) Initial appointments shall be for a term beginning on the effective date of this chapter and expiring June 1, 2002.

(2) Subsequent to the initial terms, the terms of the members shall be staggered. For terms beginning June 1, 2002:

(i) members appointed from the list of nominees prepared by the President pro tempore of the Senate shall serve eight-year terms ending June 1, 2010;

(ii) members appointed from the list of nominees prepared by the Speaker of the House of Representatives shall serve nine-year terms ending June 1, 2011; and

(iii) members appointed by the Governor at his own discretion shall serve ten-year terms ending June 1, 2012.

(3) After the initial terms under paragraph (2), the Governor shall, not sooner than 60 days nor later than 30 days prior to June 1 in each year in which vacancies are due to occur, appoint members of the board for terms of ten years to succeed the members whose terms expire on the first day of June next succeeding in accordance with the appointment procedures provided in subsection (e). If the vacancies are for members selected from a list submitted by a legislative presiding officer, the Governor shall request a list of nominees from that officer not later than 90 days prior to the date the vacancies are scheduled to occur.

(g) Removal.--Except as authorized in this subsection, no board member may be removed from office during a term. The Governor may, upon clear and convincing evidence of misfeasance or malfeasance in office, remove a board member prior to the expiration of the term. The Governor shall then provide the board member so removed with a written statement of the reasons for removal.

(h) Vacancies.--If a vacancy occurs prior to the completion of the term of office of a member appointed from lists of nominees submitted by a legislative presiding officer, the Governor shall request a list of nominees from that officer within 30 days of the occurrence of the vacancy and proceed to make the vacancy appointment pursuant to the procedures of this section. All vacancy appointments shall be for the balance of the unexpired term.

(i) Continuation.--The members of the authority in existence on the effective date of this chapter shall continue in office until their terms of office expire in accordance with the act under which the members were appointed. At the expiration of that term, the position on the board shall be abolished. The term of a board member serving on the effective date of this chapter shall not extend beyond June 1, 2006. If a vacancy occurs in any of the board positions of incumbents described in this subsection prior to the expiration of the term, the vacancy shall not be filled, and the position at that time shall be abolished.

(j) Succession.--Except as provided in subsection (i), members shall hold office until their successors have been appointed and qualified, and they may succeed themselves.

(k) Compensation.--

(1) The chair selected under subsection (1) shall receive:

(i) for fiscal year 2001-2002, a salary of \$50,000; and

(ii) for each subsequent fiscal year, a salary to be determined by the board at not less than \$50,000.

(2) Except for the chair, members shall receive \$200 per meeting for their services.

(3) Board members shall be entitled to necessary expenses, including travel expenses, incurred in the discharge of duties.

(l) Officers and staff.--When the six additional members have been appointed and qualified pursuant to this section, the members of the board shall select from among themselves a chair, vice chair and such other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and such other agents and employees, permanent or temporary, as it requires. The board may determine the qualifications and fix the compensation of these individuals.

(m) Quorum.--

(1) Six members of the board constitute a quorum for its meetings until the composition of the board is reduced to nine members.

(2) At the time during which the board is composed of more than seven members but fewer than ten members, the quorum for its meetings is five members.

(3) Once the board is reduced to seven members and thereafter, a quorum for its meetings is four members.

(4) Until the six additional board members have been appointed by the Governor, the quorum to conduct business is three members.

(m.1) Liability.--Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against such authority.

(n) Delegation.--The board may delegate to an agent or employee powers it deems necessary to carry out the purposes of this chapter, subject to the supervision and control of the board.

(o) Management.--

(1) The board has authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and in which the powers granted to it may be exercised and embodied.

(2) Except as necessary to administer a system of on-street parking regulations pursuant to subsection (q.1), for all budgets, contracts, bonds or obligations of any kind commenced after January 1, 2003, the authority shall not be required to obtain the approval of an entity or officer under 351 Pa. Code Art. II (relating to legislative branch) or III (relating to executive and administrative branch--organization).

(p) Prohibition.--

(1) Except as set forth in paragraph (2), an authority may not enter into any contract with any other party or provide any additional employment protection, including civil service, to any employee or classification of employee during the moratorium period prescribed by paragraph (3).

(2) The moratorium required by this subsection shall not apply to the following:

(i) Contracts or leases which are subject to competitive bidding pursuant to section 5511 (relating to competition in award of contracts).

(ii) Contracts or leases of not more than 90 days' duration.

(iii) Contracts or leases which must be executed within the moratorium period in order to avoid a serious impairment to the functioning of the authority if such contracts are executed with the approval of the Secretary of General Services.

(3) The moratorium period shall commence on the effective date of this section and shall terminate upon the selection of a chair after each of the additional members has been appointed and qualified.

(q) Funding.--(Deleted by amendment).

(q.1) Delegation of powers and funding.--(Expired).

(r) Definition.--As used in this section, the term "legislative presiding officer" means:

(1) the President pro tempore of the Senate; or

(2) the Speaker of the House of Representatives.

(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; Feb. 10, 2004, P.L.69, No.9, eff. imd.; July 16, 2004, P.L.758, No.94, eff. imd.)

2014 Expiration. Subsec. (q.1) expired March 31, 2014. See Act 9 of 2004.

2004 Amendments. Act 9 added subsec. (q.1) and Act 94 reenacted subsec. (k), reenacted and amended subsec. (o) and deleted subsec. (q). See sections 20(2), 21(1), 22 and 24 of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts,

preservation of rights, obligations, duties and remedies, applicability and publication in Pennsylvania Bulletin.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5508.1 is referred to in section 5510.1 of this title.

§ 5508.2. Additional special provisions for authorities in cities of the first class; mixed-use projects.

(a) Scope.--This section applies only to cities of the first class.

(b) Legislative finding.--It is hereby determined and declared that:

(1) As a matter of legislative finding, the health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism.

(2) Unemployment, the spread of poverty and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth through the development of mixed-use projects by parking authorities in cities of the first class.

(3) Due to the size, total population and population density of a city of the first class, it may be inefficient to devote property within a city of the first class solely to parking facilities and that development of mixed-use projects that include a parking component and a commercial, industrial, residential or retail component can be an important factor in the continual encouragement, development, attraction, stimulation, growth and expansion of business, industry, commerce and tourism within a city of the first class, the surrounding counties and this Commonwealth as a whole.

(c) Mixed-use projects.--Without limiting the powers set forth in section 5505 (relating to purposes and powers), an authority shall have the power to do all acts that, in the judgment of the board, are necessary, convenient or useful to the development or operation of one or more mixed-use projects, including, with the approval of a city of the first class, the power to plan, design, locate, acquire, hold, construct, finance, improve, maintain, operate, own, lease, either in the capacity of lessor or lessee, land, buildings, other structures and personal property necessary, convenient or useful to the development and operation of a mixed-use project. An authority shall have the power to finance mixed-use projects by borrowing money and making and issuing bonds and by making loans which may be evidenced by and secured as may be provided in loan agreements, mortgages, security agreements or any other contracts, instruments or agreements which may contain such provisions as the authority shall deem necessary, convenient or useful for the security or protection of the authority or its bondholders. An authority may pledge, mortgage, hypothecate or otherwise encumber all or any part of its property, real or personal, constituting all or part of a mixed-use project, including, but not limited to, the revenues or receipts of the authority from one or more mixed-use projects, for all or any of the obligations, including bonds, of the authority incurred in connection with the development or operation of a mixed-use project. An authority shall not have the power to engage in

business, trade or commerce for a profit as an owner or lessee of a mixed-use project or otherwise. An authority shall have and may exercise the powers set forth in this section notwithstanding any other provision of law or any provisions of its articles of incorporation.

(d) Definition.--As used in this section, the term "mixed-use project" means any project that includes a public parking garage component and a commercial, industrial, residential or retail component. In addition to a public parking garage, which shall be a required component of all mixed-use projects, a mixed-use project may also include public parking lots. The commercial, industrial, residential or retail component of a mixed-use project must be located within, above, below or contiguous to the parking garage.
(Dec. 30, 2002, P.L.2001, No.230, eff. imd.; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5508.2. See sections 20(2.1) and 21(2) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

§ 5508.3. Restrictions on authorities in cities of the first class.

(a) Restricted activities, statement of financial interests; public meetings and records.--

(1) The following apply:

(i) The provisions of the following statutes are specifically applicable to board members, officers and employees of the authority:

(A) The provisions of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(B) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(ii) For the purposes of application of statutes pursuant to subparagraph (i), employees of the authority shall be regarded as public employees of the Commonwealth, and officers or board members of the authority shall be regarded as public officials of the Commonwealth, whether or not they receive compensation.

(2) The authority shall be subject to and treated as a Commonwealth agency for purposes of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(b) Conviction of infamous crime.--No person convicted of an infamous crime shall be a member of the board or employed as a management-level employee by the authority.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Infamous crime." Any of the following:

(1) A violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 7 of Article II of the Constitution of Pennsylvania.

(2) Any conviction for a violation of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions) or 18 Pa.C.S. Ch. 47 (relating to bribery and corrupt influence),

49 (relating to falsification and intimidation), 51 (relating to obstructing governmental operations) or 53 (relating to abuse of office).

(3) Any other violation of the laws of this Commonwealth for which an individual has been convicted within the preceding ten years and which is classified as a felony.

(4) A violation of the law of any other Federal or state government which is similar to the crimes listed in paragraphs (1) through (3).

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 added section 5508.3.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (a)(2), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 5508.4. Granting of interests and mixed-use projects for authorities in cities of the second class.

(a) Findings and declaration.--The General Assembly finds and declares as follows:

(1) The health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism.

(2) Unemployment, the spread of poverty and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth through the support of commercial and residential real estate development by parking authorities in cities of the second class.

(3) Due to the size, total population and population density of a city of the second class, it can be inefficient to devote property within a city of the second class solely to parking facilities for purely public use on a first-come, first-served basis, and that empowering the authority of a city of the second class to grant private interests in parking facilities to support commercial and residential real estate development and develop, operate or participate in mixed-use projects can be an important factor in the continual encouragement, development, attraction, stimulation, growth and expansion of business, industry, commerce and tourism within a city of the second class, the surrounding counties and this Commonwealth as a whole.

(b) Powers.--Notwithstanding any other provision of law, including this chapter, and any provision of an authority's articles of incorporation, and without limiting the powers in section 5505 (relating to purposes and powers), an authority in a city of the second class shall have the power to do the following:

(1) Grant an interest, such as a lease, license or easement, in and to all or a portion of land, buildings and structures for dedicated parking to support commercial or residential uses, if the following apply:

(i) In the good faith opinion of the board, the following apply:

(A) The grant of the interest will not negatively impact the financial standing of the authority.

(B) The consideration for the grant of the interest is appropriate considering the overall transaction.

(ii) The term of the interest does not extend beyond the term of existence of the authority.
The grant of the interest is not permissible where the average occupancy rate of parking spaces for the prior six calendar months has exceeded 90% for that particular facility.

(2) Develop, operate or participate in the development or operation of one or more mixed-use projects.

(3) Finance mixed-use projects by incurring indebtedness, whether by borrowing money, making and issuing notes, bonds or other debt instruments or entering into financing transactions, which may be evidenced and secured by agreements that contain provisions as determined by the authority for the security or protection of the authority or the authority's bondholders. An authority may pledge, hypothecate or encumber all or a part of the authority's revenues or real or personal property, constituting all or part of a mixed-use project for an obligation of the authority incurred in connection with the development or operation of, or participation in, a mixed-use project.

(c) Definition.--As used in this section, the term "mixed-use project" means a commercial, industrial, residential or retail development that includes a public parking garage or public parking lot as an appurtenance.

(Dec. 22, 2017, P.L.1242, No.76, eff. 60 days)

2017 Amendment. Act 76 added section 5508.4.

§ 5509. Acquisition of lands.

(a) Authorization.--

(1) Except as set forth in paragraph (2), the authority has the power to acquire by purchase or eminent domain proceedings either the fee or the rights, title, interest or easement in such lands as the authority deems necessary for any of the purposes of this chapter.

(2) The right of eminent domain does not apply to any of the following:

(i) Property devoted to a public use.

(ii) Property of a public service company.

(iii) Property used for burial purposes.

(iv) A place of public worship.

(v) Property which on June 5, 1947, with respect to the appropriate municipality was used as a facility for the parking of motor vehicles as long as:

(A) the property is continuously so used; and

(B) the operation of the facility complies with parking and traffic ordinances of the municipality.

(b) Exercise.--

(1) The right of eminent domain shall be exercised by the authority in the manner provided by law for the exercise of such right by the parent municipality.

(2) Viewers may take into consideration and may assess damages for expenses incurred for the removal of fixtures, equipment and merchandise.

(3) The right of eminent domain under this section may be exercised only within the municipality in which the authority is located.

(c) Priority.--Court proceedings necessary to acquire property or property rights for purposes of this chapter shall take precedence over all causes not involving the public interest in all courts so that the provision of parking facilities may be expedited.

§ 5510. Money of authority.

(a) Treasurer.--

(1) Except as otherwise provided in this chapter, all money of an authority from whatever source derived shall be paid to the treasurer of the authority.

(2) The money shall be deposited in the first instance by the treasurer at the direction of the authority:

(i) in one or more banks or bank and trust companies in one or more special accounts; or

(ii) under savings contracts in savings associations in one or more special accounts.

(3) Each special account under paragraph (2) to the extent the account is not insured shall be continuously secured by a pledge of direct obligations of the United States of America, of the Commonwealth or of the parent municipality having an aggregate market value exclusive of accrued interest at all times at least equal to the balance on deposit in the account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the authority. All banks, bank and trust companies and savings associations are authorized to give such security for such deposits. The money in the special accounts shall be paid out on the warrant or other order of the chair of the authority or of such other person the authority authorizes to execute the warrants or orders.

(4) In the case of money collected or received by the authority on behalf of a municipality under section 5505(d)(21) (relating to purposes and powers), the money shall be pledged to the use of the municipality and disbursed to the municipality as provided by ordinance or resolution.

(b) Audit.--An authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of the audit shall be delivered to the parent municipality.

(c) Financial statement.--A concise financial statement shall be published annually at least once in a newspaper of general circulation in the municipality where the principal office of the authority is located. If publication is not made by the authority, the municipality shall publish such statement at the expense of the authority. If the authority fails to make the audit, then the controller, auditor or accountant designated by the municipality is authorized to examine at the expense of the authority the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and other matters relating to its finances, operation and affairs.

(d) Attorney General.--The Attorney General shall have the right to examine the books, accounts and records of an authority.

§ 5510.1. Management of authority funds in cities of the first class.

(a) General rule.--

(1) Except as otherwise provided in this chapter, all funds of an authority received from any source shall be delivered to the treasurer of the authority or to such other agent of the authority as the board may designate.

(2) The funds shall be promptly deposited in the name of the authority in a bank or banks, bank and trust company or bank and trust companies, trust company or trust companies in this Commonwealth chosen by the authority.

(3) The moneys in the account or accounts may be withdrawn or paid out only by check or draft upon the bank, bank and trust company or trust company, signed by the

treasurer or other designated agent of the authority on warrant of the treasurer of the authority and countersigned by the chairman of the board or by such persons as the board may authorize. Moneys in the account or accounts may be withdrawn or paid out by electronic funds transfer on instructions signed and countersigned in the manner provided for checks or drafts.

(4) The board may designate any of its members or any officer or employee of the authority to affix the signature of the chairman to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than \$100,000. The executive director may designate any officer or employee of the authority to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than \$100,000.

(b) Management of funds.--

(1) All bank, bank and trust company or trust company balances of the authority, to the extent the same are not insured, shall be continuously secured by a pledge of direct obligations of the United States, of the Commonwealth or of any municipality or municipalities in the metropolitan area having an aggregate market value exclusive of accrued interest at all times at least equal to the balance on deposit in such bank, bank and trust company or trust company. The securities shall either be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. All depository institutions are authorized to give security for the deposits.

(2) In the case of money collected or received by the authority on behalf of a municipality under section 5505(d)(21) (relating to purposes and powers), the money shall be pledged to the use of the municipality and disbursed to the municipality as provided by ordinance or resolution.

(3) Subject to the provisions of any agreements with obligees of the authority, the authority shall have full power to invest and reinvest its funds as provided in this chapter, subject, however, to the exercise of that degree of judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived and the probable safety of the capital.

(4) The board shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any resolutions on this subject adopted by the board.

(c) Authorized investments.--The authorized types of investments for authority funds shall be any of the following:

(1) Government obligations.

(2) Debt obligations issued by any of the following Federal agencies or such other like Federal agencies which may be designated by the board: Bank for Cooperatives, Federal Farm Credit Banks, Federal Financing Bank, Federal Home Loan Bank System, Federal National Mortgage Association, Export-Import Bank of the United States, Farmers Home Administration, Resolution Funding Corporation, Small Business Administration, Student Loan Marketing Association, Inter-American Development Bank, International Bank for Reconstruction and Development, Federal Land Banks or

Government National Mortgage Association, and their predecessor or successor agencies.

(3) Short-term or long-term debt obligations of any state or political subdivision thereof or any agency or instrumentality of such a state or political subdivision or of any municipal corporation, provided that the obligations are rated by a rating agency in any of the three highest rating categories, without reference to subcategories, assigned by the rating agency.

(4) Rights to receive the principal of or the interest on obligations of states, political subdivisions, agencies or instrumentalities meeting the requirements set forth in paragraphs (2) and (3), whether through direct ownership as evidenced by physical possession of the obligations or unmatured interest coupons or by registration as to ownership on the books of the issuer or its duly authorized paying agent or transfer agent or through the purchase of certificates or other instruments evidencing an undivided ownership interest in payments of the principal of or interest on the obligations.

(5) Negotiable and nonnegotiable certificates of deposit, time deposits or other similar banking arrangements which are issued by banks, bank and trust companies, trust companies or savings and loan associations, provided that, unless issued by a qualified financial institution, any such certificate, deposit or other arrangement shall be continuously secured as to principal in the manner and to the extent provided in subsection (d).

(6) Repurchase agreements for investment securities described in paragraph (1) or (2) with a qualified financial institution or with dealers in government bonds which report to, trade with and are recognized as primary dealers by a Federal Reserve Bank and are members of the Securities Investors Protection Corporation, provided that the repurchase price payable under any agreement shall be continuously secured in the manner and to the extent provided in subsection (d).

(7) Investment agreements with qualified financial institutions.

(8) Commercial paper rated in the highest rating category, without reference to subcategories, by a rating agency.

(9) Shares or certificates in any short-term investment fund rated in the highest rating category, without reference to subcategories, by a rating agency, which short-term investment fund invests solely in obligations described in paragraphs (1) and (2).

(10) Debt obligations of any foreign government or political subdivision thereof or any agency or instrumentality of foreign government or political subdivision, provided that the obligations are rated by a rating agency, without reference to subcategories, in the highest rating category assigned by the rating agency.

(11) Such other investments which at the time of the acquisition thereof shall be listed as permissible investments for trust funds in an indenture or resolution with respect to indebtedness which is incurred under this chapter.

(d) Security for investment securities.--Any security required to be maintained as collateral for investment securities in the form of certificates of deposit, time deposits, other similar banking arrangements and repurchase

agreements described in subsection (c) (5) and (6) shall be subject to the following requirements:

(1) The collateral shall be in the form of obligations described in subsection (c) (1) and (2), except that the security for certificates of deposit, time deposits or other similar banking arrangements may include other marketable securities which are eligible as security for trust funds under applicable regulations of the Comptroller of the Currency of the United States of America or under applicable state laws and regulations.

(2) The collateral shall have an aggregate market value, calculated not less frequently than monthly, at least equal to the principal amount (less any portion insured by the Federal Deposit Insurance Corporation or any comparable insurance corporation chartered by the United States of America) or the repurchase price secured thereby, as the case may be. The instruments governing the issuance of and security for the Investment Securities shall designate the person responsible for making the foregoing calculations.

(3) The authority shall have a perfected security interest in the collateral securing certificates of deposit, time deposits or other similar banking arrangements, and the collateral shall be held free and clear of the claims of third parties. The collateral shall be deposited with the authority, with a Federal Reserve Bank for the account of the authority or with a bank, bank and trust company or trust company (other than the obligor) which is acting solely as agent for the authority and has a combined net capital and surplus equal to at least \$100,000,000.

(4) Collateral for repurchase agreements shall be held free and clear of the claims of third parties by the authority, or by a Federal Reserve Bank for the account of the authority, or by a bank, bank and trust company or trust company which is acting solely as agent for the authority and has a combined net capital and surplus at least equal to \$100,000,000. A perfected first priority security interest for the benefit of the authority shall be created in the collateral under Title 13 (relating to commercial code) or book-entry procedures prescribed by applicable Federal regulations.

(e) Audit.--An authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of the audit shall be delivered to the parent municipality, the Governor, the Secretary of the Senate and the Chief Clerk of the House of Representatives. The controller, auditor or accountant designated by the municipality is authorized to perform an annual examination of the receipts, disbursements, contracts, leases, sinking funds, investments relating to the administration of a system of on-street parking regulations in a city of the first class pursuant to section 5508.1(q.1) (relating to special provisions for authorities in cities of the first class).

(f) Financial statement.--A concise financial statement shall be published annually at least once in a newspaper of general circulation in the municipality where the principal office of the authority is located. If publication is not made by the authority, the municipality shall publish such statement at the expense of the authority.

(g) Attorney General.--The Attorney General shall have the right to examine the books, accounts and records of an authority.

(h) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5510.1. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.2. Special funds in cities of the first class.

(a) General rule.--An authority, under resolutions adopted from time to time by the board, may establish and create such special funds as may be found desirable by the board and, in and by such resolutions, may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this chapter and consistent with generally accepted accounting principles.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

2004 Amendment. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.3. Bonds in cities of the first class.

(a) General rule.--

(1) The bonds of the authority shall be authorized by resolution of the board. The resolution shall specify all of the following:

- (i) Series.
- (ii) Date or dates of maturity.
- (iii) Interest at such rate or rates, fixed or variable, as shall be determined by the board as necessary to issue and sell the authorized bonds.
- (iv) Denominations.
- (v) Form, either coupon or fully registered without coupons.
- (vi) Certificated or book-entry-only form.
- (vii) Registration and exchangeability and interchangeability privileges.
- (viii) Medium of payment and place of payment.
- (ix) Terms of redemption.
- (x) Priorities of payment in the revenues or receipts of the authority as the resolution or trust indenture adopted or approved by the authority may provide.

(2) The bonds shall be signed by or shall bear the facsimile signatures of such officers as the board shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the

treasurer of the authority, and all bonds shall be authenticated by an authenticating agent, fiscal agent or trustee, all as may be prescribed in the resolution or trust indenture.

(3) Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing bonds or the treasurer whose facsimile signature shall be upon the coupon, or any thereof, shall have ceased to be an officer or officers at the time when the bonds shall actually be delivered.

(4) The proceeds of an issue of bonds may be used to pay the costs of a project, subject to the limitations of subsection (b), to finance any cash flow deficit of the authority, to reimburse any costs of a project initially paid by the authority or any person, to fund any required reserves, to capitalize interest or to pay costs of issuance, including, but not limited to, costs of obtaining credit enhancement for the bonds.

(b) Maturity.--Bonds issued to finance the costs of a project shall mature at such time or times not exceeding 40 years from their respective dates of original issue as the authority shall by resolution determine. Bonds issued in anticipation of income of the authority shall mature within one fiscal year after the fiscal year of the date of issuance thereof except for bonds issued in anticipation of grants with respect to the cost of a project, which bonds shall mature no later than six months beyond the time of anticipated receipt of the final payment of the grant.

(c) Sale.--

(1) Bonds may be sold at public sale or invited sale for such price or prices and at such rate or rates of interest as the authority shall determine. Bonds may be sold at private sale by negotiation at such price or prices and at such rate or rates of interest as the authority shall determine, but only if the authority makes a written public explanation of the circumstances and justification for the private sale by negotiation.

(2) Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) Negotiable instruments.--Bonds of an authority shall have the qualities of negotiable instruments under Title 13 (relating to commercial code).

(e) Refunding.--

(1) Subject to the provisions of the outstanding bonds, notes or other obligations issued under this chapter or prior acts and subject to the provisions of this chapter, the authority shall have the right and power to refund any outstanding debt, whether the debt represents principal or interest, in whole or in part, at any time.

(2) As used in this subsection, "refund" and its variations shall mean the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity. Refunding bonds shall mature at such time or times not exceeding 40 years from their dates of original issuance as the authority shall determine by resolution.

(f) Credit of Commonwealth and political subdivisions not pledged.--Under no circumstances shall any bonds issued by the authority or any other obligation of the authority be or become an indebtedness or liability of the Commonwealth or of any

government agency, provided that any government agency may guarantee bonds of an authority to the extent and for the purposes for which the government agency may make loans or grants to an authority.

(g) Nonliability.--Neither the board members, any employees of the authority nor any person executing the bonds shall be liable personally on any bonds by reason of the issuance thereof. Bonds of an authority shall contain a statement of the limitation set forth in this subsection.

(h) Bonds deemed valid.--Any bond reciting in substance that it has been issued by the authority to accomplish the public purposes of this chapter shall be conclusively deemed in any suit, action or proceeding involving the validity or enforceability of the bonds or security therefor to have been issued for such purpose.

(i) Notice and challenges.--

(1) The authority may cause a copy of any resolution authorizing the issuance of bonds adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of each county and the governing body of a city of the first class and may thereupon cause to be published in a newspaper published or circulating in its service area a notice stating the fact and date of the adoption, the places where the resolution has been so filed for public inspection, the date of publication of the notice and that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the resolution or the validity of any covenants, agreements or contract provided for by such resolution shall be commenced within 20 days after the publication of the notice.

(2) If any notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the resolution or the validity of any covenants, agreements or contract provided for by such resolution shall be commenced within 20 days after the publication of the notice, then all residents, taxpayers and owners of property in a city of the first class and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or pleading any defense to any action or proceedings questioning the validity or proper authorization of such bonds or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

(3) After issuance of bonds, all bonds shall be conclusively presumed to be fully authorized and issued by all the laws of this Commonwealth, and any person shall be estopped from questioning their sale, execution or delivery by the authority.

(j) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.3. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.4. Contracts with obligees of an authority in cities of the first class.

(a) General rule.--Except as otherwise provided in any resolution of an authority authorizing or awarding bonds, the terms thereof and of this chapter as in effect when the bonds were authorized shall constitute a contract between the authority and obligees of the authority, subject to modification in such manner as the resolution, the trust indenture securing such bonds or the bonds shall provide.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.4. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.5. Commonwealth pledges in cities of the first class.

(a) General rule.--The Commonwealth does hereby pledge to and agree with:

(1) Any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, or Federal agency subscribing to or acquiring the bonds to be issued by the authority that the Commonwealth will not limit or alter the rights hereby vested in the authority in any manner inconsistent with the obligations of the authority to the obligees of the authority until all bonds at any time issued, together with the interest thereon, are fully paid or provided for. The Commonwealth does further pledge to and agree with any Federal agency that, in the event that any Federal agency shall contribute any funds for the authority or any project, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreements between the authority and any Federal agency.

(2) Any person who, as owner thereof, leases or subleases property to or from an authority that the Commonwealth will not limit or alter the rights and powers hereby vested in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all obligations of the authority under the lease or sublease are fully met and discharged.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.5. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.6. Provisions of bonds and trust indentures in cities of the first class.

(a) General rule.--In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of the bonds and obligations, the authority, in addition to its other powers, shall have the power to:

(1) Pledge or grant a security interest, senior, parity or subordinated, in all or any part of its revenues, to which its right then exists or may thereafter come into existence.

(2) Grant a lien on or a security interest, senior, parity or subordinated, in all or any part of its real or personal property then owned or thereafter acquired. This paragraph does not apply to the Philadelphia Taxicab and Limousine Regulatory Fund.

(3) Provide for the issuance of unsecured bonds, limited recourse bonds or nonrecourse bonds.

(4) Enter into trust indentures securing bonds, including, but not limited to, master trust indentures.

(5) Covenant against pledging or granting a lien on or security interest in all or any part of its revenues or all or any part of its real or personal property to which its right or title exists or may thereafter come into existence or against permitting or suffering any lien on the revenues or property, covenant with respect to limitations on its right to sell, lease or otherwise dispose of any of its real property and covenant as to which other or additional debts or obligations may be incurred by it.

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds, in escrow or otherwise, and as to the use and disposition of the proceeds thereof, provide for the replacement of lost, destroyed or mutilated bonds, covenant against extending the time for the payment of its bonds or interest thereon and covenant for the redemption of bonds and provide the terms and conditions thereof.

(7) Covenant as to the amount of revenues to be raised in each fiscal year or other period of time by the authority as well as to the use and disposition to be made thereof, create or authorize the creation of special funds for debt service or other purposes and covenant as to the use and disposition of the moneys held in such funds.

(8) Prescribe the procedure, if any, by which the terms of any contract with obligees of the authority may be supplemented, amended or abrogated, prescribe which supplements or amendments will require the consent of obligees of the authority and the amount of bonds to be held by obligees to effect such consent and prescribe the manner in which such consent may be given.

(9) Covenant as to the use of any or all of its real or personal property, warrant its title and covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance proceeds.

(10) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(11) Vest in the obligees of the authority or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds, vest in a trustee the right in the event of default by the

authority to take possession and use, operate and manage any real or personal property and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with such trustee, provide for the powers and duties of a trustee and to limit liabilities thereof and provide the terms and conditions upon which the trustee or the obligees of the authority or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(12) Negotiate and enter into interest rate exchange agreements, interest rate cap, collar, corridor, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which, in the judgment of the authority, will assist the authority in managing the interest costs of the authority.

(13) Obtain letters of credit, bond insurance and other facilities for credit enhancement and liquidity.

(14) Exercise all or any part or combination of the powers granted in this section to make covenants other than and in addition to the covenants expressly authorized in this section, to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this chapter by making the bonds more marketable, notwithstanding that such covenants, acts or things may not be specifically enumerated in this section.

(15) The revenues of the authority and the real and tangible personal property of the authority shall be pledged or otherwise encumbered only as expressly provided in this section and, except to the extent necessary to effectuate such pledge or encumbrance, shall not be subject to attachment nor levied upon by execution or otherwise.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.

(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5510.6. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.7. Funds collected on behalf of a municipality (Deleted by amendment).

2004 Amendment. Section 5510.7 was deleted by amendment July 16, 2004, P.L.758, No.94, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.8. Bonds to be legal investments.

(a) General rule.--Bonds issued under this chapter are hereby made securities in which all public officers and the instrumentalities and agencies of the Commonwealth and its political subdivisions, all insurance companies, banks, bank and trust companies, trust companies, banking associations, banking corporations, savings banks, investment companies, executors, trustees, the trustees of any retirement, pension

or annuity fund or system of the Commonwealth and other fiduciaries may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them. These bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or instrumentality or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth now or may hereafter be authorized by law.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.8. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

§ 5510.9. Validity of pledge.

(a) General rule.--Any pledge of or grant of a lien on or security interest in revenues of an authority or real or personal property of an authority made by an authority shall be valid and binding from the time when the pledge is made, the revenues or other property so pledged and thereafter received by the authority making such pledge shall immediately be subject to the lien of any such pledge, lien or security interest without any physical delivery thereof or further act, and the lien of any such pledge or security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument of the authority by which a pledge, lien or security interest is created need be recorded or filed to perfect such pledge or security interest.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.9. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

§ 5510.10. Security interest in funds and accounts.

(a) General rule.--Any moneys deposited in any fund created by the authority pledged to be used to pay debt service on bonds of the authority, including any sinking fund or debt service reserve fund, and all investments and proceeds of investments thereof shall, without further action or filing, be subjected to a perfected security interest for the obligees of the authority with respect to the bonds until such moneys or investments shall be properly disbursed in accordance with this chapter and subject to the terms of any trust indenture or other

contract between the authority and the obligees of the authority with respect to the bonds.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.10. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5510.11. Limitation on authority under Federal bankruptcy code.

(a) General rule.--So long as an authority shall have outstanding any bonds issued under this chapter, the authority shall not be authorized to file a petition for relief under 11 U.S.C. Chapter 9 (relating to adjustment of debts of a municipality), and no public officer or agency or instrumentality of the Commonwealth shall authorize the authority to become a debtor under 11 U.S.C. Chapter 9 so long as any bonds issued under this chapter are outstanding.

(b) Applicability.--This section shall only apply to authorities in cities of the first class.
(Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5510.11. See sections 20(3) and 21(3) of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts and preservation of rights, obligations, duties and remedies.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5511. Competition in award of contracts.

(a) Services.--

(1) Except as set forth in paragraph (2), all construction, reconstruction, repair or work of any nature made by an authority if the entire cost, value or amount, including labor and materials, exceeds \$25,000 shall be done only under contract to be entered into by the authority with the lowest responsible bidder upon proper terms after public notice asking for competitive bids as provided in this section.

(2) Paragraph (1) does not apply to reconstruction, repair or work done by employees of the authority or by labor supplied under agreement with a Federal or State agency with supplies and materials purchased as provided in this section.

(3) No contract shall be entered into for construction or improvement or repair of a project or portion thereof unless the contractor gives an undertaking with a sufficient surety approved by the authority and in an amount fixed by the authority for the faithful performance of the contract.

(4) The contract must provide, among other things, that the person or corporation entering into the contract with the authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing materials or

rendering services may maintain an action to recover for them against the obligor in the undertaking as though such person or corporation were named in the contract if the action is brought within one year after the time the cause of action accrued.

(5) Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve a project or portion thereof or any addition, betterment or extension thereto directed by the officers, agents and employees of the authority or otherwise than by contract.

(b) Supplies and materials.--All supplies and materials costing at least \$25,000 shall be purchased only after advertisement as provided in this section. The authority shall accept the lowest bid, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.

(c) Quotations.--Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for a contract in excess of the base amount of \$10,000, subject to adjustment under subsection (c.1), but is less than the amount requiring advertisement and competitive bidding. In lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation; the name of the contractor and the contractor's representative; the construction, reconstruction, repair, maintenance or work which was the subject of the quotation; and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(c.1) Adjustments.--Adjustments to the base amounts specified under subsections (a), (b) and (c) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsections (a), (b) and (c).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City

Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsections (a), (b) and (c).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a) or (b) and written or telephonic price quotations are required under subsection (c), for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(d) Notice.--The term "advertisement" or "public notice," wherever used in this section, shall mean a notice published at least ten days before the award of a contract in a newspaper of general circulation published in the municipality where the authority has its principal office or, if no newspaper of general circulation is published therein, in a newspaper of general circulation in the county where the authority has its principal office.

(e) Conflict of interest.--No member of the authority or officer or employee of the authority may directly or indirectly be a party to or be interested in any contract or agreement with the authority for any matter, cause or thing if the contract or agreement establishes liability against or indebtedness of the authority. Any contract or agreement made in violation of this subsection is void, and no action may be maintained on the agreement against the authority.

(f) Entry into contracts.--

(1) Subject to subsection (e), an authority may enter into and carry out contracts or establish or comply with rules and regulations concerning labor and materials and other related matters in connection with a project or portion thereof as the authority deems desirable or as may be requested by a Federal agency to assist in the financing of the project or any part thereof. This paragraph shall not apply to any of the following:

(i) A case in which the authority has taken over by transfer or assignment a contract authorized to be

assigned to it under section 5516 (relating to transfer of existing facilities to authority).

(ii) A contract in connection with the construction of a project which the authority may have had transferred to it by any person or private corporation.

(2) This subsection is not intended to limit the powers of an authority.

(g) Compliance.--A contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(h) Evasion.--

(1) An authority may not evade the provisions of this section as to bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under the amount required by this section upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the amount required by this section.

(2) This subsection is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below that price when in either case the transaction involved should have been made as one transaction for one price.

(3) An authority member who votes to unlawfully evade the provisions of this section and who knows that the transaction upon which the member votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

(i) Procurement.--Notwithstanding any provision of this chapter or of Title 62 (relating to procurement) to the contrary, an authority shall be considered a State-affiliated entity for purposes of compliance with Title 62.

(July 16, 2004, P.L.758, No.94, eff. imd.; Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment . Act 90 amended subsecs. (c) and (h)(1) and added subsec. (c.1). Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

2004 Amendment. Act 94 amended subsecs. (a)(1), (b) and (h)(1) and added subsec. (i).

Cross References. Section 5511 is referred to in section 5508.1 of this title.

§ 5512. Use of projects.

(a) Regulations.--Subject to subsection (b), the use of the facilities of the authority and the operation of its business shall be subject to the regulations adopted by the authority.

(b) Limitation.--The authority is not authorized to do anything which will impair the security of the holders of the obligations of the authority or violate agreements with them or for their benefit.

§ 5513. Pledge by Commonwealth.

(a) Power of authorities.--The Commonwealth pledges to and agrees with any person, firm or corporation or Federal agency subscribing to or acquiring the bonds to be issued by the

authority for the construction, extension, improvement or enlargement of a project or part thereof that the Commonwealth will not limit or alter the rights vested by this chapter in the authority until all bonds and the interest on them are fully met and discharged.

(b) Federal matters.--The Commonwealth pledges to and agrees with the United States and all Federal agencies that, if a Federal agency constructs or contributes funds for the construction, extension, improvement or enlargement of a project or any portion thereof:

(1) the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of agreements between the authority and any Federal agency; and

(2) the authority shall continue to have and may exercise all powers granted in this chapter as long as the powers are necessary or desirable for carrying out the purposes of this chapter and the purposes of the United States in the construction or improvement or enlargement of the project or portion thereof.

§ 5514. Termination of authority.

(a) Conveyance of projects.--When an authority has finally paid and discharged all bonds, with interest due, which have been secured by a pledge of any of the revenues or receipts of a project, it may, subject to agreements concerning the operation or disposition of the project, convey the project to the parent municipality.

(b) Conveyance of property.--When an authority has finally paid and discharged all bonds issued and outstanding and the interest due on them and settled all other outstanding claims against it, it may convey all its property to its parent municipality.

(c) Certificate.--A certificate requesting the termination of the existence of an authority shall be filed in the office of the Secretary of the Commonwealth. If the certificate is approved by the parent municipality, the secretary shall note the termination of existence on the record of incorporation and return the certificate with approval to the board. The board shall cause the certificate to be recorded in the office of the recorder of deeds of the county. Upon recording, the property of the authority shall pass to the parent municipality, and the authority shall cease to exist.

§ 5515. Exemption from taxation; payments in lieu of taxes.

The effectuation of the authorized purposes of authorities created under this chapter shall be for the benefit of the residents of municipalities, for the increase of their commerce and prosperity and for the improvement of their health, safety and living conditions. Since authorities will be performing essential governmental functions in effectuating these purposes, authorities shall not be required to pay taxes or assessments upon property acquired or used by them for such purposes. In lieu of such taxes or special assessments, an authority may agree to make payments to the city or the county or any political subdivision. The bonds issued by an authority, their transfer and the income from the bonds, including profits made on their sale, shall be free from taxation within this Commonwealth.

§ 5516. Transfer of existing facilities to authority.

(a) Authorization.--Any county, city, borough, town or township or any owner is authorized to sell, lease, lend, grant

or convey to an authority a project or any part of a project or any interest in real or personal property which may be used by the authority in the construction, improvement, maintenance or operation of a project. Any county, city, borough, town or township is authorized to transfer, assign and set over to an authority a contract awarded by the county, city, borough, town or township for the construction of projects not begun or, if begun, not completed. The territory being served by a project or the territory within which the project is authorized to render service at the time of the acquisition of the project by an authority shall constitute the area in which the authority is authorized to render service.

(b) Acquisition.--

(1) An authority may not acquire by any device or means, including a consolidation, merger, purchase or lease or through the purchase of stock, bonds or other securities, title to or possession or use of all or a substantial portion of a project which is subject to the jurisdiction of the Pennsylvania Public Utility Commission without the approval of the commission evidenced by its certificate of public convenience obtained in accordance with the procedure and investigations as to value as provided in 66 Pa.C.S. § 1103 (relating to procedure to obtain certificates of public convenience). The commission shall also consider the earning power of the project in deciding the value of the project. As used in this paragraph, the term "acquire" includes only the acquisition of existing facilities.

(2) The authority shall first report to and advise the parent municipality of the agreement to acquire, including all its terms and conditions.

(3) The proposed action of the authority and the proposed agreement to acquire must be approved by the legislative body. Approval must be by two-thirds vote of all of the members of the legislative body.

(c) Complete provision.--Notwithstanding any other provision of law, this section, without reference to any other law, shall be deemed complete for the acquisition by agreement of a project located wholly within or partially without the municipality causing the authority to be incorporated, and no proceedings or other action shall be required except as prescribed in this section.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (b)(3), retroactive to June 19, 2001.

Cross References. Section 5516 is referred to in section 5511 of this title.

§ 5517. Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.

CHAPTER 56

MUNICIPAL AUTHORITIES

Sec.

- 5601. Short title of chapter.
- 5602. Definitions.
- 5603. Method of incorporation.

- 5604. Municipalities withdrawing from and joining in joint authorities.
- 5605. Amendment of articles.
- 5606. School district projects.
- 5607. Purposes and powers.
- 5608. Bonds.
- 5609. Bondholders.
- 5610. Governing body.
- 5611. Investment of authority funds.
- 5612. Money of authority.
- 5613. Transfer of existing facilities to authority.
- 5614. Competition in award of contracts.
- 5615. Acquisition of lands, water and water rights.
- 5616. Acquisition of capital stock.
- 5617. Use of projects.
- 5618. Pledge by Commonwealth.
- 5619. Termination of authority.
- 5620. Exemption from taxation and payments in lieu of taxes.
- 5621. Constitutional construction.
- 5622. Conveyance by authorities to municipalities or school districts of established projects.
- 5623. Revival of an expired authority.

Enactment. Chapter 56 was added June 19, 2001, P.L.287, No.22, effective immediately.

Special Provisions in Appendix. See sections 2 and 4 of Act 22 of 2001 in the appendix to this title for special provisions relating to applicability to authorities incorporated under former laws and continuation of Municipality Authorities Act of 1945.

Cross References. Chapter 56 is referred to in sections 1103, 13B53 of Title 4 (Amusements); sections 1105.1, 25B01 of Title 8 (Boroughs and Incorporated Towns); sections 10102, 12434 of Title 11 (Cities); sections 2102, 3402, 3902 of Title 12 (Commerce and Trade); section 206 of Title 26 (Eminent Domain); section 1504 of Title 64 (Public Authorities and Quasi-Public Corporations); sections 3201, 3208 of Title 66 (Public Utilities); section 3101 of Title 72 (Taxation and Fiscal Affairs).

§ 5601. Short title of chapter.

This chapter shall be known and may be cited as the Municipality Authorities Act.

§ 5602. Definitions.

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

"Administrative service." In the case of authorities created for the purpose of making business improvements or providing administrative services, the term means those services which improve the ability of the commercial establishments of a district to serve the consumers, such as free or reduced-fee parking for customers, transportation repayments, public relations programs, group advertising and district maintenance and security services.

"Authority." A body politic and corporate created under this chapter; under the former act of June 28, 1935 (P.L.463, No.191), known as the Municipality Authorities Act of one thousand nine hundred and thirty-five; or under the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

"Board." The governing body of an authority.

"Bonds." Notes, bonds and other evidence of indebtedness or obligations which each authority is authorized to issue pursuant to section 5608 (relating to bonds).

"Business improvement." In the case of authorities created for the purpose of making business improvements or providing administrative services, the term means those improvements designated by an authority to be needed by a district in general or by specific areas or individual properties within or near the district, including, but not limited to, sidewalks, retaining walls, street paving, street lighting, parking lots, parking garages, trees and shrubbery, pedestrian walks, sewers, water lines, rest areas and acquisition and remodeling or demolition of blighted buildings or structures. Improvements shall not be made to property not acquired by purchase or lease other than those improvements made within a right-of-way.

"Construction." Acquisition and construction. The term "to construct" shall mean and include to acquire and to construct, all in such manner as may be deemed desirable.

"Eligible educational institution." An independent institution of higher education located in and chartered by the Commonwealth or a private secondary school located in this Commonwealth and approved by the Department of Education which is not a State-owned institution, which is operated not for profit, which is determined by the authority not to be a theological seminary or school of theology or a sectarian and denominational institution and which is approved as eligible by the authority pursuant to regulations approved by it.

"Federal agency." The United States of America, the President of the United States of America and any department of or corporation, agency or instrumentality created, designated or established by the United States of America.

"Financing," "to finance" or "financed." The lending or providing of funds to or on behalf of a person for payment of the costs of a project or for refinancing such costs, repayment of loans previously incurred to pay the cost of a project or otherwise.

"Health center." A facility which:

- (1) is operated by a nonprofit corporation and:
 - (i) provides health care services to the public;
 - (ii) provides health care-related services or assistance to one or more organizations in aid of the provision of health care services to the public, including, without limitation, such facilities as blood banks, laboratories, research and testing facilities, medical and administrative office buildings and ancillary facilities;
 - (iii) constitutes an integrated facility which provides substantial health care services on a nonsectarian basis and other reasonably related services, including, without limitation, life care or continuing care communities and nursing, personal care or assisted living facilities for the elderly, handicapped or disabled; or
 - (iv) provides educational and counseling services regarding the prevention, diagnosis and treatment of health care problems; and

(2) if required by law to be licensed to provide such services by the Department of Health, the Department of Public Welfare or the Insurance Department, is so licensed or, in the case of a facility to be constructed, renovated or expanded, is designed to comply with applicable standards for such licensure.

"Improvement." Extension, enlargement and improvement. The term "to improve" shall mean and include to extend, to enlarge and to improve all in such manner as may be deemed desirable.

"Local government unit." This term shall have the same meaning as provided under section 8002 (relating to definitions).

"Municipal authority." The body or board authorized by law to enact ordinances or adopt resolutions for the particular municipality.

"Municipality." A county, city, town, borough, township or school district of the Commonwealth.

"Project." Equipment leased by an authority to the municipality or municipalities that organized it or to any municipality or school district located wholly or partially within the boundaries of the municipality or municipalities that organized it, or any structure, facility or undertaking which an authority is authorized to acquire, construct, finance, improve, maintain or operate, or provide financing for insurance reserves under the provisions of this chapter, or any working capital which an authority is authorized to finance under the provisions of this chapter.

"Provide financing for insurance reserves." Financing, on behalf of one or more local government units or authorities, all or any portion of a reserve or a contribution toward a combined reserve, pool or other arrangement relating to self-insurance which has been established by one or more local government units pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance and self-insurance) up to, but not exceeding, the amount provided in section 8007 (relating to cost of project).

"Working capital." Shall include, but not be limited to, funds for supplies, materials, services, salaries, pensions and any other proper operating expenses, provided that the term shall be limited solely to hospitals and health centers, and private, nonprofit, nonsectarian colleges and universities, State-related universities and community colleges, which are determined by the authority to be eligible educational institutions. Nothing in this chapter shall prohibit the borrowing of working capital as may be necessary or incidental to the undertaking or placing in operation of any project undertaken in whole or in part pursuant to this chapter. (Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended the defs. of "authority" and "provide financing for insurance reserves," retroactive to June 19, 2001.

References in Text. The act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, referred to in the def. of "authority," was repealed by the act of June 19, 2001 (P.L.287, No.22).

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 5602 is referred to in sections 2305, 2307, 2314 of this title; section 1201.3 of Title 8 (Boroughs and Incorporated Towns).

§ 5603. Method of incorporation.

(a) Resolution of intent.--Whenever the municipal authorities of any municipality singly or of two or more municipalities jointly desire to organize an authority under this chapter, they shall adopt a resolution or ordinance signifying their intention to do so. No such resolution or

ordinance shall be adopted until after a public hearing has been held, the notice of which shall be given at least 30 days before the hearing and in the same manner as provided in subsection (b) for the giving of notice of the adoption of the resolution or ordinance.

(b) General notice of adopted resolution.--If the resolution or ordinance is adopted, the municipal authorities of such municipality or municipalities shall cause a notice of such resolution or ordinance to be published at least one time in the legal periodical of the county or counties in which the authority is to be organized and at least one time in a newspaper published and in general circulation in such county or counties. The notice shall contain a brief statement of the substance of the resolution or ordinance, including the substance of the articles making reference to this chapter. In the case of authorities created for the purpose of making business improvements or providing administrative services, if appropriate, the notice shall specifically provide that the municipality or municipalities have retained the right which exists under this chapter to approve any plan of the authority. The notice shall state that on a day certain, not less than three days after publication of the notice, articles of incorporation of the proposed authority shall be filed with the Secretary of the Commonwealth. No municipality shall be required to make any other publication of the resolution or ordinance under the provisions of existing law.

(c) Filing articles of incorporation.--On or before the day specified in the notice required under subsection (b), the municipal authorities shall file with the Secretary of the Commonwealth articles of incorporation together with proof of publication of the notice required under subsection (b). The articles of incorporation shall set forth:

- (1) The name of the authority.
- (2) A statement that the authority is formed under this chapter.
- (3) A statement whether any other authority has been organized under this chapter or under the former act of June 28, 1935 (P.L.463, No.191), entitled "An act providing for the incorporation, as bodies corporate and politic, of "Authorities" for municipalities, counties, and townships; defining the same; prescribing the rights, powers, and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain, and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and for other purposes," or the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, and is in existence in or for the incorporating municipality or municipalities. If any one or more of the municipalities have already joined with other municipalities not composing the same group in organizing a joint authority, the application shall set forth the name of that authority together with the names of the municipalities joining in it.
- (4) The name of the incorporating municipality or municipalities together with the names and addresses of its municipal authorities.
- (5) The names, addresses and term of office of the first members of the board of the authority.

(6) In the case of authorities created for the purpose of making business improvements or providing administrative services, if appropriate, a statement that the municipality or municipalities have retained the right which exists under this chapter to approve any plan of the authority.

(7) Any other matter which shall be determined in accordance with the provisions of this chapter.

(d) Execution of articles.--The articles of incorporation shall be executed by each incorporating municipality by its proper officers and under its municipal seal.

(e) Certification of incorporation.--If the Secretary of the Commonwealth finds that the articles of incorporation conform to law, he shall, but not prior to the day specified in the notice published in accordance with subsection (b), endorse his approval of them and, when all proper fees and charges have been paid, shall file the articles and issue a certificate of incorporation to which shall be attached a copy of the approved articles. Upon the issuance of a certificate of incorporation by the Secretary of the Commonwealth, the corporate existence of the authority shall begin. The certificate of incorporation shall be conclusive evidence of the fact that the authority has been incorporated, but proceedings may be instituted by the Commonwealth to dissolve an authority which was formed without substantial compliance with the provisions of this section.

(f) Certification of officers.--When an authority has been organized and its officers elected, its secretary shall certify to the Secretary of the Commonwealth the names and addresses of its officers as well as the principal office of the authority. Any change in the location of the principal office shall likewise be certified to the Secretary of the Commonwealth within ten days after such change. An authority created under the laws of the Commonwealth and existing at the time this chapter is enacted, in addition to powers granted or conferred upon the authority, shall possess all the powers provided under this chapter.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (f), retroactive to June 19, 2001.

References in Text. The act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, referred to in subsec. (c)(3), was repealed by the act of June 19, 2001 (P.L.287, No.22).

Cross References. Section 5603 is referred to in sections 5605, 5612 of this title.

§ 5604. Municipalities withdrawing from and joining in joint authorities.

(a) Power to withdraw.--When an authority has been incorporated by two or more municipalities, any one or more of such municipalities may withdraw from it, but no municipality shall be permitted to withdraw from an authority after an obligation has been incurred by that authority.

(b) Power to join.--When an authority has been incorporated by one or more municipalities, a municipality not having joined in the original incorporation may subsequently join in the authority.

(c) Procedure.--Any municipality wishing to withdraw from or to become a member of an existing authority shall signify its desire by resolution or ordinance. If the authority shall by resolution express its consent to such withdrawal or joining, the municipal authorities of the withdrawing or joining

municipality shall cause a notice of its resolution or ordinance to be published at least one time in the legal periodical of the county or counties in which the authority is organized and at least one time in a newspaper published and in general circulation in such county or counties. This notice shall contain a brief statement of the substance of the resolution or ordinance, making reference to this chapter, and shall state that on a day certain, not less than three days after publication of the notice, an application to withdraw from or to become a member of the authority, as the case may be, will be filed with the Secretary of the Commonwealth.

(d) Filing an application to withdraw or join.--On or before the day specified in the notice, the municipal authorities shall file an application with the Secretary of the Commonwealth together with proof of publication of the notice required under subsection (c). In the case of a municipality seeking to become a member of the authority, the application shall set forth all of the information required in the case of original incorporation insofar as it applies to the incoming municipality, including the name and address and term of office of the first member or members of the board of the authority from the incoming municipality and, if there is to be a reapportionment of representation or revision of the terms of office of the members of the board, the names, addresses and terms of office of all the members of the board as so reapportioned or revised. The application in all cases shall be executed by the proper officers of the withdrawing or incoming municipality under its municipal seal and shall be joined in by the proper officers of the governing body of the authority and, in the case of a municipality seeking to become a member of the authority, also by the proper officers of each of the municipalities that are then members of the authority pursuant to resolutions by the municipal authorities of the participating municipalities.

(e) Certification of withdrawal or joinder.--If the Secretary of the Commonwealth finds that the application conforms to law, he shall, but not prior to the day specified in the notice, endorse his approval of it and, when all proper fees and charges have been paid, shall file the same and issue a certificate of withdrawal or a certificate of joinder, as the case may be, to which shall be attached a copy of the approved application. The withdrawal or joining shall become effective upon the issuing of the certificate.

Cross References. Section 5604 is referred to in section 5610 of this title.

§ 5605. Amendment of articles.

(a) Purpose.--An authority may amend its articles for the following reasons:

- (1) To adopt a new name.
- (2) To modify or add a provision to increase its term of existence to a date not exceeding 50 years from the date of approval of the articles of amendment.
- (3) To change, add to or diminish its powers or purposes or to set forth different or additional powers or purposes.
- (4) To increase or decrease the number of members of the board of the authority, to reapportion the representation on the board of the authority and to revise the terms of office of members, all in a manner consistent with the provisions of section 5610 (relating to governing body).

(b) Procedure.--Every amendment to the articles shall first be proposed by the board by the adoption of a resolution setting

forth the proposed amendment and directing that it be submitted to the governing authorities of the municipality or municipalities composing the authority. The resolution shall contain the language of the proposed amendment to the articles by providing that the articles shall be amended so as to read as set forth in full in the resolution, that any provision of the articles be amended so as to read as set forth in full in the resolution or that the matter stated in the resolution be added to or stricken from the articles. After the amendments have been submitted to the municipality or municipalities, such municipality or municipalities shall adopt or reject such amendment by resolution or ordinance.

(c) Execution and verification.--After an amendment has been adopted by the municipality or municipalities, articles of amendment shall be executed under the seal of the authority and verified by two duly authorized officers of the corporation and shall set forth:

(1) The name and location of the registered office of the authority.

(2) The act under which the authority was formed and the date when the original articles were approved and filed.

(3) The resolution or ordinance of the municipality or municipalities adopting the amendment.

(4) The amendment adopted by the municipality or municipalities which shall be set forth in full.

(d) Advertisement.--The authority shall advertise its intention to file articles of amendment with the Secretary of the Commonwealth as provided under section 5603 (relating to method of incorporation) for forming an authority. Advertisements shall appear at least three days prior to the day upon which the articles of amendment are presented to the Secretary of the Commonwealth and shall set forth briefly:

(1) The name and location of the registered office of the authority.

(2) A statement that the articles of amendment are to be filed under the provisions of this chapter.

(3) The nature and character of the proposed amendment.

(4) The time when the articles of amendment will be filed with the Secretary of the Commonwealth.

(e) Filing the amendment.--The articles of amendment and proof of the required advertisement shall be delivered by the authority or its representative to the Secretary of the Commonwealth. If the Secretary of the Commonwealth finds that the articles conform to law, he shall forthwith, but not prior to the day specified in the advertisement required in subsection (d), endorse his approval of it and, when all fees and charges have been paid, shall file the articles and issue to the authority or its representative a certificate of amendment to which shall be attached a copy of the approved articles.

Cross References. Section 5605 is referred to in section 5607 of this title.

§ 5606. School district projects.

(a) Merger and consolidation authorized.--Any two or more existing authorities, all the projects of all of which are leased to the same school district, may be merged into one authority, hereinafter designated as the surviving authority, or consolidated into a new authority.

(b) Articles of merger or consolidation.--Articles of merger or articles of consolidation, as the case may be, shall first be proposed by the board of school directors of the school district leasing the projects. The governing body of the school

district and of any other municipality or municipalities incorporating one or more of the existing authorities shall each adopt a resolution which shall contain the language of the proposed merger or consolidation. The articles of merger or consolidation shall be signed by the proper officers of the respective school districts and other municipalities, if any, and under their respective municipal seals and shall set forth the following:

- (1) The name of the surviving or new authority.
- (2) The location of the registered office of the surviving or new authority.
- (3) The names and addresses and term of office of the members of the board of the surviving or new authority as specified in the plan of merger or consolidation, and the initial terms of office shall be staggered as provided in this chapter with respect to the incorporation of an authority.
- (4) A statement indicating the date on which each existing authority was formed and the purpose for which it was formed, taken from the articles of incorporation, the name of the original incorporating school district or districts or other incorporating municipality or municipalities and the name of any successor to any thereof.
- (5) The time and place of the meetings of the governing bodies of the school district and other municipalities parties to the plan of merger or consolidation.
- (6) A statement of the plan of merger.
- (7) Any changes in the articles of incorporation of the surviving authority in the case of a merger and a statement of the articles of incorporation in full in the case of the new authority to be formed, in each case in conformity with the provisions of this chapter relating to the incorporation of authorities, except that any item required to be stated which is covered elsewhere in the articles of merger or consolidation need not be repeated.

(c) Publication of resolution.--The reorganized school district and each other municipality party to the plan of merger or consolidation shall cause a notice of the resolution setting forth the merger or consolidation to be published at least one time in the legal periodical of the county or counties in which the surviving authority is to be organized and at least one time in a newspaper published and in general circulation in such county or counties. The notice shall contain a brief statement of the substance of the resolution, including the substance of the articles of merger making reference to this chapter, and shall state that on a day certain, not less than three days after publication of the notice, articles of merger or consolidation shall be filed with the Secretary of the Commonwealth. The publication shall be sufficient compliance with the laws of this Commonwealth or any existing laws dealing with publication for municipalities.

(d) Documentation.--The articles of merger or consolidation shall be filed on or before the day specified in the advertisement with the Secretary of the Commonwealth together with the proof of publication of the notice required under subsection (c).

(e) Certification of merger or consolidation.--The Secretary of the Commonwealth shall file the articles of merger or consolidation and the proof of advertisement required in subsection (c) but not prior to the day specified in the advertisement, certify the date of such filing when all fees and charges have been paid and issue to the surviving or new

authority or its representative a certificate of merger or consolidation to which shall be attached a copy of the filed articles of merger or consolidation.

(f) Filing the articles of merger or consolidation.--Upon the filing of the articles of merger or the articles of consolidation by the Secretary of the Commonwealth, the merger or consolidation shall be effective, and in the case of a consolidation the new authority shall come into existence, and in either case the articles of merger and consolidation shall constitute the articles of incorporation of the surviving or new authority, and the reorganized school district, lessee of the projects, shall be deemed to be the incorporating municipality of the authority.

(g) Creation of surviving or new authority.--Upon the merger or consolidation becoming effective, the several existing authorities to the plan of merger or consolidation shall become a single authority, which in the case of a merger shall be that authority designated in the articles of merger as the surviving authority and in the case of a consolidation shall be a new authority as provided in the articles of consolidation. The separate existence of all existing authorities named in the articles of merger or consolidation shall cease, except that of the surviving authority in the case of a merger.

(h) Disposition of property and accounts.--All of the property, real, personal and mixed, and all interests therein of each of the existing authorities named in the plan of merger or consolidation, all debts due and whatever amount due to any of them, including their respective right, title and interest in and to all lease rentals, sinking funds on deposit, all funds deposited under lease or trust instruments shall be taken and deemed to be transferred to and vested in the surviving or new authority as the case may be without further act or deed.

(i) Continuation of contracts.--The surviving authority or the new authority shall be responsible for the liabilities and obligations of each of the existing authorities so merged or consolidated but shall be subject to the same limitations, pledges, assignments, liens, charges, terms and conditions as to revenues and restrictions as to and leases of properties as were applicable to each existing authority. The liabilities of the merging or consolidating authorities of the members of their boards or officers shall not be affected nor shall the rights of creditors thereof or any persons dealing with such authorities or any liens upon the property of such authorities or any outstanding bonds be impaired by the merger or consolidation, and any claim existing or action or proceeding pending by or against any such authorities shall be prosecuted to judgment as if such merger or consolidation had not taken place, or the surviving authority or the new authority may be proceeded against or substituted in its place.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (d), retroactive to June 19, 2001.

§ 5607. Purposes and powers.

(a) Scope of projects permitted.--Every authority incorporated under this chapter shall be a body corporate and politic and shall be for the purposes of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects of the following kind and character and providing financing for insurance reserves:

(1) Equipment to be leased by an authority to the municipality or municipalities that organized it or to any municipality or school district located wholly or partially within the boundaries of the municipality or municipalities that organized it.

(2) Buildings to be devoted wholly or partially for public uses, including public school buildings, and facilities for the conduct of judicial proceedings and for revenue-producing purposes.

(3) Transportation, marketing, shopping, terminals, bridges, tunnels, flood control projects, highways, parkways, traffic distribution centers, parking spaces, airports and all facilities necessary or incident thereto.

(4) Parks, recreation grounds and facilities.

(5) Sewers, sewer systems or parts thereof.

(6) Sewage treatment works, including works for treating and disposing of industrial waste.

(7) Facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, landfill or other methods.

(8) Steam heating plants and distribution systems.

(9) Incinerator plants.

(10) Waterworks, water supply works, water distribution systems.

(11) Facilities to produce steam which is used by the authority or is sold on a contract basis for industrial or similar use or on a sale-for-resale basis to one or more entities authorized to sell steam to the public, provided that such facilities have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing such authority and that the approval does not obligate the taxing power of the municipality in any way.

(12) Facilities for generating surplus electric power which are related to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants pursuant, where applicable, to section 3 of the Federal Power Act (41 Stat. 1063, 16 U.S.C. § 796) and section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 U.S.C. § 824a-3) or Title IV of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 U.S.C. §§ 2701 to 2708) if:

(i) electric power generated from the facilities is sold or distributed only on a sale-for-resale basis to one or more entities authorized to sell electric power to the public;

(ii) the facilities have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the authority and the approval does not obligate the taxing power of the municipality in any way; and

(iii) the incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants are or will be located within or contiguous with a county in which at least one of the municipalities organizing the authority is located, except that this subparagraph shall not apply to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants located in any county which have been or will be constructed by or acquired by the authority to perform functions the primary purposes of which are

other than that of generation of electric power for which the authority has been organized.

(13) Swimming pools, playgrounds, lakes and low-head dams.

(14) Hospitals and health centers.

(15) Buildings and facilities for private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges, which are determined by the authority to be eligible educational institutions, provided that such buildings and facilities shall have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the authority and that the approval does not obligate the taxing power of the governing body in any way.

(16) Motor buses for public use, when such motor buses are to be used within any municipality, and subways.

(17) Industrial development projects, including, but not limited to, projects to retain or develop existing industries and the development of new industries, the development and administration of business improvements and administrative services related thereto.

(18) Storm water planning, management and implementation as defined in the articles of incorporation by the governing body. Authorities, existing as of the effective date of this paragraph, already operating storm water controls as part of a combined sewer system, sanitary sewer system or flood control project may continue to operate those projects.

(b) Limitations.--This section is subject to the following limitations:

(1) An authority created by a school district or school districts shall have the power only to acquire, hold, construct, improve, maintain, operate and lease public school buildings and other school projects acquired, constructed or improved for public school purposes.

(2) The purpose and intent of this chapter being to benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises, none of the powers granted by this chapter shall be exercised in the construction, financing, improvement, maintenance, extension or operation of any project or projects or providing financing for insurance reserves which in whole or in part shall duplicate or compete with existing enterprises serving substantially the same purposes. This limitation shall not apply to the exercise of the powers granted under this section:

(i) for facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, landfill or other methods if each municipality organizing or intending to use the facilities of an authority having such powers shall declare by resolution or ordinance that it is desirable for the health and safety of the people of such municipality that it use the facilities of the authority and state if any contract between such municipality and any other person, firm or corporation for the collection, removal or disposal of ashes, garbage, rubbish and other refuse material has by its terms expired or is terminable at the option of the municipality or will expire within six months from the date such ordinance becomes effective;

(ii) for industrial development projects if the authority does not develop industrial projects which will compete with existing industries;

(iii) for authorities created for the purpose of providing business improvements and administrative services if each municipality organizing an authority for such a project shall declare by resolution or ordinance that it is desirable for the entire local government unit to improve the business district;

(iv) to hospital projects or health centers to be leased to or financed with loans to public hospitals, nonprofit corporation health centers or nonprofit hospital corporations serving the public or to school building projects and facilities to be leased to or financed with loans to private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges or to facilities, as limited under the provisions of this section, to produce steam or to generate electric power if each municipality organizing an authority for such a project shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in the area served by such facilities to have such facilities provided by or financed through an authority;

(v) to provide financing for insurance reserves if each municipality or authority intending to use any proceeds thereof shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in such local government unit or served by such authority; or

(vi) to projects for financing working capital.

(3) It is the intent of this chapter in specifying and defining the authorized purposes and projects of an authority to permit the authority to benefit the people of this Commonwealth by, among other things, increasing their commerce, health, safety and prosperity while not unnecessarily burdening or interfering with any municipality which has not incorporated or joined that authority. Therefore, notwithstanding any other provisions of this chapter, an authority shall not have as its purpose and shall not undertake as a project solely for revenue-producing purposes the acquiring of buildings, facilities or tracts of land which in the case of an authority incorporated or joined by a county or counties are located either within or outside the boundaries of the county or counties and in the case of all other authorities are located outside the boundaries of the municipality or municipalities that incorporated or joined the authority unless either:

(i) the governing body of each municipality in which the project will be undertaken has by resolution evidenced its approval; or

(ii) in cases where the property acquired is not subject to tax abatement, the authority covenants and agrees with each municipality in which the authority will acquire real property as part of the project either to make annual payments in lieu of real estate taxes and special assessments for amounts and time periods specified in the agreement or to pay annually the amount of real estate taxes and special assessments which would be payable if the real property so acquired were fully taxable and subject to special assessments.

(c) Effect of specificity.--The municipality or municipalities organizing such an authority may, in the resolution or ordinance signifying their intention so to do or from time to time by subsequent resolution or ordinance, specify the project or projects to be undertaken by the authority, and no other projects shall be undertaken by the authority than those so specified. If the municipal authorities organizing an authority fail to specify the project or projects to be undertaken, then the authority shall be deemed to have all the powers granted by this chapter.

(d) Powers.--Every authority may exercise all powers necessary or convenient for the carrying out of the purposes set forth in this section, including, but without limiting the generality of the foregoing, the following rights and powers:

(1) To have existence for a term of 50 years and for such further period or periods as may be provided in articles of amendment approved under section 5605(e) (relating to amendment of articles).

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(3) To adopt, use and alter at will a corporate seal.

(4) To acquire, purchase, hold, lease as lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it.

(5) To acquire by purchase, lease or otherwise and to construct, improve, maintain, repair and operate projects.

(6) To finance projects by making loans which may be evidenced by and secured as may be provided in loan agreements, mortgages, security agreements or any other contracts, instruments or agreements, which contracts, instruments or agreements may contain such provisions as the authority shall deem necessary or desirable for the security or protection of the authority or its bondholders.

(7) To make bylaws for the management and regulation of its affairs.

(8) To appoint officers, agents, employees and servants, to prescribe their duties and to fix their compensation.

(9) To fix, alter, charge and collect rates and other charges in the area served by its facilities at reasonable and uniform rates to be determined exclusively by it for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its facilities and properties and, in the case of an authority created for the purpose of making business improvements or providing administrative services, a charge for such services which is to be based on actual benefits and which may be measured on, among other things, gross sales or gross or net profits, the payment of the principal of and interest on its obligations and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations, or with a municipality and to determine by itself exclusively the services and improvements required to provide adequate, safe and reasonable service, including extensions thereof, in the areas served. If the service area includes more than one municipality, the revenues from any project shall not be expended directly or indirectly on any other project unless such expenditures are made for the benefit of the entire service area. Any person questioning the reasonableness or

uniformity of a rate fixed by an authority or the adequacy, safety and reasonableness of the authority's services, including extensions thereof, may bring suit against the authority in the court of common pleas of the county where the project is located or, if the project is located in more than one county, in the court of common pleas of the county where the principal office of the project is located. The court of common pleas shall have exclusive jurisdiction to determine questions involving rates or service. Except in municipal corporations having a population density of 300 persons or more per square mile, all owners of real property in eighth class counties may decline in writing the services of a solid waste authority. The owner of multiple residential units that are served by a single water meter may periodically request the authority to adjust the amount billed by showing a minimum of five consecutive years of actual usage data to determine if the amount billed exceeds the actual usage by 30% or more. If the usage data shows that an adjustment is needed, the authority shall appropriately adjust the billing and use the adjusted amount going forward. When calculating the new amount, the authority may include up to 10% over the amount used. After an initial adjustment, the owner may not request another adjustment for five years after the adjustment is completed.

(10) In the case of an authority which has agreed to provide water service through a separate meter and separate service line to a residential dwelling unit in which the owner does not reside, to impose and enforce the owner's duty to pay a tenant's bill for service rendered to the tenant by the authority only if the authority notifies the owner and the tenant within 30 days after the bill first becomes overdue. Notification shall be provided by first class mail to the address of the owner provided to the authority by the owner and to the billing address of the tenant, respectively. Nothing in this paragraph shall be construed to require an authority to terminate service to a tenant, and the owner shall not be liable for any service which the authority provides to the tenant 90 or more days after the tenant's bill first becomes due unless the authority has been prevented by court order from terminating service to that tenant.

(11) In the case of an authority which has agreed to provide sewer service to a residential dwelling unit in which the owner does not reside, to impose and enforce the owner's duty to pay a tenant's bill for service rendered by the authority to the tenant. The authority shall notify the owner and the tenant within 30 days after the tenant's bill for that service first becomes overdue. Notification shall be provided by first class mail to the address of the owner provided to the authority by the owner and to the billing address of the tenant, respectively. Nothing in this paragraph shall be construed to relieve the owner of liability for such service unless the authority fails to provide the notice required in this paragraph.

(12) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations, hereinafter called bonds, of the authority. Bonds shall have a maturity date not longer than 40 years from the date of issue except that no refunding bonds shall have a maturity date later than the life of the authority; also, to secure the payment of the bonds or any part thereof by pledge or deed of trust of all or any of its revenues and

receipts; to make agreements with the purchasers or holders of the bonds or with others in connection with any bonds, whether issued or to be issued, as the authority shall deem advisable; and in general to provide for the security for the bonds and the rights of the bondholders. In respect to any project constructed and operated under agreement with any authority or any public authority of any adjoining state, to borrow money and issue notes, bonds and other evidences of indebtedness and obligations jointly with that authority. Notwithstanding any of the foregoing, no authority shall borrow money on obligations to be paid primarily out of lease rentals or other current revenues other than charges made to the public for the use of the capital projects financed if the net debt of the lessee municipality or municipalities shall exceed any limit provided by any law of the Commonwealth.

(13) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(14) Without limitation of the foregoing, to borrow money and accept grants from and to enter into contracts, leases or other transactions with any Federal agency, the Commonwealth or a municipality, school district, corporation or authority.

(15) To have the power of eminent domain.

(16) To pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the authority as security for all or any of the obligations of the authority.

(17) To do all acts and things necessary or convenient for the promotion of its business and the general welfare of the authority to carry out the powers granted to it by this chapter or other law, including, but not limited to, the adoption of reasonable rules and regulations that apply to water and sewer lines located on a property owned or leased by a customer and to refer for prosecution as a summary offense any violation dealing with rules and regulations relating to water and sewer lines located on a property owned or leased by a customer. Under this paragraph, an authority established by a county of the second class A which is not a home rule county shall have powers for the inspection and repair of sewer facilities comparable to the powers of health officials under section 3007 of the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code.

(18) To contract with any municipality, corporation or a public authority of this and an adjoining state on terms as the authority shall deem proper for the construction and operation of any project which is partly in this Commonwealth and partly in the adjoining state.

(19) To enter into contracts to supply water and other services to and for municipalities that are not members of the authority or to and for the Commonwealth, municipalities, school districts, persons or authorities and fix the amount to be paid therefor.

(20) (i) To make contracts of insurance with an insurance company, association or exchange authorized to transact business in this Commonwealth, insuring its employees and appointed officers and officials under a policy or policies of insurance covering life, accidental death and dismemberment and disability income. Statutory requirements for such insurance, including, but not limited to, requisite number of eligible employees,

appointed officers and officials, as provided for in section 621.2 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and sections 1, 2, 6, 7 and 9 of the act of May 11, 1949 (P.L.1210, No.367), known as the Group Life Insurance Policy Law, shall be met.

(ii) To make contracts with an insurance company, association or exchange or any hospital plan corporation or professional health service corporation authorized to transact business in this Commonwealth insuring or covering its employees and their dependents but not its appointed officers and officials nor their dependents for hospital and medical benefits and to contract for its employees but not its appointed officers and officials with an insurance company, association or exchange authorized to transact business in this Commonwealth granting annuities or to establish, maintain, operate and administer its own pension plan covering its employees but not its appointed officers and officials.

(iii) For the purposes set forth under this paragraph, to agree to pay part or all of the cost of this insurance, including the premiums or charges for carrying these contracts, and to appropriate out of its treasury any money necessary to pay such costs, premiums or charges. The proper officers of the authority who are authorized to enter into such contracts are authorized, enabled and permitted to deduct from the officers' or employees' pay, salary or compensation that part of the premium or cost which is payable by the officer or employee and as may be so authorized by the officer or employee in writing.

(21) To charge the cost of construction of any sewer or water main constructed by the authority against the properties benefited, improved or accommodated thereby to the extent of such benefits. These benefits shall be assessed in the manner provided under this chapter for the exercise of the right of eminent domain.

(22) To charge the cost of construction of a sewer or water main constructed by the authority against the properties benefited, improved or accommodated by the construction according to the foot front rule. Charges shall be based upon the foot frontage of the properties benefited and shall be a lien against such properties. Charges may be assessed and collected and liens may be enforced in the manner provided by law for the assessment and collection of charges and the enforcement of liens of the municipality in which such authority is located. No charge shall be assessed unless prior to the construction of a sewer or water main the authority submitted the plan of construction and estimated cost to the municipality in which the project is to be undertaken and the municipality approved it. The properties benefited, improved or accommodated by the construction may not be charged an aggregate amount in excess of the approved estimated cost.

(23) To require the posting of financial security to insure the completion in accordance with the approved plat and with the rules and regulations of the authority of any water mains or sanitary sewer lines, or both, and related apparatus and facilities required to be installed by or on behalf of a developer under an approved land development or subdivision plat as these terms are defined under the act

of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. If financial security is required by the authority and without limitation as to other types of financial security which the authority may approve, which approval shall not be unreasonably withheld, federally chartered or Commonwealth-chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in these lending institutions shall be deemed acceptable financial security. Financial security shall be posted with a bonding company or federally chartered or Commonwealth-chartered lending institution chosen by the party posting the financial security if the bonding company or lending institution is authorized to conduct business within this Commonwealth. The bond or other security shall provide for and secure to the authority the completion of required improvements within one year from the date of posting of the security. The amount of financial security shall be equal to 110% of the cost of the required improvements for which financial security is to be posted. The cost of required improvements shall be established by submitting to the authority a bona fide bid from a contractor chosen by the party posting the financial security. In the absence of a bona fide bid, the cost shall be established by an estimate prepared by the authority's engineer. If the party posting the financial security requires more than one year from the date of posting the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from the initial posting date or to 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure. As the work of installing the required improvements proceeds, the party posting the financial security may request the authority to release or authorize the release of, from time to time, portions of the financial security necessary to pay the contractor performing the work. Release requests shall be in writing addressed to the authority, and the authority shall have 45 days after receiving a request to ascertain from the authority engineer, certified in writing, that the portion of the work has been completed in accordance with the approved plat. Upon receiving written certification, the authority shall authorize release by the bonding company or lending institution of an amount estimated by the authority engineer to fairly represent the value of the improvements completed. If the authority fails to act within the 45-day period, it shall be deemed to have approved the requested release of funds. The authority may, prior to final release at the time of completion and certification by its engineer, retain 10% of the original amount of the posted financial security for the improvements. If the authority accepts dedication of all or some of the required improvements following completion, it may require the posting of financial security to secure structural integrity of the dedicated improvements as well as the functioning of the improvements in accordance with the design and specifications as depicted on the final plat and the authority's rules and regulations. This financial security shall expire not later than 18 months from the date of acceptance of dedication and shall be of the same type as set forth in this paragraph with regard to that which is required for installation of the improvements, except that

it shall not exceed 15% of the actual cost of installation of the improvements. Any inconsistent ordinance, resolution or statute is null and void.

(24) To charge enumerated fees to property owners who desire to or are required to connect to the authority's sewer or water system. Fees shall be based upon the duly adopted fee schedule which is in effect at the time of payment and shall be payable at the time of application for connection or at a time to which the property owner and the authority agree. In the case of projects to serve existing development, fees shall be payable at a time to be determined by the authority. An authority may require that no capacity be guaranteed for a property owner until the tapping fees have been paid or secured by other financial security. The fees shall be in addition to any charges assessed against the property in the construction of a sewer or water main by the authority under paragraphs (21) and (22) as well as any other user charges imposed by the authority under paragraph (9), except that no reservation of capacity fee or other similar charge shall be imposed or collected from a property owner who has applied for service unless the charge is based on debt and fixed operating expenses. A reservation of capacity fee or other similar charge may not exceed 60% of the average sanitary sewer bill for a residential customer in the same sewer service area for the same billing period. Any authority opting to collect a reservation of capacity fee or other similar charge may not collect the tapping fee until the time as the building permit fee is due. Tapping fees shall not include costs included in the calculation of any other fees, assessments, rates or other charges imposed under this act.

(i) The fees may include any of the following if they are separately set forth in a resolution adopted by the authority:

(A) Connection fee. A connection fee shall not exceed an amount based upon the actual cost of the connection of the property extending from the authority's main to the property line or curb stop of the property connected. The authority may also base the connection fee upon an average cost for previously installed connections of similar type and size. Such average cost may be trended to current cost using published cost indexes. In lieu of payment of the fee, an authority may require the construction of those facilities by the property owner who requested the connection.

(B) Customer facilities fee. A customer facilities fee shall not exceed an amount based upon the actual cost of facilities serving the connected property from the property line or curb stop to the proposed dwelling or building to be served. The fee shall be chargeable only if the authority installs the customer facilities. In lieu of payment of the customer facilities fee, an authority may require the construction of those facilities by the property owner who requests customer facilities. In the case of water service, the fee may include the cost of a water meter and installation if the authority provides or installs the water meter. If the property connected or to be connected with the sewer system of the authority is not equipped with a water meter, the authority may install a meter at its own cost

and expense. If the property is supplied with water from the facilities of a public water supply agency, the authority shall not install a meter without the consent and approval of the public water supply agency.

(C) Tapping fee. A tapping fee shall not exceed an amount based upon some or all of the following parts which shall be separately set forth in the resolution adopted by the authority to establish these fees. In lieu of payment of this fee, an authority may require the construction and dedication of only such capacity, distribution-collection or special purpose facilities necessary to supply service to the property owner or owners.

(I) Capacity part. The capacity part shall not exceed an amount that is based upon the cost of capacity-related facilities, including, but not limited to, source of supply, treatment, pumping, transmission, trunk, interceptor and outfall mains, storage, sludge treatment or disposal, interconnection or other general system facilities. Except as specifically provided in this paragraph, such facilities may include only those that provide existing service. The cost of capacity-related facilities, excluding facilities contributed to the authority by any person, government or agency, or portions of facilities paid for with contributions or grants other than tapping fees, shall be based upon their historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on debt financing such facilities. To the extent that historical cost is not ascertainable, tapping fees may be based upon an engineer's reasonable written estimate of current replacement cost. Such written estimate shall be based upon and include an itemized listing of those components of the actual facilities for which historical cost is not ascertainable. Outstanding debt related to the facilities shall be subtracted from the cost except when calculating the initial tapping fee imposed for connection to facilities exclusively serving new customers. The outstanding debt shall be subtracted for all subsequent revisions of the initial tapping fee where the historical cost has been updated to reflect current cost except as specifically provided in this section. For tapping fees or components related to facilities initially serving exclusively new customers, an authority may, no more frequently than annually and without updating the historical cost of or subtracting the outstanding debt related to such facilities, increase such tapping fee by an amount calculated by multiplying the tapping fee by the weighted average interest rate on the debt related to such facilities applicable for the period since the fee was initially established or the last increase of the tapping fee for such facilities. The capacity part of the tapping fee per unit of design capacity of said facilities

required by the new customer shall not exceed the total cost of the facilities as described herein divided by the system design capacity of all such facilities. Where the cost of facilities to be constructed or acquired in the future are included in the calculation of the capacity part as permitted herein, the total cost of the facilities shall be divided by the system design capacity plus the additional capacity to be provided by the facilities to be constructed or acquired in the future. An authority may allocate its capacity-related facilities to different sections or districts of its system and may impose additional capacity-related tapping fees on specific groups of existing customers such as commercial and industrial customers in conjunction with additional capacity requirements of those customers. The cost of facilities to be constructed or acquired in the future that will increase the system design capacity may be included in the calculation of the capacity part, subject to the provisions of clause (VI). The cost of such facilities shall not exceed their reasonable estimated cost set forth in a duly adopted annual budget or a five-year capital improvement plan. The authority shall have taken at least two of the following actions toward construction of the facilities:

- (a) obtained financing for the facilities;

- (b) entered into a contract obligating the authority to construct or pay for the cost of construction of the facilities or its portion thereof in the event that multiple parties are constructing the facilities;

- (c) obtained a permit for the facilities;

- (d) obtained title to or condemned additional real estate upon which the facilities will be constructed;

- (e) entered into a contract obligating the authority to purchase or acquire facilities owned by another;

- (f) prepared an engineering feasibility study specifically related to the facilities, which study recommends the construction of the facilities within a five-year period;

- (g) entered into a contract for the design or construction of the facilities or adopted a budget which includes the use of in-house resources for the design or construction of the facilities.

(II) Distribution or collection part. The distribution or collection part may not exceed an amount based upon the cost of distribution or collection facilities required to provide service, such as mains, hydrants and pumping stations. Facilities may only include those that provide existing service. The cost of distribution or collections facilities, excluding facilities contributed to the authority by any person, government or agency, or portions of facilities paid for with contributions or grants

other than tapping fees, shall be based upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on debt financing such facilities. To the extent that historical cost is not ascertainable, tapping fees may be based upon an engineer's reasonable written estimate of replacement cost. Such written estimate shall be based upon and include an itemized listing of those components of the actual facilities for which historical cost is not ascertainable. Outstanding debt related to the facilities shall be subtracted from the cost except when calculating the initial tapping fee imposed for connection to facilities exclusively serving new customers. The outstanding debt shall be subtracted for all subsequent revisions of the initial tapping fee where the historical cost has been updated to reflect current cost except as specifically provided in this section. For tapping fees or components related to facilities initially serving exclusively new customers, an authority may, no more frequently than annually and without updating the historical cost of or subtracting the outstanding debt related to such facilities, increase such tapping fee by an amount calculated by multiplying the tapping fee by the weighted average interest rate on the debt related to such facilities applicable for the period since the fee was initially established or the last increase of the tapping fee for such facilities. The distribution or collection part of the tapping fee per unit of design capacity of said facilities required by the new customer shall not exceed the cost of the facilities divided by the design capacity. An authority may allocate its distribution-related or collection-related facilities to different sections or districts of its system and may impose additional distribution-related or collection-related tapping fees on specific groups of existing customers such as commercial and industrial customers in conjunction with additional capacity requirements of those customers.

(III) Special purpose part. A part for special purpose facilities shall be applicable only to a particular group of customers or for serving a particular purpose or a specific area based upon the cost of the facilities, including, but not limited to, booster pump stations, fire service facilities, water or sewer mains, pumping stations and industrial wastewater treatment facilities. Such facilities may include only those that provide existing service. The cost of special purpose facilities, excluding facilities contributed to the authority by any person, government or agency, or portions of facilities paid for with contributions or grants other than tapping fees, shall be based upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest

and other financing fees paid on debt financing such facilities. To the extent that historical cost is not ascertainable, tapping fees may be based upon an engineer's reasonable written estimate of current replacement cost. Such written estimate shall be based upon and include an itemized listing of those components of the actual facilities for which historical cost is not ascertainable. Outstanding debt related to the facilities shall be subtracted from the cost except when calculating the initial tapping fee imposed for connection to facilities exclusively serving new customers. The outstanding debt shall be subtracted for all subsequent revisions of the initial tapping fee where the historical cost has been updated to reflect current cost except as specifically provided in this section. For tapping fees or components related to facilities initially serving exclusively new customers, an authority may, no more frequently than annually and without updating the historical cost of or subtracting the outstanding debt related to such facilities, increase such tapping fee by an amount calculated by multiplying the tapping fee by the weighted average interest rate on the debt related to such facilities applicable for the period since the fee was initially established or the last increase of the tapping fee for such facilities. The special purpose part of the tapping fee per unit of design capacity of such special purpose facilities required by the new customer shall not exceed the cost of the facilities as described herein divided by the design capacity of the facilities. Where an authority constructs special purpose facilities at its own expense, the design capacity for the facilities may be expressed in terms of the number of equivalent dwelling units to be served by the facilities. In no event shall an authority continue to collect any tapping fee which includes a special purpose part after special purpose part fees have been imposed on the total number of design capacity units used in the original calculation of the special purpose part. An authority may allocate its special purpose facilities to different sections or districts of its system and may impose additional special purpose tapping fees on specific groups of existing customers such as commercial and industrial customers in conjunction with additional capacity requirements of those customers.

(IV) Reimbursement part. The reimbursement part shall only be applicable to the users of certain specific facilities when a fee required to be collected from such users will be reimbursed to the person at whose expense the facilities were constructed as set forth in a written agreement between the authority and such person at whose expense such facilities were constructed.

(V) Calculation of tapping fee.

(a) In arriving at the cost to be included in the tapping fee, the same cost shall not be included in more than one part of the tapping fee.

(b) No tapping fee may be based upon or include the cost of expanding, replacing, updating or upgrading facilities serving only existing customers in order to meet stricter efficiency, environmental, regulatory or safety standards or to provide better service to or meet the needs of existing customers.

(c) The cost used in calculating tapping fees shall not include maintenance and operation expenses.

(d) As used in this subclause, "maintenance and operation expenses" are those expenditures made during the useful life of a sewer or water system for labor, materials, utilities, equipment accessories, appurtenances and other items which are necessary to manage and maintain the system capacity and performance and to provide the service for which the system was constructed. Costs or expenses to reduce or eliminate groundwater infiltration or inflow may not be included in the cost of facilities used to calculate tapping fees unless these costs or expenses result in an increase in system design capacity.

(e) Except as otherwise provided for the calculation of a special purpose part, the design capacity required by a new residential customer used in calculating sewer or water tapping fees shall not exceed an amount established by multiplying 65 gallons per capita per day for water capacity, 90 gallons per capita per day for sewer capacity times the average number of persons per household as established by the most recent census data provided by the United States Census Bureau. If an authority service area is entirely within a municipal boundary for which there is corresponding census data specifying the average number of persons per household, issued by the United States Census Bureau, the average shall be used. If an authority service area is not entirely within a municipal boundary but is entirely within a county or other geographic area within Pennsylvania for which the United States Census Bureau has provided the average number of persons per household, then that average for the county or geographic area shall be used. If an authority service area is not entirely within a municipal, county or other geographic area within Pennsylvania for which the United States Census Bureau has calculated an average number of persons per household, then the Pennsylvania average number of persons per household shall be used as published by the United States Census Bureau. Alternatively, the design capacity required

for a new residential customer shall be determined by a study but shall not exceed:

(i) for water capacity, the average residential water consumption per residential customer, or, for sewage capacity, the average residential water consumption per residential customer plus ten percent. The average residential water consumption shall be determined by dividing the total water consumption for all metered residential customers in the authority's service area over at least a 12-consecutive-month period within the most recent five years by the average number of customers during the period; or

(ii) for sewer capacity, the average sewage flow per residential customer determined by a measured sewage flow study. Such study shall be completed in accordance with sound engineering practices within the most recent five years for the lesser of three or all residential subdivisions of more than ten lots which have collection systems in good repair and which connected to the authority's facilities within the most recent five years. The study shall calculate the average sewage flow per residential customer in such developments by measuring actual sewage flows over at least 12 consecutive months at the points where such developments connected to the authority's sewer main.

(iii) All data and other information considered or obtained by an authority in connection with determining capacity under this subsection shall be made available to the public upon request.

(iv) If any person required to pay a tapping fee submits to the authority an opinion from a professional engineer that challenges the validity of the results of the calculation of design capacity required to serve new residential customers prepared under subparagraph (i) or (ii), the authority shall within 30 days obtain a written certification from another professional engineer, who is not an employee of the authority, verifying that the results and the calculations, methodology and measurement were performed in accordance with this title and generally accepted engineering practices. If an authority does not obtain a certification required under this subsection within 30 days of receiving such challenge, the authority may not impose or collect tapping fees based on any such challenged calculations or study until such engineering certification is obtained.

(f) An authority may use lower design capacity requirements and impose lower tapping fees for multifamily residential dwellings

than imposed on other types of residential customers.

(VI) Separate accounting for future facility costs. Any portion of tapping fees collected which, based on facilities to be constructed or acquired in the future in accordance with this section, shall be separately accounted for and shall be expended only for that particular facility or a substitute facility accomplishing the same purpose which is commenced within the same period. Such accounting shall include, but not be limited to, the total fees collected as a result of including facilities to be constructed in the future, the source of the fees collected and the amount of fees expended on specific facilities. The proportionate share of tapping fees based upon facilities to be constructed or acquired in the future under this section shall be refunded to the payor of such fees within 90 days of the occurrence of the following:

(a) the authority abandons its plan or a part thereof to construct or acquire a facility or facilities which are the basis for such fee; or

(b) the facilities have not been placed into service within seven years, or, for an authority which provides service to five or more municipalities, the facilities have not been placed into service within 20 years, after adoption of a resolution which imposes tapping fees which are based upon facilities to be constructed or acquired in the future. Any refund of fees held for 20 years shall include interest for the period the money was held.

(VII) Definitions. As used in this clause, the following words and phrases shall have the meanings given to them in this subclause:

"BOD5." The five-day biochemical-oxygen demand.

"Design capacity." For residential customers, the permitted or rated capacity of facilities expressed in million gallons per day. For nonresidential customers, design capacity may also be expressed in pounds of BOD5 per day, pounds of suspended solids per day or any other capacity-defining parameter that is separately and specifically set forth in the permit governing the operation of the system and based upon its original design as modified by those regulatory agencies having jurisdiction over these facilities. Additionally, for separate fire service customers, the permitted or rated capacity of fire service facilities may be expressed in peak flows. The units of measurement used to express design capacity shall be the same units of measurement used to express the system design capacity. Except as otherwise provided for special purpose facilities, design capacity may not be expressed in terms of equivalent dwelling units.

"Outstanding debt." The principal amount outstanding of any bonds, notes, loans or other form of indebtedness used to finance or refinance facilities included in the tapping fee.

"Service line." A water or sewer line that directly connects a single building or structure to a distribution or collection facility.

"System design capacity." The design capacity of the system for which the tapping fee is being calculated which represents the total design capacity of the treatment facility or water sources.

(ii) Every authority charging a tapping, customer facilities or connection fee shall do so only pursuant to a resolution adopted at a public meeting of the authority. The authority shall have available for public inspection a detailed itemization of all calculations, clearly showing the maximum fees allowable for each part of the tapping fee and the manner in which the fees were determined, which shall be made a part of any resolution imposing such fees. A tapping, customer facilities or connection fee may be revised and imposed upon those who subsequently connect to the system, subject to the provisions and limitations of the act.

(iii) No authority shall have the power to impose a connection fee, customer facilities fee, tapping fee or similar fee except as provided specifically under this section.

(iv) A municipality or municipal authority with available excess sewage capacity, wishing to sell a portion of that capacity to another municipality or municipal authority, may not charge a higher cost for the capacity portion of the tapping fee as the selling entity charges to its customers for the capacity portion of the tapping fee. In turn, the municipality or municipal authority buying this excess capacity may not charge a higher cost for the capacity portion of the tapping fee to its residential customers than that charged to them by the selling entity.

(v) As used in this paragraph, the term "residential customer" shall also include those developing property for residential dwellings that require multiple tapping fee permits. This paragraph shall not be applicable to intermunicipal or interauthority agreements relative to the purchase of excess capacity by an authority or municipality in effect prior to February 20, 2001.

(25) To construct tunnels, bridges, viaducts, underpasses or other structures and relocate the facilities of public service companies to effect or permit the abolition of a grade crossing or grade crossings subject to approval of and in accordance with a duly issued order of the Pennsylvania Public Utility Commission. A commission order shall provide that costs payable by a public utility, political subdivision, the Commonwealth or others shall be payable to the authority. Before proceedings are instituted before the commission, the authority and the public utilities or the political subdivisions shall enter an agreement to provide for the conveyance to the authority of title to the land, structure or improvement involved as security for bonds issued to finance the improvement and the leasing of the improvement to the utility or utilities or the political subdivision or subdivisions involved on such terms as will

provide for interest and sinking fund charges on the bonds issued for the improvement.

(26) To appoint police officers who shall have the same rights as other peace officers in this Commonwealth with respect to the property of the authority.

(27) (i) In the case of an authority created to provide business improvements and administrative services, to impose an assessment on each benefited property within a business improvement district. This assessment shall be based upon the estimated cost of the improvements and services in the district stated in the planning or feasibility study and shall be determined by one of the following methods:

(A) The authority may determine an assessment determined by multiplying the total improvement and service cost by the ratio of the assessed value for real estate tax purposes of the benefited property to the total assessed value of all benefited properties in the district.

(B) The authority may determine assessments upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with municipal law.

(C) If the district served by the authority contains single-family residential properties, including those that are part of a planned unit development, residential cooperative properties or condominium properties formed under 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums) and other properties, the authority may elect to calculate assessments based on all of the following:

(I) The business improvement district assessed value of each benefited single-family or residential cooperative property shall be one-half of the assessed value of the property for real estate tax purposes.

(II) In the case of a condominium, the unit owners' association formed under 68 Pa.C.S. Pt. II Subpt. B shall be assessed. Individual units may not be assessed. The business improvement district assessed value of the unit owners' association shall be the sum of the assessed value for real estate tax purposes of any real estate owned by the association and such assessed value of all units, including their undivided interests in the common elements and any limited common elements, except that the value of any single-family residential unit shall be one-half of such assessed value of the unit for real estate tax purposes. The authority shall provide to the unit owners' association the calculation of the business improvement district assessed value of the unit owners' association, itemizing the assessed value of each unit as provided in this clause. The unit owners' association shall add to the condominium fee charged to a unit owner the amount of the district assessment attributable to the unit which amount shall be separately itemized on any assessment, invoice, bill or other document presented to the unit owner for payment of the condominium fee.

(III) The district assessment shall be calculated on each benefited single-family residential property, benefited residential cooperative property and benefited unit owners' association by multiplying in each case the total improvement and services cost by the ratio of the district assessed value of the benefited single-family residential property, benefited residential cooperative property or benefited unit owners' association to the sum of the district assessed value of all benefited single-family residential properties, the district assessed value of all residential cooperative properties, the district assessed value of all benefited unit owners' associations and the assessed value of all remaining benefited properties in the business improvement district.

(IV) The remaining benefited properties shall be assessed by multiplying in each case the total improvement and services cost by the ratio of the assessed value of the remaining benefited property to the sum of the district assessed value of all benefited single-family residential properties, the district assessed value of all residential cooperative properties, the district assessed value of all benefited unit owners' associations and the assessed value of all remaining benefited properties in the business improvement district.

(V) An election by an authority under this clause shall not be revoked except through the procedures stated in subparagraph (ii) and subsection (g).

(ii) An assessment or charge may not be made unless:

(A) An authority submits a plan for business improvements and administrative services, together with estimated costs and the proposed method of assessments for business improvements and charges for administrative services, to the municipality in which the project is to be undertaken.

(B) The municipality approves the plan, the estimated costs and the proposed method of assessment and charges.

(iii) An authority may not assess charges against the improved properties in an aggregate amount in excess of the estimated cost.

(iv) An authority may by resolution authorize payment of an assessment or charge in equal, annual or more frequent installments over a fixed period of time and bearing interest of 6% or less. If bonds, notes or guarantees are used to raise revenue to provide for the cost of improvements or services, the installments shall not be payable beyond the term for which the bonds, notes or guarantees are payable.

(v) Claims to secure the payment of assessments shall be entered in the prothonotary's office of the county at the same time and in the same form and shall be collected in the same manner as municipal claims are filed and collected notwithstanding the provisions of this section as to installment payments.

(vi) In case of default of 60 days or more after an installment is due, the entire assessment and interest shall be due.

(vii) An owner of property against whom an assessment has been made may pay the assessment in full at any time along with accrued interest and costs. Upon proof of payment the lien shall be discharged.

(viii) For purposes of determining assessments in accordance with subparagraph (i) (A) and (C), the assessed value of a benefited property shall be without reduction for any value attributable to improvements for which an exemption or abatement has been granted under law.

(ix) Any claim entered to secure the payment of an assessment against a unit owners' association shall be enforceable as a judgment for money against the unit owners' association within the meaning of and under the provisions of 68 Pa.C.S. § 3319 (relating to other liens affecting the condominium), provided that if an assessment against a unit owners' association is paid in part and the unit owners' association specifies in writing to the authority the units with respect to which full payment was made, the claim shall not be enforceable against units with respect to which full payment was made or against the unit owners' association. An authority shall discharge a lien against a unit owners' association to the extent that it constitutes a lien on a particular unit upon proof of payment, either to the unit owners' association or to the authority, by the owner of the particular unit of his itemized share of the assessment on the unit owners' association.

(x) An authority that has made an election under subparagraph (i) (C) may further elect to calculate, for the assessment years included in a plan and budget, the assessments on single-family residential properties, including those that are part of a planned unit development, residential cooperative properties and residential condominium properties, at the lower of the amount determined under subparagraph (i) (C) or that aggregate value of assessments that will not exceed 5% of the authority's total annual assessments, subject to the following:

(A) Any aggregate reduction in assessments on residential properties shall increase the assessments on the remaining properties in proportion to the assessments of the remaining properties calculated under subparagraph (i) (C) (IV).

(B) Any further election shall be made for all assessment years included in a plan and budget, except that, for a current plan and budget, the further election shall be made for the years remaining in the plan and budget. Once made, the further election shall remain in effect for all such assessment years included in the plan and budget.

(C) An authority making the further election shall hold a hearing on the proposed method of calculation. Written notice of the hearing shall be given to all owners of properties assessed by the district at least 30 days prior to the hearing. The notice shall state the proposed method of calculation.

(D) The authority shall take no action on the proposed method of calculation if objection is made

in writing by owners of properties representing one-third of the amount of all assessments in the district. In the case of a condominium formed under 68 Pa.C.S. Pt. II Subpt. B, the condominium association and all condominium units shall be treated as one property, valued in the manner described in subparagraph (i) (C) (II). Any objection must be made within 30 days of the hearing in writing signed by the property owner and filed in the registered office of the authority.

(E) No further hearing shall be required, no amendment of the authority's plan and budget shall be required and no action on the part of the municipality shall be required.

(28) To adopt rules and regulations to provide for the safety of persons using facilities of an airport authority pertaining to vehicular traffic control. Police officers appointed under paragraph (26) shall enforce them.

(29) To provide financing for insurance reserves by making loans evidenced and secured by loan agreements, security agreements or other instruments or agreements. These instruments or agreements may contain provisions the authority deems necessary or desirable for the security or protection of the authority or its bondholders.

(30) Where a sewer or water system of an authority is to be extended at the expense of the owner of properties or where the authority otherwise would construct customer facilities referred to in paragraph (24), other than water meter installation, a property owner shall have the right to construct the extension or install the customer facilities himself or through a subcontractor approved by the authority, which approval shall not be unreasonably withheld. The authority shall have the right, at its option, to perform the construction itself only if the authority provides the extension or customer facilities at a lower cost and within the same timetable specified or proposed by the property owner or his approved subcontractor. Construction by the property owner shall be in accordance with an agreement for the extension of the authority's system and plans and specifications approved by the authority and shall be undertaken only pursuant to the existing regulations, requirements, rules and standards of the authority applicable to such construction. Construction shall be subject to inspection by an inspector authorized to approve similar construction and employed by the authority during construction. When a main is to be extended at the expense of the owner of properties, the property owner may be required to deposit with the authority, in advance of construction, the authority's estimated reasonable and necessary cost of reviewing plans, construction inspections, administrative, legal and engineering services. The authority may require that construction shall not commence until the property owner has posted appropriate financial security in accordance with paragraph (23). The authority may require the property owner to reimburse it for reasonable and necessary expenses it incurred as a result of the extension. If an independent firm is employed for engineering review of the plans and the inspection of improvements, reimbursement for its services shall be reasonable and in accordance with the ordinary and customary fees charged by the independent firm for work performed for similar services in the community. The fees shall not exceed the rate or cost

charged by the independent firm to the authority when fees are not reimbursed or otherwise imposed on applicants. Upon completion of construction, the property owner shall dedicate and the authority shall accept the extension of the authority's system if dedication of facilities and the installation complies with the plans, specifications, regulations of the authority and the agreement. An authority may provide in its regulations those facilities which, having been constructed at the expense of the owner of properties, the authority will require to be dedicated and which facility or facilities the authority will accept as a part of its system.

(i) In the event the property owner disputes the amount of any billing in connection with the review of plans, construction inspections, administrative, legal and engineering services, the property owner shall, within 60 days of the date of billing, notify the authority that the billing is disputed as excessive, unreasonable or unnecessary, in which case the authority shall not delay or disapprove any application or any approval or permit related to the extension or facilities due to the property owner's dispute over the disputed billings unless the property owner has failed to make payment in accordance with the decision rendered under clause (iii) within 60 days after the mailing date of such decision.

(ii) If, within 60 days from the date of billing, the authority and the property owner cannot agree on the amount of billings which are reasonable and necessary, the property owner shall have the right to request the appointment of another professional consultant to serve as arbitrator. The property owner and the authority whose fees are being challenged shall, by mutual agreement, appoint a professional of the same profession or discipline licensed in Pennsylvania to review the billings and make a determination as to the amount of billings which is reasonable and necessary.

(iii) The professional appointed as arbitrator under clause (ii) shall hear evidence and review the documentation as the professional in his or her sole opinion deems necessary and shall render a decision within 50 days of the date of appointment. Based upon the decision of the arbitrator, the property owner or authority shall be required to pay any amounts necessary to implement the decision within 60 days. In the event the property owner has paid the authority or retained professional consultant an amount in excess of the amount determined to be reasonable and necessary, the authority or retained professional consultant shall within 60 days reimburse the excess payment.

(iv) In the event that the authority and property owner cannot agree upon the professional to be appointed within 20 days of the request for appointment of an arbitrator, the president judge of the court of common pleas of the judicial district in which the municipality is located, or if at the time there is no president judge, the senior active judge then sitting upon application of either party shall appoint a professional, who shall be neither the authority engineer nor any professional who has been retained by or performed services for the authority or the property owner within the preceding five years.

(v) The fee of the arbitrator shall be paid by the property owner if the disputed fee is upheld by the arbitrator. The fee of the arbitrator shall be paid by the authority if the disputed fee is \$2,500 or greater than the payment decided by the arbitrator. The fee of the arbitrator shall be paid in an equal amount by the property owner and the authority if the disputed fee is less than \$2,500 of the payment decided by the arbitrator.

(vi) In the event that the disputed fees have been paid and the arbitrator finds that the disputed fees are unreasonable or excessive by more than \$10,000, the arbitrator shall:

(A) award the amount of the fees found to be unreasonable or excessive to the party that paid the disputed fee; and

(B) impose a surcharge of 4% of the amount found as unreasonable or excessive to be paid to the party that paid the disputed fee.

(vii) An authority or property owner shall have 100 days after paying a fee to dispute any fee charged as being unreasonable or excessive.

(31) Where a property owner constructs or causes to be constructed at his expense any extension of a sewer or water system of an authority, the authority shall provide for the reimbursement to the property owner when the owner of another property not in the development for which the extension was constructed connects a service line directly to the extension within ten years of the date of the dedication of the extension to the authority in accordance with the following provisions:

(i) Reimbursement shall be equal to the distribution or collection part of each tapping fee collected as a result of subsequent connections. An authority may deduct from each reimbursement payment an amount equal to 5% of it for administrative expenses and services rendered in calculating, collecting, monitoring and disbursing the reimbursement payments to the property owner.

(ii) Reimbursement shall be limited to those lines which have not previously been paid for by the authority.

(iii) The authority shall, in preparing necessary reimbursement agreements with a property owner for whose benefit reimbursement will be provided, attach as an exhibit an itemized listing of all sewer and water facilities for which reimbursement shall be provided.

(iv) The total reimbursement which a property owner may receive may not exceed the cost of labor and material, engineering design charges, the cost of performance and maintenance bonds, authority review and inspection charges as well as flushing and televising charges and any and all charges involved in the acceptance and dedication of such facilities by the authority, less the amount which would be chargeable to the property owner based upon the authority's collection and distribution tapping fees which would be applicable to all lands of the property owner directly or indirectly served through extensions if the property owner did not fund the extension.

(v) An authority shall notify by certified mail, to the last known address, the property owner for whose benefit a reimbursement shall apply. This shall be done within 30 days of the authority's receipt of the

reimbursement payment. If a property owner does not claim a reimbursement payment within 120 days after the mailing of the notice, the payment shall become the sole property of the authority with no further obligation on the part of the authority to refund the payment to the property owner.

(32) (Deleted by amendment).

(33) Provisions of paragraphs (30) and (31) shall apply to residential customers in a municipality where the sewer service is being purchased by the municipality or sewer authority from another municipality or sewer authority having excess sewage capacity.

(34) In the case of an authority that performs storm water planning, management and implementation, reasonable and uniform rates may be based in whole or in part on property characteristics, which may include installation and maintenance of best management practices approved and inspected by the authority.

(e) Prohibition.--

(1) An authority may not pledge the credit or taxing power of the Commonwealth or its political subdivision.

(2) The obligations of an authority are not obligations of the Commonwealth or its political subdivision.

(3) Neither the Commonwealth nor a political subdivision shall be liable for the payment of principal of or interest on obligations of an authority.

(f) Authorization to control airports.--Nothing in this chapter shall be construed to prevent an authority which owns or operates an airport as a project from leasing airport land on a short-term or long-term basis for commercial, industrial or residential purposes when the land is not immediately needed for aviation or aeronautical purposes in the judgment of the authority.

(g) Authorization to make business improvements and provide administrative services.--An authority may be established to make business improvements or provide administrative services in districts designated by a municipality or by municipalities acting jointly and zoned commercial or used for general commercial purposes or in contiguous areas if the inclusion of a contiguous area is directly related to the improvements and services proposed by the authority. The authority shall make planning or feasibility studies to determine needed improvements or administrative services. The following shall also apply:

(1) The authority shall be required to hold a public hearing on the proposed improvement or service, the estimated costs thereof and the proposed method of assessment and charges. Notice of the hearing shall be advertised at least ten days before it occurs in a newspaper whose circulation is within the municipality where the authority is established. At the public hearing any interested party may be heard.

(2) Written notice of the proposed improvement or service, its estimated cost, the proposed method of assessment and charges and project cost to individual property owners shall be given to each property owner and commercial lessee in benefited properties in the district at least 30 days prior to the public hearing.

(3) Except as otherwise provided in paragraph (4), the authority shall take no action on proposed improvement or service if objection is made in writing by:

(i) persons representing the ownership of one-third of the benefited properties in the district; or

(ii) property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than one-third of the total property valuation of the district.

(4) In the case of an authority that has elected to make assessments under subsection (d)(27)(i)(C), the objections in writing must be made by either:

(i) one-third of the owners of benefited commercial properties; or

(ii) owners of properties representing one-third of the amount of all business improvement district assessments for the first year of the proposed plan and budget after the reduction in district assessments under subsection (d)(27)(i)(C).

For purposes of calculating one-third of the benefited commercial properties, the term benefited commercial properties shall include all nonresidential property, each condominium association formed under 68 Pa.C.S. Pt. II Subpt. B as one property and may not include any individual condominium so formed nor any single-family residential property.

(5) Objection must be made within 45 days after the conclusion of the public hearing. Objections must be in writing, signed and filed in the office of the governing body of the municipality in which the district is located and in the registered office of the authority.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.; Dec. 30, 2003, P.L.404, No.57; Feb. 14, 2012, P.L.83, No.12, eff. 60 days; Oct. 24, 2012, P.L.1263, No.155, eff. 60 days; July 9, 2013, P.L.569, No.68, eff. 60 days; Dec. 23, 2013, P.L.1254, No.128, eff. 60 days; July 9, 2014, P.L.1045, No.123, eff. 60 days; July 7, 2017, P.L.299, No.19, eff. 60 days; June 30, 2021, P.L.208, No.43, eff. 60 days)

2021 Amendment. Act 43 amended subsec. (d)(9).

2017 Amendment. Act 19 amended subsec. (d)(24)(i)(C)(VI)(b).

2014 Amendment. Act 123 added subsec. (d)(34).

2013 Amendments. Act 68 added subsec. (a)(18) and Act 128 added subsec. (d)(27)(x).

2012 Amendments. Act 12 amended subsecs. (d)(27) and (g) and Act 155 amended subsec. (d)(23) and (30).

2003 Amendment. Act 57 amended subsec. (d)(17), (24), (30) and (33) and deleted subsec. (d)(32), effective immediately as to subsec. (d)(17) and 18 months as to the remainder of the section. See sections 2, 3 and 4 of Act 57 in the appendix to this title for special provisions relating to applicability to connection, customer facilities, tapping or similar fees, applicability of mandatory refund provisions and applicability to sewer tapping fees and original financing.

2001 Amendment. Act 110 amended subsecs. (a) intro. par., (d)(9), (10), (11), (22), (23), (24)(i)(B) and (v) and (32), (e)(1) and (g) intro. par., retroactive to June 19, 2001.

Cross References. Section 5607 is referred to in section 5613 of this title; sections 2053, 2463 of Title 8 (Boroughs and Incorporated Towns); section 13201.1 of Title 11 (Cities).
§ 5608. Bonds.

(a) Authorization.--

(1) A bond must be authorized by resolution of the board. The resolution may specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

- (iii) Interest.
- (iv) Denomination.
- (v) Form, either coupon or fully registered without coupons.
- (vi) Registration, exchangeability and interchangeability privileges.
- (vii) Medium of payment and place of payment.
- (viii) Terms of redemption not exceeding 105% of the principal amount of the bond.
- (ix) Priorities in the revenues or receipts of the authority.

(2) A bond must be signed by or shall bear the facsimile signature of such officers as the authority determines. Coupon bonds must have attached interest coupons bearing the facsimile signature of the treasurer of the authority as prescribed in the authorizing resolution. A bond may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bond is actually delivered. A bond must be authenticated by an authenticating agent, a fiscal agent or a trustee, if required by the authorizing resolution.

(3) A bond may be sold at public or private sale for a price determined by the authority.

(4) Pending the preparation of a definitive bond, interim receipts or temporary bonds with or without coupons may be issued to the purchaser and may contain terms and conditions as the authority determines.

(b) Provisions.--A resolution authorizing a bond may contain provisions which shall be part of the contract with the bondholder as to the following:

(1) Pledging the full faith and credit of the authority but not of the Commonwealth or any political subdivision for the bond or restricting the obligation of the authority on the to all or any of the revenue of the authority from all or any projects or properties.

(2) The construction, financing, improvement, operation, extension, enlargement, maintenance and repair of the project, the financing for insurance reserves and the duties of the authority with reference to these matters.

(3) Terms and provisions of the bond.

(4) Limitations on the purposes to which the proceeds of the bond or of a loan or grant by the United States may be applied.

(5) Rate of tolls and other charges for use of the facilities of or for the services rendered by the authority.

(6) The setting aside, regulation and disposition of reserves and sinking funds.

(7) Limitations on the issuance of additional bonds.

(8) Terms and provisions of any deed of trust or indenture securing the bond or under which any deed of trust or indenture may be issued.

(9) Other additional agreements with the holder of the bond.

(c) Deeds of trust.--An authority may enter into any deed of trust, indenture or other agreement with any bank or trust company or other person in the United States having power to enter into such an arrangement, including any Federal agency, as security for a bond and may assign and pledge all or any of the revenues or receipts of the authority under such deed, indenture or agreement. The deed of trust, indenture or other agreement may contain provisions as may be customary in such

instruments or as the authority may authorize, including provisions as to the following:

(1) Construction, financing, improvement, operation, maintenance and repair of a project; financing for insurance reserves; and the duties of the authority with reference to these matters.

(2) Application of funds and the safeguarding of funds on hand or on deposit.

(3) Rights and remedies of trustee and bondholder, including restrictions upon the individual right of action of a bondholder.

(4) Terms and provisions of the bond or the resolution authorizing the issuance of the bond.

(d) Negotiability.--A bond shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsecs. (a)(1) intro. par. and (iii), (2) and (3), (b)(1) and (2) and (c), retroactive to June 19, 2001.

Cross References. Section 5608 is referred to in section 5602 of this title.

§ 5609. Bondholders.

(a) Rights and remedies.--The rights and the remedies conferred upon bondholders under this section shall be in addition to and not in limitation of rights and remedies lawfully granted them by the resolution for the bond issue or by any deed of trust, indenture or other agreement under which the bond is issued.

(b) Trustee.--

(1) The holders of 25% of the aggregate principal amount of outstanding bonds may appoint a trustee to represent the bondholders for purposes of this chapter if any of the following apply:

(i) The authority defaults in the payment of principal or interest on a bond at maturity or upon call for redemption, and the default continues for 30 days.

(ii) The authority fails to comply with this chapter.

(iii) The authority defaults in an agreement made with the bondholders.

(2) The trustee must be appointed by instrument:

(i) filed in the office of the recorder of deeds of the county where the authority is located; and

(ii) proved or acknowledged in the same manner as a deed to be recorded.

(3) A trustee under this subsection and a trustee under any deed of trust, indenture or other agreement may and, upon written request of the holders of 25% of the aggregate principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, shall in the trustee's name do any of the following:

(i) By action at law or in equity enforce rights of the bondholders. This subparagraph includes the right to require the authority to:

(A) collect rates, rentals or other charges adequate to carry out any agreement as to or pledge of revenues or receipts of the authority;

(B) carry out any other agreements with or for the benefit of bondholders; and

(C) perform its and their duties under this chapter.

(ii) Bring suit upon the bond.

(iii) By action in equity require the authority to account as if it were the trustee of an express trust for the bondholders.

(iv) Enjoin an action which may be unlawful or in violation of the rights of the bondholders.

(v) By notice in writing to the authority, declare all bonds due and payable and, if all defaults are made good, with the consent of the bondholders of 25% of the principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, to annul such declaration and its consequences.

(4) A trustee under this subsection or a trustee under any deed of trust, indenture or other agreement, whether or not all bonds have been declared due and payable, shall be entitled to the appointment of a receiver.

(5) A receiver under paragraph (4):

(i) may enter and take possession of a facility of the authority or any part of a facility the revenues or receipts from which are or may be applicable to the payment of the bonds in default;

(ii) may operate and maintain the facility or part of the facility;

(iii) may collect and receive all rentals and other revenues arising from the facility after entry and possession in the same manner as the authority or the board might do; and

(iv) shall deposit money collected under subparagraph (iii) in a separate account and apply the money as the court directs.

(6) Nothing in this chapter authorizes a receiver appointed under paragraph (4) to sell, assign, mortgage or otherwise dispose of assets of whatever kind and character belonging to the authority. It is the intention of this chapter to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court directs. No bondholder or trustee shall have the right in an action at law or in equity to compel a receiver, nor shall a receiver be authorized or a court empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of assets of whatever kind or character belonging to the authority.

(7) The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth in this subsection or incident to the general representation of the bondholders in the enforcement or protection of their rights.

(c) Jurisdiction.--The court of common pleas of the judicial district in which the authority is located shall have jurisdiction of an action by the trustee on behalf of the bondholders.

(d) Costs and fees.--In an action by the trustee the court costs, attorney fees and expenses of the trustee and of the receiver and all costs and disbursements allotted by the court shall be a first charge on revenue and receipts derived from the facilities of the authority, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default.

(e) Definition.--(Deleted by amendment).
(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (b)(5)(ii) and (7) and deleted subsec. (e), retroactive to June 19, 2001.

§ 5610. Governing body.

(a) Board.--Except as set forth in subsection (a.1), the powers of each authority shall be exercised by a board composed as follows:

(1) If the authority is incorporated by one municipality, the board shall consist of a number of members, not less than five, as enumerated in the articles of incorporation. The governing body of the municipality shall appoint the members of the board, whose terms of office shall commence on the effective date of their appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years commencing with the first Monday in January next succeeding the date of incorporation or amendment. If there are more than five members of the board, their terms shall be staggered in a similar manner for terms of one to five years from the first Monday in January next succeeding. Thereafter, whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body shall appoint a member of the board for a term of five years from the date of expiration of the prior term to succeed the member whose term has expired.

(2) If the authority is incorporated by two or more municipalities, the board shall consist of a number of members at least equal to the number of municipalities incorporating the authority, but in no event less than five. When one or more additional municipalities join an existing authority, each of the joining municipalities shall have similar membership on the board as the municipalities then members of the authority and the joining municipalities may determine by appropriate resolutions. The members of the board of a joint authority shall each be appointed by the governing body of the incorporating or joining municipality he represents, and their terms of office shall commence on the effective date of their appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years from the first Monday in January next succeeding the date of incorporation, amendment or joinder, and if there are more than five members of the board, their terms shall be staggered in a similar manner for terms of from one to five years commencing with the first Monday in January next succeeding. Thereafter, whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body of the municipality which has the power of appointment shall appoint a member of the board for a term of five years from the date of expiration of the prior term.

(a.1) Water authorities and sewer authorities.--If a water or sewer authority incorporated by one municipality provides water or sewer services to residents in at least two counties and has water or sewer projects in more than two counties where the combined population of the served municipalities, excluding the incorporating municipality, is at least five times the population of the incorporating municipality, all of the following apply:

(1) Ninety days after the effective date of this subsection, the governing body in existence on the effective date of this subsection shall be replaced by a governing body comprised of the following:

(i) Three members appointed by the governing body from each county in which the services to residents are provided. A member under this subparagraph must reside in a town, township or borough, which receives services from the authority.

(ii) Three members appointed by the governing body of the incorporating municipality.

(2) A member serving under paragraph (1) shall serve for a term of five years.

(b) Residency.--

(1) Except as provided for in subsection (c), the members of the board, each of whom shall be a taxpayer in, maintain a business in or be a citizen of the municipality by which he is appointed or be a taxpayer in, maintain a business in or be a citizen of a municipality into which one or more of the projects of the authority extends or is to extend or to which one or more projects has been or is to be leased, shall be appointed, their terms fixed and staggered and vacancies filled pursuant to the articles of incorporation or the application of membership under section 5604 (relating to municipalities withdrawing from and joining in joint authorities). Where two or more municipalities are members of the authority, they shall be apportioned pursuant to the articles of incorporation or the application for membership under section 5604. Except for special service districts located in whole or in part in cities of the first class or as provided in paragraph (2), a majority of an authority's board members shall be citizens residing in the incorporating municipality or incorporating municipality or incorporating municipalities of the authority.

(2) Each member of the board of a business improvement district authority that was established by a borough pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, on or before the effective date of this paragraph shall be a taxpayer in, maintain a business in or be a citizen of the borough by which that member is appointed.

(c) Grade crossings.--If the authority is created for the purpose of eliminating grade crossings, the members of the board, the majority of whom shall be citizens of the municipality by which they are appointed or of a municipality into which one or more of the projects of the authority extends or is to extend or to which one or more of the projects has been or is to be leased, shall be appointed, their terms fixed and staggered and vacancies filled pursuant to the articles of incorporation or the application of membership under section 5604. Where two or more municipalities are members of the authority, they shall be apportioned pursuant to the articles of incorporation or the application for membership under section 5604.

(d) Successor.--Members shall hold office until their successors have been appointed and may succeed themselves and, except members of the boards of authorities organized or created by a school district, shall receive such salaries as may be determined by the governing body of the municipality, but no salaries shall be increased or diminished by a governing body during the term for which the member shall have been appointed. Members of the board of any authority organized or created by a school district shall receive no compensation for their services. A member may be removed for cause by the court of common pleas of the county in which the authority is located after having been provided with a copy of the charges against

him for at least ten days and after having been provided a full hearing by the court. If a vacancy shall occur by reason of the death, disqualification, resignation or removal of a member, the municipal authorities shall appoint a successor to fill his unexpired term. In joint authorities such vacancies shall be filled by the municipal authorities of the municipality in the representation of which the vacancy occurs. If any municipality withdraws from a joint authority, the term of any member appointed from the municipality shall immediately terminate.

(e) Quorum.--A majority of the members shall constitute a quorum of the board for the purpose of organizing and conducting the business of the authority and for all other purposes, and all action may be taken by vote of a majority of the members present unless the bylaws shall require a larger number. The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied. The board shall fix and determine the number of officers, agents and employees of the authority and their respective powers, duties and compensation and may appoint to such office or offices any member of the board with such powers, duties and compensation as the board may deem proper. The treasurer of the board of any authority organized or created by a school district shall give bond in such sums as may be fixed by the bylaws, which bond shall be subject to the approval of the board and the premiums for which shall be paid by the authority.

(f) Removal.--Unless excused by the board, a member of a board who fails to attend three consecutive meetings of the board may be removed by the appointing municipality up to 60 days after the date of the third meeting of the board which the member failed to attend.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Water or sewer authority." An authority incorporated by a city of the third class, a borough, a town or a township to provide water or sewer services.

"Water or sewer project." Any pumping station, filtering plant, impoundment facility, dam, spillway or reservoir.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.; Dec. 30, 2002, P.L.2001, No.230, eff. imd.; June 27, 2012, P.L.653, No.73, eff. 60 days)

2013 Effectuation of Declaration of Unconstitutionality.

The Legislative Reference Bureau effectuated the 2004 unconstitutionality.

2012 Amendment. Act 73 amended subsec. (a) intro. par. and added subsecs. (a.1) and (g).

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

2001 Amendment. Act 110 amended subsecs. (a) and (b), retroactive to June 19, 2001. See section 4 of Act 110 in the appendix to this title for special provisions relating to continuation of membership on board.

References in Text. The act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, referred to in subsec. (b)(2), was repealed by the act of June 19, 2001 (P.L.287, No.22).

Cross References. Section 5610 is referred to in section 5605 of this title.

§ 5611. Investment of authority funds.

(a) Powers.--The board shall have the power to:

(1) Invest authority sinking funds in the manner provided for local government units by Subpart B of Part VII (relating to indebtedness and borrowing).

(2) Invest moneys in the General Fund and in special funds of the authority other than the sinking funds as authorized by this section.

(3) Liquidate any such investment in whole or in part by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the officers designated by action of the board.

(b) Investment.--The board shall invest authority funds consistent with sound business practice and the standard of prudence applicable to the State Employees' Retirement System set forth in 71 Pa.C.S. § 5931(a) (relating to management of fund and accounts).

(c) Program.--The board shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any rules and regulations adopted by the board.

(d) Types.--Authorized types of investments for authority funds shall be:

(1) United States Treasury bills.

(2) Short-term obligations of the United States Government or its agencies or instrumentalities.

(3) Deposits in savings accounts or time deposits or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured and for any amounts above the insured maximum if the approved collateral as provided by law shall be pledged by the depository.

(4) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth or of any political subdivision of the Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(5) Shares of an investment company registered under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.) whose shares are registered under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.) if the only investments of that company are in the authorized investments for authority funds listed in paragraphs (1) through (4).

(6) Sovereign debt if the instruments are dollar denominated and backed by the full faith and credit of the sovereign government and if the investments do not exceed more than 2% of the market value of the authority's assets at the time of investment and if the maturity of the instruments does not exceed 15 years and if the obligations are permitted investments of the State Employees' Retirement System and it is established that the issuer had issued such sovereign debt over a period of at least 30 years and has not defaulted on the payment either of principal or interest on its obligations. This paragraph shall only apply to a

board in a county of the first class, second class or second class A or in a city of the first class, second class, second class A or third class.

(7) Commercial paper rated in the highest rating category, without reference to a subcategory, by a rating agency. This paragraph shall only apply to an airport authority board in a county of the second class.

(e) Authority.--In making investments of authority funds, the board shall have authority to:

(1) Permit assets pledged as collateral under subsection (d)(3), to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets."

(2) Combine moneys from more than one fund under authority control for the purchase of a single investment if lack of the funds combined for the purpose shall be accounted for separately in all respects and if earnings from the investment are separately and individually computed, recorded and credited to the accounts from which the investment was purchased.

(3) Join with one or more other political subdivisions and municipal authorities in accordance with Subchapter A of Chapter 23 (relating to intergovernmental cooperation) in the purchase of a single investment pursuant to the requirements of paragraph (2).

(Sept. 24, 2014, P.L.2452, No.131, eff. 60 days)

2014 Amendment. Act 131 added subsec. (d)(7).

§ 5612. Money of authority.

(a) Treasurer.--The treasurer of an authority, or other designated recipient, shall receive the money due the authority and deposit the money in an account with a designated depository. The money shall be remitted in the name of the authority or designated recipient and may not include the name of an individual.

(a.1) Prohibition.--

(1) Money of the authority may not be used for any grant, loan or other expenditure for any purpose other than a service or project directly related to the mission or purpose of the authority as set forth in the articles of incorporation or in the resolution or ordinance establishing the authority under section 5603 (relating to method of incorporation).

(2) A ratepayer to an authority shall have a cause of action in the court of common pleas where the authority is located to seek the return of money expended in violation of paragraph (1) from the recipient.

(3) Paragraph (1) shall not apply to the following:

(i) A monetary contribution to a nonprofit community organization or activity that does not exceed \$1,000.

(ii) An in-kind service, including the provision of water or other resources to a nonprofit community organization or activity, the value of which does not exceed \$1,000.

(iii) An agreement for the joint purchase and use of equipment.

(iv) An agreement for the sharing of equipment during emergency situations.

(a.2) Fiscal procedures.--

(1) An authority shall establish, according to generally accepted accounting principles, procedures to bill customers, collect payments, issue receipts, handle funds received and deposit money in an account or accounts managed by a designated depository. All bill payments shall be made in the name of the authority or designated public or contracted entity collecting revenue and shall not include the name of an individual.

(2) The required annual audit and financial report of the authority shall be presented at a meeting of the authority board, discussed publicly and require an official vote of acceptance.

(3) Nothing in this subsection shall be construed to preclude an authority from adopting rules and regulations regarding fiscal controls that are more stringent than required by this section.

(b) Report.--A required annual report shall be published in accordance with the following:

(1) Every authority shall file, on or before 180 days following the end of its fiscal year, an annual report of its fiscal affairs covering the preceding fiscal year with the Department of Community and Economic Development and with the municipality or municipalities creating the authority on forms prepared and distributed by the Department of Community and Economic Development. The reports shall also be provided, and may be provided electronically, to any other municipality that has residents served by the authority.

(2) Every authority shall have its books, accounts and records audited annually by a certified public accountant, and a copy of the audit report shall be filed in the same manner and within the same time period as the annual report. The audit shall comply with the following, if applicable:

(i) The generally accepted government auditing standards, including the standards published by the Government Accountability Office.

(ii) The Single Audit Act of 1984 (31 U.S.C. § 7501 et seq.).

(iii) 2 CFR Pt. 200 (relating to uniform administrative requirements, cost principles, and audit requirements for Federal awards).

(iv) Any other Federal or State requirements for an audit relating to the finances of an authority.

(3) A concise financial statement shall be published annually at least once in a newspaper of general circulation in the municipality where the principal office of the authority is located. If the publication is not made by the authority, the municipality shall publish such statement at the expense of the authority.

(4) If the authority fails to make such an audit or if the municipality determines that there is a need for a review, then the controller, auditor or accountant designated by the municipality is hereby authorized and empowered from time to time to examine the accounts and books of it, including its receipts, billing systems, disbursements, transparency of contracts and how the contracts are awarded, leases, sinking funds, investments, compliance with relevant Federal and State statutes, conflicts of interest by the authority and its board members, staff and contractors and

any other matters relating to its finances, operation and affairs. The review by the municipality shall be conducted within one year of an authority's annual audit required under paragraph (2), the review shall be done at the expense of the municipality and the authority shall be exempt the following fiscal year from conducting an audit. If the review by the municipality is being done due to the failure of the authority to make an annual audit, the review shall be at the expense of the authority.

(c) Attorney General.--The Attorney General of the Commonwealth shall have the right to examine the books, accounts and records of any authority.
(Dec. 30, 2002, P.L.2001, No.230, eff. imd.; June 27, 2012, P.L.653, No.73, eff. 60 days; May 1, 2019, P.L.25, No.4; Nov. 27, 2019, P.L.689, No.99, eff. 60 days)

2019 Amendments. Act 4 amended subsecs. (a) and (b) and added subsec. (a.2), effective in 180 days as to the amendment of (b)(1) and 90 days as to the remainder of the section, and Act 99 amended subsec. (b).

2013 Effectuation of Declaration of Unconstitutionality.

The Legislative Reference Bureau effectuated the 2004 unconstitutionality.

2012 Amendment. Act 73 added subsec. (a.1).

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

§ 5613. Transfer of existing facilities to authority.

(a) Authorization.--Any municipality, school district or owner may sell, lease, lend, grant, convey, transfer or pay over to any authority with or without consideration any project or any part of it, any interest in real or personal property, any funds available for building construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for building construction or improvement purposes, which may be used by the authority in the construction, improvement, maintenance or operation of any project. Any municipality or school district may transfer, assign and set over to any authority any contracts which may have been awarded by the municipality or school district for the construction of projects not initiated or completed. The territory being served by any project or the territory within which a project is authorized to render service at the time of the acquisition of a project by an authority shall include the area served by the project and the area in which the project is authorized to serve at the time of acquisition and any other area into which the service may be extended, subject to the limitations of section 5607(a) (relating to purposes and powers).

(b) Acquisition.--

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

(2) The proposed action of the authority and the proposed agreement to acquire shall be approved by the

governing body of the municipality which created or which are members of the authority and to which the report is made. Where there are one or two member municipalities of the authority, such approval shall be by two-thirds vote of all of the members of the governing body or of each of the governing bodies. If there are more than two member municipalities of the authority, approval shall be by majority vote of all the members of each governing body of two-thirds of the member municipalities.

(c) Complete provision.--Notwithstanding any other provision of law, this section, without reference to any other law, shall be deemed complete for the acquisition by agreement of projects as defined in this chapter located wholly within or partially without the municipality causing such authority to be incorporated, and no proceedings or other action shall be required except as provided for in this section.

Cross References. Section 5613 is referred to in section 5614 of this title.

§ 5614. Competition in award of contracts.

(a) Services.--

(1) Except as set forth in paragraph (2), all construction, reconstruction, repair or work of any nature made by an authority if the entire cost, value or amount, including labor and materials, exceeds a base amount of \$18,500, subject to adjustment under subsection (c.1), shall be done only under contract to be entered into by the authority with the lowest responsible bidder upon proper terms after public notice asking for competitive bids as provided in this section.

(2) Paragraph (1) does not apply to construction, reconstruction, repair or work done by employees of the authority or by labor supplied under agreement with a Federal or State agency with supplies and materials purchased as provided in this section.

(3) No contract shall be entered into for construction or improvement or repair of a project or portion thereof unless the contractor gives an undertaking with a sufficient surety approved by the authority and in an amount fixed by the authority for the faithful performance of the contract.

(4) The contract must provide among other things that the person or corporation entering into the contract with the authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing materials or rendering services may maintain an action to recover for them against the obligor in the undertaking as though such person or corporation was named in the contract if the action is brought within one year after the time the cause of action accrued.

(5) Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve a project or portion thereof or any addition, betterment or extension thereto directed by the officers, agents and employees of the authority or otherwise than by contract.

(b) Supplies and materials.--All supplies and materials with a base price costing at least \$18,500, subject to adjustment under subsection (c.1), shall be purchased only after advertisement as provided in this section. The authority shall accept the lowest bid, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as

to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.

(c) Quotations.--Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for a contract in excess of the base amount of \$10,000, subject to adjustment under subsection (c.1), but is less than the amount requiring advertisement and competitive bidding. In lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation; the name of the contractor and the contractor's representative; the construction, reconstruction, repair, maintenance or work which was the subject of the quotation; and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

(c.1) Adjustments.--Adjustments to the base amounts specified under subsections (a)(1), (b) and (c) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsections (a)(1), (b) and (c).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsections (a)(1), (b) and (c).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year

following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (a)(1) and (b) and written or telephonic price quotations are required under subsection (c), for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(d) Notice.--The term "advertisement" or "public notice," wherever used in this section, shall mean a notice published at least ten days before the award of a contract in a newspaper of general circulation published in the municipality where the authority has its principal office or, if no newspaper of general circulation is published therein, in a newspaper of general circulation in the county where the authority has its principal office. Notice may be waived if the authority determines that an emergency exists which requires the authority to purchase the supplies and materials immediately.

(e) Conflict of interest.--No member of the authority or officer or employee of the authority may directly or indirectly be a party to or be interested in any contract or agreement with the authority if the contract or agreement establishes liability against or indebtedness of the authority. Any contract or agreement made in violation of this subsection is void, and no action may be maintained on the agreement against the authority.

(f) Entry into contracts.--

(1) Subject to subsection (e), an authority may enter into and carry out contracts or establish or comply with rules and regulations concerning labor and materials and other related matters in connection with a project or portion thereof as the authority deems desirable or as may be requested by a Federal agency to assist in the financing of the project or any part thereof. This paragraph shall not apply to any of the following:

(i) A case in which the authority has taken over by transfer or assignment a contract authorized to be assigned to it under section 5613 (relating to transfer of existing facilities to authority).

(ii) A contract in connection with the construction of a project which the authority may have had transferred to it by any person or private corporation.

(2) This subsection is not intended to limit the powers of an authority.

(g) Compliance.--A contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(h) Evasion.--

(1) An authority may not evade the provisions of this section as to bids or purchasing materials or contracting

for services piecemeal for the purpose of obtaining prices under the amount required by this section upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the amount required by this section.

(2) This subsection is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below that price when in either case the transaction involved should have been made as one transaction for one price.

(3) An authority member who votes to unlawfully evade the provisions of this section and who knows that the transaction upon which the member votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.; Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment . Act 90 amended subsecs. (a)(1), (b), (c) and (h)(1) and added subsec. (c.1). Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

2001 Amendment. Act 110 amended subsecs. (a)(2) and (d), retroactive to June 19, 2001.

§ 5615. Acquisition of lands, water and water rights.

(a) Authorization.--

(1) Except as provided in paragraph (2), the authority shall have the power to acquire by purchase or eminent domain proceedings either the fee or the rights, title, interest or easement in such lands, water and water rights as the authority deems necessary for any of the purposes of this chapter. Water and water rights may not be acquired unless approval is obtained from the Department of Environmental Protection.

(2) The right of eminent domain does not apply to:

- (i) Property owned or used by the United States, the Commonwealth or any of its political subdivisions, or an agency of any of them, or any body politic and corporate organized as an authority under any law of the Commonwealth or by any agency.
- (ii) Property of a public service company.
- (iii) Property used for burial purposes.
- (iv) Places of public worship.

(b) Exercise.--The right of eminent domain shall be exercised by the authority in the manner provided by law for the exercise of such right by municipalities of the same class as the municipality which organized the authority. Eminent domain shall be exercised by a joint authority in the same manner as is provided by law for the exercise of such right by municipalities of the same class as the municipality in which the right of eminent domain is to be exercised. The right of eminent domain herein conferred by this section may be exercised either within or without the municipality.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (a)(2)(i), retroactive to June 19, 2001.

§ 5616. Acquisition of capital stock.

(a) Acquisition.--In the event that the authority shall own 90% or more of all the outstanding capital stock entitled to vote upon liquidation and dissolution and which is not subject by its terms to be called for redemption of any corporation owning a project and organized and existing under the laws of this Commonwealth, the authority shall have the power to acquire the remainder of the stock by eminent domain as a part of a plan for the liquidation of the corporation.

(b) Exercise.--The right of eminent domain with respect to the remainder of capital stock shall be exercised by the authority pursuant to this subsection. In the event that the authority has not agreed with an owner of any of the capital stock as to the value of the stock, the authority shall file with the court of common pleas of the county in which the corporation's principal place of business is located its bond for the benefit of the owner and for any other persons who may be found entitled to receive damages for the taking of the capital stock, of which the owner shall be obligee, the condition of which bond shall be that the authority shall pay or cause to be paid to the owner of the stock or to such other persons as may be found entitled to receive damages for the taking of the capital stock, an amount as the owner or such other persons shall be entitled to receive for the taking of the stock, after the amount shall have been agreed upon by the parties or assessed in the manner provided by subsection (d). The bond shall be accompanied by proof that notice of the proposed filing was mailed by registered mail not less than ten days prior to the proposed filing to the owner of the stock at his address as shown by the records of the corporation. Upon approval by the court of the bond, the authority shall be vested with all the right, title and interest in and to the stock, and the owner and all other persons shall cease to have any rights or interest with regard to the stock other than the right to compensation for the taking of it under the procedure set forth in subsection (d). The word "owner," as used in this subsection, shall mean the person in whose name the stock is registered on the books of the corporation.

(c) Approval.--In the event that the authority shall have contracted in writing to purchase 90% or more of any outstanding capital stock, it shall have the right to obtain the approval of the court to the bond required by the provisions of subsection (b), but the approval shall not be effective for the purposes of this section unless and until there is also filed with the prothonotary of the court within ten days after the approval a sworn statement by the chairman of the board of the authority, duly attested by the secretary of the authority, that the authority has become the owner of 90% or more of the capital stock.

(d) Appraisal.--

(1) If the authority and the former owner of the stock fail to agree as to the amount which the former owner is entitled to receive as compensation for the taking of the stock within 30 days after the approval of the bond by the court under the provisions of subsection (b) or the filing of the required statement under the provisions of subsection (c), either party may apply by petition to the court for the appointment by the court of three disinterested persons to appraise the fair value of the stock immediately prior to its acquisition by the authority without regard to any depreciation or appreciation in consequence of the acquisition.

(2) The appraisers or a majority of them shall file their award, which shall include the costs of the appraisal, with the court and shall mail a copy to each party with the date of filing stated thereon. When the award is filed with the court, the prothonotary shall mark the same "confirmed nisi" and, if no exceptions are filed within ten days, he shall enter a decree that the award is confirmed absolutely. If exceptions to the award are filed by either party before the award is confirmed, the court shall hear the same and shall have the power to confirm, modify, change or otherwise correct the award or refer the same back to the same or new appraisers with similar power as to their award.

§ 5617. Use of projects.

The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations as adopted by the authority. The authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit.

§ 5618. Pledge by Commonwealth.

(a) **Power of authorities.**--The Commonwealth pledges to and agrees with any person, firm or corporation or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction, extension, improvement or enlargement of a project or part thereof that the Commonwealth will not limit or alter the rights vested by this chapter in the authority until all bonds and the interest on them are fully met and discharged.

(b) **Federal matters.**--The Commonwealth pledges to and agrees with the United States and all Federal agencies that, if a Federal agency constructs or contributes funds for the construction, extension, improvement or enlargement of a project or any portion thereof:

(1) the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of agreements between the authority and any Federal agency; and

(2) the authority shall continue to have and may exercise all powers granted in this chapter as long as the powers are necessary or desirable for carrying out the purposes of this chapter and the purposes of the United States in the construction or improvement or enlargement of the project or portion thereof.

§ 5619. Termination of authority.

(a) **Conveyance of projects.**--When an authority has finally paid and discharged all bonds, with interest due, which have been secured by a pledge of any of the revenues or receipts of a project, the authority may, subject to agreements concerning the operation or disposition of the project, convey the project to the municipality creating the authority or, if the project is a public school project, to the school district to which the project is leased.

(b) **Conveyance of property.**--When an authority has finally paid and discharged all bonds issued and outstanding and the interest due on them and settled all other outstanding claims against it, the authority may convey all its property to the municipality or municipalities or, if the property is public school property, then to the school district for which the property was financed, and terminate its existence.

(c) Certificate.--An authority requesting to terminate its existence must submit a certificate requesting termination to the municipality which created it. If the certificate is approved by the municipality by its ordinance or resolution, the certificate shall be filed in the office of the Secretary of the Commonwealth; and the secretary shall note the termination of existence on the record of incorporation and return the certificate with approval to the board. The board shall cause the certificate to be recorded in the office of the recorder of deeds of the county. Upon recording, the property of the authority shall pass to the municipality or municipalities or, if the property is public school property, then to the school district for which the property was financed; and the authority shall cease to exist.
(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsecs. (b) and (c), retroactive to June 19, 2001.

§ 5620. Exemption from taxation and payments in lieu of taxes.

The effectuation of the authorized purposes of authorities created under this chapter shall be for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. Since authorities will be performing essential governmental functions in effectuating these purposes, authorities shall not be required to pay taxes or assessments upon property acquired or used by them for such purposes. Whenever in excess of 10% of the land area of any political subdivision in a sixth, seventh or eighth class county has been taken for a waterworks, water supply works or water distribution system having a source of water within a political subdivision which is not provided with water service by the authority, in lieu of such taxes or special assessments the authority may agree to make payments in the county to the taxing authorities of any or all of the political subdivisions where any land has been taken. The bonds issued by any authority, their transfer and the income from the bonds, including any profits made on their sale, shall be free from taxation within the Commonwealth.

§ 5621. Constitutional construction.

The provisions of this chapter shall be severable, and if any of the provisions are held to be unconstitutional it shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared as the legislative intent that this chapter would have been adopted had such unconstitutional provisions not been included.

§ 5622. Conveyance by authorities to municipalities or school districts of established projects.

(a) Project.--If a project established under this chapter by a board appointed by a municipality is of a character which the municipality has power to establish, maintain or operate and the municipality desires to acquire the project, it may by appropriate resolution or ordinance adopted by the proper authorities signify its desire to do so, and the authorities shall convey by appropriate instrument the project to the municipality upon the assumption by the municipality of all the obligations incurred by the authorities with respect to that project.

(b) Public school project.--A public school project undertaken under this chapter may be acquired by a school district to which the project was leased if the school district by appropriate resolution signifies a desire to do so. An authority shall convey the public school project to the school

district by appropriate instrument upon the assumption by the school district of all the obligations incurred by the authority with respect to that project.

(c) Conveyance.--An authority formed by any county for the purpose of acquiring, constructing, improving, maintaining or operating any project for the benefit of any one or more but not all of the cities, boroughs, towns and townships of the county may, with the approval of the board of county commissioners of the county, convey the project to the cities, boroughs, towns or townships of the county for the benefit of which the project was acquired, constructed, improved, maintained or operated or to any authority organized by such cities, boroughs, towns or townships for the purpose of taking over such project. All such conveyances shall be made subject to any and all obligations incurred by the authority with respect to the project conveyed.

(d) Reserves.--Following transfer of a project pursuant to this section, the municipality, including an incorporated town or home rule municipality, which has acquired the project shall retain the reserves received from the authority which have been derived from operations in a separate fund, and the reserves shall only be used for the purposes of operating, maintaining, repairing, improving and extending the project. Money received from the authority which represents the proceeds of financing shall be retained by the municipality in a separate fund which shall only be used for improving or extending the project or other capital purposes related to it.
(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

2001 Amendment. Act 110 amended subsec. (b), retroactive to June 19, 2001.

§ 5623. Revival of an expired authority.

(a) Retroactive revival.--Upon the filing of the required municipal statements of revival with the Secretary of the Commonwealth and issuance of a certificate of revival, an expired authority shall become a retroactively revived authority.

(b) Municipal statement of revival.--A municipal statement of revival shall be executed in the name of each municipality that incorporated or subsequently joined in and had not withdrawn from the expired authority and shall set forth:

(1) The name of the expired authority and of each municipality that incorporated or subsequently joined in and had not withdrawn from the expired authority.

(2) The date on which the authority's term of existence expired.

(3) The address, including street and number of the expired authority.

(4) A statement that the municipality desires the revival of the authority as a body politic and corporate for an additional term not exceeding 50 years.

(5) A statement that the filing of the municipal statement of revival has been authorized and approved by the municipal authorities of the municipality by resolution.

(c) Expiration interval.--An expired authority may not become a retroactively revived authority if its term of expiration exceeds five years.

(d) Certificate of revival.--The Secretary of the Commonwealth shall issue a certificate of revival after verifying that required municipal statements of revival have been filed in proper form.

(e) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Certificate of revival." A certification issued by the Secretary of the Commonwealth that, as a result of required municipal statements of revival having been filed in proper form, the expired authority which is the subject of the municipal statements of revival is certified as having been retroactively revived for the term specified.

"Expired authority." An authority whose term of existence has expired in accordance with this chapter.

"Municipal statement of revival." A written statement prepared in accordance with subsection (b) and filed with the Secretary of the Commonwealth by the municipal authorities of each municipality that incorporated or subsequently joined in and had not withdrawn from an expired authority indicating that approval has been given for the retroactive revival of the expired authority by municipal authorities by resolution.

"Retroactively revived authority." An expired authority whose existence has been revived retroactively so that the authority is restored to its previous legal position in the same manner and to the same extent as if its term of existence had never expired. Retroactive revival shall have the effect of validating the business and affairs of the authority during its term of expiration, including all contracts and other transactions made and effected within the scope of the articles of the authority by its representatives and any rights, privileges, liabilities and obligations that the authority would have had if its term of existence had not expired.

"Term of expiration." The period of time that commences when an authority becomes an expired authority and that ends when the expired authority is retroactively revived in accordance with this section.

(Dec. 30, 2003, P.L.454, No.67, eff. imd.)

2003 Amendment. Act 67 added section 5623.

CHAPTER 57

TAXICABS AND LIMOUSINES IN FIRST CLASS CITIES

Subchapter

- A. General Provisions
- B. Taxicabs
- C. Limousines

Enactment. Chapter 57 was added December 30, 2002, P.L.2001, No.230.

Effective Date. Section 25(1)(i) of Act 94 of 2004 provided that Chapter 57 shall take effect in 270 days or on the date of publication of the notice under section 24 of Act 94, whichever is earlier. The notice was published in the Pennsylvania Bulletin on March 12, 2005, 35 Pa.B. 1737.

Cross References. Chapter 57 is referred to in section 57A08 of this title; sections 102, 6507 of Title 75 (Vehicles).

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

5701. Definitions.

5701.1. Legislative findings.
5702. Advisory committee.
5703. Rates.
5704. Power of authority to require insurance.
5705. Contested complaints.
5706. Driver certification program.
5707. Budget and assessments.
5707.1. Assessment notice and hearings.
5708. Funds.
5709. (Reserved).
5710. Fees.

§ 5701. Definitions.

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

"Authority." A parking authority in a city of the first class.

"Call or demand service" or "taxicab service." Local common carrier service for passengers, rendered on either an exclusive or nonexclusive basis, where the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both. The term does not include transportation network service as defined in section 57A01 (relating to definitions) or limousine service.

"Driver's certificate." A certificate or permit to drive a taxicab or limousine issued pursuant to section 5706 (relating to driver certification program).

"First Class City Taxicab Regulatory Fund." A fund formerly administered by the Pennsylvania Public Utility Commission under the former 66 Pa.C.S. Ch. 24 (relating to taxicabs in first class cities).

"Limousine service."

(1) Except as provided in paragraph (2), a motor vehicle providing any of the following services:

(i) Local, nonscheduled common carrier service for passengers on an exclusive basis for compensation.

(ii) Common carrier service for passengers for compensation:

(A) from any airport, railroad station or hotel located in whole or in part in a city of the first class; or

(B) to any airport, railroad station or hotel located in whole or in part in a city of the first class from a point within the city of the first class.

(2) The term does not include any of the following:

(i) Taxicab service.

(ii) Service that was otherwise exempt from the jurisdiction of the Pennsylvania Public Utilities Commission prior to the effective date of this subparagraph.

(iii) Other paratransit service.

(iv) Employee commuter van pooling.

(v) A vehicle with a seating capacity of 16 or more persons, including the driver.

(vi) Transportation network service as defined in section 57A01 (relating to definitions).

"Philadelphia Taxicab and Limousine Regulatory Fund" or "regulatory fund." A special fund in the State Treasury established by section 5708 (relating to funds) for fulfilling the purposes of this chapter to regulate taxicabs and limousines in a city of the first class.

"Philadelphia Taxicab Medallion Fund" or "medallion fund."

A special fund in the State Treasury established by section 5708(a.1) (relating to funds) to which all moneys collected from the sale of medallions shall be deposited for the uses provided in this chapter.

"Taxicab." A motor vehicle designed for carrying no more than eight passengers, exclusive of the driver, on a call or demand service basis and used for the transportation of persons for compensation either on:

(1) a citywide basis as authorized by a certificate of public convenience and a corresponding medallion issued by the authority; or

(2) a non-citywide basis as authorized by a certificate of public convenience issued by the authority and without a corresponding medallion.

The term includes a wheelchair-accessible taxicab.

"Wheelchair-accessible taxicab." A taxicab authorized by the authority pursuant to this chapter:

(1) to provide call or demand service;

(2) that can accommodate at least one person in a wheelchair without the person having to transfer from the wheelchair to another seat; and

(3) that meets requirements established pursuant to the Americans With Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or requirements that are a functional equivalent and approved by the authority or both.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.; Nov. 4, 2016, P.L.1222, No.164, eff. imd.)

2016 Amendment. Act 164 amended the defs. of "call or demand service" or "taxicab service" and "limousine service."

2013 Amendment. Act 64 amended the def. of "Philadelphia Taxicab and Limousine Regulatory Fund" or "fund" and added the def. of "Philadelphia Taxicab Medallion Fund" or "medallion fund."

2012 Amendment. Act 119 amended the defs. of "limousine service" and "taxicab" and added the defs. of "call or demand service" or "taxicab service" and "wheelchair-accessible taxicab."

2004 Amendment. Act 94 reenacted and amended section 5701.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

References in Text. Chapter 24 of Title 66, referred to in the def. of "first class city taxicab regulatory fund," was repealed by the act of July 16, 2004 (P.L.758, No.94). The subject matter is now contained in this chapter.

Cross References. Section 5701 is referred to in section 57A01 of this title; section 102 of Title 66 (Public Utilities).

§ 5701.1. Legislative findings.

The General Assembly finds and declares as follows:

(1) The health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism.

(2) Unemployment, the spread of poverty and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth through the development of a clean, safe, reliable and well-regulated taxicab and

limousine industry locally regulated by parking authorities in cities of the first class.

(3) Due to the size, total population, population density and volume of both tourism and commerce of a city of the first class, it may be more efficient to regulate the taxicab and limousine industries through an agency of the Commonwealth with local focus than an agency with diverse Statewide regulatory duties. Well-regulated local focus on improving those industries can be an important factor in the continual encouragement, development, attraction, stimulation, growth and expansion of business, industry, commerce and tourism within a city of the first class, the surrounding counties and this Commonwealth as a whole.
(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 added section 5701.1.

§ 5702. Advisory committee.

(a) Establishment.--There is hereby established an advisory committee to be known as the City of the First Class Taxicab and Limousine Advisory Committee. The authority shall submit to the advisory committee issues and questions for their consideration regarding the regulation, enforcement, compliance and operation of taxicabs and limousines in cities of the first class. The advisory committee may thoroughly consider the questions and issues submitted by the authority and may prepare and transmit to the authority and the public written comments. The advisory committee may submit suggestions and proposals to the authority in writing on topics considered important by a majority of the members. All actions of the advisory committee shall be considered strictly advisory, and the authority shall give careful and due consideration to the comments and proposals of the advisory committee.

(b) Membership.--

(1) The advisory committee shall consist of the following members:

(i) Ten members appointed by the chairman of the authority or his designee as follows:

- (A) One taxi driver.
- (B) One medallion owner.
- (C) One dispatch owner.
- (D) One member of the public who utilizes taxicabs or limousines.
- (E) One limousine owner.
- (F) One representative of the hospitality industry from a list of five nominees assembled by the Philadelphia Convention and Visitors Bureau.
- (G) One resident of a second class A county.
- (H) One resident of a third class county.
- (I) One representative of the Philadelphia International Airport.

(J) One representative of a major train station in a city of the first class.

(ii) One member appointed by the mayor of a city of the first class or his designee.

(iii) One member appointed by the Public Utility Commission.

(2) The advisory committee may consist of up to ten additional members appointed by the chairman of the authority or his designee.

(c) Terms.--The members shall serve two-year terms, except that one half of the initial appointees shall be appointed for a one-year term and one half of the initial appointees shall

be appointed for a two-year term. No member shall serve more than three consecutive terms.

(d) Officers.--The authority shall designate a chairman, vice chairman and secretary of the advisory committee from the members of the advisory committee.

(e) Quorum.--A majority of the members of the advisory committee plus one additional member shall constitute a quorum.

(f) Compensation.--Members of the advisory committee shall not receive any compensation for the performance of their duties.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5702.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5702 is referred to in section 57B02 of this title.

§ 5703. Rates.

(a) Rates to be just and reasonable.--Every rate made for authority-certified taxicab, limousine or medallion taxicab service shall be just and reasonable and in conformity with regulations or orders of the authority.

(b) Tariffs.--Under regulations as the authority may prescribe, every taxicab or limousine service shall file with the authority, within the time and in the form as the authority may designate, tariffs showing all rates established by it and collected or enforced or to be collected or enforced within cities of the first class. Every taxicab or limousine service shall keep copies of tariffs open to public inspection under rules and regulations as the authority may prescribe. Upon request, the taxicab or limousine service shall make available at least one copy of any rate filing at a convenient location and for a reasonable length of time within a city of the first class for inspection and study by customers.

(c) Adherence to tariffs.--No taxicab or limousine service shall, directly or indirectly, by any device whatsoever or in any way, demand or receive from any person, corporation or municipal corporation a greater or lesser rate for any service rendered or to be rendered by the taxicab or limousine service than that specified in the tariffs of the taxicab or limousine service.

(d) Discrimination in rates.--No taxicab or limousine service shall make or grant any unreasonable preference or advantage to any person, corporation or municipal corporation or subject any person, corporation or municipal corporation to any unreasonable prejudice or disadvantage concerning its rate. No taxicab or limousine service shall establish or maintain any unreasonable difference as to rates. This subsection shall not prohibit the establishment of reasonable zone or group systems or classifications of rates.

(e) Voluntary changes in rates.--

(1) Unless the authority otherwise orders, no taxicab or limousine service shall make any change in any existing and duly established rate except after 60 days' notice to the authority which shall plainly state the changes proposed to be made in the rates then in force and the time when the changed rates will go into effect. The taxicab or limousine service shall also give notice of the proposed changes to other interested persons as the authority, in its discretion, may direct. The notices regarding the proposed changes which are provided shall be in plain, understandable language as

the authority prescribes. All proposed changes shall be shown by filing new tariffs or supplements to existing tariffs filed and in force at the time. The authority, for good cause shown, may allow changes in rates without requiring the 60 days' notice under conditions as it may prescribe.

(2) Whenever there is filed with the authority by any taxicab or limousine service any tariff stating a new rate, the authority may, either upon complaint or upon its own motion and upon reasonable notice, conduct a hearing concerning the lawfulness of the rate. Pending the hearing and its outcome, the authority, upon filing the tariff and delivering to the taxicab or limousine service affected a statement in writing of its reasons may, at any time before it becomes effective, suspend the operation of the rate for a period not longer than nine months from the time it would otherwise become effective. The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension unless the authority shall establish a temporary rate. The authority shall consider the effect of the suspension in finally determining and prescribing the rates to be charged and collected by the taxicab or limousine service.

(3) If, after the hearing conducted pursuant to paragraph (2), the authority finds any rate to be unjust or unreasonable or in any way in violation of law, it shall determine the just and reasonable rate to be charged or applied by the taxicab or limousine service for the service in question and shall fix the rate by order to be served upon the taxicab or limousine service. The rate shall then be observed until changed.

(f) Temporary rates.--The authority may, in any proceeding involving the rates of a taxicab or limousine service, after reasonable notice and hearing and, if the public interest requires, immediately fix, determine and prescribe temporary rates to be charged by a taxicab or limousine service, pending the final determination of the rate proceeding.

(g) Fair return.--In fixing any rate of a taxicab or limousine service engaged exclusively as a common carrier by motor vehicle, the authority may fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to operating revenues.

(h) Refunds.--If, in any proceeding involving rates, the authority determines that any rate received by a taxicab or limousine service was unjust or unreasonable or was in violation of any regulation or order of the authority or was in excess of the applicable rate contained in an existing and effective tariff of the taxicab or limousine service, the authority shall have the power to make an order requiring the public utility to refund the amount of any excess paid by any patron.
(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5703.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5704. Power of authority to require insurance.

The authority may, by regulation or order, prescribe for a taxicab or limousine service requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance or the qualifications and conditions

under which carriers may act as self-insurers with respect to the requirements.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5704.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5705. Contested complaints.

(a) Adjudication.--Contested complaints brought before the authority alleging violations of this chapter or rules and regulations promulgated by the authority pursuant to this chapter shall be assigned by the authority to a hearing officer for adjudication. Hearing officers assigned to cases pursuant to this chapter may be removed by the authority only for good cause shown. Following the taking and receiving of evidence, the hearing officer shall issue a decision which determines the merits of the complaint and assesses a penalty if warranted. The hearing officer may require the filing of briefs prior to issuing a decision. The hearing officer's decision shall not be subject to exception or administrative appeal. In its discretion, the authority may exercise review of a hearing officer's decision within 15 days of the date of issuance. If the authority does not perform a timely review of a hearing officer's decision, the decision will become a final order without further authority action. The authority may establish orders or regulations which designate rules and procedures for the adjudication of complaints brought pursuant to this chapter.

(b) Commencement of complaints.--Authority enforcement officers, Pennsylvania Public Utility Commission enforcement officers and police officers or licensing officials within cities of the first class may commence and prosecute the following:

(1) A complaint which is brought before the authority pursuant to this chapter and authority regulations applicable to taxicab or limousine operations in cities of the first class.

(2) A complaint which:

(i) arises out of service to or from a city of the first class against a taxicab or limousine operation not certified to provide service between points within a city of the first class; and

(ii) is brought before the commission to enforce commission regulations for taxicab or limousine service.

(c) Other penalties.--Nothing in this section shall be deemed to limit the ability of any city of the first class to prosecute violations and seek criminal penalties in a court of law.

(d) Appeals generally.--A person aggrieved by an order of the authority entered pursuant to this chapter may appeal the order to the Court of Common Pleas of Philadelphia County. All such appeals shall be governed by 2 Pa.C.S. Ch. 7 (relating to judicial review) and Chapter 15 of the Pennsylvania Rules of Appellate Procedure.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2012 Amendment. Act 119 added subsec. (d).

2004 Amendment. Act 94 added section 5705.

Cross References. Section 5705 is referred to in sections 5707.1, 5710, 5725, 5745, 57A06, 57A12, 57A19 of this title.

§ 5706. Driver certification program.

(a) General rule.--The authority shall provide for the establishment of a driver certification program for drivers of taxicabs and limousines within cities of the first class. Standards for fitness of all drivers shall be established under such rules and regulations as the authority may prescribe. The authority may revoke or suspend a driver's certificate upon a finding that the individual is not fit to operate a taxicab or limousine, as applicable. Each applicant for a driver's certificate shall pay a fee in an amount to be determined pursuant to the requirements of section 5710 (relating to fees). Upon approval, a picture driver's certificate will be issued to an applicant. No individual shall operate a taxicab or limousine at any time unless the individual is certified as a driver by the authority. Each certified driver shall carry and display in full view a driver's certificate at all times of operation of a taxicab or limousine. The authority may establish orders or regulations which designate additional requirements governing the certification of drivers and the operation of taxicabs or limousines by drivers, including, but not limited to, dress codes for drivers.

(a.1) Wheelchair-accessible taxicab driver training.--

(1) In addition to the requirements of subsection (a), the authority shall provide for the establishment of a driver certification program and special certification for drivers of wheelchair-accessible taxicabs within cities of the first class.

(2) Upon issuance of a wheelchair-accessible taxicab driver certificate, the certificated driver shall be issued a one-time stipend in the amount of \$50 for each full day of training attended or such other amount as the authority may in its discretion decide by order or regulation.

(3) The annual taxicab driver registration fee established by the authority pursuant to section 5710 shall be paid from the proceeds of the sale of medallions authorized by section 5711(c) (relating to power of authority to issue certificates of public convenience) for each certificated wheelchair-accessible taxicab driver.

(4) All costs associated with this subsection shall be paid from the proceeds of the sale of medallions authorized by section 5711(c).

(b) Violations.--Operating a taxicab or limousine without a driver's certificate or authorizing or permitting the operation of a taxicab or limousine by a driver who is not certified as a driver by the authority within cities of the first class is a nontraffic summary offense in the first instance and a misdemeanor of the third degree for each offense thereafter. The authority may, by regulation, provide for suspension and revocation of drivers' certificates for violations of this chapter and authority regulations.

(c) Agreements delegating responsibilities.--The authority is hereby authorized to enter into agreements or contracts delegating the duties and responsibilities designated in subsections (a) and (a.1) to a different governmental entity or to another party.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

2013 Amendment. Act 64 amended subsecs. (a) and (a.1)(3).

2012 Amendment. Act 119 amended subsec. (c) and added subsec. (a.1).

2004 Amendment. Act 94 added section 5706.

Cross References. Section 5706 is referred to in sections 5701, 5710 of this title.

§ 5707. Budget and assessments.

(a) Budget submission.--

(1) The authority shall prepare and, through the Governor, submit annually to the General Assembly a proposed budget consistent with Article VI of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, consisting of the amounts necessary to be appropriated by the General Assembly out of the funds established under section 5708 (relating to funds) necessary for the administration and enforcement of this chapter for the fiscal year beginning July 1 of the following year. The authority shall be afforded an opportunity to appear before the Governor and the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives regarding its proposed budget. Except as provided in section 5710 (relating to fees), the authority's proposed budget shall include a proposed fee schedule.

(2) The authority's proposed budget shall include an estimate of the amount of its expenditures necessary to meet its obligation to administer and enforce this chapter. The authority shall subtract from the expenditure estimate:

(i) The estimated fees to be collected under section 5710 during the fiscal year.

(ii) Money deposited into the regulatory fund as payment for assessments, fees or penalties and any other moneys collected pursuant to this chapter but not allocated during a prior fiscal year. Unallocated assessment revenue from a prior fiscal year shall be applied to reduce the portion of the total assessment applicable to the utility group from which the unallocated assessment originated.

(iii) Money budgeted for disbursement from the medallion fund, if any, as part of the authority's estimated budget.

(3) The remainder so determined, herein called the total assessment, shall be allocated to and paid by the utility groups identified in subsection (c) in the manner prescribed.

(4) If the authority's budget is not approved by March 30, the authority may assess the utility groups on the basis of the last approved operating budget. At the time the budget is approved, the authority shall make any necessary adjustments in the assessments to reflect the approved budget. If, subsequent to the approval of the budget, the authority determines that a supplemental budget is needed, the authority shall submit its request for that supplemental budget simultaneously to the Governor and the chairman of the Appropriations Committee of the Senate and the chairman of the Appropriations Committee of the House of Representatives.

(b) Records.--The authority shall keep records of the costs incurred in connection with the administration and enforcement of this chapter. The authority shall also keep a record of the manner in which it determined the amount assessed against every utility group. Such records shall be open to inspection by all interested parties. The records of the authority shall be considered prima facie evidence of the facts and data therein represented, and, in a proceeding instituted to challenge the reasonableness or correctness of any assessment under this section, the party challenging the same shall have the burden of proof.

(c) Assessments.--

(1) The following relate to assessments for taxicabs:

(i) The taxicab utility group shall be comprised of each taxicab authorized by the authority pursuant to sections 5711(c) (relating to power of authority to issue certificates of public convenience) and 5714(a) and (d)(2) (relating to certificate and medallion required).

(ii) On or before March 31 of each year, each owner of a taxicab authorized by the authority to provide taxicab service on a non-citywide basis shall file with the authority a statement under oath estimating the number of taxicabs it will have in service in the next fiscal year.

(iii) The portion of the total assessment allocated to the taxicab utility group shall be divided by the number of taxicabs estimated by the authority to be in service during the next fiscal year, and the quotient shall be the taxicab assessment. The taxicab assessment shall be applied to each taxicab in the taxicab utility group and shall be paid by the owner of each taxicab on that basis.

(iv) The authority may not make an additional assessment against a vehicle substituted for another already in taxicab service during the fiscal year and already subject to assessment as provided in subparagraph (iii). The authority may, by order or regulation, provide for reduced assessments for taxicabs first entering service after the initiation of the fiscal year.

(v) The taxicab assessment for fiscal years ending June 30, 2013, and June 30, 2014, shall be \$1,250.

(2) The following relate to assessments for limousines:

(i) The limousine utility group shall be comprised of each limousine service authorized by the authority pursuant to section 5741(a) (relating to certificate of public convenience required). Vehicles approved by the authority to provide limousine service pursuant to section 5741(a.3)(2) shall not be considered part of the limousine utility group for assessment purposes but may be required to pay fees as provided in section 5710.

(ii) On or before March 31 of each year, each limousine service owner shall file with the authority a statement under oath estimating the number of limousines it estimates to have in service in the next fiscal year.

(iii) The portion of the total assessment allocated to the limousine utility group shall be divided by the number of limousines estimated by the authority to be in service during the next fiscal year, and the quotient shall be the limousine assessment. The limousine assessment shall be applied to each limousine in the limousine utility group and shall be paid by the owner of each limousine on that basis.

(iv) The authority may not make an additional assessment against a vehicle substituted for another already in limousine service during the fiscal year and already subject to assessment as provided in subparagraph (iii). The authority may, by order or regulation, provide for reduced assessments for limousines first entering service after the initiation of the fiscal year.

(v) The limousine assessment for fiscal years ending June 30, 2013, and June 30, 2014, shall be \$350. By order or regulation, the authority may discount the limousine

assessment for each limousine service owner operating 16 or more limousines authorized by the authority.

(3) The following relate to assessments for dispatchers:

(i) The dispatcher utility group shall be comprised of each centralized dispatch system authorized by the authority as provided in section 5711(c)(6).

(ii) The portion of the total assessment allocated to the dispatcher utility group shall be divided by the number of dispatchers estimated by the authority to be in service during the next fiscal year, and the quotient shall be the dispatcher assessment. The dispatcher assessment shall be applied to each dispatcher in the dispatcher utility group and shall be paid by the owner of each dispatcher on that basis.

(iii) The dispatcher assessment for fiscal years ending June 30, 2013, and June 30, 2014, shall be \$2,750.

(d) Examination of records.--The chairperson and the 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 shall have the right to examine the books, accounts and records of the authority at any time.

(d.1) Enforcement.--If a payment prescribed by this section is not made as aforesaid, the authority may suspend or revoke certificates of public convenience and driver certificates, may certify automobile registrations to the Department of Transportation for suspension or revocation or may institute an enforcement action or appropriate action at law for the amount lawfully assessed, together with any additional cost incurred by the authority by virtue of such failure to pay. The penalties prescribed in this subsection shall be in addition to other penalties that may be imposed by the authority as provided in this chapter.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

2004 Amendment. See sections 22 and 24 of Act 94 in the appendix to this title for special provisions relating to applicability and publication in Pennsylvania Bulletin.

Cross References. Section 5707 is referred to in sections 5707.1, 5710 of this title.

§ 5707.1. Assessment notice and hearings.

(a) Notice of assessment and payment.--

(1) The authority shall serve notice of the assessment determined pursuant to section 5707 (relating to budget and assessments) to each owner by electronic mail, as provided in 52 Pa. Code § 1001.51(b) (relating to service by the authority). The authority shall post the assessment for each utility group on its Internet website.

(2) Except as provided in paragraph (3), an assessment must be paid within 30 days of service as provided in 52 Pa. Code § 1001.54(a)(4) (relating to date of service).

(3) The authority may provide by regulation for the payment of an assessment in scheduled installments.

(b) Assessment hearings.--

(1) Within 15 days after service of notice of assessment, an owner may file a petition with the authority which specifically avers the reason that the assessment is excessive, erroneous, unlawful or otherwise invalid. The authority may prescribe filing procedures and the form for the petition.

(2) The authority shall fix the time and place for a hearing on a properly filed petition and shall serve notice thereof upon parties in interest. After the conclusion of the hearing, the authority shall issue a decision and findings in sufficient detail to enable a court to determine, on appeal, the controverted question presented by the proceeding and whether proper weight was given to the evidence.

(3) The filing of a petition under this subsection does not relieve the owner of the obligation to pay the assessment within the specified time frame. If a refund due from the authority to the objecting owner or an additional assessment payment due from the objecting owner to the authority is required, the payment must be made within ten days after notice of the findings of the authority.

(c) Appeals.--A suit or proceeding may not be commenced or maintained in a court for the purpose of restraining or delaying the collection or payment of an assessment made under this chapter. A person aggrieved by an order of the authority entered under this section may appeal as provided in section 5705(d) (relating to contested complaints).
(July 9, 2013, P.L.455, No.64, eff. imd.)

2013 Amendment. Act 64 added section 5707.1.
§ 5708. Funds.

(a) Regulatory Fund.--The Philadelphia Taxicab and Limousine Regulatory Fund is established as a special fund in the State Treasury. A balance remaining in the regulatory fund and previously held by the authority shall be transferred to the special fund in the State Treasury upon the effective date of section 5710 (relating to fees). The regulatory fund shall be the primary operating fund of the authority for the administration and enforcement of this chapter and shall be administered as follows:

(1) Except as provided in subsection (a.1), the assessments, fees, penalties and other revenues, interest earned by the regulatory fund, refunds and repayments related to the administration and enforcement of this chapter shall be deposited into the regulatory fund.

(2) Money deposited in the regulatory fund is reserved for the use of the authority and shall be transferred in equal amounts each month by the State Treasurer to the authority for the purposes of administering and enforcing this chapter.

(3) Upon the effective date of this paragraph, the money in the regulatory fund shall be held and maintained as provided in paragraph (2).

(a.1) Medallion Fund.--The Philadelphia Taxicab Medallion Fund is established as a special fund in the State Treasury.

(1) The consideration, revenue, fees, interest earned by the medallion fund, refunds, repayments and other deposits related to the sale of medallions as provided in section 5717(b) (relating to additional certificates and medallions), shall be deposited into the medallion fund.

(2) Money deposited in the medallion fund is reserved for the use of the authority and shall be transferred in equal amounts each month by the State Treasurer to the authority solely for the purposes of administering and enforcing taxicab regulation under this chapter.

(b) (Reserved).

(c) (Reserved).

(c.1) Audit.--The authority shall have at least one annual examination of its books, accounts and records related to each of the funds established by this section by a certified public accountant.

(d) (Reserved).

(e) (Reserved).

(f) (Reserved).

(July 16, 2004, P.L.758, No.94, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

Special Provisions in Appendix. See section 7 of Act 64 of 2013 in the appendix to this title for special provisions relating to appropriation from Philadelphia Taxicab and Limousine Regulatory Fund.

Cross References. Section 5708 is referred to in sections 5701, 5707 of this title; section 6507 of Title 75 (Vehicles).

§ 5709. (Reserved).

(July 16, 2004, P.L.758, No.94, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

§ 5710. Fees.

(a) Fees authorized.--The authority may collect fees necessary for the administration and enforcement of this chapter. Payment of fees may be enforced in the same manner and to the extent provided for the payment of assessments under section 5707 (relating to budget and assessments). Fees collected under this section must be deposited into the regulatory fund. The authority shall post the current fee schedule on its Internet website.

(b) Fee schedule.--Upon the effective date of this section, the following fee schedule is adopted for fiscal years ending June 30, 2013, and June 30, 2014:

(1) A fee of \$50 to place either a medallion or certificate of public convenience voluntarily out of service as provided in 52 Pa. Code §§ 1011.14 (relating to voluntary suspension of certificate) and 1051.13 (relating to voluntary suspension of certificate).

(2) A fee of \$10 for a replacement of a taxicab posting required by 52 Pa. Code § 1017.12(b) (relating to required markings and information).

(3) A fee of \$200 if a check submitted to the authority for payment is declined.

(4) For a vehicle inspection required by section 5714 (a) (relating to certificate and medallion required) and 52 Pa. Code §§ 1017.31 (relating to biannual inspections by authority) and 1055.11 (relating to scheduled compliance inspections) fees are as follows:

(i) One hundred dollars for a scheduled vehicle inspection.

(ii) Seventy-five dollars for a scheduled inspection of a wheelchair-accessible vehicle or a vehicle that presents for inspection with less than 200,000 miles.

(iii) One hundred twenty-five dollars for a scheduled vehicle inspection after the vehicle failed two authority inspections.

(iv) One hundred dollars for the emission inspection waiver fee.

(v) One hundred fifty dollars for a scheduled offsite vehicle inspection as provided in 52 Pa. Code § 1055.12 (relating to offsite inspections).

(5) A fee of \$200 for the initial inspection and processing of a vehicle upon entry into a taxicab service or limousine service as provided in 52 Pa. Code §§ 1017.2

(relating to preservice inspection) and 1055.3(c)(3) (relating to limousine age and mileage parameters).

(6) A fee of \$30 for a replacement limousine rights sticker issued by the authority as provided in 52 Pa. Code § 1055.2 (relating to limousine rights sticker).

(7) A fee of \$15 for a vehicle registered as a remote carrier as provided in 52 Pa. Code § 1053.43(f) (relating to certain limousine requirements).

(8) A fee of \$2,000 or 3% of the purchase price, whichever is greater, to administer the transfer of a medallion or a certificate of public convenience as provided in sections 5711(c)(5) (relating to power of authority to issue certificates of public convenience), 5718 (relating to restrictions) and 5741.1(c) (relating to power of authority).

(9) A fee of \$15,000 for a new centralized dispatcher certificate of public convenience as provided in section 5711(c)(6).

(10) A fee of \$12,000 for a new limousine certificate of public convenience for one class of limousine service and \$3,000 for each additional classification of limousine service as provided in sections 5741(a) (relating to certificate of public convenience required) and 5741.1. The fee applies to a new applicant for limousine service rights in a city of the first class.

(11) A fee of \$6,000 for an additional limousine certificate of public convenience for one class of limousine service as provided in section 5741(a). The fee applies to an application by a current owner of a limousine service in a city of the first class.

(12) A fee of \$2,500 to file a protest as provided in 52 Pa. Code § 1003.54 (relating to protests).

(13) A fee of \$25 to replace a driver's certificate issued under section 5706 (relating to driver certification program).

(14) A fee of \$130 for a new driver application submitted under 52 Pa. Code § 1021.5 (relating to standards for obtaining a taxicab driver's certificate).

(15) A fee of \$100 for a new driver application submitted under 52 Pa. Code § 1057.5 (relating to standards for obtaining a limousine driver's certificate).

(16) A fee of \$500 to process and review a change to a centralized dispatcher's approved colors and markings as provided in 52 Pa. Code § 1019.7 (relating to name, colors and markings review).

(17) A fee of \$1,200 for brokers registered as provided in 52 Pa. Code §§ 1029.5 (relating to broker registration) and 1061.1 (relating to broker registration) for initial application and annual renewal.

(18) A fee of \$20 to process a vehicle registration change.

(19) A fee of \$80 to review and process a driver certificate renewal application as provided in section 5706(a) and 52 Pa. Code §§ 1011.4(f) (relating to annual assessments and renewal fees) and 1051.4(c) (relating to annual assessments and renewal fees).

(20) A fee of \$200 to file a petition seeking action by the authority as provided in 52 Pa. Code § 1005.21 (relating to petitions generally).

(21) A fee of \$75 for administrative hearing costs upon determination of liability for an enforcement action as

provided in section 5705(a) (relating to contested complaints).

(22) A fee of \$200 to process the return of a medallion after levy by the sheriff as provided in section 5713 (relating to property and licensing rights).
(July 9, 2013, P.L.455, No.64, eff. imd.)

2013 Amendment. Act 64 added section 5710.

Cross References. Section 5710 is referred to in sections 5706, 5707, 5708, 5718 of this title.

SUBCHAPTER B

TAXICABS

Sec.

- 5711. Power of authority to issue certificates of public convenience.
- 5712. Medallion system.
- 5713. Property and licensing rights.
- 5714. Certificate and medallion required.
- 5715. Contested complaints (Deleted by amendment).
- 5716. Reissuance of medallion.
- 5717. Additional certificates and medallions.
- 5718. Restrictions.
- 5719. Driver certification program (Deleted by amendment).
- 5720. Wages.
- 5721. Centralized dispatcher.
- 5722. Regulations.
- 5723. Budget and fees (Deleted by amendment).
- 5724. Criminal penalties.
- 5725. Civil penalties.

§ 5711. Power of authority to issue certificates of public convenience.

(a) **General rule.**--In addition to the powers conferred upon the authority by other provisions of this title, the authority is empowered to issue, suspend, cancel or revoke certificates of public convenience in accordance with this subchapter and orders or regulations of the authority.

(b) **Application.**--Every application for a certificate of public convenience shall be made to the authority in writing, be verified by oath or affirmation and be in such form and contain such information as the authority may require.

(c) Procedure.--

(1) A certificate of public convenience to provide taxicab service within cities of the first class shall be granted by order of the authority without proof of the need for the service if the authority finds or determines that the applicant is capable of providing dependable taxicab service to the public according to the rules and regulations of the authority.

(2) The authority is authorized to issue the following:

(i) Subject to the provisions of subparagraph (ii), a maximum of 1,600 certificates of public convenience and corresponding medallions for citywide call or demand service and an additional 15 certificates of public convenience and corresponding medallions restricted to wheelchair-accessible taxicab service as provided in this chapter.

(ii) Beginning June 1, 2013, and each June 1 thereafter until there is a total of 1,750 certificates of public convenience and corresponding medallions, the

maximum number of certificates of public convenience and corresponding medallions for citywide call or demand service shall be increased by 15. The authority, in its discretion, may issue the certificates and medallions authorized by this subparagraph with special rights, privileges and limitations applicable to issuance and use as it determines necessary to advance the purposes of this chapter and may issue the certificates and medallions authorized by this subparagraph in stages.

(2.1) The authority may issue no more than six certificates of public convenience for non-citywide call or demand service in any city of the first class, subject to the exclusive jurisdiction of the authority.

(3) It is hereby declared to be the policy of the General Assembly to regulate the provision of taxicab service within cities of the first class in such a manner that any certificate of public convenience hereinafter granted by order of the authority may, in addition to any other conditions imposed by the authority, require that at least 40% of such trips of such taxicab service shall be derived from such service provided to and from points within specific geographical areas to be determined by the authority as being in the public interest. The authority shall have the power to rescind or revoke any certificate of public convenience granted to any existing holder or any new recipient for the operation of taxicabs within a city of the first class whenever it is shown that the holder of the certificate is not operating the taxicabs on an average of 50% of the time over any consecutive three-month period.

(4) The authority shall have the authority to grant immediate temporary certificates of public convenience for taxicab service within cities of the first class. Such temporary certificates are subject to further investigation before a permanent certificate shall be granted by the authority.

(5) The transfer of a certificate of public convenience, by any means or device, shall be subject to the prior approval of the authority which may, in its sole or peculiar discretion as it deems appropriate, attach such conditions, including the appropriate allocation of proceeds, as it may find to be necessary or proper.

(6) A certificate of public convenience to convey or transmit to and from taxicabs messages or communications within cities of the first class through the use of centralized dispatch systems shall be granted by order of the authority if the authority finds that the applicant is capable of providing dependable service according to the rules and regulations of the authority.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

2013 Amendment. Act 64 amended subsec. (c)(2.1).

2012 Amendment . Act 119 amended subsecs. (a) and (c).

2004 Amendment. Act 94 reenacted and amended section 5711.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5711 is referred to in sections 5706, 5707, 5710, 5714, 5717 of this title.

§ 5712. Medallion system.

(a) System.--There is a medallion system within cities of the first class in order to provide holders of certificates of public convenience which authorize citywide call or demand service the opportunity to upgrade and improve the operations of taxicabs. In the case of a corporate certificate holder, a medallion shall be issued in the name of the corporation to its corporate president. The medallion shall be marked with the taxicab number assigned to the corresponding certificate of public convenience.

(b) Requirement.--Notwithstanding 75 Pa.C.S. § 1305(b) (relating to application for registration), before registering any taxi which is required to obtain a certificate of public convenience from the authority to operate in a city of the first class, the Department of Transportation shall require evidence that the certificate has been issued and has not been revoked or has not expired.
(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5712.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5713. Property and licensing rights.

(a) Property rights.--Medallions are property and may not be revoked or canceled by the authority. Medallions may be pledged to lenders or creditors as security on debt. All lenders or creditors who, after the effective date of this section, accept a medallion as security shall do so in conformance with 13 Pa.C.S. (relating to commercial code). If a lender or creditor executes on or seizes a medallion, it shall immediately notify the authority in writing. Any sale of the medallion, upon seizure or execution, shall occur at authority offices pursuant to the requirements of section 5718 (relating to restrictions) within one year of the seizure or execution. If the medallion is not sold within one year, the medallion will become nontransferable, and possession must be surrendered to the authority unless the authority finds exigent circumstances exist which warrant extending the one-year period.

(b) Licensing rights.--A certificate of public convenience is a licensing right which accompanies each medallion and authorizes the operation of one taxicab within a city of the first class. No property interest shall exist in the certificate itself. A certificate may not be pledged to lenders or creditors as security on debt. A certificate may be canceled by the authority, upon due cause shown, for violation of this subchapter or authority regulations. If the authority cancels a certificate, the certificate holder shall have the right to sell the accompanying medallion within six months of the date of cancellation, and the certificate holder must turn the medallion over to the authority office within five days of cancellation of the certificate for safekeeping until the medallion is sold. This six-month time period shall be extended during the pendency of a petition for reinstatement of the certificate of public convenience. If the medallion is not sold within the statutory period, the medallion will become nontransferable, and possession must be surrendered to the authority.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5713.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5713 is referred to in section 5710 of this title.

§ 5714. Certificate and medallion required.

(a) Vehicles generally.--

(1) A vehicle may not be operated as a taxicab with citywide call or demand rights in cities of the first class unless a certificate of public convenience is issued by the authority authorizing the operation of the taxicab and a medallion is attached to the hood of the vehicle. Prior to the issuance of a medallion, the certificate holder shall have its vehicle inspected by the authority.

(2) The authority shall require, by order or regulation, that each vehicle within its jurisdiction pursuant to this chapter submit to periodic inspections by authority personnel to ensure that the vehicle meets the requirements of this subchapter and authority regulations.

(3) Authority inspection requirements for vehicles within its jurisdiction pursuant to this chapter shall be in addition to the vehicle requirements set forth in Title 75 (relating to vehicles) and may include vehicle age and mileage limitations. Authority inspection and recording requirements shall be established by regulations.

(4) No vehicle which is more than eight years old shall continue in operation as a taxicab. Notwithstanding the foregoing, the authority may authorize the operation of antique vehicles in call or demand service in such circumstances as the authority may deem appropriate.

(5) Each taxicab certificate holder's tariff rates shall be clearly and visibly displayed in each taxicab.

(6) A medallion shall not be removed from a vehicle without prior notification to and permission of the authority.

(7) A medallion authorizes operation of a vehicle as a taxicab only for the fiscal year for which the medallion is issued.

(b) Driver security devices.--Each vehicle authorized to provide taxicab service shall be equipped with such security devices as the authority may, in its discretion, require by order or regulation.

(c) Service.--A vehicle authorized by a certificate to provide call or demand service within cities of the first class may transport persons and their baggage upon call or demand and parcels, packages and property at the same basic metered rates charged to passengers:

(1) between points in the city of the first class for which its certificate is issued;

(2) from any point in the city of the first class for which its certificate is issued to any point in this Commonwealth;

(3) from any point in this Commonwealth to any point in the city of the first class for which its certificate is issued if the request for service for such transportation is received by call to its centralized dispatch system; and

(4) from any point in the city of the first class for which its certificate is issued to any point outside this Commonwealth as a continuous part of a trip.

(d) Other vehicles.--

(1) A vehicle which is not authorized by a certificate to provide call or demand service within cities of the first

class but which is operated by the holder of a certificate of public convenience from the Pennsylvania Public Utility Commission authorizing call or demand service elsewhere in this Commonwealth may transport persons and property:

(i) to cities of the first class in accordance with the service authorized under its certificate of public convenience; and

(ii) from any point in a city of the first class to any point in this Commonwealth beyond that city of the first class if the request for service for such transportation is received by call to its radio dispatch service.

(2) Carriers authorized by the authority to provide taxicab service to designated areas within cities of the first class on a non-citywide basis pursuant to section 5711(c)(2.1) (relating to power of authority to issue certificates of public convenience) shall retain their authorization in those areas of a city of the first class subject to the exclusive jurisdiction of the authority and orders and regulations of the authority issued under this chapter. The authority shall not grant additional rights to new or existing carriers to serve designated areas within cities of the first class on a non-citywide basis.

(e) Penalties involving certificated taxicabs.--Operating a certificated taxicab in violation of subsections (a) and (b) or authorizing or permitting such operation is a nontraffic summary offense. Offenders of subsections (a) and (b) may also be subject to civil penalties pursuant to section 5725 (relating to civil penalties).

(f) Unauthorized vehicles.--Operating an unauthorized vehicle as a taxicab, or giving the appearance of offering call or demand service with an unauthorized vehicle, without first having received a certificate of public convenience and a medallion is a nontraffic summary offense in the first instance and a misdemeanor of the third degree for each offense thereafter. The owner and the driver of a vehicle being operated as or appearing as a taxicab without a certificate of public convenience and a medallion are also subject to civil penalties pursuant to section 5725. Civil penalties which have been assessed and collected shall be deposited in the fund.

(g) Confiscation and impoundment of vehicles.--

(1) The authority is empowered to confiscate and impound vehicles, medallions and equipment which are utilized to provide call or demand service in cities of the first class without a proper certificate of public convenience issued by the authority or which are in violation of regulations of the authority. Upon satisfaction of all penalties imposed and all outstanding fines assessed against the owner or operator of the confiscated vehicle and payment of the costs of the authority associated with confiscation and impoundment, the vehicle, medallion and equipment shall be returned to its registered owner or registered lienholder.

(2) (i) If an owner or operator does not satisfy all penalties imposed and all outstanding fines assessed within 45 days of the date of impoundment, the authority may publicly auction all confiscated property.

(ii) The authority shall, at least 30 days before the date of the public auction, provide notice by regular mail to the registered owner and any registered lienholder of the public auction of confiscated vehicles and equipment. The notice required under this

subparagraph may be provided within the period of 45 days of the date of impoundment.

(3) The authority shall apply the proceeds from the sale of all confiscated property in the following order:

(i) To the costs of the authority associated with the confiscation, impoundment and auction.

(ii) To all penalties imposed and all outstanding fines assessed against the owner and operator of the confiscated property.

(iii) Except as provided in subparagraph (v), to the lien of any registered lienholder of the confiscated property upon demand.

(iv) Except as provided in subparagraph (v), to the registered owner of the confiscated property upon demand.

(v) When not claimed by any registered lienholder or registered owner within one year of the auction date, remaining proceeds shall be deposited into the fund.

(g.1) Assessment.--After application of the proceeds from the sale of confiscated property under subsection (f), the uncompensated costs of the authority associated with the confiscation, impoundment and auction and all outstanding penalties imposed and all outstanding fines assessed against the registered owner or operator of the confiscated property may be assessed against the registered owner or operator of the confiscated property as the authority may prescribe by regulation.

(h) Counterfeit medallions.--The manufacture or possession of a counterfeit medallion is a misdemeanor of the third degree for each offense.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2012 Amendment . Act 119 amended subsecs. (a), (b), (d) and (g)(1).

2004 Amendment. Act 94 reenacted and amended section 5714.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5714 is referred to in sections 5707, 5710 of this title.

§ 5715. Contested complaints (Deleted by amendment).

2004 Amendment. Section 5715 was deleted by amendment July 16, 2004, P.L.758, No.94, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5716. Reissuance of medallion.

Within 30 days of the close of each fiscal year, a medallion holder shall apply to obtain from the authority a reissued medallion for a fee in an amount to be determined pursuant to the requirements of section 5723 (relating to budget and fees). Each year's medallion shall designate the year of issuance and shall be identifiable by a distinctive tint or color and shape to be determined by the authority. A medallion may not be issued by the authority unless all outstanding authority fines, penalties and fees have been paid in full and unless all insurance, tariff and vehicle inspection filings are current. Immediately prior to reissuance of a medallion, a medallion holder shall remove the prior year's medallion from the hood of its taxicab and surrender it to the authority. Upon

reissuance, the new medallion shall be immediately attached to the vehicle.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5716.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

References in Text. Section 5723, referred to in this section, was deleted by amendment.

§ 5717. Additional certificates and medallions.

(a) **Limitation on number.--**Subject to the limits established in section 5711(c) (relating to power of authority to issue certificates of public convenience), the authority may increase the number of certificates and medallions. In no case shall the number of citywide call or demand service taxicab certificates and medallions issued by the authority exceed the maximum amount provided for in section 5711(c).

(b) **Medallion issuance.--**

(1) Medallions shall be sold to the highest bidder after due notice by advertisement for bids or for public auction in the Pennsylvania Bulletin. The advertisement shall be published once not less than 60 days before public auction, and the date for public auction shall be announced in the advertisement.

(2) The medallion sale price shall be payable prior to the time of issuance.

(3) In the event the authority determines that a successful bidder of a medallion is not qualified to own a medallion pursuant to this chapter and the orders and regulations of the authority, the medallion at issue shall be subject again to sale as provided in this section.

(4) The authority may establish, by order, rules related to a medallion bid or public auction.

(5) (i) The authority may, by order, limit the number of medallions that a person may purchase at any bid or public auction.

(ii) For purposes of this paragraph, "person" includes an individual or entity with a controlling interest in a bidder as the authority may define by order or regulation.

(c) **Wheelchair-accessible taxicabs medallions.--**

(1) In addition to other terms and conditions of use, the authority may restrict a medallion to wheelchair-accessible taxicabs use.

(2) Wheelchair-accessible taxicab medallions issued pursuant to this section may only be attached to wheelchair-accessible taxicabs.

(3) A wheelchair-accessible taxicab may not be operated with citywide call or demand rights in cities of the first class unless a certificate of public convenience is issued by the authority and a medallion is attached to the hood of the vehicle.

(4) Wheelchair-accessible taxicabs shall comply with the requirements of this chapter and the rules and regulations of the authority related to taxicab service.

(5) The authority may, by order or regulation, provide for special rules and regulations related to the operation of wheelchair-accessible taxicabs.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5717 is referred to in section 5708 of this title.

§ 5718. Restrictions.

(a) Place of transaction.--A medallion may not be sold or transferred to another party unless the closing of the sales transaction occurs at authority offices in the presence of a designated authority staff member. The authority staff member shall witness the execution of each contract of sale to evidence staff presence at the execution. All contracts for the sale of medallions which are not executed at authority offices and witnessed by an authority staff member are void by operation of law. All sales contracts shall conform to such rules and regulations as the authority may prescribe. Prior to each closing, the buyer of the medallion shall pay a fee pursuant to the requirements of section 5710 (relating to fees).

(b) Issuance of certificate.--Upon the witnessing of a sale of a medallion and upon application of the purchaser and compliance with authority tariff, insurance and inspection requirements, the authority staff shall issue an accompanying certificate to the new medallion holder unless the authority determines that the transfer of the certificate is inconsistent with the public interest. Where there is a determination that a transfer is not in the public interest, the new medallion holder shall have six months from the date the adverse determination is entered to sell the medallion to a new owner. If a sale is not consummated before authority personnel within six months, the medallion will become nontransferable, and possession must be surrendered to the authority.

(c) Criminal records.--No person or corporation may purchase a medallion or apply for a certificate if the person or corporation or an officer or director of the corporation has been convicted or found guilty of a felony within the five-year period immediately preceding the transfer. All applications for a certificate shall contain a sworn affidavit certifying that the purchaser has not been convicted of a felony in the previous five years. If, at any time, the authority finds that a medallion holder has been convicted of a felony while holding the medallion or during the five years immediately preceding its purchase, the authority shall cancel the corresponding certificate.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 9, 2013, P.L.455, No.64, eff. imd.)

2013 Amendment. Act 64 amended subsec. (a).

2004 Amendment. Act 94 reenacted and amended section 5718.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5718 is referred to in sections 5710, 5713 of this title.

§ 5719. Driver certification program (Deleted by amendment).

2004 Amendment. Section 5719 was deleted by amendment July 16, 2004, P.L.758, No.94, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5720. Wages.

(a) Minimum wage.--Each certificate holder shall pay at least a prevailing minimum wage rate or, in the alternative, charge at most a prevailing maximum lease amount to the drivers of its taxicab, as determined by the authority upon investigation. The minimum wage rate and the maximum lease amount, as established by the authority, may include employee benefits.

(b) Uniform rates.--All taxicabs authorized to provide call or demand service in cities of the first class shall charge a uniform rate to passengers, as determined by the authority upon investigation.

(c) Reopen investigations.--Any holder of a certificate of public convenience or certified driver may petition the authority to reopen the investigations addressed by subsections (a) and (b) no less than 18 months after the close of the preceding investigation.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2012 Amendment . Act 119 amended subsecs. (a) and (b).

2004 Amendment. Act 94 reenacted and amended section 5720.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5721. Centralized dispatcher.

In cities of the first class, all medallion holders shall utilize the services of a centralized dispatch system. Any owner of a centralized dispatch system shall make such system available to all medallion holders for a reasonable fee, as described in a rate schedule to be filed with the authority. The authority, in its discretion, may review the rate schedules of dispatch associations to determine if rates charged discriminate against new applicants. Medallion holders shall utilize only centralized dispatch systems that are in conformance with authority rules and regulations. Medallion holders shall have no obligation to use any particular centralized dispatch system.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5721.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5722. Regulations.

The authority may prescribe such rules and regulations as it deems necessary to govern the regulation of taxicabs within cities of the first class under this chapter. The authority has the powers set forth in this section notwithstanding any other provision or law or of the articles of incorporation of the authority.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5722.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5723. Budget and fees (Deleted by amendment).

2004 Amendment. Section 5723 was deleted by amendment July 16, 2004, P.L.758, No.94, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5724. Criminal penalties.

For the purpose of this subchapter, any person or corporation convicted of:

(1) a summary offense shall be sentenced to pay a fine of \$500 and may be sentenced to a term of imprisonment not to exceed 90 days or both; or

(2) a misdemeanor shall be sentenced to pay a fine of \$2,500 and may be sentenced to a term of imprisonment not to exceed one year or both.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5724.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5725. Civil penalties.

(a) **General rule.**--If any person or corporation subject to this subchapter shall violate any of the provisions of this subchapter or shall do any matter or thing prohibited under this subchapter; or shall fail, omit, neglect or refuse to perform any duty enjoined upon it by this subchapter; or shall fail, omit, neglect or refuse to obey, observe and comply with any regulation or final direction, requirement, determination or order made by the authority or to comply with any final judgment, order or decree made by any court, the person or corporation for the violation, omission, failure, neglect or refusal shall forfeit and pay to the authority a sum not exceeding \$1,000 to be recovered by a complaint as provided in section 5705(b) (relating to contested complaints). In construing and enforcing the provisions of this section, the violation, omission, failure, neglect or refusal of any officer, agent or employee acting for or employed by the person or corporation shall in every case be deemed to be the violation, omission, failure, neglect or refusal of the person or corporation.

(b) **Continuing offenses.**--Each and every day's continuance in the violation of any regulation or final direction, requirement, determination or order of the authority, or of any final judgment, order or decree made by any court, shall be a separate and distinct offense. If any interlocutory order of supersedeas or a preliminary injunction be granted, no penalties shall be incurred or collected for or on account of any act, matter or thing done in violation of such final direction, requirement, determination, order or decree so superseded or enjoined for the period of time such order of supersedeas or injunction is in force.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2012 Amendment . Act 119 amended subsec. (a).

2004 Amendment. Act 94 reenacted section 5725.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5725 is referred to in section 5714 of this title.

LIMOUSINES

Sec.

5741. Certificate of public convenience required.

5741.1. Power of authority.

5742. Regulations.

5743. Budget and fees (Deleted by amendment).

5744. Criminal penalties.

5745. Civil penalties.

§ 5741. Certificate of public convenience required.

(a) General rule.--In order to operate a limousine service within a city of the first class, the limousine service must have a certificate of public convenience issued by the authority under section 5741.1 (relating to power of authority). The authority may grant a certificate of public convenience to provide limousine service if the authority determines that the applicant is capable of providing safe, adequate, lawful and dependable service to the public. The authority may by regulation define categories of limousine service. The authority may separately grant certificates of public convenience for each category of limousine service and specify the rights associated with the certificates of public convenience by category of limousine service.

(a.1) Advance reservation limousine service.--A vehicle authorized by a certificate of public convenience issued by the authority to provide limousine service within a city of the first class may transport persons and their baggage upon advance reservation:

(1) between points in the city of the first class for which its certificate is issued;

(2) from any point in the city of the first class for which its certificate is issued to any point in this Commonwealth;

(3) from any point in this Commonwealth to any point in the city of the first class for which its certificate is issued; and

(4) from any point in the city of the first class for which its certificate is issued to any point outside this Commonwealth as part of a continuous trip.

(a.2) Other limousine service.--A vehicle authorized by a certificate of public convenience issued by the authority to provide nonexclusive, scheduled limousine service may transport persons and their baggage to or from any airport, railroad station or hotel located in whole or in part in a city of the first class without advance reservation in accordance with rules and regulations established by the authority.

(a.3) Commission limousine certificate holders.--A vehicle which is not authorized by a certificate of public convenience issued by the authority to provide limousine service in a city of the first class but which is operated by the holder of a certificate of public convenience from the commission authorizing limousine service elsewhere in this Commonwealth may transport persons and their baggage:

(1) to a city of the first class upon advance reservation and in accordance with the service authorized under its certificate of public convenience; and

(2) from any point in a city of the first class to any point in this Commonwealth beyond the city of the first class upon advance reservation in accordance with the service authorized under its certificate of public convenience, excluding service from any airport, railroad station and

hotel located in whole or in part in a city of the first class.

(b) Enforcement.--

(1) The provisions of this subchapter and the rules and regulations promulgated by the authority pursuant to this subchapter shall be enforced within cities of the first class by authority personnel.

(2) The Pennsylvania Public Utility Commission may initiate actions before the authority.

(c) Restrictions.--

(1) Certificates issued pursuant to this subchapter shall be nontransferable unless a transfer is approved by the authority.

(2) A limousine service provider operating pursuant to an authority-issued certificate of public convenience and a filed tariff permitting the limousine service provider to charge mileage-based rates on the effective date of this paragraph shall be permitted to continue to charge mileage-based rates and to be regulated in the same manner as traditional limousine service providers.

(d) Penalties involving certified limousines.--Operating a certificated limousine in violation of this subchapter and authority regulations with regard to limousine service in a city of the first class or authorizing or permitting such operation is a nontraffic summary offense. Offenders may also be subject to civil penalties pursuant to section 5745 (relating to civil penalties).

(e) Unauthorized vehicles.--Operating an unauthorized vehicle as a limousine or giving the appearance of offering limousine service with an unauthorized vehicle, without first having received a certificate of public convenience, is a nontraffic summary offense in the first instance and a misdemeanor of the third degree for each subsequent offense. The owner and the driver of a vehicle being operated as a limousine without a certificate of public convenience are also subject to civil penalties pursuant to section 5745. Civil penalties which have been assessed and collected shall be deposited in the fund.

(f) Confiscation and impoundment of vehicles.--

(1) In addition to penalties provided for in subsections (d) and (e), the authority is empowered to confiscate and impound vehicles and equipment which are utilized to provide limousine service without a proper certificate of public convenience in a city of the first class or which are in violation of regulations of the authority. Upon satisfaction of all penalties imposed and all outstanding fines assessed against the owner or operator of the confiscated vehicle and equipment and payment of the authority's costs associated with confiscation and impoundment, the vehicle and equipment shall be returned to its registered owner or registered lienholder.

(2) (i) If an owner or operator does not satisfy all penalties imposed and all outstanding fines assessed within 45 days of the date of impoundment, the authority may publicly auction all confiscated property.

(ii) The authority shall, at least 30 days before the date of the public auction, provide notice by regular mail to the registered owner and any registered lienholder of the public auction of confiscated vehicles and equipment. The notice required under this subparagraph may be provided within the period of 45 days of the date of impoundment.

(3) The authority shall apply the proceeds from the sale of all confiscated property in the following order:

(i) To the costs of the authority associated with the confiscation, impoundment and auction.

(ii) To all penalties imposed and all outstanding fines assessed against the owner and operator of the confiscated property.

(iii) Except as provided in subparagraph (v), to the lien of any registered lienholder of the confiscated property upon demand.

(iv) Except as provided in subparagraph (v), to the registered owner of the confiscated property upon demand.

(v) When not claimed by any registered lienholder or registered owner within one year of the auction date, remaining proceeds shall be deposited into the fund.

(f.1) Assessment.--After application of the proceeds from the sale of confiscated property under subsection (f), the uncompensated costs of the authority associated with the confiscation, impoundment and auction and all outstanding penalties imposed and all outstanding fines assessed against the registered owner or operator of the confiscated property may be assessed against the registered owner or operator of the confiscated property as the authority may prescribe by regulation.

(July 16, 2004, P.L.758, No.94, eff. imd.; Nov. 4, 2016, P.L.1222, No.164, eff. imd.)

2016 Amendment. Act 164 amended subsec. (c).

2004 Amendment. Act 94 reenacted and amended section 5741.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5741 is referred to in sections 5707, 5710, 57A01 of this title.

§ 5741.1. Power of authority.

(a) General rule.--In addition to the other powers conferred upon the authority by other provisions of this title, the authority is empowered to issue certificates of public convenience in accordance with this subchapter.

(b) Application.--An application for a certificate of public convenience must be made to the authority in writing, be verified by oath or affirmation, be in the form required by the authority and contain information required by the authority.

(c) Procedure.--

(1) The authority has the power to rescind or revoke a certificate of public convenience granted to an existing holder or a new recipient for the operation of limousines within a city of the first class.

(2) The authority has the power to grant immediate temporary certificates of convenience for limousine service within cities of the first class. Temporary certificates are subject to further investigation before a permanent certificate shall be granted by the authority.

(3) The transfer of a certificate of public convenience by any means or device shall be subject to the prior approval of the authority, which may attach conditions it deems proper.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 added section 5741.1.

Cross References. Section 5741.1 is referred to in sections 5710, 5741 of this title.

§ 5742. Regulations.

The authority is authorized to prescribe such rules and regulations as it deems necessary to administer and enforce the regulation of limousine service certified through the authority under this chapter. The authority has the powers set forth in this section notwithstanding any other provision of law or of the authority's articles of incorporation.
(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted and amended section 5742.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5743. Budget and fees (Deleted by amendment).

2004 Amendment. Section 5743 was deleted by amendment July 16, 2004, P.L.758, No.94, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5744. Criminal penalties.

For the purpose of this subchapter, any person or corporation convicted of:

(1) a summary offense shall be sentenced to pay a fine of \$500 and may be sentenced to a term of imprisonment not to exceed 90 days or both; or

(2) a misdemeanor shall be sentenced to pay a fine of \$2,500 and may be sentenced to a term of imprisonment not to exceed one year or both.

(July 16, 2004, P.L.758, No.94, eff. imd.)

2004 Amendment. Act 94 reenacted section 5744.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

§ 5745. Civil penalties.

(a) **General rule.**--If any person or corporation subject to this subchapter shall violate any of the provisions of this subchapter or shall do any matter or thing prohibited under this subchapter; or shall fail, omit, neglect or refuse to perform any duty enjoined upon it by this subchapter; or shall fail, omit, neglect or refuse to obey, observe and comply with any regulation or final direction, requirement, determination or order made by the authority or to comply with any final judgment, order or decree made by any court, the person or corporation for the violation, omission, failure, neglect or refusal shall forfeit and pay to the authority a sum not exceeding \$1,000 to be recovered by a complaint as provided in section 5705(b) (relating to contested complaints). In construing and enforcing the provisions of this section, the violation, omission, failure, neglect or refusal of any officer, agent or employee acting for or employed by the person or corporation shall in every case be deemed to be the violation, omission, failure, neglect or refusal of the person or corporation.

(b) **Continuing offenses.**--Each and every day's continuance in the violation of any regulation or final direction, requirement, determination or order of the authority, or of any final judgment, order or decree made by any court, shall be a separate and distinct offense. If any interlocutory order of supersedeas or a preliminary injunction be granted, no penalties shall be incurred or collected for or on account of any act,

matter or thing done in violation of such final direction, requirement, determination, order or decree so superseded or enjoined for the period of time such order of supersedeas or injunction is in force.

(July 16, 2004, P.L.758, No.94, eff. imd.; July 5, 2012, P.L.1022, No.119, eff. imd.)

2012 Amendment . Act 119 amended subsec. (a).

2004 Amendment. Act 94 reenacted section 5745.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. *City of Philadelphia v. Commonwealth*, 838 A.2d 566 (Pa. 2003).

Cross References. Section 5745 is referred to in section 5741 of this title.

CHAPTER 57A

TRANSPORTATION NETWORK COMPANIES

Sec.

- 57A01. Definitions.
- 57A02. License required.
- 57A03. Application.
- 57A04. Qualifications for licensure.
- 57A05. License issuance and appeal of denial.
- 57A06. License enforcement.
- 57A06.1. Appeals generally.
- 57A07. Insurance requirements.
- 57A08. Vehicle ownership and standards.
- 57A09. Vehicle inspections.
- 57A10. Distinctive signage.
- 57A11. Transportation network service accessibility.
- 57A12. Transportation network company drivers.
- 57A13. Intoxicating substance policy.
- 57A14. Reporting requirement.
- 57A15. Driver credentials.
- 57A16. Operating regulations.
- 57A17. Fare rates.
- 57A18. Records and reports.
- 57A19. Penalties.
- 57A20. Impoundment of vehicles.
- 57A21. Enforcement and rules and regulations.
- 57A22. Assessment.

Enactment. Chapter 57A was added November 4, 2016, P.L.1222, No.164, effective immediately.

Cross References. Chapter 57A is referred to in sections 8508, 8509 of Title 75 (Vehicles).

§ 57A01. Definitions.

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

"Authority." A parking authority of a city of the first class established and incorporated in accordance with Chapter 55 (relating to parking authorities).

"City." A city of the first class as defined by the act of June 25, 1895 (P.L.275, No.188), entitled "An act dividing the cities of this State into three classes with respect to their population, and designating the mode of ascertaining and changing the classification thereof in accordance therewith."

"Digital network." An online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

"Dynamic pricing." A transportation network company's practice of adjusting the calculation used to determine fares at certain times and locations in response to the supply of transportation network company drivers and the demand for transportation network company drivers' services.

"License." Proof of the authority's approval authorizing a transportation network company to operate a transportation network company in accordance with this chapter. The term does not include a certificate of public convenience as described under section 5741 (relating to certificate of public convenience required).

"Personal vehicle." As follows:

(1) A vehicle that is used by a transportation network company driver and is owned, leased or otherwise authorized for use by the transportation network company driver.

(2) The term does not include:

(i) a call or demand service or limousine service as defined under section 5701 (relating to definitions);

(ii) a paratransit service regulated by the Pennsylvania Public Utility Commission under 52 Pa. Code §§ 29.353 (relating to method of operation in paratransit service), 29.354 (relating to vehicle and equipment requirements: paratransit service) and 29.355 (relating to tariff requirements); or

(iii) a vehicle operated under a ridesharing arrangement or by a ridesharing operator as defined under the act of December 14, 1982 (P.L.1211, No.279), entitled "An act providing for ridesharing arrangements and providing that certain laws shall be inapplicable to ridesharing arrangements."

(3) A vehicle operated in a shared-expense arrangement where an individual receives reimbursement that does not exceed the actual costs incurred while providing transportation.

"Prearranged ride." The provision of transportation by a transportation network company driver to a passenger, originating in a city and beginning when a transportation network company driver accepts a ride requested by a passenger through a digital network, continuing while the driver transports the passenger and ending when the last passenger departs from the personal vehicle. For purposes of this chapter, a prearranged ride does not include:

(1) transportation provided using a call or demand service or limousine service as defined under section 5701 (relating to definitions);

(2) paratransit service regulated by the Pennsylvania Public Utility Commission under 52 Pa. Code §§ 29.353 (relating to method of operation in paratransit service), 29.354 (relating to vehicle and equipment requirements: paratransit service) and 29.355 (relating to tariff requirements);

(3) a driver operating under ridesharing arrangement or ridesharing operator as defined under the act of December 14, 1982 (P.L.1211, No.279), entitled "An act providing for ridesharing arrangements and providing that certain laws shall be inapplicable to ridesharing arrangements"; or

(4) a shared-expense arrangement where an individual receives reimbursement that does not exceed the actual costs incurred while providing transportation.

"Transportation network company" or "TNC." A person or entity that obtains a license to operate a transportation network service by the authority and uses a digital network to facilitate prearranged rides.

"Transportation network company driver" or "driver." An individual who:

(1) Receives connections to potential passengers and related services from a transportation network company, in exchange for payment of a fee to the transportation network company.

(2) Uses a personal vehicle to offer or provide a prearranged ride to passengers upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

The term shall not include an individual who receives reimbursement that does not exceed the actual costs incurred while providing transportation.

"Transportation network company passenger" or "passenger."

A person who uses a digital network to connect with a transportation network company driver who provides prearranged rides to the passenger in the driver's personal vehicle.

"Transportation network service" or "service." As follows:

(1) A service which meets all of the following:

(i) Matches a passenger and transportation network company driver using a digital network in advance of a prearranged ride.

(ii) Is characterized by a transportation network company driver offering or providing a prearranged ride to a passenger.

(iii) Originates within the city.

(iv) Is rendered on an exclusive basis.

For purposes of this paragraph, the term "exclusive basis" means a transportation network service on a given prearranged ride when each individual, party or group may not be required to ride with another passenger on that prearranged ride unless the individual, party or group consents to additional passengers on the prearranged ride.

(2) The term includes the periods when:

(i) A driver is logged onto a transportation network company's digital network and available for service.

(ii) A driver is conducting a prearranged ride.

"Wheelchair-accessible vehicle." A vehicle that can accommodate at least one person in a wheelchair without the person having to transfer from the wheelchair to another seat and that meets requirements established under the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or requirements that are a functional equivalent and approved by the authority, or both.

Cross References. Section 57A01 is referred to in section 5701 of this title; section 4307 of Title 75 (Vehicles).

§ 57A02. License required.

(a) **General rule.**--No person shall engage in the business of a transportation network company without a license issued by the authority under this chapter.

(b) **Personal vehicle prohibited.**--No personal vehicle shall be used to provide transportation network service in the city

except by a driver affiliated with a transportation network company licensed by the authority under this chapter.

(c) Exception.--A personal vehicle operated by a driver affiliated with a company operating in this Commonwealth pursuant to a license issued by the Public Utility Commission or with a company that authorizes drivers to operate in any other municipality, state or other political subdivision may come into the city to discharge passengers whose trip originated outside of the city.

(d) Regulatory jurisdiction.--The authority shall have exclusive regulatory jurisdiction over transportation network service originating in the city and may adopt rules and regulations as authorized under section 57A21(c) (relating to enforcement and rules and regulations). The authority is empowered to issue, suspend, cancel or revoke transportation network company licenses or issue an order requiring disqualification of a driver in accordance with section 57A19 (relating to penalties). The authority shall be authorized to inspect, audit and investigate any records of the transportation network company as necessary to ensure compliance with this chapter in accordance with section 57A18 (relating to records and reports). Information disclosed to the authority under this chapter shall be exempt from disclosure to a third person, including through a request submitted under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 57A03. Application.

(a) General rule.--In addition to the powers conferred upon the authority by other provisions of this title, the authority is empowered to issue, suspend, cancel or revoke licenses in accordance with this chapter and orders or regulations of the authority.

(b) Application.--An application for a license under this chapter shall be made to the authority in writing, be verified by oath or affirmation and be in such form and contain such information as the authority may require in accordance with this chapter. Each application shall contain:

- (1) If the license applicant is an individual:
 - (i) The individual's full name, Social Security number, residence address, business address, business e-mail address and business telephone number.
 - (ii) Proof that the applicant is at least 18 years of age.
- (2) If the license applicant is a corporation:
 - (i) The corporate name, business address and telephone number of the applicant.
 - (ii) The date and state of incorporation.
 - (iii) The full names, titles, addresses, e-mail addresses and telephone numbers of its corporate officers and of its authorized agents.
 - (iv) Proof that all corporate officers are at least 18 years of age.
 - (v) Proof that the corporation is in good standing under the laws of this Commonwealth.
- (3) If the license applicant is a partnership or limited liability company:
 - (i) The name, business address or principal office address and telephone number of the applicant.
 - (ii) The full names, addresses, e-mail addresses and telephone numbers of:
 - (A) The general partners of the partnership.
 - (B) The managing members of the limited liability company.

(C) The manager of operations for the city.

(iii) The full name, address, e-mail address and telephone number of a person authorized to receive notices issued under this chapter.

(iv) Proof that all general partners, managers, managing members and members are at least 18 years of age.

(c) Required information.--An application for a license or renewal under this chapter must include the following:

(1) Proof that the company is registered with the Department of State to do business in this Commonwealth.

(2) Proof that the company maintains a registered agent in this Commonwealth.

(3) Proof that the company maintains an Internet website that includes the information required under section 57A13 (relating to intoxicating substance policy).

(4) Proof that the transportation network company has secured the insurance policies required under and otherwise complied with section 57A07 (relating to insurance requirements) in the form of a certificate of insurance.

(d) Fee.--An applicant for a transportation network company license shall remit to the authority with its initial transportation network company application a one-time application fee of \$50,000. If the application is rejected, the fee shall be refunded, minus a \$2,500 administrative processing fee.

Cross References. Section 57A03 is referred to in sections 57A04, 57A05 of this title.

§ 57A04. Qualifications for licensure.

(a) General rule.--In addition to the license application requirements listed in section 57A03 (relating to application), an applicant seeking issuance or renewal of a license under this section must do all of the following as a condition of receipt and maintenance of a license:

(1) Establish and maintain:

(i) An agent for service of process located in the city.

(ii) An Internet website that provides a customer service telephone number, e-mail address or hyperlink to contact the transportation network company and the telephone number and e-mail address of the authority.

(iii) Records required under this chapter. The applicant shall agree to make all records available for inspection by the authority in the city upon request under section 57A18 (relating to records and reports) as necessary for the authority to investigate complaints.

(2) Maintain accurate records of each transportation network company driver providing transportation network services and the vehicles used to provide the service for no less than three years. Records retained under this paragraph must include:

(i) Proof of valid personal automobile insurance.

(ii) Proof of the insurance required by section 57A07 (relating to insurance requirements).

(iii) Criminal history records checks.

(iv) Driving record checks.

(v) Copies of valid driver's licenses for each driver and vehicle registration and proof of vehicle inspections for all personal vehicles affiliated with a transportation network company.

(vi) Records of consumer complaints.

(vii) Records of suspension or disqualification of drivers.

(viii) Records of disclosures required to be provided to drivers under this chapter.

(3) Maintain vehicle records, including the make, model and license plate number of each personal vehicle used by a transportation network company driver to provide transportation network service.

(b) Eligibility required.--Eligibility for issuance of a license under this chapter shall be a continuing requirement for maintaining such license.

(c) Compliance.--Following issuance of an initial license and to be eligible for renewal of a license, an applicant shall be in compliance with all applicable Federal, State and local laws.

Cross References. Section 57A04 is referred to in sections 57A05, 57A18 of this title.

§ 57A05. License issuance and appeal of denial.

(a) General rule.--The authority shall grant an application and issue a license to an applicant that meets all of the requirements of sections 57A03 (relating to application) and 57A04 (relating to qualifications for licensure).

(b) Denial.--If an application for the issuance or renewal of a license is denied, the applicant may, within 10 days of notice of the denial, file a petition with the authority which specifically avers that the reason for the denial is erroneous, unlawful or otherwise invalid. The authority shall prescribe filing procedures and the form for the petition.

(c) Appeal hearing.--The authority shall fix the time and place for a hearing on a properly filed appeal and shall serve notice of the appeal on the parties of interest.

(d) Decision of appeal.--After a hearing under subsection (c), the authority, or a designated hearing officer, shall issue a decision, which shall include findings of fact, in sufficient detail to enable a court to determine on appeal the following:

- (1) the question presented by the appeal; and
- (2) whether proper weight was given to the evidence.

(e) Hearing procedure.--The authority may adopt hearing and administrative procedures by regulation for hearings under subsection (c). A person aggrieved by an order of the authority entered under this chapter may appeal the order to the Court of Common Pleas of Philadelphia County. All appeals shall be governed by 2 Pa.C.S. Ch. 7 (relating to judicial review) and Chapter 15 of the Pennsylvania Rules of Appellate Procedure.

(f) Third parties prohibited.--No third party may protest or object to an application for a license.

(g) Waiting period following denial.--After entry of a denial of an appeal, the applicant shall be ineligible to make a new application for a period of six months.

(h) Operation during pending application.--A transportation network company operating in the city before the effective date of this section may continue operating during the pendency of an application under section 57A03 as long as the company files an application within 45 days of the effective date of this act.

(i) Approval required for license transfer.--A transportation network company license is nontransferable unless the transfer is approved by the authority. A change in control is permissible as long as the transportation network company provides notice to the authority within 30 days of the change in control.

§ 57A06. License enforcement.

The authority shall have the power to initiate a regulatory enforcement action against any licensee or person holding themselves out to be a licensee through the process provided under section 5705(a) (relating to contested complaints) and regulations promulgated by the authority providing for the form and process of an enforcement action.

§ 57A06.1. Appeals generally.

A person aggrieved by an order of the authority entered pursuant to this chapter may appeal the order to the Court of Common Pleas of Philadelphia County. All appeals shall be governed by 2 Pa.C.S. Ch. 7 (relating to judicial review) and Chapter 15 of the Pennsylvania Rules of Appellate Procedure.

§ 57A07. Insurance requirements.

(a) General rule.--A transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation.

(b) While not engaged with a prearranged ride.--The following automobile insurance requirements shall apply to the transportation network company driver or the transportation network company on the driver's behalf while a participating transportation network company driver is logged onto the digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(1) Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident and \$25,000 for property damage.

(2) First-party medical benefits as required under 75 Pa.C.S. § 1711 (relating to required benefits), including \$25,000 for pedestrians and \$5,000 for a driver.

(c) While engaged with a prearranged ride.--The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(1) Primary automobile liability insurance that provides at least \$500,000 for death, bodily injury and property damage.

(2) First-party medical benefits as required by 75 Pa.C.S. § 1711 (relating to required benefits) on a per-incident basis for incidents involving a transportation network company driver's operation of a personal vehicle while engaged in a prearranged ride, including \$25,000 for passengers and pedestrians and \$5,000 for a driver.

(d) Satisfaction of coverage requirements.--The coverage requirements under this section may be satisfied by any of the following:

(1) automobile insurance maintained by the transportation network company driver;

(2) automobile insurance maintained by the transportation network company; or

(3) any combination of paragraphs (1) and (2).

(e) Lapsed or inadequate insurance.--If the insurance required under subsection (b) or (c) is maintained by a driver and has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim, and the transportation network company's insurer shall have the duty to defend such claim.

(f) Primary insurance.--Coverage under an automobile insurance policy maintained under this section shall be primary and not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(g) Certificate of insurance.--A certificate of insurance must be filed by the insurance carrier evidencing the insurance required under this section and must be in a form promulgated by the authority.

(h) Deposit of certificate of insurance.--Insurance required under this subsection shall be placed with either an insurer that has obtained a certificate of authority under section 208 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, or a surplus lines insurer eligible under section 1605 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(i) Financial responsibility requirement.--Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under 75 Pa.C.S. Ch. 17 (relating to financial responsibility).

(j) Proof of insurance coverage required.--A transportation network company driver shall carry proof of coverage satisfying subsections (b) and (c) when the driver uses a vehicle in connection with a digital network. In the event of an accident, a transportation network company driver shall provide the proof of insurance coverage to the directly interested parties, automobile insurers and investigating police officers under 75 Pa.C.S. § 1786 (relating to required financial responsibility). A transportation network company driver shall disclose to directly interested parties, automobile insurers and investigating police officers whether the driver was logged onto the digital network or on a prearranged ride at the time of an accident.

(k) Responsibility of transportation network company.--The transportation network company shall be responsible to ensure that automobile insurance coverage required to be carried by the transportation network company driver under this section is in force prior to permitting a transportation network company driver to provide transportation network service.

(l) Automobile insurance provisions.--The following shall apply:

(1) Insurers that write automobile insurance in this Commonwealth may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged onto a digital network or while a driver provides a prearranged ride. The right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- (i) liability coverage for bodily injury and property damage;
- (ii) uninsured and underinsured motorist coverage;
- (iii) medical payments coverage;
- (iv) comprehensive physical damage coverage;
- (v) collision physical damage coverage; and
- (vi) first-party medical benefits required under subsection (b).

(2) Notwithstanding any requirement under 75 Pa.C.S. Ch. 17, exclusions under subsection (b) shall apply. Nothing in this section shall require that a personal automobile insurance policy provide coverage while the driver is logged

on to a digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation. Nothing in this subsection shall be deemed to preclude an insurer from providing coverage for the personal vehicle if the insurer chooses to do so by contract or endorsement.

(3) Automobile insurers that exclude the coverage described in paragraph (1) shall have no duty to defend or indemnify any claim expressly excluded under the coverage. Nothing in this section shall be deemed to invalidate or limit an exclusion contained in a personal insurance policy, including any policy in use or approved for use in this Commonwealth prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(4) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (a) at the time of loss.

(5) In a claims coverage investigation, transportation network companies and any insurer potentially providing coverage under this section shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver, including the precise times that a transportation network company driver logged on and logged off of the digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident and disclose a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under this section.

(m) Waiver of liability.--The following shall apply:

(1) A transportation network company or transportation network company driver may not request or require a passenger to sign a waiver of potential liability for a loss of personal property or injury.

(2) A transportation network company may not request or require a transportation network company driver to sign a waiver of potential liability for a loss of personal property or injury as a condition of entering into a lease agreement.

(3) For the purposes of this subsection, signing a waiver shall include requiring a prospective customer to agree to the terms and conditions required to download a digital application as a condition for obtaining transportation network services.

(n) Disclosures.--The transportation network company shall provide the following disclosures:

(1) Insurance coverage, including the types of coverage and the limits for each coverage that the transportation network company provides while the transportation network company driver uses a vehicle in connection with a digital network.

(2) Notice that the terms of the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the digital network and available to receive transportation requests or is engaged in a prearranged ride.

(3) Notice that if a transportation network company driver does not have the type of policy required by this

section, the transportation network company will provide all required insurance.

(4) The accident protocol required under subsection (j).

(5) Notice that the driver must notify the following:

(i) The driver's auto insurance company or insurance agent that the driver will be using the vehicle to provide services under this chapter.

(ii) If the driver will not be using a vehicle owned and insured by the driver, the disclosures under this section shall be provided to the policyholder and to the owner of the vehicle.

(o) Form of disclosures.--A disclosure under subsection (n) shall be provided in writing to all transportation network company drivers prior to the designation of an individual as a transportation network company driver. Transportation network companies shall retain written or electronic verification records of the receipt of disclosures required under this section by the transportation network company driver.

(p) Lienholder and lessor requirements.--

(1) The following shall apply:

(i) A transportation network company shall disclose the notice under this subparagraph prominently and with a separate acknowledgment of acceptance to each prospective transportation network company driver in the transportation network company's written terms of service for drivers. The disclosure shall be provided before a driver is allowed to offer prearranged rides on a transportation network company's digital network. The notice shall be as follows:

(Name of transportation network company) will provide you with a notice explaining whether it provides insurance to repair your personal vehicle if you have an accident when using your vehicle in a transportation network. If (name of transportation network company) does not provide coverage for damage to your car, your personal automobile insurance policy might not provide the coverage and you may be required to pay all costs to repair the vehicle yourself in the event of an accident unless you purchase extra insurance. If you financed the purchase of the vehicle or lease the vehicle, you must notify your lender or lessor that you will use your vehicle to provide transportation network service. Your lender or lessor may require you to purchase extra insurance coverage or, if you do not do so, may purchase insurance on your behalf and bill you for the costs of the policy. The failure to notify a lender or lessor or to have insurance to cover the cost of damage to the vehicle may cause your vehicle to be repossessed or your lease to be revoked. If you have questions about this notice, you should contact your insurance agent, your lender or lessor or the Pennsylvania Insurance Department.

(ii) A transportation network company shall provide the notice required under subparagraph (i) upon any subsequent material reduction in insurance coverage by the company. For purposes of this subparagraph, "material reduction in insurance coverage" shall not include the replacement of insurance coverage with substantially similar insurance coverage from a different insurer by a transportation network company.

(iii) A transportation network company shall notify drivers in writing whether the transportation network company is providing comprehensive and collision coverage during service.

(2) If a transportation network company's insurer makes a payment for a claim covered under comprehensive or collision coverage, the transportation network company shall cause the transportation network company's insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder or lessor.

(3) If a driver of a personal vehicle used in transportation network service that is subject to a lien or lease fails to maintain comprehensive or collision damage coverage required by the lienholder or lessor or to show evidence to the lienholder or lessor of the coverage upon reasonable request, the lienholder or lessor may obtain the coverage at the expense of the driver without prior notice to the driver.

Cross References. Section 57A07 is referred to in sections 57A03, 57A04, 57A16 of this title.

§ 57A08. Vehicle ownership and standards.

(a) **General rule.**--In addition to all other legal requirements, it shall be unlawful for any person to operate or cause to be operated any vehicle to provide transportation network service unless such vehicle:

(1) has a manufacturer's rated seating capacity of less than 10 persons, including the transportation network company driver;

(2) has at least four doors and meets Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use;

(3) is a coupe, sedan or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback or convertible;

(4) has not been issued the title class of "salvage," "rebuilt," "junk," "total loss" or any equivalent classification; and

(5) is not older than 10 model years, or 12 model years if the vehicle is an alternative fuel vehicle, as defined in section 2 of the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, and has been driven no more than 350,000 miles. The authority may increase the age or mileage limits set forth in this paragraph by regulation or order.

(b) **Personal use prohibited.**--No vehicle licensed as a taxi or limousine within this Commonwealth shall be operated as a personal vehicle by a driver affiliated with a transportation network company. Nothing provided in this chapter shall be construed to prohibit or limit the utilization of an Internet-enabled application or digital platform for the provision of taxicab or limousine service or other public transportation vehicles pursuant to Chapter 57 (relating to taxicabs and limousines in first class cities).

(c) **Violation.**--It shall be a violation of this chapter for a transportation network company to knowingly permit a transportation network company driver to use a personal vehicle to provide transportation network service that does not meet the requirements of this section.

§ 57A09. Vehicle inspections.

(a) Personal vehicle.--A transportation network company shall not allow any vehicle registered in this Commonwealth to be used as a personal vehicle unless the vehicle is inspected according to 75 Pa.C.S. Ch. 47 (relating to inspection of vehicles) and has passed the inspection. A valid certificate of inspection shall be maintained in all vehicles. For vehicles registered outside of this Commonwealth, inspection must be conducted at a facility approved by the Department of Transportation or an inspection station authorized by the government of the jurisdiction in which the vehicle is registered and must satisfy the vehicle inspection standards of that jurisdiction.

(b) Additional inspection requirement.--

(1) No more than once every four months, the authority may request that a transportation network company provide the authority with the last four digits of the license plate number, state of license plate, make and model of the corresponding vehicle and expiration date of the current vehicle inspection for the following number of randomly selected vehicles:

(i) up to 500 vehicles for a Class A transportation network company;

(ii) up to 250 vehicles for a Class B transportation network company; and

(iii) up to 100 vehicles for a Class C transportation network company.

(1.1) The list of vehicles that a transportation network company provides under paragraph (1) to the authority shall be comprised as follows:

(i) Ninety percent of the vehicles on the list shall consist of vehicles operated by transportation network company drivers who have completed at least 100 prearranged rides in the preceding six-week period.

(ii) Five percent of the vehicles on the list shall consist of vehicles operated by transportation network company drivers who have completed at least 20 prearranged rides in the preceding six-week period and who live in the city or within a 15-mile radius of an inspection station operated by the authority.

(iii) Five percent of the vehicles on the list shall consist of vehicles operated by transportation network company drivers who have completed at least 10 prearranged rides in the preceding six-week period and who live in the city or within a 15-mile radius of an inspection station operated by the authority.

(2) A vehicle shall not be subject to the random inspection process under this subsection if it passed an inspection in accordance with subsection (a) in the preceding 180-day period.

(3) The following shall apply:

(i) No more than once every 30 days, the authority may select for random inspection a subset of vehicles from the list provided under paragraph (1)(ii). The authority shall notify the transportation network company that the drivers associated with those vehicles must submit their vehicle for an inspection conducted by the authority to verify that the vehicle satisfies the mechanical inspection required under 75 Pa.C.S. Ch. 47 and vehicle quality standards under subparagraph (iii). The inspection shall occur no more than 20 days from the date of notice to the transportation network company if

the authority provides selected drivers with a reasonable opportunity to schedule inspections in advance.

(ii) The authority may select the following number of vehicles for inspection under subparagraph (i):

(A) Class A transportation network company: Up to 35 vehicles every 30 days.

(B) Class B transportation network company: Up to 25 vehicles every 30 days.

(C) Class C transportation network company: Up to 15 vehicles every 30 days.

(iii) The vehicle quality inspection authorized under subparagraph (i) shall verify the following:

(A) No dents larger than 12 inches across.

(B) No loose body panels or bumpers.

(C) Exterior door handles are functional.

(D) No vandalism or spray graffiti on the exterior of the vehicle.

(E) The interior is generally clean.

(F) All seat belts are working.

(G) The door seals are intact.

(H) No tears in the upholstery that exceed 3 inches.

(I) The windows are operational.

(J) Interior door handles are operational.

(K) Interior lights are operational.

(L) There are four doors and the doors are properly aligned.

(M) The interior door locks are functional.

(N) A functioning air conditioning system capable of keeping the interior of the vehicle between 60 and 78 degrees.

(4) In accordance with 75 Pa.C.S. § 4727 (relating to issuance of certificate of inspection), the authority may issue a certificate of inspection to any eligible vehicle that satisfies the mechanical inspection required under 75 Pa.C.S. Ch. 47 and any other required state inspection, including emissions testing. The authority may charge standard fees for issuance of a certificate of inspection.

(5) If the authority determines that a vehicle inspected under paragraph (3)(i) does not satisfy 75 Pa.C.S. Ch. 47 and the vehicle quality inspection authorized under paragraph (3)(iii), the authority may prohibit the vehicle from further transportation network service in the city and direct any transportation network company to disqualify the vehicle from being used to provide transportation network service in the city until the individual has satisfied the authority that the vehicle complies with 75 Pa.C.S. Ch. 47 and the vehicle quality inspection under paragraph (3)(iii). The authority shall provide a clear explanation to the driver of the components that caused the vehicle to fail the inspection and an opportunity for a reinspection within a reasonable period of time.

(6) A driver who fails to undergo a vehicle inspection within the time period required by this subsection shall be prohibited from operating as a driver in the city until they have completed the vehicle inspection.

(7) The following shall apply:

(i) A vehicle that was designated for inspection in accordance with paragraph (1)(i) and that passes the inspection authorized under this subsection shall not be subject to another inspection under this subsection for at least two years from the date of completion.

(ii) A vehicle that was designated for inspection in accordance with paragraph (1)(ii) and (iii) and that passes the inspection authorized under this subsection shall not be subject to another inspection under this subsection for at least three years from the date of completion.

(c) Identifying information.--Except as otherwise provided in this section, the license plate information provided by a transportation network company to the authority under subsection (b) and any other identifying information obtained by the authority about the vehicles or drivers that undergo vehicle inspections in accordance with this section is confidential and shall not be subject to disclosure to a third party by the authority, including through a request submitted under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Active driver." A driver who has completed at least one prearranged ride that was requested through the transportation network company's digital network in the 90 days immediately preceding the date of submission of the company's application for a transportation network company license or submission of its application for renewal.

"Class A transportation network company." A transportation network company that, at the time of issuance of its transportation network company license or its most recent license renewal, has more than 10,000 active drivers on its digital network.

"Class B transportation network company." A transportation network company that, at the time of issuance of its transportation network company license or its most recent license renewal, has between 1,001 and 10,000 active drivers on its digital network.

"Class C transportation network company." A transportation network company that, at the time of issuance of its transportation network company license or its most recent license renewal, has between 1 and 1,000 active drivers on its digital network.

Cross References. Section 57A09 is referred to in sections 57A18, 57B02 of this title.

§ 57A10. Distinctive signage.

(a) Display.--A personal vehicle used to provide transportation network service shall display consistent and distinctive signage at all times while the driver is providing transportation network service. The distinctive signage shall be sufficiently large and color contrasted as to be readable from the front and rear of the vehicle during daylight hours at a distance of at least 50 feet and to identify a particular vehicle associated with a particular transportation network company. Acceptable forms of distinctive signage shall include, but are not limited to, symbols or signs on vehicle windshields, doors, roofs or grilles. Magnetic or other removable distinctive signage is acceptable. A transportation network company shall file an illustration of their distinctive signage with the authority. The authority may not require signage that is different than that approved by the Pennsylvania Public Utility Commission. If the Pennsylvania Public Utility Commission does not approve a form of distinctive signage, the authority may make the designation.

(b) Wheelchair-accessible vehicles.--Wheelchair-accessible vehicles which may be used to connect with passengers through a transportation network company's digital network must be clearly identified as wheelchair-accessible vehicles within the digital network if a wheelchair-accessible option is available within the digital network.

(c) Emblem.--No permanently affixed emblem may be required by the authority on vehicles affiliated with a transportation network company.

§ 57A11. Transportation network service accessibility.

(a) Accessibility of digital network.--By January 1, 2017, the digital network used by a transportation network company to connect drivers and passengers shall be accessible to customers who are blind, visually impaired, deaf and hard of hearing.

(b) Discrimination in service.--

(1) Where transportation network services are offered, a transportation network company must take reasonable steps to ensure that the service provided by each transportation network company driver who utilizes the digital network is offered in a nondiscriminatory manner. A transportation network company may not unlawfully discriminate against a prospective passenger or unlawfully refuse to provide service to a certain class of passengers or certain localities.

(2) Each licensed transportation network company must:

(i) Adopt a policy of nondiscrimination regarding individuals with disabilities in accordance with this subsection. The following information shall be provided on the transportation network company's publicly accessible Internet website:

(A) Notice of the nondiscrimination policy.

(B) Procedures to report a complaint to the commission or authority about a transportation network company driver's alleged violation of this subsection.

(ii) A transportation network company driver must transport a service animal when accompanying a passenger with a disability for no additional charge unless the transportation network company driver has a documented medical allergy on file with the transportation network company.

(iii) A transportation network company may not impose additional charges for service to an individual with a disability because of those disabilities.

(iv) A transportation network company shall provide passengers with disabilities requiring the use of mobility equipment an opportunity to indicate on its digital network whether they require a wheelchair-accessible vehicle. A transportation network company or an affiliated entity must facilitate transportation service for passengers who require a wheelchair-accessible vehicle by doing one of the following:

(A) connecting the passenger to an available transportation network company driver or other driver operating a wheelchair-accessible vehicle; or

(B) directing the passenger to an alternative provider with the authority and ability to dispatch a wheelchair-accessible vehicle to the passenger.

(c) Wheelchair-accessible vehicles.--

(1) A combined class, comprised of each transportation network company operating in the city, shall make an

aggregated minimum of 70 wheelchair-accessible vehicles available in the city by June 30, 2017.

(2) Each transportation network company shall report to the authority, by December 31 of each calendar year, the programs and best practices the transportation network company has implemented to improve the accessibility of service to individuals with disabilities, including the availability and use of wheelchair-accessible vehicles. If, upon review of the report, the authority concludes that transportation network companies operating in the city are not collectively having a positive impact on the availability of wheelchair-accessible transportation services, the authority may, until December 31, 2022, require the combined class to add up to an aggregated 10 additional wheelchair-accessible vehicles per year.

§ 57A12. Transportation network company drivers.

(a) Separate licenses prohibited.--A separate license may not be required for a transportation network company driver affiliated with a transportation network company to provide transportation network service.

(b) Driver qualification requirements.--

(1) No transportation network company shall engage any person as a transportation network company driver unless the transportation network company ascertains that the person:

(i) possesses and has possessed a valid State driver's license or a valid driver's license of another state, district or territory of the United States for at least one year prior to applying to become a transportation network company driver;

(ii) is at least 21 years of age;

(iii) has not had more than three moving violations or a major violation in the immediately preceding three-year period; and

(iv) has not had a limousine or taxi driver certificate suspended or revoked by the authority due to a regulatory violation within the five years immediately preceding his application to be a transportation network company driver. The authority shall make a list of all the drivers available to a transportation network company upon request. The suspension or revocation of a license by the authority because a driver was operating as a transportation network company driver prior to the effective date of this section shall not constitute grounds for disqualification under this subsection.

(2) (Reserved).

(c) Background and driving history checks.--

(1) Prior to permitting a person to act as a transportation network company driver on its digital network, a transportation network company shall do all of the following:

(i) Conduct or have a third party conduct a local and national criminal background check for each driver applicant. The background check shall include a multistate or multijurisdictional criminal records locator or other similar commercial nationwide database with primary source search validation and a review of the United States Department of Justice National Sex Offender Public Website. The transportation network company shall disqualify an applicant convicted of certain crimes in accordance with the following:

(A) An applicant convicted of any of the following within the preceding seven years:

(I) Driving under the influence of drugs or alcohol.

(II) A felony conviction involving theft.

(III) A felony conviction for fraud.

(IV) A felony conviction for a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(B) An applicant convicted of any of the following within the preceding 10 years:

(I) Use of a motor vehicle to commit a felony.

(II) Burglary or robbery.

(C) An applicant convicted of any of the following at any time:

(I) A sexual offense under 42 Pa.C.S. § 9799.14(c) or (d) (relating to sexual offenses and tier system) or a similar offense under the laws of another jurisdiction or under a former law of this Commonwealth.

(II) A crime of violence as defined in 18 Pa.C.S. § 5702 (relating to definitions).

(III) An act of terror.

(ii) Obtain and review a driving history research report for the person from the Department of Transportation and other relevant sources. A person with more than three moving violations in the three-year period prior to the check or a major violation in the three-year period prior to the check may not be a transportation network company driver.

(2) Ascertain that all the requirements of this subsection are met before permitting a person to provide service as a transportation network company driver.

(d) Confirmation.--One year after engaging a transportation network company driver, and every second year thereafter, a transportation network company shall confirm that a transportation network company driver is still eligible to be a driver by verifying that the driver meets all of the requirements under this section, including the criminal background check and driving history check requirement under subsection (b), and shall keep records of the verification for a period of three years.

(e) Driver disqualification.--

(1) Notwithstanding any other provision of this title, the authority may issue an order disqualifying a person from being a driver for violation of this title or an order or regulation of the authority consistent with the due process procedures provided for under section 5705 (relating to contested complaints).

(2) The authority may adopt regulations to allow for the reinstatement of a driver following an appropriate disqualification period and compliance with any conditions imposed by the authority.

(3) The authority may give notice of the ineligibility of a person to act as a driver to all transportation network companies, as provided for by order or regulation.

(4) The authority may place a transportation network company driver or personal vehicle out of service prior to a final determination that the driver has violated this title or an order or regulation of the authority if the behavior

of the individual or condition of the vehicle or equipment which violate this title or an order or regulation of the authority has an immediate and direct adverse impact upon the orderly operation of transportation network service in a city or presents a direct threat to public safety. An out-of-service designation under this paragraph will be narrowly tailored to create the most limited reduction of rights necessary to protect the public interest. The authority shall follow the procedures under 52 Pa. Code § 1003.32 (relating to out of service designation) for the process.

Cross References. Section 57A12 is referred to in sections 57A16, 57A18 of this title.

§ 57A13. Intoxicating substance policy.

(a) Zero-tolerance policy.--A transportation network company shall implement and enforce a zero-tolerance policy on the use of drugs or alcohol by a transportation network company driver while providing transportation network service. A transportation network company driver who is the subject of a passenger complaint alleging a violation of the zero-tolerance policy shall be immediately suspended by the transportation network company. The suspension shall last until the time the complaint investigation is complete. The following information shall be provided on a transportation network company's publicly accessible Internet website:

- (1) Notice of the zero-tolerance policy.
- (2) Procedures to report a complaint about a transportation network company driver with whom the passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride.

(b) Speech disability.--In investigating a zero-tolerance complaint against a driver with a speech disability, the transportation network company shall factor the driver's speech disability in the investigation and inquire whether or not the complaint is based on an erroneous perception of the driver's speech disability.

Cross References. Section 57A13 is referred to in section 57A03 of this title.

§ 57A14. Reporting requirement.

(a) Display.--A transportation network company shall display the authority's e-mail address for the reporting of violations of this title or orders or regulations of the authority on its publicly accessible Internet website and on the digital receipt provided to each passenger.

(b) Charges.--A transportation network company shall report a driver that has been charged with any crime for conduct alleged to have occurred while providing a prearranged ride to the authority within 48 hours of learning of the criminal charge, including any crime involving the use of drugs or alcohol.

(c) Removal.--A transportation network company shall report a driver that it has removed from its digital network upon determination that the driver violated this title or an order or regulation of the authority.

§ 57A15. Driver credentials.

A transportation network company shall issue a digital credential to all transportation network company drivers engaged by the company which shall be displayed as part of the company's digital network. The digital credential shall include a

photograph of the driver and the make, model and license plate number of the driver's personal vehicle.

§ 57A16. Operating regulations.

(a) Prohibitions.--In addition to all other requirements provided under this title or order or regulation of the authority, it shall be unlawful for any person:

(1) Who is under 21 years of age to operate a personal vehicle.

(2) To operate a personal vehicle while under the influence of alcoholic beverages or controlled substances, other than medication prescribed by a physician, except if the prescribed medication does not warn the user not to operate machinery while taking the medication.

(3) To operate a personal vehicle within the city while not in possession of a valid driver's license issued by a state, district or territory of the United States.

(4) To operate, or cause to be operated, a personal vehicle that does not meet the vehicle standard and inspection requirements under this chapter.

(5) To transport or cause to be transported more passengers on a given ride in a vehicle than the number of manufacturer installed seat belts in the vehicle.

(b) Engagement prohibited.--A transportation network company driver may not engage in any of the following:

(1) Solicitation of potential passengers.

(2) Solicitation of a cash payment for a prearranged ride.

(3) Solicitation or acceptance of a street hail or telephone call for transportation of a person in a motor vehicle, including transportation network service.

(c) Parking.--A personal vehicle may not be parked on any public way for the purpose of picking up passengers for a time longer than is reasonably necessary to pick up passengers.

(d) Display.--The digital network used by a transportation network company to connect transportation network company drivers and passengers shall display for a passenger the driver's digital credential required under this section.

(e) Disclosure.--A transportation network company shall clearly disclose, on the company's Internet website, that the company is a transportation network company. The disclosure shall state that the transportation network company is required to maintain insurance policies as specified under section 57A07 (relating to insurance requirements).

(f) Proof.--A transportation network company shall provide proof of insurance policies required under this chapter to each transportation network company driver before the driver begins providing transportation network service and for as long as the driver remains available to provide service.

(g) Response.--A transportation network company shall have an affirmative duty to respond to requests for service in underserved areas within the city and to ensure compliance with this subsection by the transportation network company drivers.

(h) Duties while logged onto a digital network.--A transportation network company driver shall at all times while logged onto a digital network:

(1) Carry an electronic or paper copy of proof of the insurance policies required under this chapter covering the vehicle.

(2) Display the distinctive signage required by this chapter.

(3) In the case of an accident:

(i) Provide the insurance coverage information required under paragraph (1) to any other party involved in the accident and to the law enforcement officer who responds to the scene of the accident.

(ii) Report the accident to the transportation network company.

(iii) Report the accident to the following:

(A) the transportation network company driver's personal automobile insurer if required by the driver's policy;

(B) the owner of the automobile if the driver is not the owner of the automobile;

(C) the insurer providing insurance required under section 57A07; and

(D) the holder of the insurance policy covering the automobile if the driver is not the holder of the policy.

(4) Notify the transportation network company immediately upon conviction for any offense listed under section 57A12 (relating to transportation network company drivers) which would disqualify the transportation network company driver from being eligible to provide transportation network service.

(i) Compliance.--A transportation network company and transportation network company driver must comply with the following:

(1) All Federal and State laws and regulations.

(2) All ordinances of a city.

(3) All orders and regulations of the authority.

(j) Discrimination.--A transportation network company may not discriminate against any potential or existing employee, driver or passenger on any basis prohibited by Federal, State or city nondiscrimination laws.

(k) Service animals.--A transportation network company driver must comply with all Federal, State and city nondiscrimination laws by accepting, without extra charge, riders with service animals. Service animals shall ride in the passenger compartment of a vehicle. It shall be a violation of this section for a transportation network company driver to place a service animal in any part of a vehicle other than the passenger compartment.

(1) (Reserved).

(m) Clean vehicles.--Personal vehicles shall be kept clean at all times they are used to provide a transportation network service.

(n) Airport.--

(1) Authority licensing of a transportation network company or approval to operate a transportation network service shall not include authorization to pick up or drop off passengers at an international airport owned by the city and located in whole or in part in the city. Nothing under this subsection shall be construed to limit the ability of a municipality or other governing authority that owns or operates an airport located, in whole or in part, in a city from adopting contracts, licenses and regulations relating to the duties and responsibilities on airport property of a transportation network company, a transportation network service or a transportation network company driver, including the imposition of reasonable fees.

(2) In addition to any other fee that may, under this subsection, be imposed by a municipality or other governing authority that owns or operates an international airport

located, in whole or in part, in the city, a fee of \$0.40 per vehicle shall be charged each time a personal vehicle accesses international airport property to pick up or drop off a passenger. Amounts collected under this paragraph shall be remitted to a second class A county within which the international airport is also located, in whole or in part.

(o) Train station.--Licensing of a transportation network company or approval to operate a transportation network service shall not include authorization to pick up passengers at a train station owned by AMTRAK in a city. Nothing under this subsection shall be construed to limit the ability of the entity or governing authority that owns or operates the train station located in the city from adopting contracts, licenses and regulations relating to the duties and responsibilities on train station property of a transportation network company, a transportation network service or a transportation network company driver, including the imposition of reasonable fees, except that a train station owned by AMTRAK in a city may not contract with a transportation network company to provide a lane or a lot dedicated exclusively to transportation network company vehicles.

(p) Materials.--Prior to permitting a driver to drive to operate on its digital network, a transportation network company shall provide to a transportation network company driver materials designed to ensure that a driver understands how to safely and responsibly operate a personal vehicle while logged onto a digital network or providing prearranged rides. Guidance materials shall contain information related to providing service to individuals with disabilities and the geography of the city unless the transportation network company's digital network is capable of providing GPS navigation or other similar navigation. Drivers shall be required to acknowledge receipt of driver materials.

§ 57A17. Fare rates.

(a) Offer.--A transportation network company or transportation network company driver may offer transportation network service at no charge, suggest a donation or charge a fare. If a fare is charged, a transportation network company shall disclose the fare or fare calculation method prior to a prearranged ride and shall provide an estimate for the cost of a trip upon request.

(b) State of emergency.--During a state of emergency declared by the mayor under an ordinance of the city or the Governor, a transportation network company that engages in dynamic pricing shall limit the multiplier by which its base rate is multiplied to the next highest multiple below the three highest multiples set on different days in the 60 days preceding the declaration of emergency for the same type of service and the same class within the city. It shall be a violation of the act of October 31, 2006 (P.L.1210, No.133), known as the Price Gouging Act, for a transportation network company to charge a price that exceeds the limits of this subsection during a state of emergency.

(c) Amount.--The amount of a donation, charge, fare or other compensation provided or received for a prearranged ride shall not be subject to review or approval by the authority, except on a case-by-case basis when the authority receives a complaint from a passenger.

(d) Higher fare rate.--A transportation network company may charge passengers at a higher fare rate than the regular fare rate displayed on the company's digital network only if the company complies with all of the following:

(1) the digital network provides notice of the time period when the higher fare rate is applicable;

(2) the digital network clearly provides to a customer requesting a trip the option to obtain the total fare estimate of the trip; and

(3) the transportation network company reviews and responds to all passenger complaints about a fare that exceeds the estimated fare by more than 20%.

§ 57A18. Records and reports.

(a) Duty to keep.--

(1) A transportation network company shall keep accurate books and records of account of the transportation network company's operations for a minimum of three years. Such records shall be made available for inspection by the authority in response to a specific complaint about a driver or transportation network company as necessary to investigate and resolve the complaint, or in response to a compliance inquiry by the authority.

(2) The authority shall interview complainants or witnesses related to the matter being investigated, if any, and take other steps to ascertain whether there is a reasonable basis to suspect noncompliance prior to requiring a transportation network company to make the requested records and reports available to the authority. Records and reports determined by the authority to be necessary for further investigation and prosecution after review shall be produced to the possession of the authority.

(3) The inspection of records and reports shall occur at a location within the city directed by the authority.

(b) Compliance audits.--

(1) The authority may direct that a transportation network company provide to the authority a selection of randomly selected unique identification numbers, each of which has been assigned to a transportation network company driver who is an active driver at the time of the submission. The authority may require a transportation network company to evidence the manner in which the drivers designated were randomly selected.

(2) Each transportation network company shall provide to the authority an e-mail address or other means of instant electronic communication of a company representative for purposes of this audit designation, which will be deemed received on the date sent to the authority.

(3) The authority may require transportation network companies to disclose unique identification numbers based upon the transportation network company's classification under section 57A09 (relating to vehicle inspections) as follows:

(i) Class A transportation network company: Up to 1,000 unique identification numbers.

(ii) Class B transportation network company: Up to 500 unique identification numbers.

(iii) Class C transportation network company: Up to 250 unique identification numbers.

(4) The authority may designate up to 5% of the drivers identified in the list provided pursuant to this subsection or 25 drivers, whichever is greater, for a compliance audit.

(5) Within five business days of receiving an audit designation as provided in paragraph (1), the transportation network company shall make available for a visual, on-site inspection to the authority the records required to be maintained under section 57A04(a)(2)(iii) and (iv) (relating

to qualifications for licensure) so that the authority may verify that the company has complied with the driver screening requirements and to confirm that the selected drivers qualify as transportation network company drivers as provided in this chapter.

(6) The audit shall be conducted at a location in the city designated by the authority.

(7) The authority may conduct no more than one audit pursuant to this subsection once every 90 days.

(c) Imposition of penalty.--

(1) If an audit conducted under subsection (b) reveals that the company authorized a driver to operate as a transportation network company driver when the background check or driving history reviewed in accordance with section 57A12(c) (relating to transportation network company drivers) revealed that they were ineligible, the authority may impose a penalty against the transportation network company in an amount not greater than \$1,000 for each noncompliant driver.

(2) The transportation network company shall immediately remove a noncompliant driver identified as provided in paragraph (1) from transportation network service upon the authority's direction.

(3) The authority may alert other transportation network companies of the ineligibility of the noncompliant driver in order to protect the public good.

(d) Follow-up report and remedial audit.--

(1) (i) In the event that an audit discrepancy is identified as specified in subsection (c)(1), the authority may direct a transportation network company to submit a follow-up report detailing its efforts to ensure compliance with section 57A12(c).

(ii) In the event that an egregious audit discrepancy is identified or multiple audit discrepancies are identified or the authority makes a reasonable determination that a transportation network company has failed to reasonably cooperate in the driver information audit process, the authority may direct a transportation network company to participate in remedial audits.

(iii) A direction under this section shall be considered a direction of staff as provided for in 52 Pa. Code § 1005.24 (relating to appeals from actions of the staff).

(2) A remedial audit shall proceed as provided in subsection (b). For purposes of the remedial audit, the authority may designate up to 10% of the drivers identified in the list disclosed pursuant to subsection (b)(1).

(3) The authority may direct one remedial audit at any time each month for a four-month period following the discovery of the violation.

(4) If an audit conducted under this subsection reveals that the company authorized a driver to operate as a transportation network company when the background check or driving history reviewed in accordance with section 57A12(c) revealed that they were ineligible, the authority may impose a penalty against the transportation network company in an amount not greater than \$2,500 for each noncompliant driver.

(5) The transportation network company shall immediately remove a noncompliant driver identified as provided in paragraph (4) from transportation network service at the authority's direction. The authority may alert other transportation network companies of the ineligibility of the noncompliant driver in order to protect the public good.

(e) Construction.--

(1) This section is intended to foster general compliance with driver qualification reviews conducted by transportation network companies.

(2) This section shall not be construed to limit the power of the authority to conduct enforcement investigations related to transportation network companies or transportation network company drivers, or both, as authorized under this chapter or the obligation of transportation network companies, their agents and employees and transportation network company drivers to cooperate with such investigations and produce information demanded as required under this chapter.

(3) A transportation network company driver-related discrepancy, as identified in subsection (d), discovered during the course of an enforcement action shall result in the transportation network company being subject to the same penalty, reporting and remedial audit obligations provided in this section.

(4) Except as otherwise provided in this section, information produced to the authority in furtherance of an enforcement investigation or pursuant to this section shall not be released to a third party, including through a request submitted under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(f) Class A.--A transportation network company that is classified as a Class A TNC under this section and section 57A09 and a Tier 1 TNC under section 57A21 (relating to enforcement and rules and regulations) shall not be required to disclose to the authority the number of vehicles or drivers associated with its digital platform.

Cross References. Section 57A18 is referred to in sections 57A02, 57A04 of this title.

§ 57A19. Penalties.

(a) Penalty amount and training program.--In addition to other penalties authorized by this chapter, any person or entity that violates this chapter or any order or regulation of the authority related to this chapter may be subject to a penalty of up to \$1,000 for each violation and may be required to complete a supplemental training program. Each day that a violation continues may be deemed a separate and distinct offense.

(b) Suspension, revocation or denial.--In addition to other penalties under this chapter, and pursuant to subsection (d), any authorization approved by the authority may be suspended, revoked or denied renewal for any violation of this chapter or an order or regulation of the authority.

(c) Transportation network company license.--Any person whose transportation network company license is canceled or revoked under this chapter shall be ineligible to receive another transportation network company license under the same or a different name for a period of not less than one year following revocation. This prohibition shall apply to any person with a controlling influence in a canceled or revoked transportation network company as the authority may provide by regulation.

(d) Enforcement actions.--Enforcement actions initiated under this chapter shall proceed as provided in section 5705 (relating to contested complaints) and regulations promulgated by the authority providing for the form and process of the enforcement actions.

(e) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Supplemental training company." A company approved by a transportation network company to teach a supplemental training program.

"Supplemental training program." A training program taught by a supplemental training company that is approved by the authority and that covers the following topics:

- (1) The geography of the city.
- (2) The provision of safe transportation network service.
- (3) The provision of courteous service.
- (4) Statutory or regulatory requirements related to transportation network company drivers.
- (5) The provision of service to persons with disabilities.

Cross References. Section 57A19 is referred to in section 57A02 of this title.

§ 57A20. Impoundment of vehicles.

(a) Authority to impound.--The authority may confiscate and impound vehicles and equipment utilized to provide transportation network service originating in the city without proof of current affiliation with a transportation network company licensed by the authority.

(b) Return of vehicle and equipment.--Upon satisfaction of all terms of impoundment, including payment of all penalties imposed and all outstanding penalties assessed against the owner or operator of the confiscated vehicle and payment of the costs of the authority associated with confiscation and impoundment, the vehicle and equipment shall be returned to its registered owner or registered lienholder, unless the authority determines that the release would present a danger to the traveling public.

(c) Public auction.--The following shall apply:

(1) If the owner, lienholder or operator of the impounded vehicle or equipment does not act to secure possession of the impounded property within 45 days of the date of impoundment, the authority may publicly auction all confiscated property. The authority may not schedule the impounded vehicle or equipment for auction if the owner, lienholder or operator has initiated proceedings before the authority to contest the underlying violation or the propriety of the impoundment.

(2) At least 30 days before the date of the public auction, the authority shall provide notice by regular mail to the registered owner and any registered lienholder of the public auction of confiscated vehicles and equipment. The notice required under this paragraph may be provided within the period of 45 days of the date of impoundment.

(3) The authority shall apply the proceeds from the sale of all confiscated property in the following order:

(i) Except as provided under subparagraph (v), to satisfy any liens on the vehicle or, if the vehicle is subject to a lease, to pay the lessor damages due to the lessor upon default by the lessee as provided under 13 Pa.C.S. § 2A527 (relating to lessor's rights to dispose of goods).

(ii) To the costs of the authority associated with the confiscation, impoundment and auction.

(iii) To all penalties imposed and all outstanding penalties assessed against the owner and operator of the confiscated property.

(iv) Except as provided in subparagraph (v), to the registered owner of the confiscated property upon demand.

(v) When not claimed by any registered lienholder or registered owner within one year of the auction date, to the restricted account provided for under section 57A22 (relating to assessment).

(d) Uncompensated costs.--After application of the proceeds from the sale of confiscated property under subsection (c)(3), the uncompensated costs of the authority associated with the confiscation, impoundment and auction and all outstanding penalties imposed and all outstanding fines assessed against the registered owner or operator of the confiscated property may be assessed against the registered owner or operator of the confiscated property as the authority may prescribe by regulation.

§ 57A21. Enforcement and rules and regulations.

(a) Display.--Upon request, a transportation network company driver shall display to the authority or other person authorized to enforce this chapter a physical or electronic record of a ride in progress sufficient to establish that it was a prearranged ride. To the extent that trip records are contained on electronic devices, drivers are not required to relinquish custody of the devices in order to make the required display.

(b) Investigation.--If a person files a complaint against a transportation network company or transportation network company driver with the authority, in addition to all other powers and remedies provided under this title, the authority may inspect the transportation network company's records in accordance with this chapter as necessary to investigate and resolve the complaint. Nothing provided in this section shall be construed to prohibit the authority from investigating any complaint against a transportation network company driver or taking appropriate enforcement action in accordance with this chapter.

(c) Authority to prescribe rules and regulations.--The authority may prescribe rules and regulations as it deems necessary to govern the regulation of transportation network service originating in the city under this chapter.

Cross References. Section 57A21 is referred to in sections 57A02, 57A18 of this title.

§ 57A22. Assessment.

The following shall apply:

(1) A transportation network company operating in a city of the first class shall pay to the authority an assessment amount equal to 1.4% of the gross receipts from all fares charged to all passengers for prearranged rides that originate in the city. The amount assessed shall be remitted on a quarterly basis and deposited into a restricted receipts account in the State Treasury. The State Treasurer shall distribute 66.67% to a school district of the first class and 33.33% to the parking authority on a quarterly basis. This section shall expire December 31, 2019.

(2) If an assessment is imposed after December 31, 2019, the percentage amount may not be less than the percentage amount imposed under paragraph (1).

2019 Partial Repeal. Section 24(4) of Act 20 provided that par. (1) is repealed insofar as it is inconsistent with the

addition of section 1606-M of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

Expiration. Section 1606-M of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, provided that notwithstanding section 57A22(1), the provisions of section 57A22 shall not expire until December 31, 2027.

Cross References. Section 57A22 is referred to in section 57A20 of this title.

CHAPTER 57B

REGULATION OF TAXICABS AND LIMOUSINES IN CITIES OF THE FIRST CLASS

Sec.

57B01. Legislative findings.

57B02. Regulation of taxicabs and limousines.

Enactment. Chapter 57B was added November 4, 2016, P.L.1222, No.164, effective immediately.

§ 57B01. Legislative findings.

The General Assembly finds and declares as follows:

(1) The health, safety and general welfare of the people of this Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce and tourism.

(2) Unemployment, the spread of poverty and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in this Commonwealth through the development of a clean, safe, reliable and well-regulated taxicab and limousine industry.

(3) Parking authorities in cities of the first class are charged with regulating taxicab service and limousine service and must ensure that regulations governing the taxicab and limousine industries keep pace with changes in the industry.

(4) Regulations governing the taxicab and limousine industries in cities of the first class should recognize technological developments that are changing the transportation marketplace, encouraging competition and innovation.

(5) With the entry of transportation network companies that compete against taxicabs and limousines, it is necessary for parking authorities to modernize their regulations to promote a level playing field for all transportation service providers.

§ 57B02. Regulation of taxicabs and limousines.

(a) Duty.--The authority shall, within 90 days of the effective date of this section, promulgate temporary regulations. The temporary regulations shall not be subject to the following:

(1) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(2) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(3) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(b) Expiration.--The temporary regulations shall expire upon the promulgation of final-form regulations or two years following the effective date of this section, whichever is later.

(c) Issues.--The authority shall address the following in the temporary and final-form regulations required by this subsection:

(1) The dollar amount of all fees and assessments issued by the authority. The following shall apply:

(i) (Repealed).

(ii) (Repealed).

(2) Vehicle inspections, including the manner and frequency of inspections. The following shall apply:

(i) The authority may subject no more than 25% of all taxicabs operating in a city of the first class to annual inspections to verify that the vehicle satisfies the mechanical inspection required under 75 Pa.C.S. Ch. 47 (relating to inspection of vehicles) and vehicle quality standards under paragraph (7).

(ii) The fee charged by the authority for an annual inspection, in addition to State minimum inspection and emissions testing charges, if also conducted by the authority, shall be \$25.

(3) Dispatcher requirements and methods of dispatch recognizing the availability of a wide variety of technologies that facilitate two-way communication. The office of a certified dispatcher shall not be required to be located within a city of the first class.

(4) Log sheets and manifests, including the storage of information on digital or other electronic devices.

(5) Meter and metering requirements addressing the use of a variety of technologies, including GPS-based meters. The following shall apply:

(i) The authority may not require the use of a particular meter.

(ii) Taxicab meters must meet the following minimum standards:

(A) Have credit card processing capabilities that work in tandem with the meter.

(B) Be capable of producing reports.

(C) Calculate distance and time.

(6) Vehicle standards, age and mileage, including procedures to petition for exceptions to age and mileage standards. The following shall apply:

(i) Taxicabs, including wheelchair-accessible vehicles, operating in a city of the first class shall be no more than eight model years old and have been driven no more than 350,000 cumulative miles.

(ii) The authority may not establish service entry mileage requirements for taxicabs, including wheelchair-accessible vehicles.

(iii) Requirements for wheelchair-accessible vehicles shall be consistent with the vehicle standards contained in 49 CFR Pt. 38 (relating to Americans with Disabilities Act (ADA) accessibility specifications for transportation vehicles).

(7) Vehicle quality standards, including compliance with environmental, cleanliness, safety and customer service standards, including special safety requirements for children. Vehicle quality standards adopted by the authority shall not exceed the requirements of section 57A09(b)(3)(iii) (relating to vehicle inspections).

(8) Marking of taxicabs, including advertising. Vehicle colors shall not be subject to approval by the authority.

(9) Requirements for the purchase and use of safety cameras, recognizing the availability of a variety of technologies. The following shall apply:

(i) Taxicabs operating in a city of the first class shall have either a partition or a safety camera.

(A) If a safety camera is used, the authority may not require the use of a specific safety camera.

(B) If a safety camera is used:

(I) It must be turned on and operational at all times that a taxicab's motor is running.

(II) Safety camera images must be maintained and stored for no less than 30 days at the medallion owner or certified dispatcher's place of business.

(C) Safety camera specifications developed by the authority shall meet the specifications of no less than five safety cameras available for purchase at retail.

(ii) The authority shall be permitted to access safety camera images upon written request to a certificate holder, when necessary:

(A) For the purpose of investigating a formal complaint against a medallion owner or taxicab driver.

(B) To respond to a subpoena, court order or other legal obligation.

(10) Driver qualification and screening, including requirements for criminal background and driving history checks. The following shall apply:

(i) Drivers must have a valid driver's license and be at least 21 years of age.

(ii) Third-party training of drivers may be permitted if the third party's training program is approved by the authority.

(iii) The following shall disqualify a person from operating a taxicab within a city of the first class:

(A) A conviction for any of the following within the preceding seven years:

(I) Driving under the influence of drugs or alcohol.

(II) A felony conviction involving theft.

(III) A felony conviction for fraud.

(IV) A felony conviction for a violation of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(B) A conviction for any of the following within the preceding 10 years:

(I) Use of a motor vehicle to commit a felony.

(II) Burglary or robbery.

(C) A conviction for any of the following at any time:

(I) A sexual offense under 42 Pa.C.S. § 9799.14(c) or (d) (relating to sexual offenses and tier system) or similar offenses under the laws of another jurisdiction or under a former law of this Commonwealth.

(II) A crime of violence as defined in 18 Pa.C.S. § 5702 (relating to definitions).

(III) An act of terror.

(D) Three moving violations or a major violation in the three-year period prior to the driving history check.

(iv) Medallion owners shall be required to conduct or have a third party conduct annual criminal background and driving history checks for all drivers operating under the owner's medallion. A driver whose criminal background or driving history renders the driver ineligible to operate a taxicab shall be immediately disqualified by the medallion owner.

(11) The operation of taxicabs on a provisional basis. The following shall apply:

(i) A person that has filed an application with the authority requesting a taxicab driver's certificate may operate a taxicab, on a provisional basis, for up to 90 days or until a certificate is obtained from the authority, whichever is earlier.

(ii) The fee for a taxicab driver's certificate shall be \$25 beginning on the effective date of this section and ending January 1, 2018. Thereafter, any annual increase to the fee may not exceed the percentage annual change in the Gross Domestic Product Price Index, as calculated by the United States Department of Commerce.

(12) Taxicab rates and rate change procedures for both meters and digital platforms. Regulations shall reflect reduced or flexible rates and tariffs as appropriate. The following shall apply:

(i) Dispatch companies may offer below-tariff pricing such as coupons, loyalty programs and corporate client discounts.

(ii) Peak-hour surcharges are permitted. The following shall apply:

(A) Peak-hour surcharges shall be established following consultation with the advisory committee created under section 5702 (relating to advisory committee).

(B) Peak-hour surcharges shall be reviewed annually.

(13) Procedures for cancellation, no-show and cleaning fees.

(14) Penalties for violations, including a process for curing a violation. The authority shall:

(i) Develop a schedule of reduced penalties for violations cured within 48 hours.

(ii) Provide notice of a violation to a medallion owner at least five days prior to disabling a taxicab meter or otherwise disabling a taxicab's ability to operate.

(15) The use of standby vehicles. The authority shall develop an implementation plan for the use of standby vehicles.

(16) Administrative procedures, including:

(i) Stamping of Department of Transportation paperwork.

(ii) Voluntary suspension of a taxicab. The following shall apply:

(A) There shall not be a cap on the length of time that a taxicab may be voluntarily suspended from service.

(B) Removal of medallions from vehicles that have been voluntarily suspended from service shall be permitted. Authority approval shall not be required for the removal of a medallion from a voluntarily suspended vehicle.

(iii) The prohibition of mandatory medallion selling periods.

(iv) Licensing and license renewal.

(v) The issuance of certifications and certificates of public convenience.

(vi) Consultation with and consideration of comments submitted by the advisory committee as required by section 5702. The authority shall meet with the advisory committee on a monthly basis.

(17) Limousine rates and rate change procedures.

Regulations shall reflect reduced or flexible rates and tariffs as appropriate.

(Oct. 30, 2017, P.L.725, No.44, eff. imd.)

2017 Repeal. Act 44 repealed subsec. (c)(1)(i) and (ii).

CHAPTER 58

CONTRACTORS' BONDS AND FINANCIAL SECURITY FOR REDEVELOPMENT CONTRACTS (Repealed)

2004 Repeal. Chapter 58 (§§ 5801 - 5810) was added December 30, 2002, P.L.2001, No.230, and repealed January 12, 2004, P.L.1, No.1, effective immediately.

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

CHAPTER 59

PENNSYLVANIA CONVENTION CENTER AUTHORITY (Repealed)

2004 Repeal. Chapter 59 (§§ 5901 - 5923) was added December 30, 2002, P.L.2001, No.230, and repealed February 5, 2004, P.L.7, No.3, effective February 5, 2004. The subject matter is now contained in Chapter 60 of Title 64 (Public Authorities and Quasi-Public Corporations).

2004 Unconstitutionality. Act 230 of 2002 was declared unconstitutional. City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003).

CHAPTER 60

OPTIONAL AFFORDABLE HOUSING FUNDING

Subchapter

- A. Preliminary Provisions
- B. Affordable Housing Programs and Funding in Counties
- C. Affordable Housing Programs and Funding in Cities of First Class

Enactment. Chapter 60 was added July 14, 2005, P.L.280, No.49, effective in 60 days.

Special Provisions in Appendix. See section 3 of Act 49 of 2005 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Chapter 60 is referred to in section 204 of Title 26 (Eminent Domain).

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 6001. Scope of chapter.
- 6002. Legislative purpose.
- 6003. Definitions.

§ 6001. Scope of chapter.

This chapter deals with optional affordable housing funding.

§ 6002. Legislative purpose.

The General Assembly intends to provide a method for counties and cities of the first class to raise revenues at the local level to enable residents to purchase, rent or maintain quality residential housing.

§ 6003. Definitions.

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

"County." A county of the second, second A, third, fourth, fifth, sixth, seventh or eighth class. The term does not include any county of the first class.

"National Affordable Housing Act of 1990." The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625, 42 U.S.C. § 12701 et seq.), as amended.

SUBCHAPTER B

AFFORDABLE HOUSING PROGRAMS AND FUNDING IN COUNTIES

Sec.

- 6011. Affordable housing programs fee in counties.
- 6012. Disposition of proceeds in counties.
- 6013. Affordable housing efforts in counties.

§ 6011. Affordable housing programs fee in counties.

(a) **General rule.**--The governing body of each county may, by ordinance, increase the fees charged by the recorder of deeds for recording deeds and mortgages under the act of June 12, 1919 (P.L.476, No.240), referred to as the Second Class County Recorder of Deeds Fee Law, or the act of April 8, 1982 (P.L.310, No.87), referred to as the Recorder of Deeds Fee Law.

(b) **Limitation.**--The additional fees levied by a governing body of a county under subsection (a) shall not exceed 100% of the amounts charged on February 12, 1993.

Cross References. Section 6011 is referred to in section 6012 of this title.

§ 6012. Disposition of proceeds in counties.

(a) **Deposit.**--Money collected as a result of the fee imposed under section 6011(a) (relating to affordable housing programs fee in counties) shall be deposited in the general fund of the county.

(b) **Allocation.**--Money collected as a result of the fee imposed under section 6011(a) shall be allocated as follows:

(1) At least 85% of the money collected shall be set aside in a separate account to be used to fund affordable housing efforts in the county.

(2) Not more than 15% of the money collected may be used by the county for the administrative costs associated with the affordable housing efforts.

§ 6013. Affordable housing efforts in counties.

"Affordable housing effort" as used in this subchapter is any program or project approved by the governing body of the county which increases the availability of quality housing, either sales or rental, to any county resident whose annual income is less than the median income of the county and includes:

(1) Providing local matching funds to secure National Affordable Housing Act of 1990 HOME funds.

(2) Assisting or supporting housing efforts by the Pennsylvania Housing Finance Agency and by commercial banks and thrift institutions.

(3) Supporting soft second mortgage programs.

SUBCHAPTER C

**AFFORDABLE HOUSING PROGRAMS AND FUNDING
IN CITIES OF FIRST CLASS**

Sec.

6021. Affordable housing programs fee in cities of first class.

6022. Disposition of proceeds in cities of first class.

6023. Affordable housing efforts in cities of first class.

§ 6021. Affordable housing programs fee in cities of first class.

(a) **General rule.**--The governing body of a city of the first class may, by ordinance, charge an affordable housing program fee for recording deeds and mortgages and other related mortgage documents.

(b) **Limitation.**--The fee levied by a governing body of a city of the first class under subsection (a) shall not exceed 100% of the amounts charged by a city of the first class for recording deeds and mortgages and other related documents.

(c) **Construction.**--Subsection (a) shall not limit or otherwise impact the authority of a city of the first class to alter the fees charged by a city of the first class as of the effective date of this chapter for recording deeds and mortgages and other related mortgage documents.

(Dec. 22, 2011, P.L.549, No.114, eff. 60 days)

2011 Amendment. Act 114 amended subsec. (b).

Special Provisions in Appendix. See section 4 of Act 49 of 2005 in the appendix to this title for special provisions relating to fees in first class cities.

Cross References. Section 6021 is referred to in section 6022 of this title.

§ 6022. Disposition of proceeds in cities of first class.

(a) **Deposit.**--Money collected as a result of the fee imposed under section 6021(a) (relating to affordable housing programs fee in cities of the first class) shall be deposited in a special fund established by a city of the first class.

(b) **Allocation.**--Money collected as a result of the fee imposed under section 6021(a) shall be allocated as follows:

(1) At least 85% of the money collected shall be used to fund affordable housing efforts in a city of the first class. The following apply:

(i) A city of the first class may by ordinance dedicate a portion of the funds allocated under this subsection to benefit households whose annual income adjusted for household size is equal to or less than 30% of the median income of the metropolitan statistical area including that city of the first class.

(ii) A city of the first class may by ordinance dedicate a portion of the funds allocated under this subsection to programs described in section 6023(1) (relating to affordable housing efforts in cities of first class).

(iii) A city of the first class may by ordinance define criteria for accessibility of new and existing housing for visitors or occupants who are physically disabled and establish the percentage of new construction units produced as a result of the affordable housing efforts of the city funded under this subsection that must meet the criteria.

(iv) A city of the first class may by ordinance restrict expenditure of money raised under this subchapter to those programs and projects described in section 6023.

(v) A city of the first class may by ordinance require that housing produced or rehabilitated through affordable housing efforts be priced or rented at an amount such that the purchase or rental will require the expenditure of no more than a certain maximum percentage of the gross income of the household of the purchaser or renter.

(2) Not more than 15% of the money collected may be used for the administrative costs of a city of the first class associated with the affordable housing efforts.

§ 6023. Affordable housing efforts in cities of first class.

"Affordable housing effort" as used in this subchapter is a program or project which increases the availability of quality housing, either sales or rental, to any resident of a city of the first class whose annual income adjusted for household size is less than 115% of the median income of the metropolitan statistical area including that city of the first class and includes:

(1) A program or project which increases the production of housing for sale or rent.

(2) A program or project which increases the accessibility of new and existing housing to visitors or occupants who are physically disabled.

(3) A program or project which provides grants for repair of basic systems or improvement of owner-occupied housing.

(4) A program or project which provides for the improvement of facades for owner-occupied housing.

(5) A program or project which prevents or reduces homelessness.

Cross References. Section 6023 is referred to in section 6022 of this title.

CHAPTER 61
NEIGHBORHOOD BLIGHT
RECLAMATION AND REVITALIZATION

Subchapter

- A. Preliminary Provisions
- B. Actions Against Owner of Property with Serious Code Violations
- C. Permit Denials by Municipalities
- D. Miscellaneous Provisions

Enactment. Chapter 61 was added October 27, 2010, P.L.875, No.90, effective in 180 days.

Cross References. Chapter 61 is referred to in section 32A04 of Title 8 (Boroughs and Incorporated Towns); section 141A04 of Title 11 (Cities).

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 6101. Short title of chapter.
- 6102. Legislative findings and purpose.
- 6103. Definitions.

§ 6101. Short title of chapter.

This chapter shall be known and may be cited as the Neighborhood Blight Reclamation and Revitalization Act.

§ 6102. Legislative findings and purpose.

The General Assembly finds and declares as follows:

(1) There are deteriorated properties located in all municipalities of this Commonwealth as a result of neglect by their owners in violation of applicable State and municipal codes.

(2) These deteriorated properties create public nuisances which have an impact on crime and the quality of life of our residents and require significant expenditures of public funds in order to abate and correct the nuisances.

(3) In order to address these situations, it is appropriate to deny certain governmental permits and approvals in order:

(i) To prohibit property owners from further extending their financial commitments so as to render themselves unable to abate or correct the code, statutory and regulatory violations or tax delinquencies.

(ii) To reduce the likelihood that other municipalities will have to address the owners' neglect and resulting deteriorated properties.

(iii) To sanction the owners for not adhering to their legal obligations to the Commonwealth and its municipalities, as well as to tenants, adjoining property owners and neighborhoods.

§ 6103. Definitions.

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

"Agent." Any director, officer, servant, employee or other person authorized to act in behalf of a corporation or association and, in the case of an unincorporated association, a member of such association.

"Building." A residential, commercial or industrial building or structure and the land appurtenant to it.

"Code." (Deleted by amendment).

"Corporation." The term does not include a municipal authority.

"Court." The appropriate court of common pleas.

"Mortgage lender." A business association defined as a "banking institution" or "mortgage lender" under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) that is in possession of or holds title to real property pursuant to, in enforcement of or to protect rights arising under a mortgage, mortgage note, deed of trust or other transaction that created a security interest in the real property.

"Municipal code" or "code." A building, housing, property maintenance, fire, health or other public safety ordinance, related to the use or maintenance of real property, enacted by a municipality. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by a municipality.

"Municipality." A city, borough, incorporated town, township or home rule, optional plan or optional charter municipality or municipal authority in this Commonwealth and any entity formed pursuant to Subchapter A of Chapter 23 (relating to intergovernmental cooperation).

"Municipal permits." Privileges relating to real property granted by a municipality, including, but not limited to, building permits, exceptions to zoning ordinances and occupancy permits. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

"Owner." A holder of the title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

"Public nuisance." Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate official a public nuisance in accordance with a municipal code.

"Serious violation." A violation of a State law or a code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passersby.

"State law." A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

"Substantial step." An affirmative action as determined by a property code official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a State law or municipal code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.

"Tax delinquent property." Tax delinquent real property as defined under:

- (1) the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law;
 - (2) the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law; or
 - (3) the act of October 11, 1984 (P.L.876, No.171), known as the Second Class City Treasurer's Sale and Collection Act, located in any municipality in this Commonwealth.
- (Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

ACTIONS AGAINST OWNER OF PROPERTY
WITH SERIOUS CODE VIOLATIONS

Sec.

- 6111. Actions.
- 6112. Asset attachment.
- 6113. Duty of out-of-State owners of property in this Commonwealth.
- 6114. Duty of corporation, association and trust owners.
- 6115. Failure to comply with a code requirement.

§ 6111. Actions.

In addition to any other remedy available at law or in equity, a municipality may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

- (1) (i) An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court.
- (ii) Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a code, the municipality may recover, in a single action under this section, an amount equal to any penalties imposed against the owner and any costs of remediation lawfully incurred by or on behalf of the municipality to remedy any code violation.
- (2) A proceeding in equity.

Cross References. Section 6111 is referred to in section 6112 of this title.

§ 6112. Asset attachment.

(a) **General rule.**--A lien may be placed against the assets of an owner of real property that is in serious violation of a code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under section 6111 (relating to actions).

(b) **Construction.**--Nothing in this section shall be construed to authorize, in the case of an owner that is a corporation, association or trust, a lien on the individual assets of the general partner, agent or trustee, except as otherwise allowed by law, limited partner, shareholder, member or beneficiary of the association or trust.
(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

2014 Amendment. Act 171 amended subsec. (b).

§ 6113. Duty of out-of-State owners of property in this Commonwealth.

A person or other responsible party who lives or has a principal place of residence outside this Commonwealth, who owns or is responsible for property in this Commonwealth against which code violations have been cited and the person is charged under 18 Pa.C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 42 Pa.C.S. Ch. 91 (relating to detainers and extradition).

(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

§ 6114. Duty of corporation, association and trust owners.

Where, after reasonable efforts, service of process for a notice or citation for any code violation for any real property owned by a corporation, association or trust cannot be accomplished by handing a copy of the notice or citation to an agent, executive officer, partner or trustee of the corporation, association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States Express mail, accompanied by a delivery confirmation:

(1) To the registered office of the corporation, association or trust.

(2) Where the corporation, association or trust does not have a registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice to the property and by handing a copy of the notice or citation to the person in charge of the property at that time.

(3) In the case of a corporation, notice shall be sent to the registered office on file with the Department of State.

(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

§ 6115. Failure to comply with a code requirement.

(a) **Offense defined.**--The owner of real property commits the offense of failure to comply with a code requirement if all of the following apply:

(1) The owner of real property has been convicted of a second or subsequent serious violation of the same provision of a municipal code for the same property.

(2) The violation poses a threat to the public's health, safety or property and the owner has not taken a substantial step to correct the violation.

(3) The violation is considered a public nuisance and the owner has not made a reasonable attempt to correct the violation.

(b) **Grading.**--Failure to comply with a code requirement shall constitute a:

(1) Misdemeanor of the second degree if the offense is a second conviction of a serious violation of the same provision of a municipal code relating to the same property.

(2) Misdemeanor of the first degree if the offense is based on three or more convictions of serious violations of the same provision of a municipal code relating to the same property.

(c) **Definition.**--As used in this section, "code requirement" shall mean a building, housing or property maintenance code or ordinance of a municipality.

(July 10, 2015, P.L.162, No.34, eff. 60 days)

2015 Amendment. Act 34 added section 6115.

SUBCHAPTER C

PERMIT DENIALS BY MUNICIPALITIES

Sec.

6131. Municipal permit denial.

§ 6131. Municipal permit denial.

(a) **Denial.**--

(1) A municipality or a board under subsection (c) may deny issuing to an applicant a municipal permit if the

applicant owns real property in any municipality for which there exists on the real property:

(i) a final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner; or

(ii) a serious violation of State law or a code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas. However, no denial shall be permitted on the basis of a property for which the judgment, order or decree is subject to a stay or supersedeas by an order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the municipality seeking to deny a municipal permit.

(2) A municipality or board shall not deny a municipal permit to an applicant if the municipal permit is necessary to correct a violation of State law or a code.

(3) The municipal permit denial shall not apply to an applicant's delinquency on taxes, water, sewer or refuse collection charges that are under appeal or otherwise contested through a court or administrative process.

(4) In issuing a denial of a permit based on an applicant's delinquency in real property taxes or municipal charges or for failure to abate a serious violation of State law or a code on real property that the applicant owns in this Commonwealth, the municipality or board shall indicate the street address, municipal corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate State agency, municipality or school district, in a form specified by such entity as provided in this section.

(b) Proof of compliance.--

(1) All municipal permits denied in accordance with this subsection may be withheld until an applicant obtains a letter from the appropriate State agency, municipality or school district indicating the following:

(i) the property in question has no final and unappealable tax, water, sewer or refuse delinquencies;

(ii) the property in question is now in State law and code compliance; or

(iii) the owner of the property has presented and the appropriate State agency or municipality has accepted a plan to begin remediation of a serious violation of State law or a code. Acceptance of the plan may be contingent on:

(A) Beginning the remediation plan within no fewer than 30 days following acceptance of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(B) Completing the remediation plan within no fewer than 90 days following commencement of the

plan or sooner, if mutually agreeable to both the property owner and the municipality.

(2) In the event that the appropriate State agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, State law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section. The appropriate State agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made.

(3) Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a municipal permit.

(4) (i) Municipal permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the municipal permit is within the jurisdiction of the board. For purposes of this section, "board" shall mean a zoning hearing board or other body granted jurisdiction to render decisions in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or a similar board in municipalities not subject to that act.

(ii) In any proceeding before a board other than the governing body of the municipality, the municipality may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

(iii) For purposes of this subsection, a municipal permit may only be denied to an applicant other than an owner if:

(A) the applicant is acting under the direction or with the permission of an owner; and

(B) the owner owns real property satisfying the conditions of subsection (a).

(c) Applicability of other law.--A denial of a permit shall be subject to the provisions of 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the act.

Cross References. Section 6131 is referred to in section 6144 of this title.

SUBCHAPTER D

MISCELLANEOUS PROVISIONS

Sec.

6141. (Reserved).

6142. (Reserved).

6143. Conflict with other law.

6144. Relief for inherited property.

6145. Construction.

§ 6141. (Reserved).

§ 6142. (Reserved).

§ 6143. Conflict with other law.

In the event of a conflict between the requirements of this chapter and Federal requirements applicable to demolition, disposition or redevelopment of buildings, structures or land

owned by or held in trust for the Government of the United States and regulated pursuant to the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and the regulations promulgated thereunder, the Federal requirements shall prevail.

§ 6144. Relief for inherited property.

Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation agreement under section 6131(b)(1)(iii) (relating to municipal permit denial) with a municipality to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of permits and approvals on other properties owned by the devisee or heir.

§ 6145. Construction.

Nothing in this chapter shall be construed to abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

PART VII
TAXATION AND FISCAL AFFAIRS

Subpart

- B. Indebtedness and Borrowing
- C. Taxation and Assessments
- D. Employment and Employees

Enactment. Part VII was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBPART B
INDEBTEDNESS AND BORROWING

Chapter

- 80. General Provisions
- 81. Incurring Debt and Issuing Bonds and Notes
- 82. Miscellaneous Provisions

CHAPTER 80
GENERAL PROVISIONS

Subchapter

- A. Preliminary Provisions
- B. Limitations on Debt of Local Government Units
- C. Procedure for Securing Approval of Electors

Enactment. Chapter 80 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

- 8001. Short title, scope and applicability of subpart.
- 8002. Definitions.
- 8003. Advertisement and effectiveness of ordinances.

- 8004. When lease or other agreement evidences acquisition of capital asset.
- 8005. Classification and authority to issue bonds and notes.
- 8006. Preliminary cost estimates.
- 8007. Cost of project.
- 8008. Home rule.
- 8009. Guaranty funds and compulsory associations.

§ 8001. Short title, scope and applicability of subpart.

(a) **Short title of subpart.**--This subpart shall be known and may be cited as the Local Government Unit Debt Act.

(b) **Scope of subpart.**--This subpart shall apply to all local government units.

(c) **Exemption of bonds and notes from taxation in this Commonwealth.**--This section is the Commonwealth's pledge to and agreement with a person, firm, corporation or Federal agency subscribing to or acquiring any bonds or notes, including tax anticipation notes issued by any local government unit under this subpart, the act of June 25, 1941 (P.L.159, No.87), known as the Municipal Borrowing Law, or the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, that the bonds or notes, their transfer and the income therefrom, including any profits made on their sale, shall be free from taxation for State and local purposes within this Commonwealth. This exemption does not apply to gift, inheritance, succession or estate taxes or any other taxes not levied directly on the bonds or notes, their transfer, the income therefrom or the realization of profits on their sale. The exemption under this subsection of profits made on the sale of bonds or notes does not apply to bonds or notes issued on or after February 1, 1994 (the effective date of section 2901 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971).

(d) **Exclusive procedure.**--A local government unit may borrow money on bonds or notes, including tax anticipation notes, only as provided in this subpart. This subpart provides an exclusive and uniform system on the subjects covered by this subpart. (May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (c).

References in Text. The act of June 25, 1941 (P.L.159, No.87), known as the Municipal Borrowing Law, referred to in subsec. (c), was repealed by the act of July 12, 1972 (P.L.781, No.185).

The act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, referred to in subsec. (c), was repealed by the act of December 19, 1996 (P.L.1158, No.177).

§ 8002. Definitions.

(a) **Classification of debt.**--With respect to classifications of debt and subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Debt." The amount of all obligations for the payment of money incurred by the local government unit, whether due and payable in all events, or only upon the performances of work, possession of property as lessee, rendering of services by others or other contingency, except the following:

- (1) Current obligations for the full payment of which current revenues have been appropriated, including tax

anticipation notes, and current payments for the funding of pension plans.

(2) Obligations under contracts for supplies, services and pensions allocable to current operating expenses of future years in which the supplies are to be expended or furnished, the services rendered or the pensions paid.

(3) Rentals or payments payable in future years under leases, guaranties, subsidy contracts or other forms of agreement not evidencing the acquisition of capital assets. This exception shall not apply to rentals or payments under any instruments which would constitute lease rental debt but for the fact that the lessor or obligee is not an entity described in section 8004(a)(1) (relating to when lease or other agreement evidences acquisition of capital asset).

(4) Interest or assumed taxes payable on bonds or notes which interest or taxes are not yet overdue.

(5) Obligations incurred and payments, including periodic scheduled payments and termination payments, payable pursuant to a qualified interest rate management agreement.

"Electoral debt." All net debt incurred with the assent of the electors, given as provided in this subpart whether issued by a local government unit or through an authority.

"Lease rental debt." The principal amount of authority bonds or notes or bonds or notes of another local government unit to be repaid from payments of the local government unit made pursuant to leases, guaranties, subsidy contracts or other forms of agreement where those payments are or may be made out of the tax and other general revenues of a local government unit under leases, guaranties, subsidy contracts or other forms of agreement which evidence the acquisition of capital assets, excluding any amount which has been approved by the electors.

"Net lease rental debt." A portion of lease rental debt as determined under Subchapter B (relating to limitations on debt of local government units).

"Net nonelectoral debt." A portion of nonelectoral debt as determined in accordance with Subchapter B (relating to limitations on debt of local government units).

"Nonelectoral debt." All debt determined as provided in this subpart, incurred or authorized to be incurred, except electoral debt and lease rental debt, in each case whether authorized before or after July 12, 1972, and whether before or after the debt is incurred.

(b) Exclusions from debt.--With respect to exclusions from any particular category of debt and subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Self-liquidating debt." Debt payable solely from rents, rates or other charges to the ultimate users of the project, to be financed in whole or in part by that debt, or payable solely from special levies or assessments of benefits lawfully earmarked exclusively for that purpose. The term also includes debt or any portion thereof at the time qualified as self-liquidating pursuant to this subpart, whether or not solely payable from those sources. The term "ultimate users" includes the local government unit itself only where its use of the project is incidental to the use of the project by other users.

"Subsidized debt." The amount of debt which is self-liquidating to the local government unit because the annual debt service on the amount for the fiscal year next following

the time of determination will be covered by one of the following:

(1) Payments of subsidies on account of the cost of the project or on account of operations, but measured by the cost of the project, or which will be covered by capital account reimbursements, which subsidies or reimbursements will be paid by either the Commonwealth or the Federal Government, or both, where such payments under the legislation in force at the time of determination are stated to be of a recurring nature, if the Commonwealth or the Federal Government shall have preliminarily or finally qualified the project for the subsidy or reimbursement, all as determined under section 8024 (relating to exclusion of subsidized debt from net nonelectoral debt or net lease rental debt).

(2) Payments under a subsidy contract with another local government unit or under a subsidy contract with an authority, and the amount is lawful lease rental debt as to the other local government unit as determined under section 8024.

(c) Other definitions.--Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accountant." A certified public accountant or public accountant or a firm of either of them.

"Authority." An authority or nonprofit corporation organized under any statute by or on behalf of the Commonwealth or any local government unit or jointly by any one or more of them.

"Bond or note." Any instrument issued by a local government unit imposing an obligation for the repayment of money borrowed, but not including a guaranty endorsed on an instrument issued by an authority. Unless otherwise indicated, the term does not include tax anticipation notes. A bond or a note which is a security as defined in 13 Pa.C.S. Div. 8 (relating to investment securities) shall be governed by 13 Pa.C.S. Div. 8, and every other bond or note shall be governed by 13 Pa.C.S. Div. 3 (relating to negotiable instruments), except in each case as otherwise provided in this subchapter.

"Borrowing base." The annual arithmetic average of the total revenues for the three full fiscal years ended next preceding the date of the incurring of nonelectoral debt or lease rental debt as set forth in a certificate stating the total revenues in each of these years and stating the average, executed by the authorized officials of the local government unit or by an independent accountant. If, within that three-year period, there has been an expansion or contraction of the territorial or functional jurisdiction of a local government unit through transfer, merger, annexation or assumption, in whole or in part, in relation to another local government unit or an authority, the borrowing base shall be calculated as if the expansion or contraction had occurred within or prior to the commencement of the three-year period in the manner as the statutes, charter provisions or court decree provide or direct or, in the absence of those provisions, as the department approves.

"Department." The Department of Community and Economic Development of the Commonwealth.

"General obligation." In the title of a bond or note, means a bond or note for the payment of which the full faith, credit and taxing power of the local government unit is pledged, for

the payment of which the local government unit has entered into the required covenant under section 8104 (relating to covenant to pay bonds or notes or a guaranty) and for the payment of which no specific revenues are pledged.

"Governing body." The authorities in each local government unit authorized by law to levy taxes or fix the tax rate of the local government unit. The term also includes the school board of a school district and the board or officers authorized to make binding commitments for joint local government units, even though that body has no power to levy taxes.

"Guaranteed revenue." In the title of a bond or note, means a bond or note of a local government unit payable in whole or in part from pledged revenues, but which becomes wholly or partly a general obligation of the local government unit, as guarantor in the event of deficiency in the pledged revenues.

"Guaranty." A guaranty, whether conditional or unconditional and whether full or partial, to or for the benefit of holders of bonds or notes of the local government unit or holders of bonds or notes or other obligations of an authority or another local government unit, of the payment of the principal of and interest on the bonds or notes, the premium, if any, and assumed taxes, if any, on those obligations.

"Incur" or "incurred." When used with respect to debt, means the point in time when, in the case of debt assented to by the electors, the assent has been given, and, in the case of nonelectoral or other debt, the first ordinance or, in the case of small borrowings under section 8109 (relating to small borrowing for capital purposes), the resolution authorizing the debt has been finally enacted or adopted, unless the authority for the debt has been canceled or terminated as provided in this subpart. Final enactment or adoption means the final act necessary to make an ordinance or resolution, as the case may be, effective pursuant to all requirements of law, including any necessary approval by a mayor or other executive officer or failure of action by the mayor or officer within a specified statutory time limit, or passage over the veto of a mayor or of the officer, but does not include any required advertising subsequent to the date of adoption by the governing body of the local governing unit.

"Independent financial advisor." A person or entity experienced in the financial aspects and risks of interest rate management agreements who is retained by a local government unit to advise the local government unit with respect to a qualified interest rate management agreement. The independent financial advisor may not be the other party or an affiliate or agent of the other party on a qualified interest rate management agreement with respect to which the independent financial advisor is advising a local government unit. For purposes of sections 8281(b)(2) and (e)(5) (relating to qualified interest rate management agreements), the independent financial advisor may be retained by a public authority.

"Interest rate management plan." A written plan prepared or reviewed by an independent financial advisor with respect to a qualified interest rate management agreement, which includes:

- (1) A schedule listing the amount of debt outstanding for each outstanding debt issue of the local government unit and the expected annual debt service on that debt. In the case of variable rate debt, the schedule shall set forth the estimated annual debt service thereon and annual debt service on the debt calculated at the maximum rate specified for the variable rate debt.

(2) A schedule listing the notional amounts outstanding of each previously executed qualified interest rate management agreement which is then in effect.

(3) A schedule listing all consulting, advisory, brokerage or similar fees, paid or payable by the local government unit in connection with the qualified interest rate management agreement, and a schedule of any finder's fees, consulting fees or brokerage fees, paid or payable by the other party in connection with the qualified interest rate management agreement.

(4) A schedule listing the estimated and maximum periodic scheduled payments to be paid by the local government unit and to be received by the local government unit from the other party in each year during the term of the qualified interest rate management agreement.

(5) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk and other risks of entering into the qualified interest rate management agreement. This paragraph includes schedules of the estimated and maximum scheduled periodic payments which would be due under the qualified interest rate management agreement.

(6) An analysis of the interest rate risk, basis risk, termination risk, credit risk, market-access risk and other risks to the local government unit of the net payments due for all debt outstanding and all qualified interest rate management agreements of the local government unit. This paragraph includes schedules of the estimated and maximum net payments of total debt service and scheduled, periodic, net payments, which would be due under all of the qualified interest rate management agreements.

(7) The local government unit's plan to monitor interest rate risk, basis risk, termination risk, credit risk, market-access risk and other risks. This paragraph includes the valuation of the market or termination value of all outstanding qualified interest rate management agreements.

"Issue." All bonds authorized to be sold in respect of a particular project, whether authorized to be sold at one time or from time to time in one or more series.

"Local government unit." A county, county institution district, city, borough, incorporated town, township, school district or any similar, general or limited purpose unit of local government or any unit created by joint action of two or more local government units which is authorized to be created by law. The term does not include a city or county of the first class, an authority as defined in this section or any unit created by joint action of two or more local government units which have not been granted by statute the power to issue bonds. The term includes school districts of the first class presently operating under a home rule charter or home rule charter supplement, and the provisions of this subpart shall govern over inconsistent charter provisions.

"Ordinance." The formal action of a local government unit, whether, under the law applicable to the local government unit, the action is taken by ordinance or by resolution, to which the requirements of section 8003 (relating to advertisement and effectiveness of ordinances) applies.

"Project." Includes any of the following:

(1) Items of construction, acquisition, extraordinary maintenance or repair which have been undertaken by a local government unit.

(2) Preliminary studies, surveying, planning, testing or design work for any undertaking described in paragraph (1).

(3) Lands or rights in land to be acquired.

(4) Furnishings, machinery, apparatus or equipment normally classified as capital items, but these items must have a useful life of five years or more if financed separately and not as a part of a construction or acquisition project.

(5) The local government unit's share of the cost of a project undertaken jointly with one or more other local government units or the Commonwealth or one of its agencies.

(6) Countywide revision of assessment of real property.

(7) Funding of all or any portion of a reserve, or a contribution toward a combined reserve, pool or other arrangement, relating to self-insurance, which has been established by one or more local government units pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance and self-insurance) up to, but not exceeding, the amount provided in section 8007 (relating to cost of project).

(8) Funding of an unfunded actuarial accrued liability or a portion of an unfunded actuarial accrued liability.

(9) Funding or refunding of debt incurred for any or all of the foregoing purposes.

(10) Any combination of any or all of the foregoing as any or all of the above may be designated as a project by the governing body for the financing of which it desires to incur debt.

(11) Any deficit to be funded by bonds or notes as provided in this subpart or the creation of a revolving fund for specific improvements.

(12) Where a local government unit has adopted a capital budget, any unfunded portion of the capital budget selected by ordinance for current funding.

"Qualified interest rate management agreement." An agreement, including a confirmation evidencing a transaction effected under a master agreement, entered into by a local government unit in accordance with and fulfilling the requirements of section 8281 (relating to qualified interest rate management agreements), which agreement in the judgment of the local government unit is designed to manage interest rate risk or interest cost of the local government unit on any debt a local government unit is authorized to incur under this subpart, including, but not limited to, swaps, interest rate caps, collars, corridors, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which in the judgment of the local government unit will assist the local government unit in managing the interest rate risk or interest cost of the local government unit.

"Resolution." A formal action of a governmental unit other than an ordinance, whether, under the law applicable to the local government unit, the action is taken by ordinance or by resolution, to which section 8003 (relating to advertisement and effectiveness of ordinances) does not apply.

"Revenue." In the title of a bond or note not preceded by the word "guaranteed," means a bond or note payable solely from user charges, rates, revenues, rentals, fees, special assessments and receipts pledged for the purpose.

"Series." All the bonds or notes to be sold and delivered at one time in respect of one project or of any two or more projects which have been combined for purposes of financing or

where the bonds or notes have been combined for sale as provided in this subpart.

"Sinking fund." The special fund created pursuant to section 8221 (relating to creation of sinking funds and deposits, reserves and surplus funds) for the payment of the principal of and interest on bonds or notes, premium, if any, and assumed taxes, if any, or for the payment of a guaranty.

"Tax anticipation notes." Notes issued in anticipation of taxes, in anticipation of revenues or in anticipation of both as designated in the notes.

"Total revenues." All moneys received by the local government unit in a fiscal year from whatever source derived, except the following:

(1) Subsidies or reimbursements from the Federal Government or from the Commonwealth measured by the cost of or given or paid on account of a particular project financed by debt.

(2) Project revenues, rates, receipts, user charges, special assessments and special levies which are or will be pledged or budgeted for specific self-liquidating debt or for payments under leases, guaranties, subsidy contracts or other forms of agreement which could constitute lease rental debt except that the payments are payable solely from these sources, but that portion thereof that has been returned to or retained by the local government unit shall not be excluded.

(3) Interest on moneys in sinking funds, reserves and other funds, which interest is pledged or budgeted for the payment or security of outstanding debt, and interest on bond or note proceeds, if similarly pledged.

(4) Grants and gifts in aid of or measured by the construction or acquisition of specified projects.

(5) Proceeds from the disposition of capital assets, and other nonrecurring items, including bond or note proceeds not considered income under generally accepted municipal accounting principles.

"Unfunded actuarial accrued liability." With respect to a local government unit retirement system, pension plan or pension trust fund, the excess of the actuarial accrued liability over the actuarial value of assets of the retirement system, pension plan or pension trust fund, computed as follows:

(1) In the case of a local government unit that is subject to the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, in accordance with the requirements of that act.

(2) In the case of a local government unit that is not subject to the Municipal Pension Plan Funding Standard and Recovery Act, in accordance with the applicable laws for that local government unit regarding minimum funding requirements for the unit's retirement system, pension plan or pension trust fund or, if there are no such laws, in accordance with the ordinance, resolution or contract under which the local government unit participates in the retirement system, pension plan or pension trust fund.

In the case of a local government unit that participates in a retirement system, pension plan or pension trust fund for employees of more than one local government unit, including an association of local government units cooperating under Subchapter A of Chapter 23 (relating to intergovernmental cooperation), the term includes the local government unit's pro rata share of the total unfunded actuarial accrued liability

of the retirement system, pension plan or pension trust fund, as the pro rata share may be determined under the applicable laws or, if there are no applicable laws, under the ordinance, resolution or contract under which the local government unit participates in the retirement system, pension plan or pension trust fund.

(May 5, 1998, P.L.301, No.50, eff. 60 days; Sept. 24, 2003, P.L.110, No.23, eff. imd.)

2003 Amendment. Act 23 amended the def. of "debt" in subsec. (a) and added the defs. of "independent financial advisor," "interest rate management plan" and "qualified interest rate management agreement" in subsec. (c).

1998 Amendment. Act 50 amended the defs. of "bond or note" and "department" in subsec. (c).

Cross References. Section 8002 is referred to in sections 5602, 8022, 8101, 8210 of this title.

§ 8003. Advertisement and effectiveness of ordinances.

(a) Advertisement of ordinances.--Notwithstanding any other statute to the contrary, an ordinance required to be adopted by this subpart shall be advertised not less than three nor more than 30 days prior to its enactment. The advertisement shall appear once in a newspaper of general circulation in the area of the local government unit, shall set forth a summary of the contents of the ordinance and shall state that a copy of the full proposed text thereof may be examined by any citizen in the office of the secretary of the local government unit at the address and during the reasonable hours stated in the advertisement.

(b) Notice of enactment.--Not later than 15 days after the final enactment of the ordinance, a notice of the enactment shall be advertised once in a newspaper of general circulation in the local government unit. This notice shall state:

(1) Briefly, the substance of any amendments made during final passage and, where applicable:

(i) in respect of lease rental debt, the range of lease rental payments; and

(ii) in other cases, the price bid for bonds or notes and the range of interest rates named in the successful bid.

(2) That the final text of the ordinance as enacted may be examined by any citizen in the office of the secretary of the local government unit at the address and during the reasonable hours stated in the notice.

(c) Effectiveness of ordinance.--The ordinance shall be valid and effective for all purposes on the fifth day after the second advertisement. The second advertisement shall be conclusive, so far as concerns the effectiveness of the ordinance or the validity of any debt incurred, as to the existence of all matters recited or referred to therein unless an action questioning the validity or effectiveness has been filed in timely manner as provided in this subpart, but the conclusiveness shall not affect the liability of any person for failure to permit inspection. No other or different publication shall be required, notwithstanding the provisions of any other statute.

Cross References. Section 8003 is referred to in sections 8002, 8281, 8284 of this title.

§ 8004. When lease or other agreement evidences acquisition of capital asset.

(a) General rule.--A lease, guaranty, subsidy contract or other agreement entered into by a local government unit shall evidence the acquisition of a capital asset if:

(1) the lessee or obligor is a local government unit and the lessor or obligee is an authority organized under any law of this Commonwealth, another local government unit, a nonprofit corporation, the State Public School Building Authority or other agency or authority of the Commonwealth;

(2) the payments, or any portion thereof, which are payable in a subsequent fiscal year or subsequent fiscal years and which are applicable to debt service requirements or capital costs are payable, whether in all events or only upon the happening of certain events, under the terms of the instrument from the tax or general revenues of the local government unit; and

(3) upon termination of the lease guaranty, subsidy contract or other agreement or upon dissolution of the lessor or obligee, whether before or after the termination of the lease, title to the subject project or premises or a given part thereof or undivided interest therein shall or, at the option of the local government unit, may vest by agreement or operation of law in the local government unit or in the Commonwealth.

(b) Agreement exceeding useful life of asset.--A lease, guaranty, subsidy contract or other form of agreement entered into by a local government unit shall also evidence the acquisition of a capital asset if the payments to be made in a subsequent fiscal year or subsequent fiscal years applicable to debt service requirements or capital costs are payable, whether in all events or only upon the happening of certain events, under the provisions of the instrument from the tax or general revenues of the local government unit and the term of the instrument is equal to or exceeds the useful life of the asset, regardless of the nature of the lessor or obligee.

Cross References. Section 8004 is referred to in section 8002 of this title.

§ 8005. Classification and authority to issue bonds and notes.

(a) Classification.--Bonds or notes prior to the authorization thereof shall be classified by the issuing local government unit as one of the following three types of obligation:

(1) General obligation bonds or notes.

(2) Guaranteed revenue bonds or notes.

(3) Revenue bonds or notes.

(b) Guaranteed revenue bonds or notes.--Guaranteed revenue bonds or notes may have either a general or a limited guaranty as the governing body of the local government unit may determine, but, if the guaranty is less than a full unconditional guaranty, the title of the bond or note shall contain the word "limited" before the word "guaranteed." The guaranty of the local government may be of its own revenue bonds or notes or of the revenue bonds or notes of an authority or another local government unit subject, however, to the provisions of subsection (c).

(c) Authority to issue bonds and notes.--Notwithstanding any other law to the contrary, every local government unit shall have full power and authority to issue bonds or notes, and make guaranties, leases, subsidy contracts or other agreements evidencing the acquisition of capital assets payable out of taxes and other general revenues, to provide funds for and towards the cost of or the cost of completing any project or

combination of projects which the local government unit is authorized to own, acquire, subsidize, operate or lease or to participate in owning, acquiring, subsidizing, operating or leasing with others, to issue tax anticipation notes and funding bonds or notes as provided in this subpart and to contract for insurance covering the risks of nonpayment of principal, interest and premium of bonds, notes, tax anticipation notes and guaranties.

(d) Nature of guaranty.--For the purpose of this subpart, unless debt evidenced by a guaranty has been approved as electoral debt in accordance with Subchapter C (relating to procedure for securing approval of electors), the guaranty shall be deemed to be nonelectoral debt if the local government unit guaranties its own bonds or notes and shall be deemed to be lease rental debt if it guaranties the bonds or notes of an authority or another local government unit. For the purpose of all other statutes, the guaranty shall be deemed to create debt or indebtedness of the local government unit making the guaranty.

§ 8006. Preliminary cost estimates.

Prior to the initial authorization of bonds or notes or the issuance of any guaranty to finance any project involving construction or acquisition, the governing body shall obtain realistic cost estimates through actual bids, option agreements or professional estimates from registered architects, professional engineers or other persons qualified by experience. Any local government unit may retain the services of a financial advisor. Costs of preliminary estimates and the fees of financial advisors may, if initially paid by the local government unit, be reimbursed out of the net proceeds of the issue of bonds or notes as a cost of the project.

§ 8007. Cost of project.

The cost of a project includes the amount of all payments to contractors or for the acquisition of a project or for lands, easements, rights and other appurtenances deemed necessary for the project, fees of architects, engineers, appraisers, consultants, financial advisors and attorneys incurred in connection with the project financing costs, costs of necessary printing and advertising, costs of preliminary feasibility studies and tests, cost estimates and interest on money borrowed to finance the project, if capitalized, to the date of completion of construction and, if deemed necessary, for one year thereafter, amounts to be placed in reserve funds, if any, a reasonable initial working capital for operating the project and a proper allowance for contingencies and any amount which constitutes, under generally accepted accounting principles, a cost of, and which has been determined by an independent actuary or other expert to be required for the purposes of, a reserve or a contribution toward a combined reserve, pool or other arrangement for losses or liabilities covered by a self-insurance arrangement established by one or more local government units.

Cross References. Section 8007 is referred to in sections 5602, 8002 of this title.

§ 8008. Home rule.

(a) General rule.--Every local government unit obtaining a home rule charter after July 12, 1972, shall be subject to the substantive provisions of this subpart applicable to it as if it were a local government unit and may adopt the procedural provisions of this subpart, by incorporation thereof by reference, in its home rule charter.

(b) Referendum requirements.--The home rule charter of a county may establish limitations pertaining to incurring debt without the approval of electors which are more restrictive than the provisions contained in section 8022 (relating to limitations on incurring of other debt).

(Oct. 24, 2012, P.L.1286, No.160, eff. 60 days)

§ 8009. Guaranty funds and compulsory associations.

(a) Self-insurance.--No self-insurance program funded pursuant to this subpart shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this Commonwealth, nor shall any such self-insurance program funded pursuant to this subpart, or its insureds or claimants against its insureds, receive any benefit from any such fund for claims arising under the coverage provided by such self-insurance program.

(b) Exception.--When a local government unit or group of local government units obtains insurance from a self-insurance program funded pursuant to this subpart, such risks, wherever resident or located, shall not be covered by any insurance guaranty fund or similar mechanism in this Commonwealth.

SUBCHAPTER B

LIMITATIONS ON DEBT OF LOCAL GOVERNMENT UNITS

Sec.

- 8021. No limitation on debt approved by electors.
- 8022. Limitations on incurring of other debt.
- 8023. Transfer to electoral debt of debt incurred without approval of electors.
- 8024. Exclusion of subsidized debt from net nonelectoral debt or net lease rental debt.
- 8025. Exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt.
- 8026. Exclusion of other self-liquidating debt to determine net nonelectoral debt or net lease rental debt.
- 8027. Effect of debt limitations on outstanding debt.
- 8028. Determination of existing net nonelectoral debt and net nonelectoral plus net lease rental debt.
- 8029. Determination of debt limits.

Cross References. Subchapter B is referred to in sections 8002, 8103, 8109, 8125, 8244 of this title.

§ 8021. No limitation on debt approved by electors.

All debt of any classification, whenever incurred, which is approved, either before or after the debt is incurred, by majority of the votes cast upon the question of incurring the debt at a general or special election held as provided by applicable law is excluded from the nonelectoral debt or the lease rental debt, as the case may be, of a local government unit, and the limitations imposed by this subpart upon the debt of the classification shall not apply to such debt.

§ 8022. Limitations on incurring of other debt.

(a) Nonelectoral debt.--Except as provided in subsections (c), (d) and (e) and as otherwise specifically provided in this subpart, a local government unit shall not incur any new nonelectoral debt if the aggregate net principal amount of the new nonelectoral debt, together with all other net nonelectoral debt outstanding, would cause the total net nonelectoral debt of the local government unit to exceed any of the following:

- (1) One hundred percent of its borrowing base in the case of a school district of the first class.

(2) Three hundred percent of its borrowing base in the case of a county.

(3) Two hundred fifty percent of its borrowing base in the case of any other local government unit.

(b) Nonelectoral debt plus lease rental debt.--Except as provided in subsections (c), (d) and (e) or as otherwise specifically provided in this subpart, in the exercise of legislative control over the budgets and expenditures of local government units and of the purposes for which tax moneys and general revenues of local government units may be expended, a local government unit shall not incur any new lease rental debt or nonelectoral debt if the aggregate net principal amount of the new debt, together with any other net nonelectoral debt and net lease rental debt then outstanding, would cause the outstanding total of net nonelectoral debt plus net lease rental debt of the local government unit to exceed any of the following:

(1) Two hundred percent of the borrowing base in the case of a school district of the first class.

(2) Four hundred percent of its borrowing base in the case of a county.

(3) Three hundred fifty percent of its borrowing base in the case of all other local government units.

(c) Self-liquidating or subsidized debt.--The limitations and prohibitions of subsections (a) and (b), referred to as the "regular debt limits," shall not apply to electoral debt; to debt excluded in computing net amounts of nonelectoral debt or of lease rental debt, as self-liquidating or because subsidized, when the exclusion is made pursuant to sections 8024 (relating to exclusion of subsidized debt from net nonelectoral debt or net lease rental debt), 8025 (relating to exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt) and 8026 (relating to exclusion of other self-liquidating debt to determine net nonelectoral debt or net lease rental debt); nor to debt incurred to fund an unfunded actuarial accrued liability except to the extent that bonds or notes issued to fund an unfunded actuarial accrued liability shall be limited to the principal amount necessary, after deduction of costs of issuance, underwriter's discount and original issue discount, to fund the unfunded actuarial accrued liability.

(d) Additional nonelectoral or lease rental debt.--Additional nonelectoral or additional lease rental debt or both in the aggregate amount of 100% of the borrowing base may be incurred by a county which has assumed countywide responsibility or, where the county has not assumed countywide responsibility, by a local government unit which has assumed responsibility for its and its adjacent areas for hospitals and other public health services, air and water pollution control, flood control, environmental protection, water distribution and supply systems, sewage and refuse collection and disposal systems, education at any level, highways, public transportation or port operations. The additional debt limit may be so utilized only to provide funds for and towards the cost of capital facilities for any or any combination of the foregoing purposes. Debt, other than electoral debt, at any time incurred for such purposes or any of them may be assigned by ordinance to this additional debt limit if the remaining borrowing capacity within the regular limits is insufficient to finance other projects deemed necessary by the governing body of the local government unit.

(e) Emergency debt.--If replacement of assets is required as a result of fire, flood, storm, war, riot, civil commotion or other catastrophe, or the replacement or any improvements are required for the prevention of dangers to health or safety, or if funds are required for the payment of tort liability not covered by insurance, or if funds are required to be used for and towards the costs of mandated installations of health, safety, antipollution, environmental protection and control facilities or of complying with other mandated Federal or State programs, a local government unit lacking sufficient remaining borrowing capacity as nonelectoral or lease rental debt or being otherwise prohibited by section 8045 (relating to effect of defeat of question) from incurring debt for the purpose, upon petition to the court of common pleas alleging the catastrophe, or the danger to health and safety, or the mandated nature of the program and the estimated costs of the proposed facilities, and upon proof thereof to the satisfaction of the court, shall be authorized, notwithstanding section 8045 or the insufficiency of nonelectoral or lease rental borrowing capacity, to incur debt, as either lease rental or nonelectoral debt, up to an additional 50% of its borrowing base if the increase is found by the court to have been made necessary under this subsection by reason of the causes set forth in the petition. The increase, together with all outstanding other additional emergency debt which may have been previously authorized under this subsection excluding any allocated to the additional debt limit under subsection (d), shall not exceed 50% of the borrowing base. Public notice of the intention to file such a petition and of the purpose for which the additional emergency debt is to be incurred shall be given by advertisement in at least one and not more than two newspapers of general circulation and in the legal journal not less than five nor more than 20 days before the filing thereof. The additional emergency debt may be incurred only for the purposes and upon the terms approved by the court. The amount of the debt initially in excess of the regular debt limits shall not thereafter be included in computing net amounts of nonelectoral or lease rental debt.

(f) Limitations on incurring of debt by school districts.--Except for purposes of refinancing existing debt under this subpart and notwithstanding the other provisions of this section, no school district of the first class A through fourth classes shall incur any new nonelectoral debt or lease rental debt if the aggregate net principal amount of such new debt together with any other net nonelectoral debt and lease rental debt then outstanding would cause the outstanding total of net nonelectoral debt plus net lease rental debt of the school district to exceed 225% of the school district's borrowing base as defined in section 8002 (relating to definitions). This section shall apply regardless of whether there is an election by the school district under section 8703 (relating to adoption of referendum).
(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 added subsec. (f).

Cross References. Section 8022 is referred to in sections 8008, 8027, 8028, 8029, 8045, 8109, 8130, 8244, 8249 of this title.

§ 8023. Transfer to electoral debt of debt incurred without approval of electors.

The governing body of any local government unit may, by resolution, signify a desire to have any debt theretofore incurred without the approval of the electors transferred to

the electoral debt. The resolution shall direct the holding of an election for the purpose of obtaining the approval of the electors to the debt in the manner provided for securing the approval of electoral debt. The question shall be whether the remaining unpaid debt incurred without the approval of the electors for the project named in the question shall be removed from the category of nonelectoral or lease rental debt. If a majority of the votes cast upon the question at the election favor transfer to electoral debt, a certified copy of the resolution, proof of due advertisement of the election and a certified return of the election shall be filed with the department. If the department finds the proceedings to have been taken in conformity with the law, it shall endorse its approval on a duplicate original and return it to the local government unit. The debt shall thereupon be no longer classified as nonelectoral or lease rental debt.

§ 8024. Exclusion of subsidized debt from net nonelectoral debt or net lease rental debt.

(a) Filings with department.--Subsidized debt shall not be excluded from nonelectoral debt or lease rental debt, as the case may be, for the purposes of establishing net outstanding debt of either category until the following have been filed with and approved by the department:

(1) A copy, certified by the secretary of the board of the local government unit or of the authority, of the permanent or preliminary approval from the Commonwealth or from the Federal Government of the project of the related bonds or notes, or of the interest thereon, for subsidization or for reimbursement of all or part of debt service or on account of operations, but measured by the cost of the project, or a certified copy of the subsidy contract with another local government unit or an authority.

(2) Evidence satisfactory to the department from the subsidizing agency as to the indicated annual amount of the subsidy.

(3) Appropriate reference to the legislation authorizing the reimbursement or subsidy indicating the legislated recurring nature of the subsidy or, in the case of a subsidy contract with another local government unit, evidence satisfactory to the department that the amount to be excluded is within the debt limitations of the other local government unit or has been approved as electoral debt.

(4) A computation, in reasonable detail, certified by the proper officers of the local government unit or of the authority, or by the financial advisor if one be retained, showing the principal amount of the bonds to be serviced by the reimbursement or subsidy, determined in the proportion that the total indicated subsidy or reimbursement to be received over the remaining life of the issue bears to the total debt service to be paid over the remaining life of the issue, computed to stated maturity or earlier mandatory call dates.

The principal amount of the bonds or notes of the local government unit of the authority which will constitute subsidized debt shall, in those instances where the subsidy is related to a percentage of lease rentals or to a percentage of sinking fund payments, in either case applicable solely to debt service, be that stated percentage of the bonds or notes. That proportion of the bonds or of lease rental debt shall be excluded as subsidized debt. The filing may be made simultaneously with the filing for the approval of the balance

of the bonds then being issued or may be made or corrected at a later date.

(b) Incurring new debt.--Each time any new debt is to be incurred, if subsidized debt is to be excluded, a new certification shall be made to the department, stating one of the following:

- (1) That there has been no decrease in the subsidy.
- (2) That there has been a decrease, in which case the certification shall include a recomputation of the principal amount to be excluded.
- (3) That there has been an increase and the local government unit desires an increased exclusion certifying all matters so changed and recomputing the principal amount to be excluded.

(c) Approval by department.--If the department approves the exclusion of the principal amount of bonds or notes or lease rental debt as being subsidized debt in accordance with this subpart, originally or upon any recertification it shall return a duplicate original of the filing to the local government unit with its approval endorsed thereon. Upon receipt of the approval by the local government unit, the principal amount of bonds shall be excluded from nonelectoral debt or lease rental debt for the purpose of determining net debt in each category.

Cross References. Section 8024 is referred to in sections 8002, 8022, 8201 of this title.

§ 8025. Exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt.

Self-liquidating debt evidenced by revenue bonds or notes shall not be excluded from nonelectoral debt for the purpose of establishing net nonelectoral debt until the following have been filed with the department:

- (1) A statement by the proper officials of the local government unit certifying the amount of the debt, the project for which it was incurred and the nature of the revenues from which the debt is to be repaid.
- (2) A certificate from a qualified professional engineer or architect, or other person qualified by experience appropriate to the project, estimating the revenues and operating expenses of the project and showing that the net revenues so estimated will be sufficient to pay the annual debt service as it falls due.
- (3) An opinion of the bond counsel approving the issue to the effect that the holders of the bonds or notes have no claim upon the taxing power or tax revenues of the local government unit issuing the bonds or notes, but only claims upon the specific revenues pledged and rights to the enforcement of any covenants as to the levying or collection of rates and charges for the use of the project being financed or any covenants as to the assessment of benefits upon properties serviceable by the project as provided in the covenants with the holders of the revenue bonds.

Cross References. Section 8025 is referred to in sections 8022, 8201, 8211 of this title.

§ 8026. Exclusion of other self-liquidating debt to determine net nonelectoral debt or net lease rental debt.

(a) Filings with department.--Self-liquidating debt shall not be excluded in determining net nonelectoral debt or net lease rental debt for the purpose of establishing net debt of either category where the debt is evidenced by general obligation bonds or notes, by bonds, notes or other obligations

of an authority or of another local government unit or by a guaranty until there has been filed with and approved by the department a report to the local government unit from qualified registered engineers or architects or other persons qualified by experience appropriate to the project, setting forth:

(1) The estimated or, if available, the actual cost of construction, acquisition or improvement of the project financed or to be financed.

(2) The principal amount of the general obligation bonds or notes, the bonds, notes or obligations guaranteed or the bonds or notes of an authority or another local government unit secured by an instrument evidencing lease rental debt which are to be issued, the dates, interest rate and amounts of each stated maturity thereof and, set forth separately, the same information with respect to the outstanding bonds, notes or obligations.

(3) The amount or the estimated amount of the annual debt service for each year during the life of all the bonds, notes or obligations or the bonds or notes of an authority or another local government unit secured by an instrument evidencing lease rental debt issued and intended to be issued to finance the project.

(4) The date or estimated date of the completion of the project.

(5) The estimated net revenues of the project for each year of the remaining life of the bonds, notes or obligations with a computation showing, in reasonable detail, that the net revenues, together with other available funds to be received in respect of the project, will be sufficient in each year to pay the annual debt service, other than capitalized debt service, on the bonds, notes or obligations or a specified aggregate principal amount thereof.

(6) The qualified person's certificate that the estimates of net revenues have been computed from the person's best estimate of the gross revenues to be obtained from the rentals, rates, tolls and charges, interest to be received on reserve accounts, established or to be established by ordinance or from payments under bulk service or other contracts with other local government units or authorities for the use of the project, or the gross revenues to be received from special assessments levied to finance the project, by deducting from the gross revenues in each year the total estimated costs of operation and maintenance of the project chargeable against the revenues or assessments and any State taxes assumed on such bonds or notes, all based on assumptions deemed reasonable for the purpose by that person.

(7) The qualified person's further certificate that he is qualified to act with regard to the type of project being financed, stating his experience.

(b) Approval by department.--If the department approves the exclusion of the principal amount of bonds, notes or obligations or bonds or notes of an authority of another local government unit secured by an instrument evidencing lease rental debt stated in the report as being self-liquidating debt as being in accordance with law, it shall endorse its approval upon a duplicate original of the proceedings and return it to the local government unit. Upon receipt of the approval by the local government unit, the principal amount of bonds, notes or obligations shall be excluded from nonelectoral debt or net lease rental debt, as the case may be, during the period of construction and thereafter until new electoral, nonelectoral

or lease rental debt is to be incurred. At that time, if the principal is to be excluded, a certification of no decrease, other than decreases resulting from the payment of bonds or notes, in the amount to be excluded shall be included in the debt statement to be filed pursuant to section 8110 (relating to debt statement). If there is a decrease or if more of the debt is desired to be excluded as self-liquidating, a new certification shall be filed.

Cross References. Section 8026 is referred to in sections 8022, 8201 of this title.

§ 8027. Effect of debt limitations on outstanding debt.

Notwithstanding anything in other law or in this subpart, this subpart shall not be construed to invalidate any debt which was lawful when incurred or which could have been lawfully incurred if this subpart had been in effect, whether incurred before or after the passage of this subpart, and the percentage limitations set forth in section 8022 (relating to limitations on incurring of other debt) shall be deemed increased to the extent necessary to cover such incurred debt. This subpart shall not be construed to subject any debt incurred and voted upon prior to July 12, 1972, as electoral debt to any of the limitations herein imposed by this subpart on nonelectoral debt.

§ 8028. Determination of existing net nonelectoral debt and net nonelectoral plus net lease rental debt.

(a) Gross nonelectoral and lease rental debt.--From the gross principal amount of all incurred debt shall be subtracted gross incurred electoral debt. The amount remaining shall then be separated into gross incurred nonelectoral debt and gross incurred lease rental debt.

(b) Net nonelectoral and lease rental debt.--Net nonelectoral and net lease rental debt shall then be determined by subtracting separately from gross nonelectoral debt and gross lease rental debt respectively, as may be applicable and as the local government unit may desire to claim, the following:

(1) All funds in the applicable sinking funds, whether controlled by the local government unit or by the authority which incurred the debt, reserve funds or accounts, except maintenance and replacement reserve funds or accounts, and net bond proceeds, held for the payment of the cost of a project financed by the debt, including, in each case, interest accrued thereon, but only to the extent that those funds are available for payment of the principal amount of the debt.

(2) The current appropriation for the payment of the principal of and overdue interest on the nonelectoral debt or for the payment of the net lease rental in the case of lease rental debt, except to the extent that the same has already been deposited in sinking funds.

(3) The uncollected amount of the benefits or costs or the estimates thereof which have been or are authorized to be assessed against owners of property and for which liens may be legally filed, to the extent that the assessments are available for the payment of the principal amount of the debt.

(4) The amount of delinquent taxes from prior years and other undisputed municipal liens actually filed against property less the sum of:

(i) A reserve, reasonable in amount, for so much thereof as may not be collected.

(ii) The amount thereof appropriated for current expenses in the current year's budget.

(5) The amount of self-liquidating debt, subsidized debt and debt issued to fund an unfunded actuarial accrued liability, properly excluded and concurrently excludable from each respective category being computed.

(6) The amount of surplus cash not specifically appropriated to any purpose and available for the payment of the principal amount of debt, but, if this deduction is claimed, the amount so claimed may not thereafter be appropriated to any purpose except the payment of debt.

(7) All other solvent debts due the local government unit directly, the payment of which can be enforced as one of the unit's quick assets, and which have not been committed to any other purpose.

(8) The amount of any insurance coverage indemnifying the local government unit against any outstanding liability to the extent the liability is debt.

(c) Priority of applying exclusions.--In determining net nonelectoral debt, the amounts claimed under subsection (b) (8) shall be exclusively applicable to nonelectoral debt, and subsection (b) (4), (6) and (7) shall be first applied against nonelectoral debt, with any excess being applicable against lease rental debt.

(d) Valuation of legal investments.--In computing the value of any funds, all legal investments therein shall be computed at current market values.

(e) Use of debt determinations.--The net nonelectoral debt so determined shall be used in determining compliance with the limit imposed by section 8022(a) (relating to limitations on incurring of other debt). The sum of the net nonelectoral debt and the net lease rental debt so determined shall be used in determining compliance with the limit imposed by section 8022(b).

§ 8029. Determination of debt limits.

Whenever it is necessary to determine the limitations on the amount of nonelectoral debt or nonelectoral debt plus lease rental debt that may be incurred by any local government unit, the appropriate percentage limitations of section 8022 (relating to limitations on incurring of other debt) shall be applied to the borrowing base of the local government unit. The certificate as to the borrowing base shall be made a part of all proceedings for the sale of bonds or notes, for the guaranty of authority obligations or for the incurring of lease rental debt and a copy shall be filed with the department as a part of all proceedings required to be filed for its approval. The borrowing base set forth in the certificate and a similar certificate as to net nonelectoral debt or net lease rental debt outstanding shall be conclusive as to the respective figures for the purposes of this subpart, upon the approval of the proceedings by the department, unless contested within the specified time limits as provided in this subpart.

SUBCHAPTER C

PROCEDURE FOR SECURING APPROVAL OF ELECTORS

Sec.

- 8041. Desire resolution and expense of certain elections.
- 8042. Advertisement of election.
- 8043. Conduct of election.
- 8044. Finality of result of election.
- 8045. Effect of defeat of question.

8046. Issuance of bonds, notes or other instruments to evidence electoral debt.
8047. Cancellation or termination of approval of electors.
8048. Limitation on use of proceeds of electoral debt.
8049. Manner of changing purpose of electoral debt.

Cross References. Subchapter C is referred to in sections 8005, 8248 of this title.

§ 8041. Desire resolution and expense of certain elections.

(a) Resolution.--Whenever the governing body of any local government unit shall determine that it is advisable to make an increase in the debt of the local government unit with the assent of the electors or to obtain the assent of the electors to transfer any debt previously incurred without the approval of the electors to electoral debt, it shall adopt a resolution signifying that determination, calling an election for the purpose of obtaining the assent and approving the content and substantial form of notice of election.

(b) Date of election.--The date fixed shall be that of a municipal, general, primary or special election for other purposes, but, if the date of the nearest of the elections is more than 90 or less than 30 days from the effective date of the desire resolution, the governing body may fix a date for a special election.

(c) Payment of expense of special election.--In the case of a special election to increase debt not held concurrently with an election for other purposes, the expense of holding the election shall be paid by the local government unit for whose benefit it is held.

Cross References. Section 8041 is referred to in section 8043 of this title.

§ 8042. Advertisement of election.

(a) General rule.--Notice of the election shall be given in one but not more than two newspapers of general circulation in the local government unit and in the legal journal, if any, designated by the rules of court of the county in which the local government unit is located for the publication of legal notices and advertisements. If only newspaper publication is done, the notice shall be published three times at intervals of not less than three days, but, if published in a weekly newspaper and in the legal journal, it shall be published only twice, once a week for two successive weeks. The first publication in at least one newspaper shall be not less than 14 nor more than 21 days before the election, but all publications shall be after the effective date of the resolution and need not be upon the same dates in different newspapers.

(b) Content of election notice.--The election notice shall contain and state:

- (1) The date upon which the election is to be held.
- (2) The estimated amount of the debt to be incurred or to be approved by the electors if already incurred.
- (3) The project for which the debt will be or was incurred.
- (4) The estimated cost of the project.
- (5) The question to be submitted to the electors at the election, which shall be substantially in the following appropriate form:

Shall debt in the sum of (insert amount) dollars for the purpose of financing (insert brief description of project) be (authorized to be incurred as) (transferred from nonelectoral debt to) debt approved by the electors?

§ 8043. Conduct of election.

(a) Certification of resolution and question.--The governing body, at least 45 days before any election called pursuant to section 8041 (relating to desire resolution and expense of certain elections), shall cause to be certified to the county board of elections of each county in which the election is to be held a copy of the desire resolution and the form of the question to be submitted to the electors.

(b) Regulation of election.--An election called pursuant to section 8041 shall be held at the place, during the hours and under the same regulations as provided by law for the holding of municipal elections. In receiving, counting and making returns of the votes cast, the inspectors, judges and clerks of the election shall be governed by the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(c) Qualification of electors.--At the elections, only qualified electors of the local government unit, the debt of which is to be increased or approved by the electors, may vote.

(d) Election returns.--The election officers and clerks shall make return on forms provided by the county board of elections of the votes cast on the question to the county board of elections. The county board of elections shall compute the vote and transmit a certified return thereof to the governing body of the local government unit, which shall enter the same on its minutes. If the certified return shows that a majority of those voting on the question have voted in favor thereof, irrespective of any other statute requiring a greater percentage, the local government unit shall file with the department a certified copy of the desire resolution, the certified return and proofs of publication of the notice of election, whereupon the amount of the debt so approved shall constitute electoral debt from the date of the election, subject to the provisions of section 8044 (relating to finality of result of election).

Cross References. Section 8043 is referred to in section 8049 of this title.

§ 8044. Finality of result of election.

Any interested party or any taxpayer may contest the validity of any election proceedings under this subchapter by filing with the court a complaint in equity specifically alleging any errors complained of in the proceedings, and the petitioner shall have the burden of proof. If no complaint has been filed or if a complaint has been filed and has been finally dismissed, the election shall be conclusively deemed to be valid. If, prior to the timely filing of a complaint, further proceedings in connection with the incurring of the debt have been filed with the department, then any contest shall proceed by way of an appeal from the action of the department upon the proceedings. The petition or appeal provided by this section shall be the party's or the taxpayer's sole and exclusive remedies.

Cross References. Section 8044 is referred to in section 8043 of this title.

§ 8045. Effect of defeat of question.

If at the election the question is defeated, another election for the same purpose may not be held until 155 days have elapsed since the prior election. During the interim, no bonds or notes may be issued and no lease rental debt may be incurred for such purpose, except that nonelectoral or lease rental debt may be incurred if required to complete projects already under

construction, to finance a different portion or portions of a capital budget or to evidence debt incurred for purposes and pursuant to a court approval obtained in accordance with section 8022(e) (relating to limitations on incurring of other debt).

Cross References. Section 8045 is referred to in section 8022 of this title.

§ 8046. Issuance of bonds, notes or other instruments to evidence electoral debt.

If at the election the question is approved, the governing body shall issue bonds or notes as electoral debt as obligations of the local government unit or shall authorize execution and delivery of an instrument which, but for the electoral approval, would evidence lease rental debt at the times and evidencing the amounts of obligations not exceeding in the aggregate the estimated amount approved by the electors, subject to the provisions of Subchapter C of Chapter 81 (relating to provisions of bonds and notes). The bonds, notes or obligations shall continue for such term as may have been stated in the notice of election or, if none was stated, for the term the governing body determines. The initial series may be of bond anticipation notes or of notes to be refunded by a bond issue. If the governing body determines it advisable, the initial series of bonds or notes constituting a part of the issue may be for a shorter term of years, with the maturity of subsequent series stated to mature later than the last stated maturity of the preceding series for the same project. This subchapter shall not preclude the issue of additional nonelectoral debt or lease rental debt to complete the project or the issue of additional electoral debt for that purpose if authorized by a subsequent election.

§ 8047. Cancellation or termination of approval of electors.

(a) **Lapse of time.**--On the tenth anniversary of the date on which an assent of the electors obtained under this subpart became final, the authority to issue any or any further bonds or notes, other than as nonelectoral debt or lease rental debt subject to the limitations imposed by this subpart, shall terminate.

(b) **Resolution of governing body.**--The governing body of any local government unit may by resolution, without the assent of the electors, rescind or cancel, in whole or in part, the authorization to incur electoral debt for any reason stated in the resolution, and thereupon the assent of the electors shall be of no further effect. A certified copy of the resolution with proof of the due publication thereof shall be filed with the department.

§ 8048. Limitation on use of proceeds of electoral debt.

Where bonds or notes have been issued pursuant to an assent of the electors given under this subpart, the proceeds thereof shall be kept in a separate account and shall be invested and used only for the cost, including the retirement of notes previously issued for the same project with the proceeds of bonds, of the project for which the assent was obtained unless such purpose is changed as provided in this subpart. Otherwise, the proceeds shall be kept invested and used for the retirement at maturity, or earlier call date, of the fifth or any subsequent stated maturity of the relevant series of bonds or notes unless the proceeds were previously used to purchase the bonds or notes in the open market or upon tenders at prices not exceeding the principal amount thereof plus accrued and unpaid interest to the date of purchase.

§ 8049. Manner of changing purpose of electoral debt.

If the governing body determines it to be advisable either before or after the issue of bonds or notes to use the proceeds or any part thereof of bonds or notes evidencing electoral debt for any purpose other than the project approved by the electors or the payment or prior redemption or purchase of bonds or notes evidencing debt incurred for the project, the governing body shall by resolution express its desire to do so, specifying the project for which the funds are proposed to be used, and shall provide for an election to be held in like manner, time and place as provided in this subchapter for elections to secure the assent of the electors to the increase of debt, except that the notice of the election shall state:

- (1) The date on which such election is to be held.
- (2) The date and amount of money theretofore borrowed and the project for which borrowed.
- (3) The amount of money remaining unused.
- (4) The new purpose for which the local government unit desires to make use of the money.
- (5) The reason why the money is not being used for the purpose for which it was borrowed.
- (6) The question to be submitted to the electors, which shall be substantially in the following form:
Shall the sum of (insert amount) dollars heretofore borrowed or authorized to be borrowed by this local government unit for the purpose of (state purpose) be used for the purpose of (state purpose)?

The election shall be conducted, return made thereon, notices of election published and certificates filed and recorded as provided in section 8043 (relating to conduct of election). If it appears that a majority of those voting on the question have voted in favor of using the funds for the changed purpose, irrespective of any other statute requiring a greater percentage, the funds specified may be used for the changed purpose.

CHAPTER 81

INCURRING DEBT AND ISSUING BONDS AND NOTES

Subchapter

- A. General Provisions
- B. Tax Anticipation Notes and Funding Debt
- C. Provisions of Bonds and Notes
- D. Sale of Bonds and Notes

Enactment. Chapter 81 was added December 19, 1996, P.L.1158, No.177, effective 60 days.

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

8101. Combining projects for financing or series of bonds or notes for sale.
8102. Preliminary authorizations as to financing.
8103. Ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt.
8104. Covenant to pay bonds or notes or a guaranty.
8105. Additional provisions in ordinance authorizing issuance of revenue or guaranteed revenue bonds or notes.

- 8106. Sinking fund depository and trustee for bondholders or noteholders.
- 8107. Award of bonds or notes.
- 8108. Bond anticipation notes.
- 8109. Small borrowing for capital purposes.
- 8110. Debt statement.
- 8111. Submission to department.
- 8112. Agreements with bondholders or noteholders.
- 8113. Lost, stolen, destroyed or mutilated bonds or notes.
- 8114. Evidence of signatures of holders and of ownership of bonds, notes and tax anticipation notes.
- 8115. Contractual effect of ordinances and resolutions.
- 8116. Unfunded actuarial accrued liability - condition precedent (Repealed).

Cross References. Subchapter A is referred to in section 8109 of this title.

§ 8101. Combining projects for financing or series of bonds or notes for sale.

The governing body of a local government unit may by ordinance take any of the following actions in connection with the issuance of bonds or notes or the authorization of the instrument creating lease rental debt:

(1) In lieu of combining two or more items or elements permitted to be combined under the definition of "project" in section 8002 (relating to definitions) as a single project, designate any one or more of the items or elements as a project and combine the projects for financing purposes by one series of bonds or notes. If the series of bonds or notes are revenue bonds or notes, all projects so combined shall be revenue-producing projects, all or a portion of the rates, rentals, receipts, tolls and charges may be combined, common reserve funds may be created and common or cross covenants may be made in respect of each project.

(2) Offer for simultaneous sale under separate or combined bids any two or more series of bonds or notes of any type.

(3) Provide for the financing of a project or projects by the issuance, either simultaneously or in succession, of any combination of instruments evidencing debt applicable to the project or projects and authorized by this subpart. Any ordinance required by this section may be included in any authorizing ordinance required by section 8103 (relating to ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt).

(May 5, 1998, P.L.301, No.50, eff. 60 days)

Cross References. Section 8101 is referred to in section 8142 of this title.

§ 8102. Preliminary authorizations as to financing.

The governing body of a local government unit may express its intent to evidence debt as electoral debt, nonelectoral debt or lease rental debt. Action may be taken either by resolution, which may also provide for the submission of proposals to purchase any bonds or notes, or by ordinance. But neither bonds or notes nor lease, guaranty, subsidy contract or other agreement evidencing lease rental debt shall be authorized other than by the enactment of any ordinances required by this subchapter or, in the case of notes issued under section 8109 (relating to small borrowing for capital purposes), other than by adoption of the resolution required under section 8109.

§ 8103. Ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt.

(a) General rule.--The ordinance or ordinances or, in the case of notes issued under section 8109 (relating to small borrowing for capital purposes), the resolution authorizing the issuance of bonds or notes or the execution of a lease, guaranty, subsidy contract or other agreement evidencing lease rental debt by a local government unit shall contain, in substance:

(1) In all cases, including lease rental debt, the following:

(i) A brief description of the project for which the debt is to be incurred and, if a capital project, a realistic estimated useful life thereof.

(ii) A statement of the aggregate principal amount of bonds or notes proposed to be issued pursuant to the ordinance or, as the case may be, to be secured by the instrument evidencing lease rental debt.

(iii) A statement whether the debt is to be incurred as electoral debt, nonelectoral debt or lease rental debt.

(iv) An authorization and direction to one or more specified officers and their successors to prepare and certify and, except in the case of notes issued under section 8109, to file the debt statement required by section 8110 (relating to debt statement), to execute and deliver the bonds or notes or the instrument evidencing lease rental debt and to take other necessary action. This designation may be changed from time to time thereafter.

(v) In the case of nonelectoral or lease rental debt which is subject to exclusion as subsidized debt or self-liquidating debt if the exclusion is presently desired, an authorization to the proper officers of the local government unit to prepare and file any statements required by Subchapter B of Chapter 80 (relating to limitations on debt of local government units) which are necessary to qualify all or any portion of the debt for exclusion from the appropriate debt limit as self-liquidating debt or subsidized debt.

(2) In every case except that of lease rental debt, the following:

(i) A statement whether the bonds or notes when issued will be general obligation bonds or notes, guaranteed revenue bonds or notes or revenue bonds or notes.

(ii) The covenant required by section 8104 (relating to covenant to pay bonds or notes or a guaranty) if the bonds or notes when issued will be general obligation bonds or notes or guaranteed revenue bonds or notes, and the pledge of specific rents, revenues or receipts if the bonds or notes when issued will be guaranteed revenue bonds or revenue bonds and, if limited guaranteed revenue bonds or notes, a statement of the limitations on the guaranty.

(iii) The substantial form of the bonds or notes to be issued, including the substantial form of any coupon or authentication certificate.

(iv) A schedule of stated principal maturity or mandatory redemption amounts and dates, the rate or rates of interest and interest payment dates, places of payment and, if desired, provisions for prior redemption,

including call dates and call prices, all of which shall conform with Subchapter C (relating to provisions of bonds and notes).

(v) A statement of the manner in which the bonds or notes are to be or have been sold and, if to be sold at public sale, the matters required or permitted by Subchapter D (relating to sale of bonds and notes) or, if to be sold at negotiated sale, there may be included the matters required or permitted by section 8107 (relating to award of bonds or notes).

(vi) Except in the case of notes issued under section 8109, a covenant creating the sinking fund required by Subchapter B of Chapter 82 (relating to sinking funds and other funds and accounts).

(vii) A statement of any tax or taxes the payment of which is assumed by the local government unit in consideration of the purchase of the bonds or notes and, if desired, authorization for the purchase of bond insurance.

(viii) The authorization to the proper officials of the local government unit to contract with one or more banks or bank and trust companies for services as trustee, fiscal agent, sinking fund depository or paying agent and to contract with any additional copaying agents desired, but compliance with this subparagraph shall not be required in the case of notes issued under section 8109.

(3) In the case of lease rental debt, the authorization to the proper officials of the local government unit to execute and deliver a lease, guaranty, subsidy contract or other agreement, the annual or semiannual rental or payment to be paid thereunder, any sources of payment and, in the case of a guaranty, the covenant required by section 8104.

(4) In the case of revenue or guaranteed revenue bonds or notes, there may be included the matters set forth in sections 8105 (relating to additional provisions in ordinance authorizing issuance of revenue or guaranteed revenue bonds or notes), 8147 (relating to pledge of revenues) and 8148 (relating to deeds of trust and other agreements with bondholders and noteholders).

(b) Date of incurring nonelectoral and lease rental debt.--The nonelectoral debt evidenced by the issuance of bonds or notes or the lease rental debt evidenced by the execution of a lease, guaranty, subsidy contract or other agreement shall be deemed to have been incurred upon the final enactment of the ordinance required by this section or, in the case of small borrowings, upon final adoption of the resolution required by section 8109. Electoral debt is incurred when the assent of the electors has been given.

(c) Change in purpose of nonelectoral general obligation debt.--In the case of nonelectoral general obligation debt, the purpose may be changed by similar action at any time.
(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended the section heading and subsec. (a) (4).

Cross References. Section 8103 is referred to in sections 8101, 8105, 8107 of this title.

§ 8104. Covenant to pay bonds or notes or a guaranty.

(a) General rule.--The local government unit shall, in the ordinance authorizing the issue of bonds or notes or a guaranty or in such bonds or notes, or in the trust indenture securing

the same, or in the instrument of guaranty, covenant with the holders from time to time of the bonds or notes or guaranteed bonds or notes, and of the coupons thereto appertaining, that the local government unit shall do the following:

(1) Include the amount of the debt service, or the amounts payable in respect of its guaranty, in each case specified in the covenant, for each fiscal year in which the sums are payable in its budget for that year.

(2) Appropriate those amounts from its general or specially pledged revenues, as the case may be, for the payment of the debt service or guaranty.

(3) Duly and punctually pay or cause to be paid from its sinking fund or any other of its revenues or funds the principal of and interest on every bond or note or, to the extent of its obligation, the amount payable in respect of the guaranty, at the dates and places and in the manner stated in the bonds and in the coupons thereto appertaining or in the guaranty, according to the true intent and meaning thereof.

(b) Obligation of government unit.--For budgeting, appropriation and payment in respect of its general obligation bonds or notes, its guaranteed revenue bonds or notes or its guaranty of the bonds or notes of an authority or other local government unit, the local government unit shall pledge its full faith, credit and taxing power unless a guaranty is limited to specified revenues of the guarantor. Nothing in the covenant shall obligate the local government unit to budget, appropriate or make any payments on limited guaranteed revenue bonds or on a limited guaranty of bonds or notes of any authority or other local government unit beyond the stated terms of its guaranty. The covenant shall be specifically enforceable. This section does not give any local government unit any taxing power not granted by another provision of law.

Cross References. Section 8104 is referred to in sections 8002, 8103 of this title.

§ 8105. Additional provisions in ordinance authorizing issuance of revenue or guaranteed revenue bonds or notes.

In addition to the provisions required or permitted by sections 8103 (relating to ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt), 8147 (relating to pledge of revenues) and 8148 (relating to deeds of trust and other agreements with bondholders and noteholders), the ordinance authorizing the issuance of revenue bonds or notes or guaranteed revenue bonds or notes may also contain the following:

(1) Covenants or provisions with respect to the collection, custody, investment and disbursement of rents, revenues, rates and charges for the use of the project as may be desired.

(2) Covenants as to the fixing and collection of rents, rates and charges for the use of the project as may be desired and deemed necessary for the lawful security of the holders of the bonds or notes, except that no covenant and no agreement with the holders of bonds or notes shall require an increase in the rents, rates, tolls and charges to a level which, in the opinion of the registered professional engineer advising the local government unit, will result in a decrease in gross revenues over what would have been received at a somewhat lower rate level.

(3) Provisions granting a security interest in the rents, revenues, rates, tolls and charges for the security and benefit of the holders of the notes, bonds and coupons.

(4) Provisions creating such reserve funds or accounts as deemed desirable for the future security of the notes, bonds and coupons and requiring the observance of such covenants on the part of the local government unit deemed necessary or desirable for the protection of the holders of the notes, bonds and coupons or for the maintenance and preservation of the project.

(5) Authorization to the proper officers of the local government unit to execute and deliver any trust indenture containing any other, further and lawful provisions desired.
(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended the intro. par.

Cross References. Section 8105 is referred to in section 8103 of this title.

§ 8106. Sinking fund depository and trustee for bondholders or noteholders.

(a) General rule.--Every local government unit issuing bonds or notes other than notes issued under section 8109 (relating to small borrowing for capital purposes) shall appoint a sinking fund depository which may also serve as paying agent for the bonds or notes. The sinking fund depository shall be a bank or bank and trust company authorized to do business in this Commonwealth and may serve as one for one or more series of bonds or notes. Funds, which may include interest accrued and to accrue on lawful investments, in an amount sufficient for the payment of the principal of and the interest on the bonds or notes shall be deposited with the sinking fund depository not later than the date fixed for the disbursement thereof unless the ordinance authorizing the issuance of the bonds or notes requires that the deposits be made on an earlier date or on earlier dates.

(b) Fiscal agent or trustee.--If the ordinance authorizing the issuance of the bonds or notes provides for a fiscal agent or authorizes the execution of a trust indenture appointing a trustee, the fiscal agent or trustee shall also be the sinking fund depository.

(c) Remedy for failure to make deposit.--If the local government unit shall fail or refuse to make any required deposit in the sinking fund, the sinking fund depository, the fiscal agent or the trustee, as the case may be, may and, upon request of the holders of 25% in principal amount of the outstanding notes and bonds and upon being indemnified against cost and expense, shall exercise any remedy provided in this subpart or at law or in equity for the equal and ratable benefit of the holders of the outstanding notes, bonds and coupons and shall disburse all funds so collected equally and ratably to the holders of the notes, bonds and coupons as provided in the ordinance authorizing the bonds, subject to any limitations contained in Subchapter D of Chapter 82 (relating to remedies).

§ 8107. Award of bonds or notes.

When an acceptable proposal for the purchase of the bonds or notes, or any part thereof offered separately, has been received and is in conformity with the terms of the official invitation for proposals or is an acceptable proposal at a negotiated or invited sale, and is in compliance with the provisions of this subpart, it may be accepted by resolution or by ordinance. If the acceptance is made by resolution, the acceptance shall be conditional upon compliance with section

8103 (relating to ordinance authorizing issuance of bonds or notes or instruments evidencing lease rental debt). If the acceptance is made by ordinance, the ordinance shall also fix any details of the series of bonds or notes being sold, not fixed by prior ordinance, and award the bonds or notes, or those which have been sold, to specified purchasers at prices specified in the ordinance. These provisions may be included in the ordinance adopted pursuant to section 8103.

Notwithstanding any other provision of this subpart or of any other statute, as between the local government unit and the purchasers, an awarding resolution or ordinance shall be effective upon its final adoption or enactment by the governing body. The advertisement of the ordinance prior to enactment shall be sufficient if it describes the items to be completed from the proposal.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

Cross References. Section 8107 is referred to in sections 8103, 8109 of this title.

§ 8108. Bond anticipation notes.

(a) Issuance.--The governing body may evidence all or part of any electoral or nonelectoral debt by the issue of a series of bond anticipation notes. These notes shall be payable by exchange for or out of the proceeds of the sale of a designated series of bonds referred to in the bond anticipation notes. The reference to the bonds shall specify a maximum rate of interest to be borne by the series of bonds and provide that the series shall be offered for sale but, if no proposals are received, the sole remedy of the holders of the bond anticipation notes shall be either to accept the bonds at the specified maximum interest rate or to extend the maturity of the bond anticipation notes for one or more specified additional periods of not less than six months each during which time additional offers of the bonds may be made.

(b) Procedure.--Bond anticipation notes may be authorized, issued and sold in the same manner as the bonds in anticipation whereof the notes are being issued and principal amounts thereof shall be retired in accordance with the specified stated maturity dates of the bonds occurring prior to the refunding of the notes.

§ 8109. Small borrowing for capital purposes.

(a) General rule.--Any local government unit may incur debt by resolution rather than by ordinance to be evidenced by notes to provide funds for a project as defined in this subpart without complying with the requirements of Subchapter A of Chapter 82 (relating to Department of Community and Economic Development) if:

(1) The aggregate amount of the debt outstanding at any one time shall not exceed the lesser of \$125,000 or 30% of the nonelectoral debt limit as authorized in section 8022(a) (relating to limitations on incurring of other debt).

(2) The principal of each debt shall mature not later than five years from the date of issuance.

(3) The incurrence of the debt shall not cause the debt limits of Subchapter B of Chapter 80 (relating to limitations on debt of local government units) to be exceeded.

(4) The provisions of section 10 of Article IX of the Constitution of Pennsylvania shall have been observed.

(5) The provisions of section 8208 (relating to invalidity of instruments which are delivered without compliance with requirements or conditions precedent to

issuance or delivery) shall apply to notes issued in violation of the requirements of this subsection.

(b) Applicability of other provisions.--Except as otherwise specifically stated in this section or in Subchapters A (relating to general provisions), C (relating to provisions of bonds and notes) and D (relating to sale of bonds and notes), the provisions of Subchapter A applicable to ordinances authorizing general obligation bonds or notes and the provisions of Subchapters C and D applicable to general obligation bonds or notes shall apply, respectively, to resolutions authorizing notes and to the notes authorized under this section.

(c) Sale of notes.--Notes authorized under this section may be sold, without formal documents of sale, by delivery of the notes upon receipt of the purchase price, or, at the option of the local government unit, they may be sold in compliance with section 8107 (relating to award of bonds or notes), in which event the term "ordinance" in section 8107 shall have reference to the authorizing resolution required by this section.

(d) Refunding notes.--Refunding notes may be issued in compliance with this section and with the provisions of Subchapter C of Chapter 82 (relating to refunding of debt) for the purpose of refunding notes previously issued under this section, provided that the maturity of the refunding notes shall not extend beyond five years from the date of issuance of the notes originally evidencing the debt refunded.
(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 amended subsec. (a) intro. par. and (1).

Cross References. Section 8109 is referred to in sections 8002, 8102, 8103, 8106, 8110, 8111, 8166, 8201, 8208, 8211, 8221, 8227 of this title.

§ 8110. Debt statement.

(a) General rule.--Before delivering any general obligation bonds or notes or guaranteed revenue bonds or notes constituting nonelectoral debt or before executing an instrument evidencing lease rental debt, the officer or officers of a local government unit shall prepare and verify under oath a debt statement as of a date not more than 60 days before the filing with the department or, in the case of notes issued under section 8109 (relating to small borrowing for capital purposes), before the final adoption of the resolution authorizing their issue, showing:

(1) The gross indebtedness of the local government unit, giving prospective effect to the provisions of section 8250(b) (relating to use of proceeds of refunding bonds and when refunded bonds are no longer deemed outstanding) if debt is to be refunded.

(2) By items, the claimed credits and exclusions from the gross indebtedness permitted by this subpart in determining net debt.

(3) The aggregate principal amount of the bonds or notes being issued or evidencing lease rental debt.

(4) The borrowing base of the local government unit as shown by an appended borrowing base certificate.

(5) The applicable nonelectoral debt limit and the limit for nonelectoral plus lease rental debt computed as provided in this subpart.

(6) In the case of a refunding, the principal amount of bonds or notes which will no longer be deemed to be outstanding pursuant to section 8250(b) after settlement of the issue.

(b) Previously excluded self-liquidating or subsidized debt.--Where debt has previously been excluded as self-liquidating or subsidized debt, the debt statement shall be accompanied by a certification that no decrease in the amounts to be excluded is required by any change of circumstances or, if there has been a change, other than decreases resulting from the payments of bonds or notes, so that less debt is to be excluded. If it has become possible to exclude a greater amount of debt and the local government unit desires to do so, the debt statement shall be accompanied by appropriate certificates supporting the revised amount to be excluded, and a revised approval shall be obtained from the department.

Cross References. Section 8110 is referred to in sections 8026, 8103, 8111 of this title.

§ 8111. Submission to department.

(a) General rule.--Before delivering any bonds or notes other than notes representing small borrowings issued under section 8109 (relating to small borrowing for capital purposes), the local government unit shall apply for and receive or be deemed to have received the approval of the department under section 8204 (relating to certificate of approval of transcript) or 8206 (relating to effect of failure of timely action by department). The application, in such form as the department prescribes, shall be accompanied by a transcript of the proceedings consisting of certified copies of any of the following, not previously filed, which are applicable:

(1) The ordinance calling the election in the case of electoral debt with proofs of all proper advertisements.

(2) The return of election.

(3) The ordinance or ordinances authorizing the bonds or notes with proofs of proper publication.

(4) The accepted proposal for the purchase of the bonds or notes.

(5) The ordinance or resolution awarding the bonds or notes with proofs of proper publication of the ordinance.

(6) The debt statement if required by section 8110 (relating to debt statement) prepared pursuant thereto.

(7) Any certificates and proofs that may be necessary for the exclusion of any portion of the series proposed to be delivered or any prior series as self-liquidating debt or subsidized debt if the exclusion is desired by the local government unit.

(b) Lease rental debt submissions.--Before becoming bound on any lease, guaranty, subsidy contract or other agreement evidencing lease rental debt, a local government unit shall apply for and receive or be deemed to have received the approval of the department under section 8204 or 8206. The application, in a form the department prescribes, shall be accompanied by certified copies of the following:

(1) The ordinance authorizing the execution of the lease, guaranty, subsidy contract or other agreement with proofs of proper publication.

(2) The debt statement prepared pursuant to section 8110.

(c) Validity of lease rental debt agreements.--No lease, guaranty, subsidy contract or other agreement evidencing lease rental debt executed and delivered after July 12, 1972, and prior to the approval pursuant to section 8204 or 8206 of the department shall be valid or obligatory. Except as reference is made in this subpart to lease rental debt, this subpart shall

have no application to the authorization, issue or sale of its obligations by any authority.

(d) Number of counterparts.--The application may be made in as many counterparts as desired. The department, if it approves the application, shall return all counterparts, except one, with its certificate of approval appended to each.

Cross References. Section 8111 is referred to in section 8201 of this title.

§ 8112. Agreements with bondholders or noteholders.

Except as otherwise specified in this subpart, a local government unit may enter into and perform contracts with the holders of its bonds or notes, binding upon the original purchasers and their respective transferees, placing greater reasonable and lawful restrictions on the local government unit or on the action of individual holders of bonds or notes than are provided in this subpart, but no additional agreement restricting the action of a holder of a bond or note shall be binding upon a remote holder of a bond or note unless the substance of the agreement is set forth in the text of the bond or note, or set forth in a bond resolution or indenture of trust which is kept available in one or more designated public offices and to all of which a reference is made in the text of the bond or note.

§ 8113. Lost, stolen, destroyed or mutilated bonds or notes.

(a) General rule.--If any temporary or definitive bond or note, including any tax anticipation note, lawfully issued under this subpart or under applicable law prior to July 12, 1972, becomes mutilated or is destroyed, stolen or lost, the local government unit shall execute, and any sinking fund depository, fiscal agent or trustee for bondholders shall, if required, authenticate and deliver a new bond or note, with appropriate coupons attached in the case of a bond or note in coupon form, of like series and principal amount as the bond or note and attached coupons, if any, so mutilated, destroyed, stolen or lost, upon surrender and cancellation of the mutilated bond or note and attached coupons, if any, or in lieu of and in substitution for the bond or note and coupons, if any, destroyed, stolen or lost.

(b) Procedure.--The local government unit shall proceed as required under subsection (a) upon filing with the local government unit or, if so provided in the bond ordinance, with the sinking fund depository, fiscal agent or trustee, evidence satisfactory to it that the bond or note and attached coupons, if any, have been destroyed, stolen or lost and proof of ownership thereof and upon furnishing of satisfactory indemnity and complying with such other reasonable regulations as the local government unit shall prescribe and paying any reasonable expenses, including counsel fees, as the local government unit or the sinking fund depository, fiscal agent or trustee may incur. Mutilated bonds or notes and appurtenant coupons, if any, surrendered shall be canceled.

(c) Status of replacement bonds and notes.--The new bonds or notes and coupons, if any, so issued shall be independent obligations and all limitations and debt limits shall be deemed increased to the extent necessary to validate the new bonds or notes and any appurtenant coupons.

§ 8114. Evidence of signatures of holders and of ownership of bonds, notes and tax anticipation notes.

Any request, consent or other instrument which may be required or permitted to be executed by the holders of bonds or notes, including tax anticipation notes, may be in one or

more instruments of similar tenor and shall be signed or executed by the holders in person or by their attorneys appointed in writing. Proof of the execution of the instrument, or of an instrument appointing any such attorney, or the holding by any person of bonds or notes or coupons appertaining thereto, shall be sufficient for the purposes of this subpart and any proceeding thereunder if made in the following manner:

(1) The certificate shall state that the person or persons signing the instrument were known to be such persons by the individual certifying and that the person or persons acknowledged the execution of the instrument as his or their act. The authority of an attorney or agent may be proven by like statement of the principal acknowledged in a like manner, but a certificate as to authority shall not be necessary if an instrument is executed on behalf of a corporate holder of bonds, notes or coupons by a person purporting to be the president or a vice president of the corporation with the corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary. The fact and date of the execution by the holder of any bond, note or coupon, or the attorney thereof, of any instrument may be proved by the certificate, which, except as provided in this section, need not be acknowledged or verified, of any of the following:

(i) An officer of any bank or bank and trust company which is in this Commonwealth or which has a correspondent in this Commonwealth certifying to the authenticity of its certificate.

(ii) An authorized signer for any broker or dealer in securities doing business in this Commonwealth or having a correspondent in this Commonwealth certifying to the authenticity of its certificate.

(iii) Any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act.

(iv) Any other witness to the execution whose certificate must be verified before a notary public or other officer authorized to take acknowledgments of deeds in the state in which he purports to act.

(2) The ownership of fully registered bonds or notes or of notes issued payable to the order of a named person, or bonds or notes registered as to principal, and the amount, number and date of holding them shall be proved by the registry records maintained for the series in question.

(3) The amount of bonds or notes transferable by delivery held by any person executing any instrument as the holder of a bond, note or coupon, the number thereof and the date of holding the bond, note or coupon may be proved by a like certificate of any person mentioned in paragraph (1)(i) or (ii) stating that the holder exhibited to the person executing the certificate or had on deposit with him the bonds or notes described in the certificate. For purposes of action to be taken by the holders of the bonds, notes or coupons, the holder shall be deemed to continue if he acts for a period of nine months after the date of the proof of holding. Continued ownership after this period shall require a new certificate or shall be taken as continuing if the original certificate contains a statement that the bonds, notes or coupons are on deposit with the signer and an undertaking not to release them, and not to attorn to any new owner, unless the certificate is presented to the depository.

(4) Any request, consent or vote of the owner of any bond, note or coupon shall bind all future holders thereof if a notation of the action is placed on the bond, note or coupon and also, even if not so noted, if notice thereof is given once by publication in a newspaper of general circulation in the county in which the local government unit is located and in a journal of general circulation among dealers in investment securities.

(5) In cases of disputed ownership and in other cases, in its discretion, a court, a local government unit or trustee or fiscal or paying agent may require further or other proof in cases where it deems it desirable.

§ 8115. Contractual effect of ordinances and resolutions.

Except as otherwise provided in any ordinance or resolution authorizing or awarding bonds or notes or tax anticipation notes, the terms thereof and of this subpart as in effect when the bonds or notes were authorized shall constitute a contract between the local government unit and the holders from time to time of the bonds and notes subject to modification by the vote of a majority of the holders or such larger portion thereof as may be provided in the bond or note.

§ 8116. Unfunded actuarial accrued liability - condition precedent (Repealed).

2016 Repeal. Section 8116 was repealed July 20, 2016, P.L.849, No.100, effective August 1, 2016.

SUBCHAPTER B
TAX ANTICIPATION NOTES AND FUNDING DEBT

Sec.

- 8121. Power to issue tax anticipation notes.
- 8122. Limitation on amount of tax anticipation notes.
- 8123. Maturity date and time of payment of interest.
- 8124. Other terms of tax anticipation notes.
- 8125. Security for tax anticipation notes and sinking fund.
- 8126. Certification as to taxes and revenues to be collected.
- 8127. Sale of tax anticipation notes.
- 8128. Condition precedent to validity of tax anticipation notes.
- 8129. Scope of unfunded debt.
- 8130. Approval by court to fund unfunded debt.

Cross References. Subchapter B is referred to in sections 8211, 8223, 8262, 8283 of this title.

§ 8121. Power to issue tax anticipation notes.

A local government unit may have power and authority, by resolution of its governing body, to borrow money from time to time in any fiscal year in anticipation of the receipt of current taxes or current revenues, or both, to evidence the obligation by notes, appropriately designated, and to authorize, issue and sell the notes in the manner and subject to the limitations provided therefor in this subchapter. References in this subpart to tax anticipation notes include also revenue anticipation notes and tax and revenue anticipation notes. Limitations imposed by this subpart on the incurring of nonelectoral debt shall not apply to the obligations evidenced by tax anticipation notes. The power to borrow from time to time shall include the power to make a single authorization and then issue and sell portions of that amount of authorized notes whenever desired during the fiscal year.

Cross References. Section 8121 is referred to in section 8201 of this title.

§ 8122. Limitation on amount of tax anticipation notes.

(a) **General rule.**--No local government unit shall authorize or issue tax anticipation notes in any one fiscal year which in the aggregate shall exceed 85% of:

(1) In the case of notes solely payable from and secured by a pledge of taxes, the amount of the taxes levied for the current fiscal year.

(2) In the case of notes solely payable from and secured by a pledge of revenues other than tax revenues, the amount of the revenues pledged.

(3) In the case of notes payable from and secured by a pledge of taxes and other revenues, the sum of the taxes levied and the revenues pledged.

The taxes or revenues or both shall be certified, pursuant to section 8126 (relating to certification as to taxes and revenues to be collected), as remaining to be collected or received in the fiscal year during the period when the notes will be outstanding. The certificate shall be as of a date not more than 30 days prior to and no later than the date of the vote on the resolution authorizing the issue and sale of the tax anticipation notes.

(b) **Computation of notes outstanding.**--In computing the aggregate amount of tax anticipation notes outstanding at any given time during the fiscal year for the purpose of the limitation imposed by this section, allowance shall be made for notes that have already been fully paid and for amounts already paid into appropriate sinking funds, if any.

Cross References. Section 8122 is referred to in section 8127 of this title.

§ 8123. Maturity date and time of payment of interest.

No tax anticipation notes shall be stated to mature beyond the last day of the fiscal year in which the tax anticipation notes are issued. Interest on tax anticipation notes from the date thereof shall be payable at the maturity of the notes or payable in installments at such earlier dates and at such annual rate or rates determined by the governing body of the local government unit.

Cross References. Section 8123 is referred to in section 8124 of this title.

§ 8124. Other terms of tax anticipation notes.

Tax anticipation notes shall be issued in denominations, shall be subject to rights of prior redemption, shall have privileges of interchange and registration, shall be dated, shall be stated to mature, subject to the provisions of section 8123 (relating to maturity date and time of payment of interest), on dates and in amounts, shall be in registered or bearer form with or without coupons, shall be payable in such coin or currency as at the place and at the time of payment is legal tender for the payment of public and private debts and shall be payable at any place or places, one of which shall be in this Commonwealth, all as the governing body of the issuing local government unit may determine by resolution.

§ 8125. Security for tax anticipation notes and sinking fund.

(a) **General rule.**--All tax anticipation notes issued in a single fiscal year shall be equally and ratably secured by the pledge of, security interest in and a lien and charge on the taxes or revenues, or both, of the local government unit

specified in the authorizing resolution to be received during the period when the notes will be outstanding. The pledge, lien and charge shall be fully perfected as against the local government unit, all creditors thereof and all third parties in accordance with the terms of the resolution from and after the filing of any financing statement or statements required under Title 13 (relating to commercial code). For the purpose of this filing, the sinking fund depository, if any, otherwise, the fiscal agent or paying agent designated in the notes, may act as the representative of noteholders and, in such capacity, execute and file the financing statement and any continuation or termination statements as secured party. The authorizing resolution may establish one or more sinking funds and provide for periodic or other deposits therein and may contain covenants or other provisions as the local government unit determines. The amount of any tax anticipation notes issued in compliance with this subpart shall be general obligations of the local government unit and, if the amounts are not paid within the fiscal year in which the notes were issued, they shall be deemed to be nonelectoral debt enforceable in the manner of a general obligation which, unless funded pursuant to this subpart, shall be included in the budget of the local government unit for the ensuing fiscal year and shall be payable from the taxes and revenues of the ensuing year, notwithstanding that the amount thereof shall cause the nonelectoral debt of the local government unit to exceed the limitations of Subchapter B of Chapter 80 (relating to limitations on debt of local government units).

(b) First class school districts.--The holder of the tax anticipation notes issued by a first class school district or the sinking fund depository of the applicable sinking fund, if any, shall have the right to enforce the pledge of security interest in and lien and charge on the pledged taxes and revenues of the first class school district against all Commonwealth and local public officials in possession of any of the taxes and revenues at any time which may be collected directly from the officials upon notice by the holder or depository for application to the payment as and when due or for deposit in the applicable sinking fund at the times and in the amounts specified in the tax anticipation notes. Any Commonwealth or local public official in possession of any of the taxes and revenues shall make payment, against receipt therefor, directly to the holder of the tax anticipation notes or to the depository upon the notice and shall thereby be discharged from any further liability or responsibility for the taxes and revenues. If the payment is to a holder of tax anticipation notes, it shall be made against surrender of the notes to the payor for delivery to the first class school district in the case of payment in full; otherwise, it shall be made against production of the notes for notation thereon of the amount of the payment. The provisions of this subsection with respect to the enforceability and collection of taxes and revenues which secure tax anticipation notes of a first class school district shall supersede any contrary or inconsistent statutory provision or rule of law. This subsection shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating temporary borrowings by a first class school district by assuring to holders of tax anticipation notes the full and immediate benefit of the security therefor without delay, diminishment or interference based on any statute, decision, ordinance or administrative rule or practice.

Cross References. Section 8125 is referred to in sections 8130, 8261, 8262, 8283 of this title.

§ 8126. Certification as to taxes and revenues to be collected.

Prior to each authorization of tax anticipation notes, authorized officers of the local government unit shall make an estimate of the moneys to be received during the period when the notes will be outstanding from taxes then levied and assessed and revenues, including subsidies or reimbursements to be received. The estimate shall take due account of the past and anticipated collection experience of the local government unit and of current economic conditions. The estimate shall be certified by the officers and their written certificate dated not more than 30 days prior to the date of the authorization of the notes and filed with the proceedings authorizing the tax anticipation notes with the department.

Cross References. Section 8126 is referred to in sections 8122, 8201, 8208, 8211 of this title.

§ 8127. Sale of tax anticipation notes.

Tax anticipation notes may be sold at public, private or invited sale as the governing body of the local government unit may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds in Subchapter D (relating to sale of bonds and notes), except as modified by this subchapter. The governing body of the local government unit shall award the notes by resolution to specified purchasers at a specified price not less than the principal amount. At the time of delivery of each issue, series or subseries of tax anticipation notes, authorized officers of the local government unit shall certify to the original purchasers that the amount of all such notes to remain outstanding will not exceed the limitations of section 8122 (relating to limitation on amount of tax anticipation notes) calculated, however, from the date of the certificate to the respective maturity dates of all the notes to remain outstanding. The certificate need not be filed with the department, but a copy of it shall be retained by the local government unit until all tax anticipation notes issued during the fiscal year have been paid in full.

Cross References. Section 8127 is referred to in section 8208 of this title.

§ 8128. Condition precedent to validity of tax anticipation notes.

No tax anticipation note shall be valid or obligatory in the hands of an original purchaser until certified copies of the authorizing and awarding resolution, the certificate as to the taxes and revenues remaining to be collected and a true copy of the accepted proposal for the purchase of the tax anticipation notes shall have been filed with the department. No approval by the department shall be required.

Cross References. Section 8128 is referred to in sections 8201, 8208, 8209 of this title.

§ 8129. Scope of unfunded debt.

For the purpose of this subchapter, "unfunded debt" means obligations of the same or one or more prior years incurred for current expenses, including tax anticipation notes and payments, including termination payments, required to be made under qualified interest rate management agreements, due and owing or judgments against the local government unit entered by a court after adversary proceedings, including a judgment under

section 8283(b)(2)(i) (relating to remedies), for the payment of either of which category the taxes and other revenues remaining to be collected in the fiscal year and funds on hand will not be sufficient without a curtailment of municipal services to an extent endangering the health or safety of the public or proper public education, and the local government unit either may not legally levy a sufficient tax for the balance of the fiscal year, or a sufficient tax, if legally leviable, would not be in the public interest. Unfunded debt does not, however, include debt incurred under this subpart or obligations in respect of a project or part of a project as incurred in respect of the cost of a project.
(Sept. 24, 2003, P.L.110, No.23, eff. imd.)

§ 8130. Approval by court to fund unfunded debt.

(a) General rule.--Whenever the governing body of a local government unit shall be of the opinion that it has outstanding unfunded debt, it may, by petition to the court of common pleas setting forth the facts, request approval for the issuance of bonds or notes to fund the unfunded debt. After hearing, on such notice to the local government unit and its taxpayers as the court may prescribe, the court shall make an order granting authority to fund all or a part of the unfunded debt if the court finds that the unfunded debt is a lawful obligation of the local government unit; that there has been an unforeseeable decline in revenues or that taxes levied have not produced the revenues anticipated or that it was not reasonable to foresee the obligation; that paying the debt by curtailing municipal services will be dangerous to the public health, safety or education; and that it is not feasible or not in the public interest to levy additional taxes in the current fiscal year. The funding debt so approved shall be stated to mature in the amounts and over the number of years, not exceeding ten, as the court finds will accomplish the payment of the debt without endangering the rendering of municipal services or requiring the levying of excessive taxes. If the funding of the unfunded debt has not been approved by a vote of the electors, the order of the court upon cause shown may fix the portion, if any, which shall not be charged against the nonelectoral debt limitations of the local government unit under sections 8022 (relating to limitations on incurring of other debt) and 8125 (relating to security for tax anticipation notes and sinking fund) during the time the funding debt is outstanding.

(b) Issuance and sale of bonds or notes.--The bonds or notes representing funding debt so authorized by the court shall be issued and sold by the governing body as provided by other provisions of this subpart in respect of general obligation bonds except as these provisions are modified by this section or by orders of the court issued under this section, and the proceedings filed by the local government unit in respect of the funding bonds under section 8201 (relating to certification to department of bond or note transcript or lease, guaranty, subsidy contract or other agreement) shall include certified copies of the petition and of the order of the court.

(c) Applicability.--This section shall not apply to the funding of obligations in respect of a project or part of a project or incurred in respect of the cost of a project.

Cross References. Section 8130 is referred to in section 8247 of this title.

PROVISIONS OF BONDS AND NOTES

Sec.

- 8141. Form of bonds or notes.
- 8142. Limitations on stated maturity dates.
- 8143. Disposition of proceeds notwithstanding certain limitations.
- 8144. Number of interest rates.
- 8145. Place and medium of payment.
- 8146. Execution of bonds or notes.
- 8147. Pledge of revenues.
- 8148. Deeds of trust and other agreements with bondholders and noteholders.
- 8149. Negotiable qualities of bonds and notes.
- 8150. Temporary bonds or notes or interim receipts.

Cross References. Subchapter C is referred to in sections 8046, 8103, 8109 of this title.

§ 8141. Form of bonds or notes.

Bonds or notes may be issued in such denominations, in coupon form payable to bearer or registrable as to principal or in fully registered form, with such provisions for exchangeability and interchangeability; shall bear such identifying designation or title, including words indicating whether the bonds or notes are general obligation, revenue, guaranteed revenue or limited guaranty revenue bonds or notes; shall be dated; shall bear such rate or rates of interest, including supplemental, contingent or variable interest, but, if contingent or variable interest is specified, a maximum rate or amount shall also be specified; shall be payable on those dates; may be subject to such provisions for prior redemption in whole or in part or both, at such price or prices and at such times; shall be stated to mature or may be payable in installments on a date or dates and in such amounts; may provide for the payment by the issuer of such tax or taxes on the bonds or notes, either absolutely or out of pledged revenues; and may provide for such pledge of revenues, the establishment of such reserves and other terms, as the governing body of the issuing local government unit may determine by ordinance or ordinances adopted prior to the delivery of the bonds or notes, subject to the limitations and restrictions specified in this subpart.

§ 8142. Limitations on stated maturity dates.

(a) **General rule.**--No bonds or notes shall be issued with a stated maturity date exceeding the sooner to occur of:

(1) Forty years from the date of the series of any bonds or notes issued to evidence debt for the purpose of financing the cost of actually constructing, acquiring or improving a project or a separately financed portion of a project or funding an unfunded actuarial accrued liability.

(2) (i) The useful life of the project being financed as stated in the ordinance of the local government unit enacted in connection with the series of bonds or notes to be issued for the project, which statement in the ordinance shall be conclusive for all purposes. If projects have been combined for financing pursuant to section 8101 (relating to combining projects for financing or series of bonds or notes for sale) and the projects have different useful lives, it is sufficient for this section if an aggregate principal amount of bonds or notes equal to the separate cost of each project having a shorter useful life have been stated to mature prior to the end of the useful life, and the balance

prior to the end of the longest useful life. For the purpose of this paragraph, the inclusion of furnishings, machinery, apparatus or equipment for a construction or acquisition project shall not be deemed to be the combining of projects, but the useful life of the project shall be that of the building, structure or improvement constructed or acquired.

(ii) Where capital budgeting is practiced and bonds are issued to fund the current portion of a capital budget involving projects of varying useful lives, a uniform term of 30 years may be used.

(iii) Where the project being financed is a countywide revision of assessment of real property, the useful life shall be a term of no more than ten years.

(iv) Where a project consists of the funding of all or a portion of a reserve, or a contribution toward a combined reserve, pool or other arrangement, relating to self-insurance, the useful life shall be the term specified in the ordinance of the local government unit, not to exceed 20 years, or, if none is specified, then the useful life shall be deemed to be 20 years.

(b) Mandatory redemption and stated maturities or installments.--Bonds or notes may be serial bonds or notes or term bonds or notes or any combination thereof that may be selected by the governing body of the issuing local government unit. Except for bonds or notes issued to fund an unfunded actuarial accrued liability, if term bonds or notes are issued, the bonds or notes shall be subject to mandatory redemption, and, if serial or installment bonds or notes, the amounts of the stated maturities or installments shall be fixed:

(1) so as to amortize the issue on at least an approximately level annual debt service plan during the period specified for the payment of principal in subsection (c); or

(2) so that the debt service on outstanding debt of the same classification, and for this purpose lease rental debt shall be considered as the same classification as general obligation debt, will be brought more nearly into an overall level annual debt service plan.

(c) Deferral of stated installments or maturities or mandatory redemption.--Except as provided by subsection (e), stated installments or maturities of principal of any series of bonds or notes or the mandatory redemption of the principal may not be deferred beyond the later of two years from date of issue or one year after estimated completion of construction. In the case of revenue or guaranteed revenue bonds, this provision will be satisfied by a covenant for the mandatory application to term bonds of such revenues as may remain after payment of interest and operating expenses up to a fixed amount conforming to subsection (b) as shall be specified in the ordinance pursuant to which the bonds or notes are issued.

(d) Fixing earlier maturity dates.--This section does not prevent the fixing of the amount of stated maturity dates so that a greater percentage of a series will mature on earlier dates than those allowable by this subpart.

(e) Maturity dates for different series.--This section does not prevent the authorization of bonds or notes of an issue for sale in one or more series, in which case the first stated maturity of a later series may be later than, but not more than 15 months later than, the last stated maturity of the next preceding series.

§ 8143. Disposition of proceeds notwithstanding certain limitations.

A local government unit which issues bonds or notes to fund an unfunded actuarial accrued liability shall contribute to the applicable pension trust fund the proceeds of the bonds or notes, after deduction of costs of issuance, underwriter's discount and original issue discount, notwithstanding that the contribution may exceed a limitation on contributions to retirement systems, pension plans or pension trust funds otherwise applicable to the local government unit.

§ 8144. Number of interest rates.

A series of bonds or notes may have any number of interest rates or yields, subject to any limitation on such number fixed by the governing body of the issuing local government unit, but, unless further limited by the issuing local government unit in the official notice of sale, no yield for any stated maturity date in the last two-thirds of the period of the series may be less than that stated for the immediately preceding year which falls within the last two-thirds period.

(Sept. 24, 2003, P.L.110, No.23, eff. imd.)

§ 8145. Place and medium of payment.

Bonds or notes shall be payable in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public and private debts at the place or places of payment. Both principal and interest shall be payable at the place or places determined by the local government unit. If more than one place of payment is specified, one or more of the additional places of payment may be outside of this Commonwealth or outside of the United States.

§ 8146. Execution of bonds or notes.

Bonds or notes, including tax anticipation notes, shall be signed by such officers of the local government unit, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of such officer of the local government unit, and the bonds or notes may be sealed with the seal of the local government unit or a facsimile thereof, all as may be determined by the governing body. Bonds or notes may provide that they are not valid or enforceable unless authenticated by a specified bank, bank and trust company or trust company. If any one signature on a bond or note, including the signature of the authenticating party, is manual, all other signatures may be by facsimile. If any officer whose signature or a facsimile of whose signature appears on any notes, bonds or coupons ceases to be such officer before the delivery of the notes or bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until delivery. Any note, bond or coupon may bear the facsimile signature of or may be signed by those persons as at the actual time of the execution of the note, bond or coupon were the proper officers to sign although at the date of the instrument these persons may not be such officers.

§ 8147. Pledge of revenues.

The governing body of any local government unit which has determined to issue any revenue bonds or notes or any guaranteed revenue bonds or notes may provide by ordinance for such pledges of or priorities in such rentals, revenues, receipts, rates and charges to be received from projects of the issuing local government unit as may be desirable. The pledge or priority shall be perfected as a security interest against all creditors of the local government unit and all third parties, in accordance with the terms of the ordinance, from and after the filing of a financing statement or statements in accordance

with Title 13 (relating to commercial code). For the purpose of filing, the sinking fund depository may act as representative of the bond or note holders and, in that capacity, execute and file the financing statement and any continuation or termination statements as secured party.

Cross References. Section 8147 is referred to in sections 8103, 8105, 8282 of this title.

§ 8148. Deeds of trust and other agreements with bondholders and noteholders.

(a) General rule.--A local government unit shall have the power to enter into any deed of trust, trust indenture or other agreement with any bank, bank and trust company, trust company or other person or persons in the United States having power to enter into such agreements or accept such trusts, including any Federal agency, as security for any notes or bonds of the local government unit providing for the following:

(1) The payment of the interest on and principal of the notes or bonds; the authentication of the original issue; the custody of sinking funds or other funds held or to be held pending presentation of coupons, notes or bonds for payment; the custody of debt service reserve funds or other funds to be held as reserves; the disbursement of interest to holders of fully registered bonds or notes; the cremation or other destruction of coupons, bonds or notes which have been paid; and registration, exchanges and transfers and the maintenance of records of those transactions.

(2) The construction, improvement, operation, maintenance and repair of any project being financed.

(3) Limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued in connection with the project, or of any loan or grant by the United States or the Commonwealth, may be applied.

(4) The rights and remedies of such trustee or other person and the holder of the bonds or notes, which may include reasonable restrictions upon the individual right of action of the holders.

(5) The terms and provisions, including stated maturities and sinking fund and other reserve fund provisions, not in conflict with the limitations imposed by this subpart, but which may be more limiting, of or provided for the bonds or notes being issued or which may hereafter be issued in connection with the project being financed.

(b) Revenue and guaranteed revenue bonds.--In connection with any revenue bonds or guaranteed revenue bonds, such deeds of trust, trust indentures or other agreements may contain provisions as to the following:

(1) The rate of rents, charges, rates or tolls to be imposed for the use of the project being financed or the rendering of services through the use of the project, or both, to ensure a sufficiency of revenues to cover operating expenses, debt service and an appropriate surplus.

(2) The setting aside of reserves or other earmarked funds, and limitation upon the use, investment and disposition thereof for the better security of the bonds or notes.

(3) Limitations on the issue of additional bonds or notes ranking equally or having priority in claim on revenues with the bonds being issued.

(4) Any other or additional agreements with the holders of bonds or notes as may be customary in these agreements,

provided no delegation of essential governmental powers is made.

(c) Ordinance provisions in lieu of agreement.--In lieu of a deed of trust, trust indenture or other agreement specified in this section, the bond ordinance of the local government unit may contain similar provisions which shall be a contract between the local government unit and the holders from time to time of its bonds or notes.

(d) Limitation on delegation of function.--No deed of trust shall delegate the performance of essential governmental functions to a trustee, fiscal agent or receiver. For purposes of this section, the matters enumerated are not deemed to be essential governmental functions.

Cross References. Section 8148 is referred to in sections 8103, 8105 of this title.

§ 8149. Negotiable qualities of bonds and notes.

(a) Securities.--Bonds or notes issued pursuant to this subpart, including tax anticipation notes, which have all the qualities and incidents of securities under Title 13 (relating to commercial code), shall be negotiable instruments.

(b) Commercial paper.--Such bonds and notes issued pursuant to this subpart which are not securities shall have all the qualities and incidents of commercial paper under Title 13 and shall be negotiable instruments notwithstanding any references in them to the terms of the authorizing bond ordinance or any trust indenture, deed of trust or other agreement, or any variations in the rate of interest provided in the note, or any limitation upon the funds from which or limitations as to the bonds with which the notes may be paid or any restriction upon the remedies of the holders.

§ 8150. Temporary bonds or notes or interim receipts.

Pending the preparation of definitive bonds or notes, including tax anticipation notes, temporary bonds or notes or interim receipts may be issued in such form and containing such terms and such provisions for exchange for definitive bonds or notes as the local government unit may determine.

SUBCHAPTER D
SALE OF BONDS AND NOTES

Sec.

- 8161. Manner of sale of bonds or notes.
- 8162. Contents of public advertisement and of official notice of sale.
- 8163. Proposals for purchase.
- 8164. Opening of bids.
- 8165. Determination of highest and best bid.
- 8166. Required bid security.
- 8167. Reserved right to reject bids.
- 8168. Failure to receive conforming bid.
- 8169. Determination of net interest cost and net interest rate.

Cross References. Subchapter D is referred to in sections 8103, 8109, 8127 of this title.

§ 8161. Manner of sale of bonds or notes.

(a) General rule.--Except as otherwise specifically provided in this subpart and subject to subsection (b), bonds or notes may be sold at public or private sale by negotiation or upon invitation and at the price the governing body of the issuing local government unit shall determine. Before making any private

sale by negotiation of bonds or notes, the governing body shall adopt a resolution finding that a private sale by negotiation is in the best financial interest of the local government unit. Bonds or notes may be conditionally sold before the final details of the series are fixed.

(b) Public sale.--Bonds or notes, if sold at public sale, shall be sold to the highest responsible bidder or bidders after one public notice by advertisement of either the official notice of sale, or of the availability of the official notice of sale, in at least one and not more than two newspapers of general circulation in the county in which the local government unit is located. The advertisement may also be published in a financial journal circulating among the underwriters of securities. Advertisements shall be published not less than ten nor more than 30 days prior to the date fixed for opening proposals and need not appear on the same date nor successively in each newspaper or journal.

§ 8162. Contents of public advertisement and of official notice of sale.

(a) Advertisement.--The advertisement of the availability of the official notice of sale shall contain the following:

(1) The title, designation and principal amount of the bonds or notes to be sold.

(2) A general statement of the term of the issue and whether it will consist of term bonds or notes, serial bonds or notes, or both.

(3) A statement whether proposals must be for all but not less than all of the notes or bonds being sold, or, if separate lots may be bid separately, a statement as to the composition of each lot.

(4) The place and time for the receipt of sealed proposals.

(5) The amount of the bid security to be furnished by the bidder and the method selected for determining net interest cost.

(6) A statement of the names and addresses of the officer and any other persons from whom an official notice of sale, other details concerning the issuing local government unit, the project and the official form of proposal, if any, may be obtained.

(b) Official notice of sale.--The local government unit shall adopt an official notice of sale which shall set forth succinctly all of the following:

(1) The time and place for the receipt of proposals and the officer designated to receive them.

(2) A description of the bonds or notes being offered, including:

(i) The title and type of bonds or notes being offered.

(ii) The date thereof.

(iii) The stated maturity dates and amounts at each date.

(iv) The dates of interest payments.

(v) The place or places of payment of interest and principal, which amounts, dates and places may be left open to selection by the successful bidder.

(vi) The form and denominations of the notes or bonds being offered.

(vii) Any provisions for registration, exchange and interchange.

(viii) The terms of any sinking fund or reserve funds to be established.

(ix) The terms of other provisions made for the security of the bonds or notes.

(x) The dates, prices and terms of any provision for the redemption thereof prior to stated maturity dates.

(3) A statement of the terms of the bidding, including:

(i) The method for determining net interest cost.

(ii) Whether bids must be for all but not less than all or, if separate bids for separate lots may be submitted, a description of each lot.

(iii) The limitation on the number and variation between high and low interest rates to be permitted.

(iv) The required bid security.

(v) The permitted discount from par, if any.

(vi) The funds in which the balance of the purchase price shall be paid.

(vii) The place at which the balance may be paid or the method of determining that place.

(viii) The effect on the obligation to purchase the notes or bonds of litigation pending or change in tax or other applicable laws occurring before the settlement for the bonds or notes.

(ix) The nature of the opinion of bond counsel to be delivered at the time of payment for the bonds or notes and the effect of any failure to deliver such opinion.

(x) The reserved right to reject bids provided for in section 8167 (relating to reserved right to reject bids).

(4) Such additional provisions as may be desired, including statements as to the furnishing of copies of documents, including an official statement of essential facts, the estimated date for delivery of bonds or notes and whether the bonds or notes will be delivered in definitive or temporary form and, if temporary, the time and manner of exchange for definitive bonds or notes.

§ 8163. Proposals for purchase.

Every bid or proposal for bonds or notes shall be in writing, shall be properly executed and, in the case of public sale, shall be placed in a sealed envelope sufficiently labeled to indicate that it is a bid or proposal for the bonds or notes being sold, before being delivered to the officer designated to receive it or to an authorized delegate.

§ 8164. Opening of bids.

In the case of public sale, at the time and place fixed in the notice, the bids or proposal received shall be publicly opened by the designated officer or his authorized delegate and publicly read aloud unless the governing body determines to return all bids unopened.

§ 8165. Determination of highest and best bid.

(a) **General rule.**--The highest responsible bidder shall be the one who, having complied with the terms of the official notice of sale, offers to take all of the bonds or notes or any separate lot thereof on which separate bids may be made at the lowest net interest cost to the local government unit, or, if required by the terms of any agreement with the Federal Government or the Commonwealth or any agency of either of them, the highest responsible bidder shall be the one bidding in conformity with the requirements for the successful bidder stipulated in the agreement. The net interest cost shall be computed in accordance with section 8169 (relating to determination of net interest cost and net interest rate).

(b) Tie bids.--If two or more proposals are found to be the highest and best bids on identical terms conforming to the offering, the bonds or notes shall with the consent of the bidders be awarded to them jointly or absent such consent may be awarded to any one of the bidders selected by lot in any manner deemed fair by the local government unit.

§ 8166. Required bid security.

In the case of public sale, bid security shall be given by each bidder, shall be in cash or by certified or official bank check payable to the local government unit and shall be not less than 2% of the principal amount of the bonds or notes to be purchased. The bid security of the unsuccessful bidder or bidders shall be returned to each unsuccessful bidder, without interest, in accordance with written instructions of the bidder conforming to the official notice of sale, promptly upon an award of the bonds or notes or upon the rejection of all bids. The bid security of the successful bidder shall be retained by the treasurer of the local government unit and, with or without allowance for interest as the official notice of sale may specify, shall be applied on the purchase price when the bonds or notes are actually delivered and paid for, retained as liquidated damages if the bidder defaults or returned to the bidder with interest at the judgment rate if, after an acceptance of the proposal, the bonds or notes are not issued for any reason not constituting a default by the bidder. Unless required by the local governing body, no bid security shall be required in the case of tax anticipation notes, bond anticipation notes or notes to be issued under section 8109 (relating to small borrowing for capital purposes).

§ 8167. Reserved right to reject bids.

Every official notice of sale of bonds or notes shall provide that the right is reserved to the governing body of the local government unit to reject all bids or proposals, but, in a case where conforming bids have been received, opened and rejected, any subsequent sale within a period of two calendar months of bonds or notes in substantially the same amount and for the same purpose must be a public sale to be held at such later time as the governing body may determine to be advantageous.

Cross References. Section 8167 is referred to in section 8162 of this title.

§ 8168. Failure to receive conforming bid.

If bonds or notes are advertised for public sale and no conforming bid is received or if all bids are returned unopened, then the local government unit may cancel the sale and devise a new series for sale or, in the alternative, it may sell the series parts from time to time during the ensuing six months at private sale in accordance with the terms originally advertised with any changes in call price or dates of call for prior redemption or both as may be deemed desirable. After the six-month period, the local government unit may sell any unsold portion of the series in any manner permitted by this subpart, with such appropriate changes in the call prices or dates or call for prior redemption or both or in other terms as may be deemed advisable, provided that, as so changed, the two portions of the series when combined and any issue of which the series is a part are in conformity with the requirements of this subpart as to term, interest rate and stated maturities.

§ 8169. Determination of net interest cost and net interest rate.

(a) Net interest cost.--Net interest cost may be determined by using either the street method or the present worth method,

whichever method shall be specified in the official notice of sale.

(b) Street method.--Under the street method, a dollar amount shall be determined by computing the total amount of interest payable over the life of the series to stated maturity dates or earlier mandatory call dates and subtracting therefrom the amount of any premium paid above the aggregate principal amount of the bonds or notes or adding thereto the amount of any discount lawfully allowed in the sale.

(c) Present worth method.--Under the present worth method, there shall be ascertained the semiannual rate, compounded semiannually, necessary to discount to present worth as of the date of the bonds or notes, the amounts payable on each interest payment date and on each stated maturity or earlier mandatory redemption date so that the aggregate of such amounts will equal the purchase price offered therefor, exclusive of interest accrued to the date of delivery. The net interest cost shall be stated in terms of an annual percentage rate and shall be that rate of interest which is twice the semiannual rate so ascertained.

(d) Net interest rate.--The net interest rate for a series sold under the present worth method shall be the rate of the net interest cost. For a series sold under the street method, the net interest rate shall be determined by dividing the net interest cost by the product of \$1,000 multiplied by the number of bond years from the date of the bonds or notes to the stated maturity or earlier mandatory call dates. A bond year shall be one full year that \$1,000 of principal amount shall be outstanding and less than full years shall be fractionalized on a 360-day-year basis.

Cross References. Section 8169 is referred to in section 8165 of this title.

CHAPTER 82

MISCELLANEOUS PROVISIONS

Subchapter

- A. Department of Community and Economic Development
- B. Sinking Funds and Other Funds and Accounts
- C. Refunding of Debt
- D. Remedies
- E. Penalties
- F. Interest Rate Risk and Interest Cost Management

Enactment. Chapter 82 was added December 19, 1996, P.L.1158, No.177, effective in 60 days.

SUBCHAPTER A

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Sec.

- 8201. Certification to department of bond or note transcript or lease, guaranty, subsidy contract or other agreement.
- 8202. Filing of statements of noncompletion of sale with department.
- 8203. Fees for filing.
- 8204. Certificate of approval of transcript.
- 8205. Certificate of disapproval and correction of proceedings.
- 8206. Effect of failure of timely action by department.

- 8207. Records of department.
- 8208. Invalidity of instruments which are delivered without compliance with requirements or conditions precedent to issuance or delivery.
- 8209. Finality of proceedings as to validity of instruments.
- 8210. Power of department to define terms, issue rules and regulations and prescribe forms.
- 8211. Petitions for declaratory orders and complaints to department.

Subchapter Heading. The heading of Subchapter A was amended May 5, 1998, P.L.301, No.50, effective in 60 days.

Cross References. Subchapter A is referred to in section 8109 of this title.

§ 8201. Certification to department of bond or note transcript or lease, guaranty, subsidy contract or other agreement.

(a) **General rule.**--The governing body of each local government unit shall, before any bonds or notes except tax anticipation notes issued pursuant to section 8121 (relating to power to issue tax anticipation notes) and notes representing small borrowings issued pursuant to section 8109 (relating to small borrowing for capital purposes) are actually delivered to the initial purchasers or before becoming bound on any lease, guaranty, subsidy contract or other agreement evidencing lease rental debt, cause to be certified to the department, under the signature of the clerk or secretary of the governing body and its corporate seal, a complete and accurate copy of the proceedings for the incurring of debt, as provided in section 8111 (relating to submission to department).

(b) **Other requirements unaffected.**--The provisions of this section do not eliminate the filing requirements of sections 8024 (relating to exclusion of subsidized debt from net nonelectoral debt or net lease rental debt), 8025 (relating to exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt), 8026 (relating to exclusion of other self-liquidating debt to determine net nonelectoral debt or net lease rental debt), 8126 (relating to certification as to taxes and revenues to be collected) and 8128 (relating to condition precedent to validity of tax anticipation notes).

Cross References. Section 8201 is referred to in section 8130 of this title.

§ 8202. Filing of statements of noncompletion of sale with department.

If settlement for an issue of bonds or notes or bonds or notes representing lease rental debt, which have received a required approval by the department, fails of completion in whole or in part, the local government unit shall file with the department a notification of noncompletion of sale stating what part of the issue has been delivered.

§ 8203. Fees for filing.

Every filing with the department shall be accompanied by a filing fee as determined in section 605-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. No submission shall constitute a filing until the proper fee is paid. All fees received under this section shall be paid by the department into the State Treasury through the Department of Revenue.

§ 8204. Certificate of approval of transcript.

The department shall, upon receipt of any bond or note transcripts or other filings, carefully examine them to determine whether the debt outstanding and to be outstanding is within the applicable limitations imposed by this subpart and whether the proceedings for incurring the debt, for issuing and selling the bonds or notes and for excluding self-liquidating and subsidized debt have been taken in conformity with the Constitution of Pennsylvania and this subpart. If, upon completion of its examination, a transcript or other filing is found by the department to be in conformity with the Constitution of Pennsylvania and this subpart, the department shall certify its approval to the local government unit if required under other provisions of this subpart.

Cross References. Section 8204 is referred to in sections 8111, 8208 of this title.

§ 8205. Certificate of disapproval and correction of proceedings.

If the department, upon completion of its examination, finds it cannot issue a certificate of approval, it shall notify the local government unit of the reasons why it cannot do so. If the proceedings or any prior filings are subject to correction for demonstrated typographical or computational error, or otherwise, or for failure to include a necessary document or certification and the correction is approved by the department, the error shall be corrected in all places or the additional document or certification shall be furnished to the department within ten days and upon any other terms the department specifies. Thereupon, the department shall certify its approval. If the deficiency is not subject to correction, the department shall certify its disapproval to the local government unit.

Cross References. Section 8205 is referred to in section 8211 of this title.

§ 8206. Effect of failure of timely action by department.

If the local government unit has submitted a filing to the department by certified mail, return receipt requested, or otherwise has an official receipt from the department, and the local government unit has not, within 20 days of the date of receipt of the filing by the department, received the certificate of approval or disapproval or notification of correctable error, the filing shall be deemed to have been approved for all purposes unless the local government unit has extended the time within which the department may act by written communication to the department or by failure to object to a written communication from the department requesting the extension. Extensions shall not exceed one additional period of 20 days.

Cross References. Section 8206 is referred to in sections 8111, 8208, 8209 of this title.

§ 8207. Records of department.

(a) Retention period.--The department shall keep all proceedings on file for a period of not less than four months after issuance of its certificate of approval or disapproval and thereafter as long as any appeal respecting the proceedings is pending and not finally determined.

(b) Content.--The department shall keep a public record with respect to each local government unit showing:

- (1) The name of the local government unit.
- (2) The purpose of each series issued or lease executed.

(3) Whether the series represents nonelectoral, lease rental or electoral debt and the extent to which the debt is subsidized or self-liquidating and, if subsidized or self-liquidating in part, the principal amount thereby eliminated from nonelectoral debt.

(4) The schedule of stated maturity dates, interest rates and mandatory sinking fund payments for each outstanding issue of bonds or notes or the schedule of lease rentals.

(5) The dates and designations of each issue of bonds or notes, lease or other document to be executed with the approval number assigned to the issue, lease or other document approved.

(6) The local government unit's most recently certified borrowing base and regular debt limits computed therefrom.

(7) The date and manner of authorization of any use of any additional debt limit.

(c) Records open for inspection.--The records of the department shall be public records available for examination by any citizen of this Commonwealth or any bondholders or noteholders.

§ 8208. Invalidity of instruments which are delivered without compliance with requirements or conditions precedent to issuance or delivery.

(a) General rule.--In all cases in which the approval of the department is required by this subpart prior to the issuance of bonds or notes or the execution of a lease, guaranty, subsidy contract or other agreement evidencing lease rental debt, in the case of small borrowings evidenced by notes in respect of which compliance with the conditions of section 8109 (relating to small borrowing for capital purposes) is required, and in the case of tax anticipation notes in respect of which compliance with the conditions of sections 8126 (relating to certification as to taxes and revenues to be collected), 8127 (relating to sale of tax anticipation notes) and 8128 (relating to condition precedent to validity of tax anticipation notes) is required, if the bonds or notes or the lease or other instrument is sold, or executed, and delivered prior to receipt of actual or deemed approval under section 8204 (relating to certificate of approval of transcript) or 8206 (relating to effect of failure of timely action by department) or, as the case may be, without compliance with applicable conditions of issuance, or prior to a required filing with the department, the bonds, notes, lease or other instrument shall be invalid and of no effect in the hands of or for the security of the holder of the bonds or notes or of the obligations secured by the lease or other instrument, except to the extent provided in this section.

(b) Bona fide purchasers.--If the bonds or notes or the obligations secured by the lease or other instrument are held by a bona fide purchaser, other than an initial purchaser or member of an underwriting or selling group, for value without actual notice of a lack of such prior approval, filing or compliance as the case may be, and such bonds, notes or other obligations contain a recital that such prior approval, filing or compliance was received, made or observed, then the bonds, notes, lease or other instrument shall be valid and enforceable in accordance with their terms, and any applicable debt limits shall be deemed increased to the extent necessary to validate and keep valid the bonds, notes, lease or other instrument, but not for the purpose of reducing the liability of any person under this section.

(c) Recovery of interest, principal and other amounts.--The local government unit may recover all interest and principal or other amounts payable thereon from the initial purchasers and the individuals, including the officers of the local government unit, responsible for making the unapproved or unauthorized delivery. Notwithstanding the invalidity of the instruments as to them, the initial purchasers and such individuals shall be entitled to credit in any action determining the invalidity or for the recovery provided by this subsection for the amount of the following:

(1) Any proceeds of the sale of the instruments still held unexpended by the local government unit.

(2) The lesser of the following:

(i) The cost or fair market value, whichever is the lesser, of any capital project or part thereof or interest therein acquired by the local government unit by an expenditure of a portion or all of the proceeds of the bonds, notes or other obligations.

(ii) The remaining nonelectoral borrowing capacity of the local government unit.

Cross References. Section 8208 is referred to in section 8109 of this title.

§ 8209. Finality of proceedings as to validity of instruments.

(a) General rule.--Where a certificate of approval has been issued by the department or has been deemed issued under section 8206 (relating to effect of failure of timely action by department) or, in the case of tax anticipation notes, where the filing with the department required by section 8128 (relating to condition precedent to validity of tax anticipation notes) has occurred and no petition for a declaratory order or complaint has been filed within the applicable time limits specified in section 8211 (relating to petitions for declaratory orders and complaints to the department) or when, after a petition for a declaratory order or complaint has been filed, the proceedings have been approved finally by the department and no appeal to court has been taken, or if an appeal to court has been taken and the proceedings have been approved finally by the court or the appeal has been dismissed, the validity of the proceedings, the right of the local government unit lawfully to issue its bonds or notes or to enter into a lease, guaranty, subsidy contract or other agreement evidencing lease rental debt pursuant to those proceedings, and the validity and due enforceability of the bonds, notes or other instruments in accordance with their terms shall not thereafter be inquired into judicially, in equity, at law or by civil or criminal proceedings, or otherwise, either directly or collaterally. The effect of the approval by the department or by the court on appeal or, in the case of tax anticipation notes, the effect of filing in compliance with section 8128 shall be to ratify, validate and confirm the proceedings absolutely, including the lawful nature of the project and, in the case of tax anticipation notes, the accuracy of the estimates contained in the certificate as to taxes and revenues to be collected, notwithstanding any defect or error in the proceedings, except as specifically provided otherwise in this section, and any debt limit imposed by this subpart shall be deemed increased to the extent necessary to validate the debt or obligation. This section does not relieve an initial purchaser of bonds or notes from liability to a local government unit for the payment of the consideration agreed in the contract of sale or make the bonds or notes valid and enforceable in the hands of an initial

purchaser unless the issuer has received a substantial consideration for the series as a whole.

(b) Liability for willful violations or fraud.--This section does not relieve any person participating in the proceedings from liability for knowingly participating in an ultra vires act of a local government unit or from any civil or criminal liability for false statements in any certificates filed or delivered in the proceedings.

§ 8210. Power of department to define terms, issue rules and regulations and prescribe forms.

Subject to the definitions in section 8002 (relating to definitions), the department may define terms and prescribe other rules and regulations regarding, and prescribe forms for, reports and filings to be submitted to the department pursuant to this subpart.

§ 8211. Petitions for declaratory orders and complaints to department.

(a) General rule.--If proceedings for the incurring of debt represented by bonds or notes or by a lease, guaranty, subsidy contract or other agreement evidencing the acquisition of a capital asset, for the issuance of tax anticipation notes or for the exclusion of debt as self-liquidating or subsidized, have been taken by a local government unit, the local government unit or any taxpayer of the local government unit or other interested party may file with the department a petition for a declaratory order asserting the validity or a complaint asserting the invalidity of the proceedings or any part thereof.

(b) Time for filing.--A complaint asserting the invalidity of the proceedings or part thereof taken under section 8109 (relating to small borrowing for capital purposes) may be filed not later than one year after final adoption of the resolution authorizing the debt. Any such complaint asserting the invalidity of the proceedings or part thereof excluding debt as self-liquidating under section 8025 (relating to exclusion of self-liquidating debt evidenced by revenue bonds or notes to determine net nonelectoral debt) or authorizing tax anticipation notes under Subchapter B of Chapter 81 (relating to tax anticipation notes and funding debt) may be filed at any time not later than 15 days after the filing with the department of the documents required by section 8025 or of the proceedings pursuant to section 8126 (relating to certification as to taxes and revenues to be collected), as the case may be. A complaint asserting the invalidity of any such proceedings or part thereof in cases in which, under this subpart, the approval or deemed approval of the department is required may be filed with the department not later than the later of:

(1) fifteen days after the date of the submission of the proceedings by the local government unit to the department for approval even though the proceeding may be subject to correction as provided in section 8205 (relating to certificate of disapproval and correction of proceedings) or otherwise; or

(2) five days after the date of the last submission of any corrected document or certification to the department.

(c) Departmental approval pending proceeding.--If a petition for a declaratory order or complaint is filed in respect of proceedings requiring the approval of the department after the submission of the proceedings to the department but prior to approval, disapproval or deemed approval, the department shall not be deemed to have approved the proceedings during the pendency of the matter before the department.

(d) Jurisdiction and authority of department.--The department has exclusive jurisdiction to hear and determine all procedural and substantive matters arising from the proceedings of a local government unit taken under this subpart, including the regularity of the proceedings, the validity of the bonds, notes, tax anticipation notes or other obligations of the local government unit and the legality of the purpose for which the obligations are to be issued. If a local government unit files a petition for a declaratory order with the department relating to proceedings, the department may require service by publication on taxpayers as the circumstances warrant. In all other respects the proceedings before the department shall be governed by regulations of the department. The department may, after appropriate proceedings in accordance with its regulations, approve or disapprove the proceedings of the local government unit or to direct correction as provided in section 8205. A determination by the department under this subpart shall, except as provided in this subsection, be conclusive and binding as to all procedural and substantive matters which were or could have been presented to the department hereunder. All determinations by the department under this subpart are reviewable as provided in 2 Pa.C.S. Ch. 7 (relating to judicial review).

Cross References. Section 8211 is referred to in section 8209 of this title.

SUBCHAPTER B

SINKING FUNDS AND OTHER FUNDS AND ACCOUNTS

Sec.

- 8221. Creation of sinking funds and deposits, reserves and surplus funds.
- 8222. Assessment fund.
- 8223. Duty of treasurer.
- 8224. Deposit and investment of moneys in sinking funds and other funds.
- 8225. Management of sinking and other funds.
- 8226. Inspection of sinking funds and orders to comply.
- 8227. Sinking fund not required for small borrowings.

Cross References. Subchapter B is referred to in sections 8103, 8271 of this title.

§ 8221. Creation of sinking funds and deposits, reserves and surplus funds.

(a) General rule.--Every local government unit having outstanding any bonds or notes, other than tax anticipation notes and other than notes issued under section 8109 (relating to small borrowing for capital purposes), shall create forthwith, subject to the terms of any existing contracts with the holders of such bonds or notes, and every local government unit issuing any bonds or notes shall create simultaneously with or prior to the delivery of the bonds or notes, and thereafter maintain until the bonds or notes are paid in full, a sinking fund:

- (1) for the aggregate or for one or more issues or series of its general obligation bonds and notes; and
- (2) separately for each project or combination of projects financed by revenue or guaranteed revenue bonds or notes as to which different revenues are pledged.

If a sinking fund is established for more than one issue of bonds, a separate debt service account for each issue may be established in the sinking fund. The sinking fund shall be maintained with a bank, trust company or bank and trust company located and lawfully conducting a banking or trust business in this Commonwealth and appointed from time to time as a sinking fund depository.

(b) Deposit of moneys.--Moneys for the payment of taxes assumed and principal and interest on outstanding bonds or notes shall be deposited in the applicable sinking fund or sinking fund account from the sources, at the times and in the amounts provided in any contract with the holders of the bonds and notes but, in any event, prior to the time when payment of the taxes, principal and interest become due and payable. All moneys deposited in sinking funds as required by this subpart and all investments and proceeds of investments thereof shall, without further action or filing, be subject to a perfected security interest for the holders of the bonds or notes for which the sinking fund is held until the money or investments have been properly disbursed or sold.

(c) Revenues from use of capital project.--A local government unit pledging the rates, rentals, receipts, charges and tolls from the use of a capital project for the security of revenue or guaranteed revenue bonds or notes may by ordinance provide for the deposit thereof as and when received in the sinking fund for the project.

(d) Other funds and accounts.--A local government unit may provide by ordinance for the creation and maintenance of other accounts in the sinking fund or of other funds for revenue or guaranteed revenue bonds or notes, including operating accounts or funds for financed projects, reserve accounts or funds for various purposes, a bond or note redemption account or fund and a surplus account or fund, and may prescribe the purposes for which the moneys and investments in each account or fund may be withdrawn and the amounts, times and sources of deposits therein. No ordinance shall restrict the application of the rates, receipts, charges and tolls received in respect of a capital project or combined capital projects, exclusive of assessments and contributions for capital improvements, in any fiscal year in excess of the amount required during the year for operating expenses, plus 140% or such lesser percent as may be fixed by ordinance of the amount required to be deposited during the year from the revenues in the applicable sinking fund for the payment, at maturity or scheduled mandatory redemption, of the principal of and interest on the related bonds or notes. This excess shall at all times be available for use by the local government unit for any lawful purpose, and no contract with the holders of bonds or notes shall provide to the contrary.

Cross References. Section 8221 is referred to in section 8002 of this title.

§ 8222. Assessment fund.

If a local government unit issues bonds or notes as general obligation bonds or guaranteed revenue bonds to provide funds for and towards the cost of making permanent street, sidewalk, water or sewer improvements or other assessable improvements and the cost is assessed against the properties benefited, the assessments as collected shall be paid into a separate assessment fund. Moneys to the credit of the assessment fund may be used for any one or more of the following purposes in

any proportions and subject to any priorities set forth in the ordinance incurring the debt:

- (1) Payments to the sinking fund.
- (2) Payment of the cost of such improvements.
- (3) Creation and maintenance of a revolving fund if permitted by the laws governing the local government unit.
- (4) Payment to the general fund or any other fund of the local government unit.

The fund may be continued as a revolving fund if permitted by law or discontinued at any time. Unless otherwise provided in the ordinance incurring the debt, upon discontinuance of the fund, the proceeds of the assessments shall be used to pay any bonds or notes remaining outstanding and to reimburse the general fund of the local government unit for the moneys paid on account of the bonds or notes.

§ 8223. Duty of treasurer.

The treasurer of each local government unit shall deposit into the applicable sinking fund or other fund the moneys to be deposited therein pursuant to the pledge or covenant made or adopted by the local government unit at the times and in the amounts provided in the pledge or covenant or, if no pledge or covenant has been made or adopted, as provided in the appropriations made by the governing body. If no appropriation of moneys has been made or if it appears that, as a result of other expenditures, the appropriated revenues will not be received in sufficient amounts in time to make either the deposits required to be made for the payment of the taxes assumed and the interest on and principal of general obligation bonds and notes or the amount due on a guaranty of guaranteed revenue bonds or notes or on a guaranty of any authority or other local government unit obligation, the treasurer shall pay into the applicable sinking fund or other fund that portion of each receipt of tax moneys and other available revenues, subject, in the case of a limited guaranty, to the terms thereof, as will result in the deposit of sufficient moneys in the sinking fund or other fund to pay the taxes assumed and the principal of the interest on the bonds or notes or to meet the guaranty obligation of the local government unit as and when they become due and payable. The governing body of a local government unit may issue its tax anticipation notes under Subchapter B of Chapter 81 (relating to tax anticipation notes and funding debt) to provide all or any part of any moneys needed for deposit in the sinking funds or other funds.

§ 8224. Deposit and investment of moneys in sinking funds and other funds.

(a) **Deposit with financial institutions.**--Any moneys in sinking funds and other funds established by ordinance as provided in this subpart, if not required for prompt expenditure, may be deposited at interest in time accounts or certificates of deposit of any bank or bank and trust company, accounts with any savings bank or deposits in building and loan associations or savings and loan associations. Moneys required for prompt expenditure shall be held in demand deposits. To the extent that the deposits or accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, they need not be secured; otherwise, the deposits shall be secured as public deposits whether or not title, by virtue of the deposit with a fiscal agent or trustee for bondholders, is in the fiscal agent or trustee, except that moneys held by the fiscal agent, trustee or sinking fund depository itself may be secured as trust funds.

(b) Investment in securities.--Any moneys in funds or accounts not required for prompt expenditure and not deposited at interest shall, to the extent practicable and reasonable, be invested in any securities in which the Commonwealth may, at the time of investment, invest moneys of the Commonwealth not required for prompt expenditure, subject to any stricter requirements in any contract with the holders of bonds or notes for which the particular fund or account was created or maintained.

(c) Control of account.--All such deposits and investments shall be in the name of the local government unit, but moneys and investments in the sinking fund shall be subject to withdrawal or collection only by the sinking fund depository for proper purposes in accordance with this subpart.

(d) Disposition of income.--Income received from any deposit or investment shall be a part of the fund or account invested and may be applied if so desired by the local government unit in reduction of or to complete any required deposits in the fund or account.

(e) Combining accounts.--For the purposes of investment or deposit at interest, all accounts in a sinking fund or other accounts or funds established in respect of one or more series of bonds or notes having the same depository may be combined, and each combined account shall be entitled to its pro rata share of each deposit or investment.

(f) Return of unclaimed moneys.--The sinking fund depository shall return to the local government unit all moneys deposited in a sinking fund for the payment of bonds, notes or coupons which have not been claimed by the holders thereof after two years from the date when payment is due, except where the funds are held for the payment of outstanding checks, drafts or other instruments of the sinking fund depository. This subsection or any action taken under this subsection does not relieve the local government unit of its liability to the holders of unrepresented bonds, notes or coupons.

(g) Sale of investments.--Any investments of a sinking fund, including bonds of the local government unit held therein, may be sold at any time by the sinking fund depository if cash is required for expenditure, or as directed by the managers of the sinking fund, through any broker or dealer in securities, any other law concerning dispositions of assets of a local government unit to the contrary notwithstanding.

Cross References. Section 8224 is referred to in sections 8250, 8251 of this title.

§ 8225. Management of sinking and other funds.

The management and control of sinking and other funds and investments thereof subject to the provisions of this subpart shall be vested in the governing body of the local government unit except:

(1) Where by any other law there has been created any board or commission for the management and control of sinking funds of a particular class of local government units, in which case the board or commission shall have the management and control of the sinking funds of the local government units.

(1.1) To the extent otherwise provided by this subpart.

(2) To the extent otherwise lawfully provided in any contract with the holders of bonds or notes.

(May 5, 1998, P.L.301, No.50, eff. 60 days)

1998 Amendment. Act 50 added par. (1.1).

§ 8226. Inspection of sinking funds and orders to comply.

(a) **General rule.**--The department may from time to time audit the sinking funds and all records pertaining thereto of local government units which have any outstanding debt, except those annually submitting to the department reports of their sinking funds audited by an independent public accountant and except for school districts of the first class or cities of the second class and second class A.

(b) **Order to comply.**--If such audit or reports disclose that any local government unit has refused or neglected to establish sinking funds as required by this subpart or has failed to provide sufficient moneys for any sinking fund to meet the payments of assumed taxes, principal and interest to be made therefrom, is not investing a sufficient amount of the sinking fund moneys or is otherwise in violation of this subchapter, the department shall make an order requiring the local government unit or any officer thereof or the governing body to take any steps as, in the opinion of the department, will cause the sinking funds to comply with this subchapter or to be sufficient.

(c) **Mandamus to compel compliance with order.**--In addition to the criminal prosecutions provided for in Subchapter E (relating to penalties) or in lieu thereof, the department may apply to the court for an order in mandamus to issue to the officer or governing body of the local government unit to compel compliance with the order of the department or with the order with any modifications thereof as to the court may seem just and proper.

§ 8227. Sinking fund not required for small borrowings.

A local government unit may, but shall not be required to, comply with the provisions of this subchapter in respect of notes issued in compliance with section 8109 (relating to small borrowing for capital purposes).

SUBCHAPTER C
REFUNDING OF DEBT

Sec.

- 8241. Power to refund.
- 8242. Treatment of costs upon refunding.
- 8243. Limitation on extending term of debt by refunding.
- 8244. Effect of debt limits on refunding nonelectoral bonds or notes or lease rental debt.
- 8245. Refunding of electoral debt.
- 8246. Procedure for authorization, sale, issue and approval of refunding bonds or notes.
- 8247. Special limitation on refunding of funding debt.
- 8248. Approval of refunding by the electors.
- 8249. Refunding with bonds of another type.
- 8250. Use of proceeds of refunding bonds and when refunded bonds are no longer deemed outstanding.
- 8251. Cessation of interest on called bonds or notes.

Cross References. Subchapter C is referred to in section 8109 of this title.

§ 8241. Power to refund.

(a) **General rule.**--Subject to the provisions of the outstanding bonds, notes or obligations evidencing lease rental debt and subject to the provisions of this subchapter, a local government unit may refund any outstanding debt, in whole or

in part, at any time and may refund any outstanding notes with bonds or bonds with notes.

(b) Authorized purposes.--The refunding may be for any one or more of the following purposes:

(1) Reducing total debt service over the life of the series.

(2) Reducing the annual debt service in any particular year or years by extending the life of the issue subject to the limitations imposed by section 8247 (relating to special limitation on refunding of funding debt).

(3) Eliminating any covenant or restriction in or applicable to any outstanding series or issue of bonds or notes determined by the local government unit to be unduly burdensome or restrictive.

(4) Refunding any maturity or maturities or any portions thereof to a later date subject to the limitations imposed by section 8247.

(5) Substituting bonds for notes or bond anticipation notes or substituting notes for bonds.

(6) Adjusting lease rentals upon refunding of lease rental debt for any one or more of the foregoing purposes. It is immaterial whether or not any such refunding under paragraph (2), (3), (4) or (5) increases the total debt service payable over the life of the series.

(c) Definition.--As used in this section, the term "refund" and its variations shall mean the issuance and sale of obligations, the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

Cross References. Section 8241 is referred to in sections 8243, 8247, 8249 of this title.

§ 8242. Treatment of costs upon refunding.

(a) General rule.--In any refunding, a principal amount of refunding bonds or notes or obligations evidencing lease rental debt equal to the sum of the following:

(1) the call premium payable on the bonds, notes or obligations being refunded;

(2) the discount allowed on the sale of the refunding bonds, notes or obligations;

(2.1) any funds borrowed in order to pay any termination payment required to be paid under a qualified interest rate management agreement in which the notional amount is identified as corresponding to all or any portion of the bond or note being refunded;

(3) any funds borrowed to pay interest on bonds, notes or obligations being refunded; and

(4) the costs of issue and sale of the refunding bonds, notes or obligations;

may be considered as interest on the refunding bonds, notes or obligations and may be separately stated in all reporting of debt and in all computation of debt limits and, if so considered and reported by the local government unit, shall not be considered as electoral, nonelectoral or lease rental debt. In subsequent debt statements, any such separately stated principal amount of bonds, notes or obligations shall be reported as being amortized in the same proportion as the series of which they are a part.

(b) Comparison of debt service.--For the purpose of computing whether savings are being effected, the comparison of debt service which would be payable on the refunded bonds, notes or obligations shall be with debt service on the refunding

bonds, notes or obligations without reference to the designation of the costs in subsection (a)(1) through (4), adjusted in each case by projected receipt of interest on invested funds of excess revenues or application of reserves to make the comparison reasonable and proper.
(Sept. 24, 2003, P.L.110, No.23, eff. imd.)

2003 Amendment. Act 23 added subsec. (a)(2.1).

§ 8243. Limitation on extending term of debt by refunding.

(a) General rule.--Subject to the terms of section 8247 (relating to special limitation on refunding of funding debt) and to the terms of subsection (b), a local government unit shall not extend the term of outstanding debt through refunding to a maturity date that could not have been included in the original issue, except in the case of an emergency refunding of stated maturity date to avoid a default occasioned by an unforeseen shortage in total revenues proven to the satisfaction of the department upon petition, filed by the governing body of the local government unit, alleging the emergency and the unforeseen loss of revenues. Public notice of the intention to file a petition shall be given by advertisement not less than five nor more than 20 days before the filing thereof. The emergency refunding shall be made only in the amount and with the stated maturity date or dates approved by the department. The first maturity of a refunding issue need not occur until the year after the last stated maturity date of the bonds not called in the series being refunded.

(b) Increasing amount of principal payable.--Except in the case of refundings for the purposes specified in section 8241(b)(1) and (5) (relating to power to refund) and except for emergency refundings approved by the department, no refunding bonds shall be issued which will increase the amount of principal payable, after provision for earlier mandatory calls, in any year or years after the latest stated maturity date of the bonds being refunded, over the amount of the principal which would have been payable on the bonds or notes originally issued for the project in each such year if the original bonds or notes had been structured on a 6% level annual debt service plan to the last stated maturity date of the proposed refunding bonds, computed to the nearest whole multiple of \$5,000, as the amounts shall be computed by a financial advisor, other qualified person or public accountant.

§ 8244. Effect of debt limits on refunding nonelectoral bonds or notes or lease rental debt.

If any debt originally incurred was lawfully incurred and issued and, at the time the debt was incurred, the portion constituting nonelectoral debt or lease rental debt was within the limitations imposed thereon by law, the issue of refunding bonds or notes or the adjustment of lease rentals in respect of the debt shall be lawful and valid, notwithstanding that the aggregate of outstanding debt shall thereby exceed the then applicable limitations set by section 8022 (relating to limitations on incurring of other debt), which limitations shall be deemed increased but only to the extent necessary to effectuate and amortize the refunding lawfully. Any portion of the refunding bonds, notes or obligations may be excluded from nonelectoral debt or lease rental debt, either as subsidized debt or self-liquidating debt, in accordance with the procedure provided in Subchapter B of Chapter 80 (relating to limitations on debt of local government units).

§ 8245. Refunding of electoral debt.

A local government unit may, by action of its governing body and in accordance with the limitations of this subchapter, refund any debt originally incurred as electoral debt. The refunding bonds, notes or obligations so issued shall not thereby be considered nonelectoral debt or lease rental debt for any purpose.

§ 8246. Procedure for authorization, sale, issue and approval of refunding bonds or notes.

Bonds or notes issued for refunding purposes shall be authorized, issued, sold, approved and settled and refunding of lease rental debt shall be authorized and approved in the manner provided in this subpart for the authorization, issue, sale and approval of the original debt, subject to any additional limitations provided in this subchapter. No refunding bonds or notes shall be delivered to the purchasers thereof unless, simultaneously therewith, the notes or bonds being refunded become no longer outstanding in accordance with section 8250 (relating to use of proceeds of refunding bonds and when refunded bonds are no longer deemed outstanding). No adjustment in lease rentals shall be made unless appropriate provision for the retirement of the outstanding lease rental debt has been made.

§ 8247. Special limitation on refunding of funding debt.

A debt incurred for funding purposes pursuant to section 8130 (relating to approval by court to fund unfunded debt) or under law in existence prior to July 12, 1972, shall not be refunded except under section 8241(b)(1) (relating to power to refund) until the refunding has been approved as necessary by the court of common pleas. The approval shall be obtained by petition to reopen the proceedings in which the funding debt was originally incurred, and the court shall grant the petition if, after hearing, the court is satisfied that the refunding is necessary and is in the public interest. Public notice of the filing of the petition shall be given by advertisement not less than five nor more than 20 days before the filing thereof. All subsequent proceedings in respect of the refunding of the funding debt shall be taken in accordance with the provisions of this subpart applicable to the incurring of the original debt. Bonds or notes issued to refund funding debt shall be stated to mature at the dates and in the amounts on each date as may be approved by the court, notwithstanding any limitation on the term of funding debt imposed elsewhere in this subpart.

Cross References. Section 8247 is referred to in sections 8241, 8243 of this title.

§ 8248. Approval of refunding by the electors.

The governing body of any local government unit may also obtain the approval of the electors to any refunding of nonelectoral or lease rental debt in the manner prescribed for an original issue by Subchapter C of Chapter 80 (relating to procedure for securing approval of electors) and may issue general obligation bonds or guaranteed revenue bonds or incur other obligations in the refunding if approved by the electors regardless of the class of bonds, notes or obligations originally issued.

Cross References. Section 8248 is referred to in section 8249 of this title.

§ 8249. Refunding with bonds of another type.

Subject to the limitations of section 8022 (relating to limitations on incurring of other debt) or after a referendum held pursuant to section 8248 (relating to approval of refunding

by the electors), the governing body of any local government unit may for any purpose specified in section 8241 (relating to power to refund) refund with its general obligation bonds or notes or its guaranteed revenue bonds or notes all or any part of any outstanding revenue bonds or notes or bonds, notes or obligations of any authority or other local governmental unit constituting lease rental debt of the local government unit or may refund any outstanding revenue bonds or guaranteed revenue bonds or notes with like bonds or notes. The local government unit may also refund any general obligation or guaranteed revenue bonds with its revenue bonds, by the incurring of lease rental debt or by guaranteeing the obligations of an authority.

§ 8250. Use of proceeds of refunding bonds and when refunded bonds are no longer deemed outstanding.

(a) General rule.--The proceeds of refunding bonds, together with any other moneys made available for the purpose, shall be used solely for the purpose of retiring the bonds being refunded and for the purpose of paying the costs of the refunding.

(b) When obligations no longer deemed outstanding.--Any bonds or notes to be redeemed or paid shall no longer be deemed to be outstanding for the purpose of determining the net debt of the local government unit or for the purposes of any indenture limitations on repledging revenues when the local government unit has irrevocably deposited with a bank or bank and trust company in a sufficient amount:

(1) Moneys.

(2) Noncallable securities of the Federal Government or of the Commonwealth maturing or payable at par at the option of the holders at or prior to the dates needed for disbursement.

(3) Time deposits or certificates of deposit, with a firm rate of interest or stated minimum rate of interest, issued by a bank or bank and trust company and insured or adequately secured as required by section 8224 (relating to deposit and investment of moneys in sinking funds and other funds).

(4) Any combination of the foregoing.

(c) Deposits equal to principal and interest.--Subject to any relevant contrary law or regulation, the amount deposited may be equal to the principal and interest to become due on the bonds or notes being refunded to the date on which the bonds or notes are stated to mature or any lesser amount computed in accordance with the provisions of subsection (d).

(d) Test of sufficiency.--The deposited amount shall be sufficient when it, together with the interest to be earned thereon, will equal the principal, premium and interest to become due on the bonds or notes being refunded to the earlier of the date at which any bonds or notes are stated to mature or have been called for prior redemption, except that the local government unit shall simultaneously have given the bank or bank and trust company instructions and authority, stated to be irrevocable, to publish any notices of redemption remaining to be published.

(e) Irrevocable call for redemption.--When stated to be irrevocable, the instructions and authority to call bonds or notes for redemption shall become irrevocable upon the delivery thereof or upon the deposit of the moneys or securities in a sufficient amount to effect the redemption, whichever occurs later. Until the irrevocability has occurred, a call for redemption may be revoked by notice given in the same manner as the notice of redemption.

Cross References. Section 8250 is referred to in sections 8110, 8246 of this title.

§ 8251. Cessation of interest on called bonds or notes.

Upon the date fixed for redemption, if the irrevocable deposit has been made and the required notice of the redemption has been given, no further interest on the bonds or notes so called for redemption shall accrue. This subchapter does not relieve the issuing local government unit of its obligation to see that the holders of the bonds or notes called for redemption are paid in full on the date fixed for redemption. From and after that date, if the irrevocable deposit was made at the proper amount on that date, the holders of bonds or notes called for redemption shall have no rights against the local government unit except to receive payment from the deposited funds or from the local government unit to the extent of the moneys returned to it pursuant to section 8224(f) (relating to deposit and investment of moneys in sinking funds and other funds).

**SUBCHAPTER D
REMEDIES**

Sec.

- 8261. Failure to budget debt service.
- 8262. Failure to pay principal or interest.
- 8263. Trustee for bondholders.
- 8264. Receiver for revenue projects.
- 8265. Costs of suits or proceedings.
- 8266. Distribution of moneys realized for bondholders.

Cross References. Subchapter D is referred to in section 8106 of this title.

§ 8261. Failure to budget debt service.

If a local government unit having outstanding any general obligation bonds or notes or guaranteed revenue bonds or notes, lease rental debt or guaranty of authority obligations fails or refuses to make adequate provision in its budget for any fiscal year for the sums payable in respect of the bonds or notes, lease rental or guaranty in the year or fails to appropriate or pay the moneys necessary in that year for the payment of the amount of the lease rental or guaranty, as the case may be, of the maturing principal of and the interest on the bonds or notes or any of them, or any tax anticipation notes, or any sinking fund obligation for the bonds or notes or tax anticipation notes, or guaranty or the lease rental payment coming due in the fiscal year of the budget or for which the appropriations or payments should have been made, then at the suit of the holder of any bond, note or tax anticipation note or coupon or guaranty, or the holder of any authority obligation secured by a lease evidencing the acquisition of a capital asset or of any taxpayer of the local government unit, the court of common pleas shall, after a hearing held upon such notice to the local government unit as the court may direct and upon a finding of such failure or neglect, by order of mandamus require the treasurer of the local government unit to pay into the sinking fund for each series of bonds or notes then outstanding, or for each guaranty or lease rental payment, the first tax moneys or other available revenues or moneys thereafter received in the fiscal year by the treasurer, equally and ratably for each series for which provision has not been made in proportion to debt service for the year on each series

then outstanding, or the amounts due upon guaranties or as payments with respect to lease rental debt, as the case may be. Any priority on incoming tax moneys accorded to a separate sinking fund for tax anticipation notes under the authority of section 8125 (relating to security for tax anticipation notes and sinking fund) shall not be affected by this provision until the sum on deposit in each sinking fund equals the moneys that should have been budgeted or appropriated for each series.

Cross References. Section 8261 is referred to in section 8262 of this title.

§ 8262. Failure to pay principal or interest.

(a) General rule.--If a local government unit fails or neglects to pay the interest or principal on any of its general obligation bonds or notes or tax anticipation notes as the same becomes due and payable, whether at the stated maturity date or upon an unrevoked call for prior redemption, or to perform its payment obligations with respect to any lease rental debt or guaranteed revenue bonds or notes, and the failure continues for 30 days, the holder thereof may, subject to priorities created under sections 8125 (relating to security for tax anticipation notes and sinking fund), 8261 (relating to failure to budget debt service) and 8263 (relating to trustee for bondholders) and to any limitations upon individual rights of action properly provided in the bond ordinance or any indenture, recover the amount due in an action in the court of common pleas. The judgment recovered shall have an appropriate priority upon the moneys next coming into the treasury of the local government unit and shall be a judgment upon which funding bonds may be issued pursuant to Subchapter B of Chapter 81 (relating to tax anticipation notes and funding debt).

(b) Revenue bonds and notes.--If a local government unit fails or neglects to pay or cause to be paid the principal of or the interest upon any revenue bond or note as the same shall become due, whether at the stated maturity or upon call for prior redemption, the holder thereof may, subject to priorities created under sections 8125, 8262 (relating to failure to pay principal or interest) and 8263 and to any limitations upon individual rights of action properly provided in the bond ordinance or any indenture, recover the amount due in an action in the court of common pleas, but the judgment shall be limited to payment out of the assessments, revenues, rates, rents, tolls and charges from the project which are pledged for the payment of the bonds or notes.

§ 8263. Trustee for bondholders.

(a) Appointment.--Notwithstanding any provision in the bonds or notes or in any authorizing ordinance, if a local government unit defaults in the payment of the principal of or the interest on any series of bonds or notes after it becomes due, whether at the stated maturity or upon call for prior redemption, and the default continues for 30 days or if the local government unit fails to comply with any provision of the bonds or notes, or in any authorizing resolution or indenture of trust, the holders of 25% in aggregate principal amount of the bonds or notes of the series then outstanding, by an instrument or instruments filed in the office of the recorder of deeds in the county in which the local government unit is located, signed and acknowledged as a deed to be recorded, may appoint a trustee, who may be the sinking fund depository, to represent the holders of all the bonds or notes, and the representation shall be exclusive for the purposes provided in this section.

(b) Powers and duties.--The trustee may and, upon written request of the holders of 25% in principal amount of the bonds or notes then outstanding and upon being furnished with indemnity satisfactory to it, shall, in his or its own name, take one or more of the following actions, and the taking of such action shall preclude similar action whether previously or subsequently initiated by individual holders of bonds or notes:

(1) By mandamus or other proceeding at law or in equity, enforce all rights of the holders of the bonds or notes, including, in the case of revenue or guaranteed revenue obligations, the right to require the local government unit to:

(i) impose and collect rents, rates, tolls and charges adequate to carry out any agreement or covenant as to or pledge of the rents, rates, tolls or charges for the use of the project or projects financed by the bonds or notes; or

(ii) carry out any other agreements with the holders of the bonds or notes.

(2) Bring suit on the bonds or notes without the necessity for producing the bonds or notes, and with the same effect as a suit by any holder.

(3) In the case of revenue or guaranteed revenue bonds or notes, require the local government unit to account, as if it were the trustee of an express trust for the holders of the bonds or notes, for any pledged revenues received.

(4) In the case of general obligation bonds or notes, petition the court to levy, after a hearing upon such notice to the owners of assessable real estate as the court may prescribe, the amount due before or after the exercise of any right of acceleration on the bonds or notes, plus estimated costs of collection as an assessment upon the properties benefited by the improvement pursuant to the front-foot rule if the project is an assessable improvement, otherwise upon all taxable real estate and other property subject to ad valorem taxation in the local government unit, in proportion to the value thereof as assessed for tax purposes, and the trustee may collect or cause the local government unit to collect such assessments as by foreclosure of a mortgage or security interest on the realty or other property if not paid on demand.

(5) In the case of guaranteed revenue bonds or notes or a guarantee of authority obligations or unpaid lease rentals under leases evidencing the acquisition of capital assets, to petition the court to levy, after hearing upon the notice to the owners of assessable real estate and other property subject to ad valorem taxation as the court may prescribe, the amount due on the guaranty or under the lease plus estimated costs of collection as an annual assessment for the current and future years upon all taxable real estate and other properties subject to ad valorem taxation in the local government unit in proportion to the value thereof as assessed for tax purposes, and the trustee may collect or cause the local government unit to collect the assessments as by foreclosure of a mortgage or security interest on the realty or other property if not paid on demand. The levy shall bear interest, until paid, at a rate sufficient to cover accruing interest on the bonds or notes.

(6) By suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders

of the bonds, notes, guaranty or authority obligations under a lease evidencing the acquisition of capital assets.

(7) After 30 days' prior written notice to the local government unit and subject to any limitations in the bond ordinance or relevant indenture, declare the unpaid principal of all the bonds or notes to be immediately due and payable with interest at the rates stated in the bonds until final payment. If all defaults are made good, the trustee may annul the declaration and its consequences.

Any assessment levied pursuant to paragraphs (4) and (5) shall have the same priority and preference as to other liens or mortgages on the real estate or security interests in fixtures thereon or other property as a lien for unpaid taxes.

(c) Installment payments.--The court of common pleas in cases of extreme hardship may provide for the payment of sums levied in five or fewer annual installments with interest at a rate sufficient to cover the interest accruing on the bonds or notes.

(d) Trustee or fiscal agent under original issue.--If a trustee or fiscal agent for the bondholders or noteholders was appointed in connection with the original issue of the bonds or notes and is willing to serve and exercise the powers conferred upon a trustee appointed by this section, the trustee appointed in the manner provided in this section shall have the powers set forth unless the appointment under this section was executed by or pursuant to the authority of the holders of a principal amount of the bonds or notes sufficient to remove the originally appointed trustee or fiscal agent.

Cross References. Section 8263 is referred to in section 8262 of this title.

§ 8264. Receiver for revenue projects.

(a) Appointment.--A trustee for the holders of defaulted bonds or notes, whether or not the series of bonds represented by the trustee has been declared to be and has become immediately due and payable, shall be entitled as of right to the appointment by the court of common pleas of a receiver of all or any part or parts of a project or the projects, the rents, rates, revenues, tolls and charges of which are pledged for the security of the bonds or notes of the series.

(b) Powers and duties.--Except as otherwise provided in this section, the receiver may not sell, assign, mortgage or otherwise dispose of, but may enter and take possession of, the project or projects or part or parts thereof and, subject to the equal or prior rights of the holders of any other series of bonds or notes, shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance, repair and reconstruction of the project or projects or parts thereof. The receiver may thereafter proceed with any construction or other work thereon which the local government unit is under obligation to do. The receiver may operate, maintain, repair and reconstruct the project or projects or parts thereof and collect and receive all rents, rates, receipts, tolls, other charges and revenues arising therefrom, subject to the equal or prior rights of the holders of any other series of bonds or notes therein. As part of his power to operate and maintain a project, the receiver may sell or otherwise dispose of equipment which is no longer used or usable by the project. The receiver shall perform the public duties and carry out the lawful agreements and obligations of the local government unit with respect to the project or

projects or parts thereof, all under the direction of the court, but shall not perform any essential governmental functions.

§ 8265. Costs of suits or proceedings.

In any suit, action or proceeding by or on behalf of the holders of defaulted bonds or notes of a local government unit brought under this subpart, the fees and expenses of a trustee or receiver, including operating costs of a project and reasonable counsel fees, shall constitute taxable costs, and all costs and disbursements allowed by the court shall be deemed additional principal due on the bonds or notes and shall be paid in full from any recovery prior to any distribution to the holders of the bonds or notes.

Cross References. Section 8265 is referred to in section 8266 of this title.

§ 8266. Distribution of moneys realized for bondholders.

Moneys or funds collected for the holders of defaulted bonds or notes entitled to share equally and ratably therein shall, after the payment of costs and fees as provided in section 8265 (relating to costs of suits or proceedings), be applied by the trustee or receiver, unless the terms of the bonds or notes provide otherwise, as follows:

(1) Unless the principal of all of the bonds or notes represented has become or has been declared due and payable:

(i) To the payment to the persons entitled thereto of all installments of interest then due in the order of the stated maturity dates of the installments of the interest and, if the amount available is not sufficient to pay any installment in full, then to the payment ratably, according to the amounts due on the installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest expressed in the bonds or notes or coupons for interest.

(ii) To the payment to the persons entitled thereto of the unpaid principal of any bonds or notes which has become due, whether at stated maturity dates or by call for redemption, in the order of their respective due dates and, if the amount available is not sufficient to pay in full all the bonds or notes due on any date, then to the payment ratably, according to the amounts of principal due on the dates, to the persons entitled thereto without any discrimination or preference.

(2) If the principal of all of the bonds or notes entitled to share equally in the moneys has become or has been declared due and payable, to the payment of the principal and interest then due and unpaid upon the bonds or notes without preference or priority of principal over interest or interest over principal, or of any installment of interest over any other installment of interest, or of any bond or note over any other bond or note, ratably according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the bonds, notes and coupons.

(3) If more than one series is involved and the principal of all bonds or notes of one or more series has become or has been declared due and payable, and that if one or more others has not, the funds available shall be apportioned to each series according to the respective amounts of principal of each series then outstanding less,

as to each series, any amounts held earmarked for the series, and distribution to the holders of the bonds, notes and coupons of each series shall be made according to whichever of paragraphs (1) and (2) may be applicable.

SUBCHAPTER E

PENALTIES

Sec.

8271. Failure to obey sinking fund directive of department.

Cross References. Subchapter E is referred to in section 8226 of this title.

§ 8271. Failure to obey sinking fund directive of department.

Any officer or any member of the governing body of any local government unit who refuses or neglects to obey any order of the department made under Subchapter B (relating to sinking funds and other funds and accounts) concerning sinking funds or who refuses to furnish requested information required by the department or refuses agents of the department access to any books, records or documents relating to sinking funds commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not more than \$500 for each day of violation.

SUBCHAPTER F

INTEREST RATE RISK AND INTEREST COST MANAGEMENT

Sec.

8281. Qualified interest rate management agreements.

8282. Covenant to pay amounts due under qualified interest rate management agreements.

8283. Remedies.

8284. Notice and retention of records.

8285. Financial reporting.

Enactment. Subchapter F was added September 24, 2003, P.L.110, No.23, effective immediately.

§ 8281. Qualified interest rate management agreements.

(a) General rule.--

(1) Except as set forth in paragraph (4), notwithstanding any other law to the contrary, a local government unit may negotiate and enter into qualified interest rate management agreements consistent with the provisions of this subchapter.

(2) The local government unit must authorize and award by resolution each qualified interest rate management agreement or any confirmation of a transaction. The resolution is subject to section 8003(a) and (b) (relating to advertisement and effectiveness of ordinances) but may be valid and effective for all purposes immediately upon adoption or as otherwise provided in the resolution.

(3) A local government unit has the power to contract for insurance covering the risks of nonpayment of amounts due under qualified interest rate management agreements.

(4) The authority granted in this subchapter shall not apply to any local government unit which has been declared distressed by the Department of Community and Economic Development.

(b) Requirements for resolution.--The resolution authorizing and awarding a qualified interest rate management agreement or authorizing a transaction under the agreement must include in the resolution or as an appendix to the resolution all of the following:

(1) A copy of the qualified interest rate management agreement or confirmation of the transaction under the qualified interest rate management agreement in substantially the form to be executed pursuant to the resolution.

(2) The interest rate management plan meeting the requirements under this subpart:

(i) adopted by the local government unit; or

(ii) if the local government unit is incurring indebtedness under this chapter which has or will be issued to a public authority that has entered into or will enter into an interest rate management agreement meeting the requirements of a qualified interest rate management agreement under this subpart, adopted by that public authority.

(3) A statement of the manner of the award of the qualified interest rate management agreement under subsection (e).

(c) Contents of qualified interest rate management agreements.--In addition to other provisions approved by the local government unit, a qualified interest rate management agreement must contain all of the following:

(1) The covenant of the local government unit to make payments required by the qualified interest rate management agreement and the covenants authorized by section 8282 (relating to covenant to pay amounts due under qualified interest rate management agreements).

(2) The notional amount of the qualified interest rate management agreement and the principal amount of bonds or notes or lease rental debt, or portions of the notional or principal amounts, issued or to be issued by the local government unit under this subpart or guaranteed by the local government unit under this subpart, to which the agreement relates.

(3) The term of any qualified interest rate management agreement, which must not exceed the latest maturity date of the bonds or notes referenced in the qualified interest rate management agreement.

(4) A provision requiring the termination of the agreement if all debt to which the qualified interest rate management agreement relates is no longer outstanding.

(5) The maximum annual interest rate which the local government unit may pay thereunder.

(6) A provision that the maximum net payments by fiscal year of a local government unit shall not exceed the maximum interest rate specified in the qualified interest rate management agreement for:

(i) periodic scheduled payments, not including any termination payments, due under the qualified interest rate management agreement; and

(ii) the interest on the bonds or notes to which the qualified interest rate management agreement relates.

(7) The source of payment of the payment obligations of the local government unit, which must be either general revenues or revenues specifically identified in the agreement.

(8) A provision addressing the actions to be taken if the credit rating of the other party changes.

(9) A provision that periodic scheduled payments due under the qualified interest rate management agreement and debt service due on the related bonds or notes or payments due under the related instrument evidencing lease rental debt or guaranty of the local government unit shall be senior in right and priority of payment to termination payments due under the qualified interest rate management agreement.

(d) Other provisions of the qualified interest rate management agreement.--The qualified interest rate management agreement may include:

(1) A covenant to include any termination payment or similar payment for a qualified interest rate management agreement in its current budget at any time during a fiscal year or in a budget adopted in a future fiscal year.

(2) A provision that the following shall be equally and ratably payable and secured under the applicable covenants authorized in section 8282:

(i) Periodic scheduled payments due under the qualified interest rate management agreement; and

(ii) Any of the following to which the agreement relates:

(A) the debt service due on the bonds or notes;

(B) payment under an instrument evidencing lease rental debt; or

(C) payment under a guaranty of the local government unit.

(3) A provision that the qualified interest rate management agreement may be terminated at the option of the local government unit without cause but that the qualified interest rate management agreement may not be terminated at the option of the other party to the qualified interest rate management agreement without cause.

(e) Award of qualified interest rate management agreements.--

(1) The local government unit shall establish a process for selecting other parties before entering into a qualified interest rate management agreement.

(2) The local government unit shall establish qualifications for other parties before entering into a qualified interest rate management agreement. The qualifications shall include a rating for the other party of at least the third highest rating category from a nationally recognized rating agency.

(3) A qualified interest rate management agreement must be awarded by public sale, private sale by negotiation or private sale by invitation.

(4) The local government unit shall select the qualified interest rate management agreement which the local government unit determines is in its best financial interest. The qualified interest rate management agreement selected must contain financial terms and conditions which in the opinion of the independent financial advisor to the local government unit are fair and reasonable to the local government unit as of the date of award.

(5) The local government unit may satisfy the requirements of paragraph (4) by obtaining a finding from an independent financial advisor to the public authority that the financial terms and conditions of the agreement are fair and reasonable to the public authority as of the date of the award if all of the following apply:

(i) The local government unit is incurring indebtedness under this chapter which has or will be issued to a public authority.

(ii) In connection with the incurring of debt under subparagraph (i), the local government unit will become obligated for all or a portion of the public authority's costs under an interest rate management agreement.

Cross References. Section 8281 is referred to in sections 8002, 8283 of this title.

§ 8282. Covenant to pay amounts due under qualified interest rate management agreements.

(a) Contents.--The local government unit shall include in a qualified interest rate management agreement a covenant that the local government unit shall do the following:

(1) Include the periodic scheduled amounts payable in respect of the qualified interest rate management agreement for each fiscal year in its budget for that fiscal year.

(2) Appropriate those amounts from its general or specially pledged revenues for the payment of amounts due under the qualified interest rate management agreement.

(b) Pledge.--

(1) Except as set forth in paragraph (2), the local government unit may pledge its full faith, credit and taxing power for the budgeting, appropriation and payment of periodic scheduled payments due under a qualified interest rate management agreement.

(2) A local government unit may not make a pledge under paragraph (1) if the payment obligations of the local government unit under the qualified interest rate management agreement are limited as to payment to specified revenues of the local government unit.

(c) Security interest.--If the periodic scheduled payment obligations of the local government unit are specified in the qualified interest rate management agreement to be made from specified revenues of the local government unit, the local government unit may include in the qualified interest rate management agreement a covenant granting a security interest in those revenues to secure its periodic scheduled payment obligations under the agreement. The security interest shall be perfected under section 8147 (relating to pledge of revenues).

Cross References. Section 8282 is referred to in section 8281 of this title.

§ 8283. Remedies.

(a) Failure to budget amounts due under a qualified interest rate management agreement.--

(1) This subsection applies if a local government unit fails or refuses to budget for any fiscal year a periodic scheduled payment:

(i) due in that year pursuant to the provisions of a qualified interest rate management agreement; and

(ii) payable from the general revenues of the local government unit.

(2) If a local government unit commits a failure or refusal under paragraph (1), the following apply:

(i) The other party to the interest rate management agreement may bring an enforcement action in a court of common pleas.

(ii) After a hearing held upon notice to the local government unit as the court may direct, if the court

finds a failure or refusal under paragraph (1), the court may, by order of mandamus, require the treasurer of the local government unit to pay to the other party out of the first tax money or other available revenue or money thereafter received in the fiscal year by the treasurer the periodic scheduled payments due pursuant to the provisions of the qualified interest rate management agreement. The order shall be subject to section 8281(c)(8) (relating to qualified interest rate management agreements).

(iii) Any priority on incoming tax money accorded to a separate sinking fund for tax anticipation notes under the authority of section 8125 (relating to security for tax anticipation notes and sinking fund) shall not be affected by an order under subparagraph (ii) until the sum on deposit in each sinking fund equals the money which should have been budgeted or appropriated for each series.

(b) Failure to pay amounts due under a qualified interest rate management agreement.--

(1) This subsection applies if:

(i) a local government unit fails to pay any amount due under a qualified interest rate management agreement when it becomes due and payable; and

(ii) the failure continues for 30 days.

(2) If there is a failure under paragraph (1), the other party to the qualified interest rate management agreement may bring an action in a court of common pleas to recover the amount due. This paragraph is subject to:

(i) the priorities under sections 8125 and 8281(c)(8); and

(ii) any limitations upon rights of action properly provided in the qualified interest rate management agreement.

(3) The judgment recovered under paragraph (2) shall:

(i) have an appropriate priority upon the money next coming into the treasury of the local government unit; and

(ii) be a judgment upon which funding bonds may be issued pursuant to Ch. 81 Subch. B (relating to tax anticipation notes and funding debt).

(c) Failure to pay by school districts.--

(1) This subsection applies if a board of directors of a school district fails to pay or to provide for the payment of periodic scheduled payments, not including any termination payments, due pursuant to the provisions of a qualified interest rate management agreement.

(2) A party to a qualified interest rate management agreement must notify the Secretary of Education of a failure under paragraph (1).

(3) Upon notice under paragraph (2), the following apply:

(i) The secretary shall notify the Department of Community and Economic Development and the offending board of school directors.

(ii) If the secretary finds that the amount due and payable by the school district has not been paid, the secretary shall withhold out of any State appropriation due the school district an amount equal to the amount due pursuant to the qualified interest rate management agreement and shall pay over the amount so withheld to

the party to the qualified interest rate management agreement to whom the amount is due.

Cross References. Section 8283 is referred to in section 8129 of this title.

§ 8284. Notice and retention of records.

(a) Notice.--

(1) The local government unit shall file with the Department of Community and Economic Development certified copies of a resolution authorizing a qualified interest rate management agreement, including any appendix to the resolution, 15 days following adoption.

(2) If the maximum net payments by fiscal year for periodic scheduled payments of the local government unit, not including any termination payments, and interest on the bonds or notes to which the qualified interest rate management agreement relates exceed the amount of interest approved in proceedings of the local government unit with respect to such bonds or notes filed with and approved by the department, the local government unit shall adopt an amendment to the ordinance or resolution authorizing such bonds or notes reflecting such increase. The amendment shall be advertised and effective as provided in section 8003 (relating to advertisement and effectiveness of ordinances) and filed with the department. No approval by the department or filing fee by the local government unit shall be required for any filing under this subsection.

(b) Records.--The department shall keep copies of all documents filed with the department under this section as long as a qualified interest rate management agreement is in effect. Documents filed with the department under this section are public records available for examination by any citizen of this Commonwealth; any party to the qualified interest rate management agreement; or any bondholder or noteholder, including holders of tax anticipation notes, of the local government unit filing any document pursuant to this section.

§ 8285. Financial reporting.

A local government unit which has entered into a qualified interest rate management agreement shall include in its annual financial statements information with respect to each qualified interest rate management agreement it has authorized or entered into, including any information required pursuant to any statement issued by the Governmental Accounting Standards Board.

SUBPART C

TAXATION AND ASSESSMENTS

Chapter

- 84. General Provisions
- 85. Assessments of Persons and Property
- 86. Taxation for Public Transportation
- 87. Other Subjects of Taxation
- 88. Consolidated County Assessment
- 89. Payment and Collection of Taxes

Enactment. Subpart C was added May 5, 1998, P.L.301, No.50, effective January 1, 1999, unless otherwise noted.

GENERAL PROVISIONS

Subchapter

- A. Preliminary Provisions
- B. (Reserved)
- C. Local Taxpayers Bill of Rights

Enactment. Chapter 84 was added May 5, 1998, P.L.301, No.50, effective January 1, 1999, unless otherwise noted.

SUBCHAPTER A PRELIMINARY PROVISIONS

Sec.

- 8401. Definitions.
- 8402. Scope and limitations.
- 8403. Preemption.
- 8404. Certain rates of taxation limited.
- 8405. Applicability.

§ 8401. Definitions.

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

"Budgeted revenue." Local tax revenue, except the term does not include revenue from:

- (1) Delinquent taxes.
- (2) Payments in lieu of taxes.
- (3) The real estate transfer tax.
- (4) The distribution of the Public Utility Realty Tax, commonly known as PURTA.
- (5) A mercantile or business privilege tax on gross receipts.
- (6) An amusement or admissions tax.

"Business." As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Current year." The fiscal year for which the tax is levied.

"Domicile." As defined in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Dwelling." A structure used as a place of habitation by a natural person.

"Earned income." The classes of income defined as earned income in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Election officials." The county board of elections of each county.

"Employer." As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Governing body." A board of school directors of a school district.

"Homestead." A dwelling, including the parcel of land on which the dwelling is located and the other improvements located on the parcel for which any of the following apply:

- (1) The dwelling is primarily used as the domicile of an owner who is a natural person. The homestead for real property qualifying under this paragraph shall not include the land on which the dwelling is located if the land is not owned by a person who owns the dwelling.

- (2) The dwelling is a unit in a condominium as the term is defined in 68 Pa.C.S. § 3103 (relating to definitions) and the unit is primarily used as the domicile of a natural

person who is an owner of the unit; or the dwelling is a unit in a cooperative as the term is defined in 68 Pa.C.S. § 4103 (relating to definitions) and the unit is primarily used as the domicile of a natural person who is an owner of the unit. The homestead for a unit in a condominium or a cooperative shall be limited to the assessed value of the unit, which shall be determined in a manner consistent with the assessment of real property taxes on those units under 68 Pa.C.S. (relating to real and personal property) or as otherwise provided by law. If the unit is not separately assessed for real property taxes, the homestead shall be a pro rata share of the real property.

(3) The dwelling does not qualify under paragraphs (1) and (2) and a portion of the dwelling is used as the domicile of an owner who is a natural person. The homestead for real property qualifying under this paragraph shall be the portion of the real property that is equal to the portion of the dwelling that is used as the domicile of an owner.

"Homestead property." A homestead for which an application has been submitted and approved under section 8584 (relating to administration and procedure).

"Local Tax Enabling Act." The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Local tax revenue." The revenue from taxes actually levied and assessed by a school district. The term does not include interest or dividend earnings, Federal or State grants, contracts or appropriations, income generated from operations or any other source that is revenue not derived from taxes levied and assessed by a school district.

"Municipality." As defined in 1 Pa.C.S. § 1991 (relating to definitions).

"Net profits." The classes of income defined as net profits in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

"Owner." Includes any of the following:

- (1) A joint tenant or tenant in common.
- (2) A person who is purchasing real property under a contract.
- (3) A partial owner.
- (4) A person who owns real property as a result of being a beneficiary of a will or trust or as a result of intestate succession.
- (5) A person who owns or is purchasing a dwelling on leased land.
- (6) A person holding a life lease in real property previously sold or transferred to another.
- (7) A person in possession under a life estate.
- (8) A grantor who has placed the real property in a revocable trust.
- (9) A member of a cooperative as defined in 68 Pa.C.S. § 4103 (relating to definitions).
- (10) A unit owner of a condominium as defined in 68 Pa.C.S. § 3103 (relating to definitions).
- (11) A partner of a family farm partnership or a shareholder of a family farm corporation as the terms are defined in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Political subdivision." As defined in 1 Pa.C.S. § 1991 (relating to definitions).

"Preceding year." The fiscal year before the current year.

"Primarily used." Usage of at least 51% of the square footage of a dwelling.

"Resident individual." An individual who is domiciled in a school district.

"School district." A school district of the first class A, second class, third class or fourth class, including any independent school district.

"Statewide average weekly wage." That amount determined annually for each calendar year by the Department of Labor and Industry under section 105.1 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

"Succeeding year." The fiscal year following the current year.

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Taxpayer." An individual required under this subpart to file a tax return or to pay a tax.

References in Text. Section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, referred to in this section, is repealed.

§ 8402. Scope and limitations.

(a) General rule.--Except as provided in subsections (b), (c), (d), (e) and (f) and section 8405 (relating to applicability), it is the intent of this subpart to confer upon each school district the power to levy, assess and collect an earned income and net profits tax as set forth in this subpart.

(b) Real estate transfer taxes.--This subpart does not affect the powers of a school district to levy, assess and collect a real estate transfer tax, including any real estate transfer tax levied under the authority of section 652.1(a)(4) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(c) Amusement and admissions taxes.--

(1) Any school district which has on or before June 30, 1997, levied, assessed or collected or provided for the levying, assessment or collection of an amusement or admissions tax may continue to levy, assess and collect the tax on such subjects upon which the tax was imposed as of June 30, 1997. Neither the rate imposed nor amount collected shall exceed the rate imposed or amount collected by the school district for the fiscal year ending in 1997. A school district which did not assess, levy or collect an amusement or admissions tax as of June 30, 1997, may not assess, levy or collect the tax. The provisions as set forth in section 8(6), (9), (10) and (11) of the Local Tax Enabling Act shall remain in effect, other than the limitations as set forth in this paragraph. This paragraph shall apply regardless of whether there is an election by the school district under section 8703(a) (relating to adoption of referendum).

(2) Any municipality which has on or before December 31, 1997, levied, assessed or collected or provided for the levying, assessment or collection of an amusement or admissions tax under the Local Tax Enabling Act may continue to levy, assess and collect the tax on such subjects upon which the tax was imposed by the municipality as of December 31, 1997, at a rate not to exceed the effective rate as collected by the municipality as of December 31, 1997, or 5%, whichever is greater. A municipality which did not assess, levy or collect an amusement or admissions tax as of December 31, 1997, may not assess, levy or collect the tax at a rate higher than 5%. The provisions as set forth in section 8(6), (9), (10) and (11) of the Local Tax Enabling

Act shall remain in effect, other than the reduction in rate as set forth in this paragraph.

(d) Mercantile tax.--Nothing in this subpart shall limit or modify any mercantile or business privilege tax on gross receipts as limited by section 533 of the act of December 13, 1988 (P.L.1121, No.145), known as the Local Tax Reform Act.

(e) Sign or sign privilege tax.--Any political subdivision which has on or before December 31, 1997, assessed, levied or collected an annual sign tax or annual sign privilege tax or provided for the levying, assessment or collection of such tax may continue to levy, assess and collect such tax on such subjects upon which the tax was imposed at a rate not to exceed that imposed by the political subdivision as of December 31, 1997. A political subdivision which did not assess, levy or collect an annual sign tax or annual sign privilege tax as of December 31, 1997, may not assess, levy or collect such tax. This subsection shall apply regardless of whether there is an election under section 8703(a).

(f) Motor vehicle transfer tax.--Any political subdivision that did not assess, levy or collect a tax on the transfer of motor vehicles or on the privilege of transferring motor vehicles as of December 31, 1997, shall not assess, levy or collect such tax. This subsection shall apply regardless of whether there is an election under section 8703(a). This subsection shall neither apply to nor affect any mercantile or business privilege tax on gross receipts as limited by section 533 of the Local Tax Reform Act.

Effective Date. Section 12(1) of Act 50 of 1998 provided that subsecs. (c), (e) and (f) shall take effect immediately.

Cross References. Section 8402 is referred to in sections 8701, 8866, 8867 of this title.

§ 8403. Preemption.

No act of the General Assembly will vacate or preempt any resolution adopted under this subpart providing for the imposition of a tax by a school district unless the act of the General Assembly expressly vacates or preempts the authority to adopt the resolution.

§ 8404. Certain rates of taxation limited.

If a municipality and school district both impose an earned income and net profits tax on the same individual under the Local Tax Enabling Act and the municipality and school district are limited to or have agreed upon a division of the tax rate in accordance with section 8 of the Local Tax Enabling Act, then the municipality that continues to levy the earned income and net profits tax under the Local Tax Enabling Act shall remain subject to that limitation or agreement in the event that the school district opts to impose an earned income and net profits tax under section 8711 (relating to earned income and net profits tax).

§ 8405. Applicability.

It is the intent of the General Assembly that no provision of this subpart shall apply to any city of the first class, a county of the first class coterminous with a city of the first class and any school district of the first class located within a city of the first class.

Cross References. Section 8405 is referred to in sections 8402, 8588 of this title.

(Reserved)

SUBCHAPTER C
LOCAL TAXPAYERS BILL OF RIGHTS

Sec.

- 8421. Short title of subchapter.
- 8422. Definitions.
- 8423. Disclosure statement.
- 8424. Requirements for requests.
- 8425. Refunds of overpayments.
- 8426. Interest on overpayment.
- 8427. Notice of basis of underpayment.
- 8428. Abatement of certain interest and penalty.
- 8429. Application of payments.
- 8430. Administrative appeals.
- 8431. Petitions.
- 8432. Practice and procedure.
- 8433. Decisions.
- 8434. Appeals.
- 8435. Equitable and legal principles to apply.
- 8436. Installment agreements.
- 8437. Confidentiality of tax information.
- 8438. Taxes on real property.

Cross References. Subchapter C is referred to in section 8712 of this title.

§ 8421. Short title of subchapter.

This subchapter shall be known and may be cited as the Local Taxpayers Bill of Rights Act.

§ 8422. Definitions.

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

"Assessment." The determination by a local taxing authority of the amount of underpayment by a taxpayer.

"Board." A board of local tax appeals established under section 8430 (relating to administrative appeals).

"Eligible tax." Any of the following, including interest and penalty provided by law, when levied by a political subdivision:

(1) Any tax authorized or permitted under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

(2) Any per capita tax levied under any act.

(3) Any occupation, occupation assessment or occupation privilege tax levied under any act.

(4) Any tax on income levied under any act.

(5) Any tax measured by gross receipts levied under any act.

(6) Any tax on a privilege levied under any act.

(7) Any tax on amusements or admissions levied under any act.

(8) Any tax on earned income and net profits.

"Governing body." A city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, a governing council of a home rule municipality or optional plan municipality, a governing council of any similar general purpose unit of government which may hereafter be created by statute or a board of school directors of a school district.

"Local taxing authority." A political subdivision levying an eligible tax. The term shall include any officer, agent, agency, clerk, income tax officer, collector, employee or other person to whom the governing body has assigned responsibility for the audit, assessment, determination or administration of an eligible tax. The term shall not include a tax collector or collection agency who has no authority to audit a taxpayer or determine the amount of an eligible tax or whose only responsibility is to collect an eligible tax on behalf of the governing body.

"Overpayment." Any payment of tax which is determined in the manner provided by law not to be legally due.

"Taxpayer." An individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another under or pursuant to the authority of an act providing for an eligible tax.

"Underpayment." The amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

"Voluntary payment." A payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the local taxing authority is seeking to collect its delinquent taxes or file a claim therefor.

§ 8423. Disclosure statement.

(a) Contents.--The local taxing authority shall prepare a statement which sets forth the following in simple and nontechnical terms:

(1) The rights of a taxpayer and the obligation of the local taxing authority during an audit or an administrative review of the taxpayer's books or records.

(2) The administrative and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the local taxing authority.

(3) The procedure for filing and processing refund claims and taxpayer complaints.

(4) The enforcement procedures.

(b) Distribution.--The local taxing authority shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of the statement under subsection (a). The local taxing authority shall make copies of the statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification shall be stated as follows:

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling (name of local taxing authority) at (telephone number) during the hours of (hours of operation).

§ 8424. Requirements for requests.

(a) Minimum time periods for taxpayer response.--

(1) The taxpayer shall have at least 30 calendar days from the mailing date to respond to requests for information by a local taxing authority. The local taxing authority shall grant additional reasonable extensions upon application for good cause.

(2) The local taxing authority shall notify the taxpayer of the procedures to obtain an extension in its initial request.

(3) A local taxing authority shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.

(b) Requests for prior year returns.--

(1) Except as provided in paragraph (2), an initial inquiry by a local taxing authority regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than three years prior to the mailing date of the notice.

(2) A local taxing authority may make a subsequent request for a tax return or supporting information if, after the initial request, the local taxing authority determines that the taxpayer failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request.

This subsection shall not apply if the local taxing authority has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than three years prior to the date of the notice.

(c) Use of Federal tax information.--A local taxing authority may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the local taxing authority can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of an eligible tax and the information is not available from other available sources or the Department of Revenue.

§ 8425. Refunds of overpayments.

(a) General rule.--A taxpayer who has paid an eligible tax to a local taxing authority may file a written request with the local taxing authority for refund or credit of the eligible tax. A request for refund shall be made within three years of the due date for filing the report as extended or one year after actual payment of the eligible tax, whichever is later. If no report is required, the request shall be made within three years after the due date for payment of the eligible tax or within one year after actual payment of the eligible tax, whichever is later.

(1) For purposes of this section, a tax return filed by the taxpayer with the local taxing authority showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.

(2) A request for refund under this section shall not be considered a petition under section 8430 (relating to administrative appeals) and shall not preclude a taxpayer from submitting a petition under section 8431 (relating to petitions).

(b) Notice of underpayment.--For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the local taxing authority within one year of the date of the payment.

§ 8426. Interest on overpayment.

(a) General rule.--All overpayments of tax due a local taxing authority, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution.

(b) Interest rate.--Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(c) Exceptions.--

(1) No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the local taxing authority within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.

(2) Overpayments of interest or penalty shall not bear any interest.

(d) Acceptance of refund check.--The taxpayer's acceptance of the local taxing authority's check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the local taxing authority shall be deemed to be acceptance of the check by the taxpayer for purposes of this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Date of overpayment." The later of the date paid or the date tax is deemed to have been overpaid as follows:

(1) Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day for filing the report for the tax period, determined without regard to any extension of time for filing.

(2) Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.

(3) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.

(4) Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.

(5) Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

"Date of resolution." The date the overpayment is refunded or credited as follows:

(1) For a cash refund, a date preceding the date of the local taxing authority's refund check by not more than 30 days.

(2) For a credit for an overpayment:

(i) the date of the local taxing authority's notice to the taxpayer of the determination of the credit; or

(ii) the due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

Cross References. Section 8426 is referred to in section 8438 of this title; section 145A06 of Title 11 (Cities).

§ 8427. Notice of basis of underpayment.

A local taxing authority shall notify the taxpayer in writing of the basis for any underpayment that the local taxing authority has determined to exist. The notification shall include:

(1) The tax period or periods for which the underpayment is asserted.

(2) The amount of the underpayment detailed by tax period.

(3) The legal basis upon which the local taxing authority has relied to determine that an underpayment exists.

(4) An itemization of the revisions made by the local taxing authority to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

§ 8428. Abatement of certain interest and penalty.

(a) Errors and delays.--In the case of any underpayment, the local taxing authority may abate all or any part of interest for any period for the following:

(1) Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the local taxing authority in the performance of a ministerial act. For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the local taxing authority has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.

(2) Any payment of a tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the local taxing authority being erroneous or dilatory in performance of a ministerial act. The local taxing authority shall determine what constitutes timely performance of ministerial acts performed under this subchapter.

(b) Abatement due to erroneous written advice by local taxing authority.--

(1) The local taxing authority shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the local taxing authority acting in the officer's, employee's or agent's official capacity if:

(i) the written advice was reasonably relied upon by the taxpayer and was in response to specific written request of the taxpayer; and

(ii) the portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.

(2) This subsection shall not be construed to require the local taxing authority to provide written advice to taxpayers.

§ 8429. Application of payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the local taxing authority as follows:

(1) Tax.

(2) Interest.

(3) Penalty.

(4) Any other fees or charges.

§ 8430. Administrative appeals.

A political subdivision levying an eligible tax shall establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. The administrative process shall consist of any one of the following:

(1) Review and decision or hearing and decision by a local tax appeals board appointed by the governing body. The board shall consist of at least three but not more than seven members. Qualifications for service on the board and compensation, if any, of the members shall be determined by the governing body. The governing body may enter into agreements with other political subdivisions to establish a joint local tax appeals board.

(2) Review and decision by the governing body in executive session.

(3) A hearing and decision by a hearing officer appointed by the governing body. The governing body shall determine the qualifications and compensation, if any, of the hearing officer.

(4) An administrative review or appeal process existing on the effective date of this chapter that is substantially similar to the procedures in paragraph (1), (2) or (3).

Cross References. Section 8430 is referred to in sections 8422, 8425 of this title.

§ 8431. Petitions.

(a) **Filing.**--A petition is timely filed if the letter transmitting the petition is postmarked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:

(1) Refund petitions shall be filed within three years after the due date for filing the report as extended or one year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within three years after the due date for payment of an eligible tax or within one year after actual payment, whichever is later.

(2) Petitions for reassessment of an eligible tax shall be filed within 90 days of the date of the assessment notice.

(b) **Contents.**--The governing body shall adopt regulations specifying the form and content of petitions, including the process and deadlines.

Cross References. Section 8431 is referred to in section 8425 of this title.

§ 8432. Practice and procedure.

Practice and procedure under this subchapter shall not be governed by 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action). The governing body shall adopt regulations governing practice and procedure under this subchapter.

§ 8433. Decisions.

Decisions on petitions submitted under this subchapter shall be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

§ 8434. Appeals.

Any person aggrieved by a decision under this chapter who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. (relating to judiciary and judicial procedure).

§ 8435. Equitable and legal principles to apply.

Decisions under this chapter may be made according to principles of law and equity.

§ 8436. Installment agreements.

(a) Authorization.--A local taxing authority may enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the local taxing authority determines that the agreement will facilitate collection.

(b) Extent to which agreements remain in effect.--

(1) Except as otherwise provided in this subsection, any agreement entered into by the local taxing authority under subsection (a) shall remain in effect for the term of the agreement.

(2) The local taxing authority may terminate any prior agreement entered into under subsection (a) if:

(i) information which the taxpayer provided to the local taxing authority prior to the date of the agreement was inaccurate or incomplete; or

(ii) the local taxing authority believes that collection of any eligible tax under the agreement is in jeopardy.

(3) If the local taxing authority finds that the financial condition of the taxpayer has significantly changed, the local taxing authority may alter, modify or terminate the agreement, but only if:

(i) notice of the local taxing authority's finding is provided to the taxpayer no later than 30 days prior to the date of such action; and

(ii) the notice contains the reasons why the local taxing authority believes a significant change has occurred.

(4) The local taxing authority may alter, modify or terminate an agreement entered into by the local taxing authority under subsection (a) if the taxpayer fails to do any of the following:

(i) Pay any installment at the time the installment is due under such agreement.

(ii) Pay any other tax liability at the time the liability is due.

(iii) Provide a financial condition update as requested by the local taxing authority.

(c) Prepayment permitted.--Nothing in this section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any agreement with the local taxing authority.

§ 8437. Confidentiality of tax information.

Any information gained by a local taxing authority as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for any local taxing authority to:

(1) Divulge or make known in any manner any confidential information gained in any return, investigation, hearing or verification to any person.

(2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.

(3) Print, publish or make known in any manner any confidential tax information.

An offense under this section is a misdemeanor of the third degree, and, upon conviction thereof, a fine of not more than \$2,500 and costs, or a term of imprisonment for not more than one year, or both, may be imposed. If the offender is an officer or employee of the local taxing authority, the officer or employee shall be dismissed from office or discharged from employment.

§ 8438. Taxes on real property.

Except as provided in section 8426 (relating to interest on overpayment), this subchapter shall not apply to any tax on real property.

CHAPTER 85

ASSESSMENTS OF PERSONS AND PROPERTY

Subchapter

- A. through C. (Reserved)
- D. Cities and Counties of the First Class
- E. Real Estate Tax Deferral
- F. Homestead Property Exclusion

Enactment. Chapter 85 was added May 5, 1998, P.L.301, No.50, effective January 1, 1999, unless otherwise noted.

**SUBCHAPTERS A through C
(Reserved)**

SUBCHAPTER D

CITIES AND COUNTIES OF THE FIRST CLASS

Sec.

- 8561. Scope of subchapter.
- 8562. Definitions.
- 8563. Tax rates.
- 8564. Installment payments.
- 8565. Assessments and appeals for certain tax years.

Enactment. Subchapter D was added July 5, 2012, P.L.1097, No.131, effective immediately.

§ 8561. Scope of subchapter.

This subchapter relates to assessments in cities and counties of the first class.

§ 8562. Definitions.

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

"Act 1939-404." The act of June 27, 1939 (P.L.1199, No.404), entitled "An act relating to the assessment of real and personal property and other subjects of taxation in counties of the first class; providing for the appointment of members of the board of revision of taxes by the judges of the courts of common pleas; providing for the appointment, by the board, of personal property assessors, real estate assessors and assistant real estate assessors, clerks and other employes; fixing the salaries

of members of the board, assessors and assistant assessors, and providing for the payment of salaries and expenses from the county treasury; prescribing the powers and duties of the board and of the assessors, the time and manner of making assessments, of the revision and notice of assessments and of appeals therefrom; prescribing the records of assessments; and repealing existing laws."

"Assessment office." The office of property assessment in a city.

"Board." The board of revision of taxes or a successor body authorized by a city to determine assessment appeals in a city.

"City." A city of the first class.

"Common level ratio." The ratio of assessed value to market value as determined by the State Tax Equalization Board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

"County." A county of the first class.

"Established predetermined ratio." The ratio of assessed value to market value established under Act 1939-404 and uniformly applied in determining assessed value in any year.

"Governing body." The governing body of a city.

"School district." A school district of the first class.

References in Text. The act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law, referred to in the def. of "common level ratio," was repealed by the act of April 18, 2013 (P.L.4, No.2). The subject matter is now contained in Chapter 15 of the act of June 27, 1996 (P.L.403, No.58), known as the Community and Economic Development Enhancement Act.

§ 8563. Tax rates.

(a) General rule.--Notwithstanding the provisions of section 696(h) of the Public School Code of 1949 or any other provision of law, the following shall apply to any city or county of the first class:

(1) For the reassessment year and the two years thereafter, the rate of any tax authorized by a city of the first class or county of the first class to be levied for a school district of the first class or dedicated to the school district of the first class in accordance with section 696(h)(1) of the Public School Code of 1949 may be adjusted so that the yield on taxes based on assessed values of real estate authorized by the city of the first class or county of the first class for the school district of the first class, as estimated and certified by the director of finance of the city of the first class, is equal to an amount equal to or greater than the highest yield of the taxes based on assessed values of real estate authorized by the city of the first class or county of the first class to be levied by the school district of the first class or dedicated to the school district of the first class during any of the three full preceding years prior to the reassessment year. In the third and fourth years following the reassessment year, the rate of any tax authorized by the city of the first class or county of the first class to be levied for the school district of the first class or dedicated to the school district of the first class shall be not less than the rate authorized in the immediately preceding year.

(2) In the reassessment year and each year thereafter, in any year in which the school district of the first class is subject to a declaration of distress pursuant to section 696 of the Public School Code of 1949, the school district

of the first class may levy taxes on real estate under any of the following acts to the extent the estimated yield on all taxes on real estate for the year is less than an amount equal to the yield in the year prior to the reassessment year, increased by an amount proportional to the increase since the year prior to the reassessment year in total assessed value of real estate in the city of the first class:

- (i) Section 652 of the Public School Code of 1949.
- (ii) The act of May 23, 1949 (P.L.1661, No.505), entitled "An act to impose a tax on real estate for public school purposes in school districts of the first class and of the first class A for current expenses."
- (iii) The act of July 8, 1957 (P.L.548, No.303), entitled "An act to impose an additional tax on real estate for public school purposes in school districts of the first class for current expenses."
- (iv) The act of November 19, 1959 (P.L.1552, No.557), entitled "An act imposing a tax on real estate for public school purposes in school districts of the first class and first class A for current expenses."
- (v) The act of August 8, 1963 (P.L.592, No.310), entitled "An act to impose an additional tax on real estate for public school purposes in school districts of the first class for general public school purposes."
- (vi) Any other statute authorizing the school district of the first class to levy taxes without authorization of the city of the first class.

(3) Paragraph (1) shall affect only the rate of the taxes authorized by the city of the first class or county of the first class to be levied by the school district of the first class or dedicated to the school district of the first class for the reassessment year and the four years immediately thereafter. Nothing under this subsection shall:

- (i) Repeal or modify the obligation of the city of the first class or the county of the first class to fully comply with section 696(h)(1) of the Public School Code of 1949 for each year while the school district of the first class is subject to a declaration of distress.
- (ii) Repeal or affect the taxing authority of a city of the first class under the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Public School Code of 1949." The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

"Reassessment year." The year immediately following the year in which the director of finance in a city of the first class first certifies that the total assessed value of all real property in the city of the first class is at full market value. (Oct. 24, 2012, P.L.1286, No.160, eff. 60 days)

§ 8564. Installment payments.

The governing body of a county of the first class may authorize the collection of a tax enumerated in section 201(a) of the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, through periodic installment payments and may determine the frequency of and eligibility for the payments.

(Dec. 18, 2013, P.L.1165, No.106, eff. 60 days)

§ 8565. Assessments and appeals for certain tax years.

(a) Legislative findings.--The General Assembly finds and declares as follows:

(1) Real estate tax assessment in a city has become increasingly at variance with principles of uniformity and sound assessment.

(2) The deficiencies under paragraph (1) have been determined to be remedied by a citywide reassessment, sometimes referred to as the "actual value initiative."

(3) The reassessment of all properties located in a city is likely to cause substantial shifts in tax liabilities among various neighborhoods and groups of taxpayers. These shifts are likely to increase substantially the tax burdens on residential properties, particularly those properties with low to medium values.

(4) As part of a reassessment, the governing body must make a major revision to the applicable tax rates in order to maintain tax revenues and fund any required tax increases. The governing body must take into account enactment of a homestead exclusion and perhaps other measures in order to alleviate an increased tax burden on lower value residential properties.

(5) The governing body cannot responsibly determine the applicable tax rates without knowing the value of the tax base to which the rates apply. Currently, a city's budget, including tax revenues, must be enacted by each June 30, but tax assessments are not finalized until the following September.

(6) Implementation by a city of an actual value initiative will be helped by requiring that assessed values be determined prior to adopting the city's budget and by the applicable assessment officials completing the task of determining the tax base in the city.

(7) The common level ratio for a city applicable to tax year 2012, certified by the State Tax Equalization Board and published at 42 Pa.B. 2152 (April 14, 2012), has been disputed and may be subject to further dispute. The common level ratio for tax year 2013 may have similar uncertainties. The ratios for both years are determined by a State Tax Equalization Board assessment tool new to the review of properties in a city.

(8) The common level ratio for a city applicable to tax year 2011, based on 2009 data and published at 40 Pa.B. 4069 (July 17, 2010), has not been disputed and is the same as the applicable established predetermined ratio.

(9) Special provisions are necessary in order to address the findings set forth in this subsection.

(b) Certification of values.--Notwithstanding any other provision of law:

(1) For tax year 2013, the assessment office shall certify assessed values at the assessed values certified for tax year 2011, adjusted for subsequent improvements, demolition and destruction. The assessed values certified for tax year 2013 under this paragraph shall apply to all taxes on or measured by assessed values levied by a city or a school district for tax year 2013 notwithstanding any contrary enactment of a city or a school district or any contrary certification by a city, city agency or school district.

(2) For tax years after tax year 2013, the assessment office shall certify market values at actual market value. In arriving at actual market value, the price at which any property may actually have been sold shall be considered but

shall not be controlling. In arriving at the actual market value:

(i) All three of the following valuation methods shall be considered in conjunction with one another:

(A) Reproduction or replacement cost, as applicable, minus:

(I) depreciation; and

(II) all forms of obsolescence.

(B) Comparable sales.

(C) Income.

(ii) The valuation process may employ systems, methodologies and technologies that meet nationally recognized assessment standards.

(c) Timing of certification.--Notwithstanding any other provision of law, for tax years after tax year 2013, the assessment office shall certify assessed values by March 31 of the preceding year.

(d) Application of established predetermined ratio.--Notwithstanding any other provision of law, in any assessment appeal under Act 1939-404 for tax year 2013, the board and any applicable court of competent jurisdiction shall apply the established predetermined ratio applicable to a city for tax year 2011.

(e) Conflicts.--If there is a conflict between a provision of Act 1939-404 and a provision of this section, the provision of this section shall apply.

SUBCHAPTER E

REAL ESTATE TAX DEFERRAL

Sec.

8571. Short title of subchapter.

8572. Definitions.

8573. Authority.

8574. Income eligibility.

8575. Tax deferral.

8576. Application procedure.

8577. Contents of application.

8578. Attachment and satisfaction of liens.

§ 8571. Short title of subchapter.

This subchapter shall be known and may be cited as the Real Estate Tax Deferment Program Act.

§ 8572. Definitions.

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

"Base payment." The amount of property tax paid by an applicant in the base year.

"Base year." The tax year preceding the first tax year for which a taxing authority implements the provisions of this subchapter or the tax year immediately preceding an applicant's entry into the tax deferral program.

"Claimant." A person whose household income does not exceed the limit provided for in section 8574 (relating to income eligibility).

"Household income." All income as defined in the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, received by the claimant and by the claimant's spouse during the calendar year for which a tax deferral is claimed.

"Increase in real property taxes." An increase in the property taxes above the base payment resulting from a millage increase, a change in the assessment ratio or method or by a revaluing of all properties.

References in Text. The act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, referred to in the def. of "household income," was repealed by the act of June 27, 2006, Sp.Sess. 1 (P.L.1873, No.1). The subject matter is now contained in Chapter 13 of the Taxpayer Relief Act.

§ 8573. Authority.

All political subdivisions shall have the power and authority to grant annual tax deferrals in the manner provided in this subchapter.

§ 8574. Income eligibility.

A claimant shall be eligible for a tax deferral if the claimant and the claimant's spouse have a household income not exceeding the maximum household income eligibility limitations set forth in the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act.

References in Text. The act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, referred to in this section, was repealed by the act of June 27, 2006, Sp.Sess. 1 (P.L.1873, No.1). The subject matter is now contained in Chapter 13 of the Taxpayer Relief Act.

Cross References. Section 8574 is referred to in sections 8572, 8576 of this title.

§ 8575. Tax deferral.

(a) **Amount.**--An annual real estate tax deferral granted under this subchapter shall equal the increase in real property taxes upon the homestead of the claimant.

(b) **Prohibition.**--No tax deferrals shall be granted if the total amount of deferred taxes plus the total amount of all other unsatisfied liens on the homestead of the claimant plus the outstanding principal on any and all mortgages on the homestead exceeds 85% of the market value of the homestead or if the outstanding principal on any and all mortgages on the homestead exceeds 70% of the market value of the homestead. Market value shall equal assessed value divided by the common level ratio as most recently determined by the State Tax Equalization Board for the county in which the property is located.

§ 8576. Application procedure.

(a) **Initial application.**--Any person eligible for a tax deferral under this subchapter may apply annually to the political subdivision. In the initial year of application, the following information shall be provided in the manner required by the political subdivision:

- (1) A statement of request for the tax deferral.
- (2) A certification that the applicant or the applicant and his or her spouse jointly are the owners in fee simple of the homestead upon which the real property taxes are imposed.
- (3) A certification that the applicant's homestead is adequately insured under a homeowner's policy to the extent of all outstanding liens.
- (4) Receipts showing timely payment of the immediately preceding year's nondeferred real property tax liability.
- (5) Proof of income eligibility under section 8574 (relating to income eligibility).

(6) Any other information required by the political subdivision.

(b) Subsequent years.--After the initial entry into the program, a claimant shall remain eligible for tax deferral in subsequent years so long as the claimant continues to meet the eligibility requirements of this subchapter.

§ 8577. Contents of application.

Any application for a tax deferral distributed to persons shall contain the following:

(1) A statement that the tax deferral granted under this subchapter is provided in exchange for a lien against the homestead of the applicant.

(2) An explanation of the manner in which the deferred taxes shall become due, payable and delinquent and include, at a minimum, the consequences of noncompliance with the provisions of this subchapter.

§ 8578. Attachment and satisfaction of liens.

(a) Nature of lien.--All taxes deferred under this subchapter shall constitute a prior lien on the homestead of the claimant in favor of the political subdivision and shall attach as of the date and in the same manner as other real estate tax liens. The deferred taxes shall be collected as other real estate tax liens, but the deferred taxes shall be due, payable and delinquent only as provided in subsection (b).

(b) Payment.--

(1) All or part of the deferred taxes may at any time be paid to the political subdivision.

(2) In the event that the deferred taxes are not paid by the claimant or the claimant's spouse during his or her lifetime or during their continued ownership of the homestead, the deferred taxes shall be paid either:

(i) prior to the conveyance of the homestead to any third party; or

(ii) prior to the passing of the legal or equitable title, either by will or by statute, to the heirs of the claimant or the claimant's spouse.

(3) The surviving spouse of a claimant shall not be required to pay the deferred taxes by reason of his or her acquisition of the homestead due to death of the claimant as long as the surviving spouse maintains his or her domicile in the property. The surviving spouse may continue to participate in the tax deferral program in subsequent years provided he or she is eligible under the provisions of this subchapter.

SUBCHAPTER F

HOMESTEAD PROPERTY EXCLUSION

Sec.

- 8581. Short title of subchapter.
- 8582. Definitions.
- 8583. Exclusion for homestead property.
- 8584. Administration and procedure.
- 8585. Exclusion for farmstead property.
- 8586. Limitations.
- 8587. Uniform application.
- 8588. Applicability.

Effective Date. Section 12(2) of Act 50 of 1998 provided that Subchapter F shall take effect July 1, 1998.

Cross References. Subchapter F is referred to in section 8853 of this title.

§ 8581. Short title of subchapter.

This subchapter shall be known and may be cited as the Homestead Property Exclusion Program Act.

§ 8582. Definitions.

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

"Assessor." The chief assessor of the county, the equivalent position in a home rule county or the equivalent position in a city of the third class that performs its own assessments of real property.

"Board." Any of the following:

(1) "Board." As defined in section 8802 (relating to definitions).

(2) "Board of Property Assessment, Appeals and Review."

The Board of Property Assessment, Appeals and Review in a county of the second class under the act of June 21, 1939 (P.L.626, No.294), referred to as the Second Class County Assessment Law, or a similar body established by a home rule county.

(3) "Board of Revision of Tax and Appeals." The board of revision of taxes and appeals in cities of the third class.

(4) The body with responsibility for the making of assessments of real property in a city of the first class.

"Common level ratio." The ratio of assessed value to current market value used generally in the county as last determined by the State Tax Equalization Board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

"Established predetermined ratio." The ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.

"Farmstead." All buildings and structures on a farm not less than ten contiguous acres in area, not otherwise exempt from real property taxation or qualified for any other abatement or exclusion pursuant to any other law, that are used primarily to produce or store any farm product produced on the farm for purposes of commercial agricultural production, to house or confine any animal raised or maintained on the farm for the purpose of commercial agricultural production, to store any agricultural supply to be used on the farm in commercial agricultural production or to store any machinery or equipment used on the farm in commercial agricultural production. This term shall only apply to farms used as the domicile of an owner.

"Farmstead property." A farmstead for which an application has been submitted and approved under section 8584 (relating to administration and procedure).

"Governing body." The board of county commissioners, including the successor in function to the board of county commissioners in a county which has adopted a home rule charter under the former act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law, under Subpart E of Part III (relating to home rule and optional plan government) or under Article XXXI-C of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, a governing council of a home rule municipality or optional plan

municipality, a governing council of any similar general purpose unit of government which may hereafter be created by statute or a board of school directors of a school district.

"Median assessed value." The value which is the middle point in the sequential distribution of assessed values, above and below which exist an equal number of assessed values.
(July 5, 2012, P.L.1097, No.131, eff. imd.)

2012 Amendment . Act 131 amended the def. of "board."

References in Text. The act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law, referred to in the def. of "common level ratio," was repealed by the act of April 18, 2013 (P.L.4, No.2). The subject matter is now contained in Chapter 15 of the act of June 27, 1996 (P.L.403, No.58), known as the Community and Economic Development Enhancement Act.

§ 8583. Exclusion for homestead property.

(a) General rule.--The governing body of a political subdivision may exclude from taxation a fixed dollar amount of the assessed value of each homestead property in the political subdivision consistent with section 8586 (relating to limitations).

(b) Jurisdictions crossing county lines.--If a political subdivision is located in more than one county, the exclusion established under subsection (a) for each county portion of the political subdivision shall be uniform after adjustment for the common level ratios in the respective counties.

(c) Split rate taxes.--In political subdivisions where different millage rates are applied to land and the improvements upon land, the exclusion established under subsection (a) shall be applied first to the value of the improvements, and the remainder of the exclusion, if any, shall be applied to the value of the land.

(d) New construction.--The exclusion authorized under subsection (a) for a dwelling constructed during the taxable year and used as homestead property shall be prorated in a manner consistent with the assessment of real property taxes on that dwelling.

(e) Reassessment.--After a revision of assessments by means of revaluing all properties, the governing body of the political subdivision providing an exclusion under this section shall adjust the amount of the exclusion for homestead property as follows:

(1) if the assessment base is revised by applying a change in the established predetermined ratio, the exclusion for homestead property shall be adjusted by the percentage change between the existing predetermined ratio and the newly established predetermined ratio; or

(2) if the assessor performs a revision of assessments by revaluing all properties and applying an established predetermined ratio, the exclusion for homestead property shall be adjusted by dividing the exclusion for homestead property for the year preceding the revision of assessments by the common level ratio and multiplying the quotient of that calculation by the newly established predetermined ratio.

Cross References. Section 8583 is referred to in sections 8585, 8586, 8717 of this title.

§ 8584. Administration and procedure.

(a) Application; determinations.--The owner or owners of real property seeking to have property approved as homestead

property or farmstead property shall file an application with the assessor on the form developed under section 8587 (relating to uniform application). Determinations with respect to the qualification of all or a part of a parcel of real property as homestead property or farmstead property shall be made by the assessor.

(b) Filing deadlines; renewal of application.--Applications shall be filed with the assessor not later than March 1 of each year, provided that, in a city of the first class, the application shall be filed with the assessor not later than a date set by the governing body, which date shall be no later than December 1 of the year prior to the year in which the exclusion shall first apply. The governing body of a county may adopt a schedule for review or reapplication for real property previously approved as homestead property or farmstead property.

(c) Notice of applications and deadlines.--The assessor shall provide sufficient notice to the public regarding the availability of applications to designate real property as homestead property or farmstead property and all filing deadlines. The assessor shall make applications available at least 75 days before the filing deadline, provided that, in a city of the first class, the application shall be available at least 60 days before the filing deadline.

(d) Denial of application.--The assessor shall provide to each property owner whose application for approval as homestead property or farmstead property is being denied in whole or in part a written notice of denial by first class mail not later than 120 days after the filing deadline. The notice shall include all reasons for denial. Failure by the assessor to provide notice under this subsection shall be deemed to be approval of the application.

(e) Appeals of assessor's decision.--An owner aggrieved by the decision of the assessor may appeal to the board for a review of the decision in a manner consistent with the provisions for appeal of assessments under the applicable assessment law. Appeals under this subsection shall be limited to whether the application meets the requirements of subsections (a) and (b) or whether the parcel for which the appeal is made meets the definition of "farmstead property" or "homestead property."

(f) Other appeals.--Appeals regarding the assessed value of real property under the applicable assessment law shall be based on the assessed value of the real property before application of the exclusions for homestead property or farmstead property. The issue of qualification as homestead property or farmstead property shall not be raised in an appeal except as provided in subsection (e).

(g) False or fraudulent applications.--The assessor may select, randomly or otherwise, applications filed under subsection (a) to review for false or fraudulent information.

(h) Penalties.--Any person who files an application under subsection (a) which is false as to any material matter shall:

(1) pay any taxes which would have been due but for the false application, plus simple interest computed at the rate provided in section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code;

(2) pay a penalty equal to 10% of the unpaid taxes computed under paragraph (1); and

(3) upon conviction for filing an application under subsection (a) which a person knows to be fraudulent, be guilty of a misdemeanor of the third degree and be sentenced to pay a fine not exceeding \$2,500.

(i) Reports.--At the same time as the assessor certifies the tax duplicate, the assessor shall provide to the governing bodies of the county and each political subdivision within the county upon request and at no charge a certified report listing at least all of the following information:

(1) The parcel number of each parcel which is approved, in whole or in part, as homestead property.

(2) The assessed value of each parcel which is approved, in whole or in part, as homestead property.

(3) The portion of the assessed value of each parcel listed under paragraph (2) which is approved as homestead property.

(4) The median assessed value of the homestead property listed in paragraph (3).

(5) The parcel number of each parcel which is approved, in whole or in part, as farmstead property.

(6) The assessed value of each parcel which is approved, in whole or in part, as farmstead property.

(7) The portion of the assessed value of each parcel listed under paragraph (6) which is approved as farmstead property.

The governing body of the county may set reasonable fees for providing customized reports or services not otherwise required under this chapter or other applicable law to political subdivisions.

(j) Notification on change of use.--

(1) A property owner whose property is approved as homestead property or farmstead property and which property no longer qualifies as homestead property or farmstead property shall notify the assessor within 45 days of the date the property no longer qualifies as homestead property or farmstead property. Failure to notify the assessor as required by this subsection shall be treated in the same manner as a false application under subsection (g).

(2) The recorder of deeds shall periodically provide to the assessor a list of real property conveyance documents which have been presented for recording. The list shall include the name of the grantor and the address of the property. For the purposes of this paragraph, the word "document" shall have the meaning ascribed to it in section 1101-C of the Tax Reform Code.

(July 5, 2012, P.L.1097, No.131, eff. imd.)

2012 Amendment . Act 131 amended subsecs. (b) and (c).

Cross References. Section 8584 is referred to in sections 8401, 8582, 8586, 8587 of this title.

§ 8585. Exclusion for farmstead property.

(a) Authorization.--The exclusion for farmstead property shall be authorized pursuant to section 2(b)(i) of Article VIII of the Constitution of Pennsylvania. This exclusion shall apply uniformly to each farmstead property within the taxing jurisdiction.

(b) General rule.--Any governing body that excludes a portion of the value of homestead property under section 8583 (relating to exclusion for homestead property) shall exclude a portion of the assessed value of each farmstead property in the political subdivision by a fixed dollar amount established by its governing body, not to exceed the amount of the exclusion for homestead property under section 8583. The exclusion for farmstead property shall be in addition to any exclusion for homestead property for which the dwelling on the farm may qualify.

(c) Farmstead crossing county lines.--If a political subdivision is located in more than one county, the exclusion for farmstead property computed under subsection (a) for each county portion of the political subdivision shall be uniform after adjustment for the common level ratios in the respective counties.

(d) New construction.--The exclusion allowed under subsection (b) for a building constructed during the taxable year and used as farmstead property shall be prorated in a manner consistent with the assessment of real property taxes on that building.

(e) Reassessment.--After a revision of assessments by means of revaluing all properties, the governing body of the political subdivision providing an evaluation under this section shall adjust the amount of the exclusion for farmstead property as follows:

(1) if the assessment base is revised by applying a change in the established predetermined ratio, the exclusion for farmstead property shall be adjusted by the percentage change between the existing predetermined ratio and the newly established predetermined ratio; or

(2) if performing a revision of assessments by revaluing all properties and applying an established predetermined ratio, the exclusion for farmstead property shall be adjusted by dividing the exclusion for farmstead property for the year preceding the revision of assessments by the common level ratio and multiplying the quotient of that calculation by the newly established predetermined ratio.

Cross References. Section 8585 is referred to in section 8586 of this title.

§ 8586. Limitations.

(a) Limit on exclusion.--

(1) In accordance with the limits established on the exclusion for homestead property in Article VIII of the Constitution of Pennsylvania, no governing body of a political subdivision shall authorize an exclusion for homestead property in excess of the amount which is one-half of the median assessed value of homestead property in the political subdivision. The median assessed value of homestead property shall be determined by the information provided to the governing body under section 8584(i) (relating to administration and procedure).

(2) For the purposes of calculating the limit on the exclusion under paragraph (1), a political subdivision that is located in more than one county shall determine the median assessed value of homestead property for the entire political subdivision after dividing the assessed value of each homestead property by the common level ratio of the county in which the homestead property is located.

(b) Prohibition.--The governing body of the political subdivision may not increase the millage rate of its tax on real property to pay for the exclusions authorized by sections 8583 (relating to exclusion for homestead property) and 8585 (relating to exclusion for farmstead property).

(c) Other tax exemption.--Notwithstanding any provision of this subchapter to the contrary, no governing body in a city of the first class shall authorize a homestead property exclusion for property that, for the same tax year to which the homestead property exclusion would otherwise apply, has an exemption from real property taxation under the act of July 9,

1971 (P.L.206, No.34), known as the Improvement of Deteriorating Real Property or Areas Tax Exemption Act.

(Dec. 18, 2013, P.L.1165, No.106, eff. 60 days)

2013 Amendment. Act 106 added subsec. (c).

Cross References. Section 8586 is referred to in sections 8583, 8717 of this title.

§ 8587. Uniform application.

An application form for use by assessors under section 8584(a) (relating to administration and procedure) shall be developed by the Department of Community and Economic Development and published in the Pennsylvania Bulletin by September 30, 1998.

Cross References. Section 8587 is referred to in section 8584 of this title.

§ 8588. Applicability.

Notwithstanding the provisions of section 8405 (relating to applicability), the provisions of this subchapter shall apply to cities and counties of the first class and to school districts of the first class. Any action taken pursuant to this subchapter by the governing body of a city of the first class shall apply to a city of the first class and to a school district of the first class.

(July 5, 2012, P.L.1097, No.131, eff. imd.)

2012 Amendment . Act 131 added section 8588.

CHAPTER 86

TAXATION FOR PUBLIC TRANSPORTATION

Sec.

8601. Scope of chapter.

8602. Local financial support.

Enactment. Chapter 86 was added July 18, 2007, P.L.169, No.44, effective immediately and retroactive to July 1, 2007.

§ 8601. Scope of chapter.

This chapter relates to local funding for sustainable mobility options.

§ 8602. Local financial support.

(a) Imposition.--Notwithstanding any other provision of law, a county of the second class may obtain financial support for transit systems by imposing one or more of the taxes under subsection (b). Money obtained from the imposition shall be deposited into a restricted account of the county.

(b) Taxes.--

(1) A county of the second class may, by ordinance, impose any of the following taxes:

(i) A tax on the sale at retail of liquor and malt and brewed beverages within the county. The ordinance shall be modeled on the act of June 10, 1971 (P.L.153, No.7), known as the First Class School District Liquor Sales Tax Act of 1971, and the rate of tax authorized under this subparagraph may not exceed the rate established under that act.

(ii) An excise tax on each renting of a rental vehicle in the county. The rate of tax authorized under this subparagraph may not exceed the rate established under section 2301(e) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. As used in

this subparagraph, the term "rental vehicle" has the meaning given to it in section 1601-A of the Tax Reform Code of 1971.

(2) (Reserved).

(c) Definition.--For purposes of this section, the term "county of the second class" shall not include a county of the second class A.

CHAPTER 87

OTHER SUBJECTS OF TAXATION

Subchapter

- A. Tax Authorization and Referendum Requirements
- B. Earned Income and Net Profits Tax
- C. Miscellaneous Taxes

Enactment. Chapter 87 was added May 5, 1998, P.L.301, No.50, effective January 1, 1999.

SUBCHAPTER A

TAX AUTHORIZATION AND REFERENDUM REQUIREMENTS

Sec.

- 8701. General tax authorization.
- 8702. Continuity of tax.
- 8703. Adoption of referendum.
- 8704. Public referendum requirements for increasing property taxes previously reduced.
- 8705. Local tax study commission.
- 8706. Property tax limits on reassessment.

§ 8701. General tax authorization.

(a) General rule.--Subject to sections 8703 (relating to adoption of referendum) and 8704 (relating to public referendum requirements for increasing property taxes previously reduced) and except as provided in subsection (b), each school district shall have the power and may by resolution levy, assess and collect or provide for the levying, assessment and collection of the earned income and net profits tax under this chapter.

(b) Exclusions.--No school district which levies an earned income and net profits tax authorized by this chapter shall have any power or authority to levy, assess or collect:

(1) A tax based upon a flat rate or on a millage rate on an assessed valuation of a particular trade, occupation or profession, commonly known as an occupation tax.

(2) A tax at a set or flat rate upon persons employed within the taxing district, commonly known as an occupational privilege tax.

(3) A per capita, poll, residence or similar head tax.

(4) The earned income and net profits tax levied under the Local Tax Enabling Act.

(5) An earned income tax under the act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act, or under the additional authority in section 652.1(a)(2) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(6) Any tax under section 652.1(a)(4) of the Public School Code of 1949 except as it pertains to real estate transfer taxes.

(7) Except for taxes permitted under section 8402(b) (relating to scope and limitations), (c), (d), (e) and (f), any other tax authorized or permitted under the Local Tax Enabling Act.

(c) Delinquent taxes.--The provisions of subsection (b) shall not apply to collection of delinquent taxes.

Cross References. Section 8701 is referred to in sections 8703, 8717 of this title.

§ 8702. Continuity of tax.

The earned income and net profits tax levied under the provisions of this chapter shall continue in force on a fiscal year basis without annual reenactment unless the rate of tax is increased or the tax is subsequently repealed.

§ 8703. Adoption of referendum.

(a) General rule.--

(1) In order to levy an earned income and net profits tax under this chapter, a governing body shall use the procedures set forth in subsection (b).

(2) Any governing body after making an election to levy an earned income and net profits tax under this chapter may, after a period of at least three full fiscal years, elect under the provisions of subsection (c) to levy, assess and collect the taxes prohibited by section 8701(b) (relating to general tax authorization) to the extent otherwise provided by law. If the electorate approves such referendum, the governing body shall lose the authority to continue to levy an earned income and net profits tax authorized under this chapter.

(b) Public referendum requirements.--Subject to the notice and public hearing requirements of section 8716 (relating to procedure and administration), a governing body may levy the earned income and net profits tax under this chapter only by obtaining the approval of the electorate of the affected school district in a public referendum at only the municipal election preceding the fiscal year when the earned income and net profits tax will be initially imposed. The referendum question must state the initial rate of the proposed earned income and net profits tax, the reason for the tax and the amount of proposed budgeted revenue growth, if any, in the first fiscal year following adoption of the referendum, expressed as a percent increase over the prior year's budgeted revenue. Any increase in budgeted revenue between the first fiscal year following adoption of the referendum and the prior year's budgeted revenue shall not exceed the annual percent change in the Statewide average weekly wage. The question shall be in clear language that is readily understandable by a layperson. For the purpose of illustration, a referendum question may be framed as follows:

Do you favor the imposition of an earned income and net profits tax of X% to be used to replace (names of local taxes to be repealed), reduce real property taxes by X% by means of a homestead exclusion and provide for a one-time revenue increase of X% over the preceding fiscal year?

A nonlegal interpretative statement must accompany the question in accordance with section 201.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, that includes the following: the initial rate of the earned income and net profits tax and the maximum allowable rate of the earned income and net profits tax imposed under this chapter; the estimated revenues to be derived from the initial rate of the earned income and net profits tax imposed under

this chapter; the amount of proposed revenue growth, if any, in the first fiscal year following adoption of the referendum; the estimated reduction in real property taxes and the elimination of certain existing taxes under this chapter; the identification of the existing taxes to be eliminated under this chapter; the method to be used to reduce real property taxes; the class or classes of real property for which real property taxes would be reduced; and the estimated amount of real property tax reduction by class, expressed as an average percent reduction by class. Any governing body which uses the procedures under this section shall not be subject to the provisions of section 8704 (relating to public referendum requirements for increasing property taxes previously reduced) for any future increases in the earned income and net profits tax rates authorized under this chapter. Any future real property tax rate increases are subject to the provisions of section 8704. If the ballot question fails to receive a majority vote pursuant to this section, approval of the electorate under section 8704 shall not be required to increase the rate of any tax which the governing body of the affected school district is authorized to levy and increase pursuant to any other act.

(c) Public referendum requirements to end participation under this chapter.--Subject to the notice and public hearing requirements in section 4 of the Local Tax Enabling Act, a governing body may elect to end participation under this chapter in accordance with subsection (a)(2) by obtaining the approval of the electorate of the affected school district in a public referendum at a municipal election.

(d) Public requirements to initiate referendum.--

(1) If the governing body of a school district fails to place a referendum question on the ballot within two years after the effective date of this chapter, the electors of the school district may:

(i) Circulate a petition which, if signed by electors comprising 2% of the number of electors voting for the office of Governor in the last gubernatorial election in the school district and filed with the election officials and submitted to the governing body thereof, shall require the governing body to establish a local tax study commission. The provisions under paragraph (2)(v), (vi), (vii), (viii) (ix) and (x) shall not apply to this subparagraph.

(ii) If the local tax study commission makes a recommendation to levy the earned income and net profits tax under this chapter and the governing body fails to place the recommendation or other alternative of the governing body authorized under this chapter on the ballot in accordance with this chapter at the next municipal election occurring at least 90 days after the submission of the recommendation to the governing body, a petition under this paragraph may be circulated. If the petition is signed by the electors comprising 5% of the number of electors voting for the office of Governor in the last gubernatorial election in the school district and filed with election officials at least 90 days prior to the next municipal election, the petition shall compel the election officials to place the recommendation upon the ballot at the next municipal election occurring at least 90 days after the filing of the petition.

(2) The following requirements shall apply to the process under paragraph (1):

(i) The name and street address of each elector signing the petition and of the person filing the petition shall be clearly stated on the petition. The petition shall include an affidavit of the circulator that he or she is a qualified elector of the school district referred to in the petition; that the signers signed with full knowledge of the contents of the petition; that the signers' residences are correctly stated; and that, to the best of the circulator's knowledge and belief, the signers are qualified electors.

(ii) The election officials shall, within ten days after filing, review the petition as to the number and qualifications of signers. If the petition appears to be defective, the election officials shall immediately notify the person filing the petition of the defect and may reject the petition if warranted.

(iii) The petition as submitted to the election officials, along with the list of signatories, shall be open to public inspection in the office of the election officials.

(iv) If the election officials find that the petition as submitted is in proper order, they shall send copies of the petition without signatures thereon to the governing body involved.

(v) The procedure for the referendum shall be governed by the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(vi) If the election officials find the petition meets the requirements of this chapter, they shall place the proposal on the ballot in a manner fairly representing the content of the petition for decision by referendum at the proper election.

(vii) The election officials shall certify the date for the referendum and shall notify the governing body at least 30 days prior to such date.

(viii) At least 30 days' notice of the referendum shall be given by proclamation of the governing body. A copy of the proclamation shall be posted at each polling place on the day of the election and shall be published once in at least one newspaper of general circulation which is distributed within the school district during the 30-day period prior to the election.

(ix) Approval of a referendum shall be by majority vote of those voting in the school district involved.

(x) The election officials shall certify the results of the referendum to the governing body.

(e) School districts located in more than one county.--

(1) In the event a school district is located in more than one county, petitions under this section shall be filed with the election officials of the county wherein the administrative offices of the school district are located.

(2) The election officials receiving a petition shall be responsible for all administrative functions in reviewing and certifying the validity of the petition and for making all necessary communications with the school district.

(3) If the election officials of the county receiving the petition certify that it is sufficient under this subpart and determine that a question should be placed upon the ballot, such decision shall be communicated to election officials in any other county in which the school district is also located. Election officials in the other county or counties shall cooperate with election officials of the

county receiving the petition to insure that an identical question is placed on the ballot at the same election throughout the entire school district.

(4) Election officials from each county involved shall independently certify the results from their county to the governing body.

Cross References. Section 8703 is referred to in sections 8022, 8402, 8701, 8704, 8706, 8713, 8716, 8717 of this title.

§ 8704. Public referendum requirements for increasing property taxes previously reduced.

(a) General rule.--Except as provided in subsections (c) and (d), a governing body that elects to levy an earned income and net profits tax under this chapter pursuant to section 8703(a) (relating to adoption of referendum) shall not increase the rate of its tax on real property without first obtaining the approval of the electorate of the affected school district in a referendum at the primary election immediately preceding the fiscal year of the proposed tax increase.

(b) Disapproval.--Whenever the electorate fails to approve the proposed referendum question to increase the rate of tax on real property under subsection (a), the governing body shall be limited to the rate of tax in effect prior to the referendum.

(c) Exception to general rule.--The provisions of subsection (a) shall not apply to an increase in the rate of the real property tax that does not cause local tax revenue, excluding real property taxes to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses, to increase by more than the percentage increase in the Statewide average weekly wage in the preceding year. Prior to any increase under this subsection, the governing body must certify to the court of common pleas in the judicial district in which the governing body is located the estimates of total local tax revenues used in the calculation under this subsection. The court may, on its own motion or on petition of a person having standing under subsection (f), revise the estimates certified by the governing body and reduce the allowable increase in the rate of the real property tax under this subsection.

(d) Referendum exceptions.--The provisions of subsection (a) shall not apply to increases in the rate of tax on real property in this subsection only if the exception to the general rule under subsection (c) has been utilized, if applicable, to the maximum amount allowed:

(1) To respond to or recover from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency), only for the duration of the emergency or disaster and for the costs of the recovery from the emergency or disaster.

(2) To implement a court order or an administrative order from a Federal or State agency that requires the expenditure of funds that exceed current available revenues. The rate increase shall be rescinded following fulfillment of the court order or administrative order.

(3) To pay interest and principal on any indebtedness incurred under Subpart B (relating to indebtedness and borrowing). However, in no case may a school district incur additional debt under this paragraph, except for the refinancing of existing debt, including the payment of costs and expenses related to such refinancing and the establishment or funding of appropriate debt service

reserves. The increase shall be rescinded following the final payment of interest and principal. The exception provided under this paragraph shall not be used to avoid referendum requirements to pay for costs which could not be financed by the issuance of debt under Subpart B.

(4) To respond to conditions that pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district until the circumstances causing the threat have been fully resolved.

(5) Special purpose tax levies approved by the electorate.

(6) To maintain per-student local tax revenue in the school district at an amount not exceeding the amount of per-student local tax revenue at the level of the preceding year, adjusted for the percentage increase in the Statewide average weekly wage. This paragraph shall apply only if the percentage growth in student enrollment in the school district between the current fiscal year and the third fiscal year immediately preceding the current fiscal year exceeds 10%. For the purposes of this paragraph, student enrollment shall be measured by average daily membership as defined by the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. For the purposes of this paragraph, per-student local tax revenue shall be determined by dividing local tax revenue by average daily membership.

(e) Court action.--Prior to the imposition of the tax increase under subsection (d)(1), (2), (4) or (6), approval is required by the court of common pleas in the judicial district in which the governing body is located. The governing body shall publish in a newspaper of general circulation a notice of its intent to file an action under this subsection at least one week prior to the filing of the petition. The governing body shall also publish in a newspaper of general circulation notice, as soon as possible following notification from the court that a hearing has been scheduled, stating the date, time and place of the hearing on the petition. The following shall apply to any proceedings instituted under this subsection:

(1) The governing body must prove by clear and convincing evidence the necessity for the tax increase.

(2) The governing body must prove by clear and convincing evidence that there are no assets or other feasible alternatives available to the school district.

(3) The court shall determine the appropriate duration of the increase and may retain continuing jurisdiction. The court may, on its own motion or on petition of an interested party, revoke approval for or order rescission of a tax increase.

(f) Standing.--A person shall have standing as a party to a proceeding under this section as long as the person resides within or pays real property taxes to the taxing jurisdiction of the governing body instituting the action.

Cross References. Section 8704 is referred to in sections 8701, 8703, 8706 of this title.

§ 8705. Local tax study commission.

(a) Appointment.--A governing body may appoint a local tax study commission.

(b) Membership.--The local tax study commission shall consist of five members who are resident individuals or taxpayers of the school district and shall reflect the socioeconomic, age and occupational diversity of the school district to the extent possible.

(1) Except for paragraph (2), no member shall be an official or employee, or a relative thereof, of the school district.

(2) One member may be a member of the governing body.

(c) Staff and expenses.--The governing body shall provide necessary and reasonable support staff and shall reimburse the members of the local tax study commission for necessary and reasonable expenses in the discharge of their duties.

(d) Contents of study.--The local tax study commission shall study the existing taxes levied, assessed and collected by the school district and their effect. The local tax study commission shall determine how the tax policies of the school district could be improved by the levy, assessment and collection of the taxes authorized pursuant to this chapter. The study shall include, but not be limited to, consideration of all of the following:

(1) Historic and present rates of and revenue from taxes currently levied, assessed and collected.

(2) The age, income, employment and property use characteristics of the existing tax base.

(3) Projected revenues of taxes currently levied, assessed and collected, including taxes authorized and taxes not levied under this chapter.

(e) Recommendation.--Within 90 days of its appointment, the local tax study commission shall make a nonbinding recommendation to the governing body regarding the imposition of an earned income and net profits tax to be levied, assessed and collected commencing the next fiscal year. Except as provided in subsection (f), if the governing body appoints a commission, the earned income and net profits tax authorized under this chapter may not be levied, assessed or collected until receipt of the recommendation. No later than 90 days prior to the next municipal election occurring at least 150 days after the submission of the recommendation, the governing body shall accept or reject the recommendation of the local tax study commission or adopt an alternative proposal authorized under this chapter.

(f) Failure to issue a recommendation.--If the local tax study commission fails to make a recommendation under subsection (e), the governing body may adopt a proposal authorized under this chapter.

(g) Public distribution of report.--The local tax study commission shall publish a final report of its findings and recommendation and deliver the report to the governing body. The governing body shall supply copies to any interested persons upon request.

(h) Materials.--All records of the local tax study commission shall be available for public inspection during the regular business hours of the school district.

§ 8706. Property tax limits on reassessment.

After any county makes a countywide revision of assessment of real property at values based upon an established predetermined ratio as required by law or after any county changes its established predetermined ratio, each school district that has made an election under section 8703 (relating to adoption of referendum), which hereafter for the first time levies its real estate taxes on that revised assessment or valuation, shall for the first year reduce its tax rate, if necessary, for the purpose of having the percentage increase in taxes levied for that year against the real properties contained in the duplicate for the preceding year be less than or equal to the percentage increase in the Statewide average

weekly wage for the preceding year notwithstanding the increased valuations of such properties under the revised assessment. For the purpose of determining the total amount of taxes to be levied for the first year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered. The tax rate shall be fixed for that year at a figure which will accomplish this purpose. The provisions of section 8704 (relating to public referendum requirements for increasing property taxes previously reduced) shall apply to increases in the tax rate above the limits provided in this section.

SUBCHAPTER B

EARNED INCOME AND NET PROFITS TAX

Sec.

- 8711. Earned income and net profits tax.
- 8712. Collections.
- 8713. Credits.
- 8714. Earned income and net profits tax exemption.
- 8715. Rules and regulations.
- 8716. Procedure and administration.
- 8717. Disposition of earned income and net profits tax revenue.

§ 8711. Earned income and net profits tax.

A school district shall have the power to levy, assess and collect a tax on the earned income and net profits of resident individuals of the school district up to a maximum rate of 1.5%. The earned income and net profits tax may be levied by the school district at a rate of 1.0%, 1.25% or 1.5%.

Cross References. Section 8711 is referred to in sections 8404, 8712, 8713, 8715, 8716 of this title.

§ 8712. Collections.

Any school district imposing a tax under section 8711 (relating to earned income and net profits tax) shall designate the tax officer who is appointed under section 10 of the Local Tax Enabling Act, or otherwise by law, as the collector of the earned income and net profits tax. In the performance of the tax collection duties under this subchapter, the designated tax officer shall have all the same powers, rights, responsibilities and duties for the collection of the taxes which may be imposed under the Local Tax Enabling Act, Subchapter C of Chapter 84 (relating to local taxpayers bill of rights) or as otherwise provided by law.

§ 8713. Credits.

(a) General rule.--The provisions of section 14 of the Local Tax Enabling Act shall be used to determine any credits under the provisions of this chapter for any taxes imposed under section 8711 (relating to earned income and net profits tax).

(b) State tax credit.--A credit against personal income tax due to the Commonwealth under section 302 of the Tax Reform Code shall be granted to all nonresidents of a city of the first class who are subject to a tax imposed by a city of the first class pursuant to the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act. The credit shall equal 0.2756% of salaries, wages, commissions, compensation or other income received for work done or services performed within a city of the first class. The Secretary of Revenue shall promulgate such regulations and forms as are necessary to

implement the provisions of this subsection. This section shall only apply to residents of school districts which impose the tax under this subchapter. A governing body of a school district in a county of the second class A shall, and a governing body of a school district in a county of the third class may, include in the referendum question under section 8703 (relating to adoption of referendum) language asking whether the credit against the personal income tax in this subsection should be provided to the nonresident taxpayer in the city of the first class or the school district in which the taxpayer resides for the purpose of making additional tax reductions in the same manner as section 8717 (relating to disposition of earned income and net profits tax revenue). Should any court of competent jurisdiction determine that this subsection is unconstitutional, the provisions of this subsection shall be void and no credit shall be expanded or extended in any way by any court.

Cross References. Section 8713 is referred to in section 8715 of this title.

§ 8714. Earned income and net profits tax exemption.

A school district that imposes an earned income and net profits tax under this chapter may exempt from the payment of that tax any person whose total income from all sources is less than \$7,500.

Cross References. Section 8714 is referred to in section 8715 of this title.

§ 8715. Rules and regulations.

Taxes imposed under section 8711 (relating to earned income and net profits tax) will be subject to all regulations adopted under section 13 of the Local Tax Enabling Act. A school district may adopt regulations for the processing of claims for credits or exemptions under sections 8713 (relating to credits) and 8714 (relating to earned income and net profits tax exemption).

References in Text. Section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, referred to in this section, is repealed.

§ 8716. Procedure and administration.

In order to levy the tax under section 8711 (relating to earned income and net profits tax), the governing body shall adopt a resolution which shall refer to this subchapter prior to placing a question on the ballot under section 8703 (relating to adoption of referendum). Prior to adopting a resolution imposing the tax authorized by section 8711, the governing body shall give public notice of its intent to adopt the resolution in the manner provided by section 4 of the Local Tax Enabling Act and shall conduct at least one public hearing regarding the proposed adoption of the resolution.

Cross References. Section 8716 is referred to in section 8703 of this title.

§ 8717. Disposition of earned income and net profits tax revenue.

The disposition of revenue from an earned income and net profits tax or an increase in the rate of an earned income and net profits tax imposed by school districts under the authority of this chapter shall occur in the following manner:

- (1) For the fiscal year of implementation of a newly imposed income tax, all earned income and net profits tax revenue received by a school district shall be used first

to offset any lost revenue to the school district from the taxes prohibited under section 8701(b) (relating to general tax authorization) in an amount equal to the revenue collected from the prohibited taxes in section 8701(b) in the preceding fiscal year; second, to provide for an increase in budgeted revenues over the preceding fiscal year in accordance with the amount specified in the referendum question approved by the voters under section 8703 (relating to adoption of referendum); and third, to reduce the school district real property tax in the following order:

(i) By means of an exclusion for homestead property pursuant to section 8583 (relating to exclusion for homestead property).

(ii) By means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached under section 8586 (relating to limitations).

(2) For the fiscal year of implementation of an increase in the rate of the existing earned income and net profits tax imposed under this chapter, all revenue received by a school district directly attributable to the increased rate shall be used to reduce the school district real property tax in the following order:

(i) By means of an exclusion for homestead property pursuant to section 8583.

(ii) By means of a reduction in the millage rate after the limit on the exclusion for homestead property has been reached under section 8586.

Cross References. Section 8717 is referred to in section 8713 of this title.

SUBCHAPTER C

MISCELLANEOUS TAXES

Sec.

8721. Hotel room rental (Repealed).

8722. Local option cigarette tax in school districts of the first class.

8723. Local sales tax revenues in cities of the first class.

Enactment. Subchapter C was added July 9, 2008, P.L.999, No.76, effective in 60 days.

§ 8721. Hotel room rental (Repealed).

2016 Repeal. Section 8721 was repealed April 20, 2016, P.L.134, No.18, effective immediately.

§ 8722. Local option cigarette tax in school districts of the first class.

(a) Authorization.--The following shall apply:

(1) A school district may, if authorized by ordinance of the governing body of a city of the first class adopted prior to or after the effective date of this section, impose and assess an excise tax upon the sale or possession of cigarettes within the school district at a rate of 10¢ per cigarette. Only one sale shall be taxable and used in computing the amount of tax due, whether the sale is of individual cigarettes, packages, cartons or cases.

(2) The governing body of the city of the first class and school district may amend, respectively, the ordinance authorizing the imposition of the tax and the resolution

imposing the tax authorized by this section to reflect the provisions of this section in the fiscal year in which this section takes effect.

(b) Exception.--The tax authorized under subsection (a) may not be levied upon the possession or sale of any cigarette that is exempt from, or which is otherwise not subject to, levy under Article XII of the Tax Reform Code and the regulations promulgated under that article.

(c) Collection.--

(1) The tax authorized under subsection (a) shall be collected and remitted to the department in the same manner as the tax imposed under Article XII of the Tax Reform Code. The regulations promulgated under section 1291 of the Tax Reform Code shall be applicable to the tax authorized under subsection (a) insofar as the regulations are consistent with this section.

(2) Unless the department promulgates regulations to the contrary under subsection (d), any stamp affixed under section 1215 of the Tax Reform Code shall also reflect payment of any tax authorized under this section.

(3) The provisions of section 1216 of the Tax Reform Code shall not apply to any tax authorized under this section.

(d) Administration.--The department shall administer and enforce the provisions of this section and may promulgate and enforce any rules and regulations not inconsistent with the provisions of this section.

(e) Reimbursement of costs.--From the tax collected under this section, the department may retain a sum of the costs of collection and shall, on a monthly basis, notify in writing the school district imposing the tax of the sum retained and the costs of collection under this section. Annually, the department shall estimate its cost of collection under this section for the next succeeding fiscal year and shall provide the estimate to the school district.

(f) Certified copy of resolution to department.--A school district that adopts a resolution:

(1) To impose the tax authorized under this section or to change the rate of the tax shall provide a certified copy of the resolution to the department not later than 20 days prior to the effective date of the tax or change to the tax.

(2) To repeal the tax authorized under this section shall provide a certified copy of the resolution to the department not later than 30 days prior to the effective date of the repeal.

(g) Effective date.--The effective date of any tax authorized under this section or change to the tax shall be no earlier than 30 days after the adoption of the resolution or ordinance.

(h) Local Cigarette Tax Fund.--

(1) The Local Cigarette Tax Fund is established in the State Treasury and the State Treasurer shall be custodian of the fund. The fund shall be subject to the provisions of law applicable to funds listed in section 302 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(2) The tax imposed under subsection (a) shall be received by the department and paid to the State Treasurer and, along with interest and penalties, less any collection costs allowed under this section and any refunds and credits paid, shall be credited to the fund not less frequently than every two weeks. During any period prior to the credit of moneys to the fund, interest earned on moneys received by

the department and paid to the State Treasurer under this section shall be deposited into the fund.

(3) Moneys credited to the fund shall be property of the school district and shall be distributed as provided in this section. The money in the fund, including, but not limited to, money credited to the fund under this section, prior year encumbrances and the interest earned thereon, shall not lapse or be transferred to any other fund, but shall remain in the fund and must be used exclusively as provided in this section.

(4) Pending their disbursement to the school district, moneys received on behalf of or deposited into the fund shall be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. The earnings received from the investment or deposit of the funds shall be credited to the fund.

(i) Disbursement to school district.--On or before the 10th day of every month, the State Treasurer shall disburse to the school district imposing the tax under this section the total amount of moneys which are, as of the last day of the previous month, contained in the fund.

(j) Prohibition.--Money from a tax imposed under this section may not be used for the issuance or repayment of bonds.

(k) Expiration.--(Repealed).

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Cigarette." As defined in section 1201 of the Tax Reform Code.

"Department." The Department of Revenue of the Commonwealth.

"Fund." The Local Cigarette Tax Fund established under this section.

"Sale." As defined in section 1201 of the Tax Reform Code.

"School district." A school district of the first class coterminous with a city of the first class.

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(Sept. 24, 2014, P.L.2452, No.131, eff. imd.; July 13, 2016, P.L.526, No.84, eff. imd.)

2016 Amendment. Act 84 repealed subsec. (k).

2014 Amendment. Act 131 added section 8722.

§ 8723. Local sales tax revenues in cities of the first class.

Notwithstanding the provisions of section 696 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, an increase in grants to a school district of the first class by a city of the first class based on debt service to be paid as authorized under section 201-B(f)(1) of the Tax Reform Code shall not require a comparable increase in grants by the city in subsequent years.

(Sept. 24, 2014, P.L.2452, No.131, eff. imd.)

2014 Amendment. Act 131 added section 8723.

CHAPTER 88

CONSOLIDATED COUNTY ASSESSMENT

Subchapter

A. Preliminary Provisions

- B. Subjects of Local Taxation; Exceptions; Special Provisions on Assessments
- C. County Assessment Office
- D. Assessment Roll, Valuation, Notice and Appeals
- E. Boards and Appeals to Court
- F. Miscellaneous Provisions

Enactment. Chapter 88 was added October 27, 2010, P.L.895, No.93, effective January 1, 2011.

Special Provisions in Appendix. See sections 4 and 7 of Act 93 of 2010 in the appendix to this title for special provisions relating to consolidated county assessment in cities of the third class and continuation of prior law.

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 8801. Short title and scope of chapter.
- 8802. Definitions.
- 8803. Excluded provisions.
- 8804. Construction of chapter.

§ 8801. Short title and scope of chapter.

(a) **Short title.**--This chapter shall be known and may be cited as the Consolidated County Assessment Law.

(b) **Scope.**--

- (1) This chapter shall apply to all of the following:
 - (i) Counties of the second class A, third, fourth, fifth, sixth, seventh and eighth classes of the Commonwealth.
 - (ii) Cities that elect to become subject to this chapter in accordance with section 8868 (relating to optional use by cities).
- (2) In addition to the applicability under paragraph (1), the following provisions apply to counties of the first and second class:
 - (i) Section 8811(b)(5) (relating to subjects of local taxation).
 - (ii) Section 8842(b)(2) (relating to valuation of property).

Agreements or Assessment Practices. Section 5(1) of Act 93 of 2010 provided that subsec. (b)(2) shall not affect an agreement or agreed to assessment practice actively in place in a county on January 28, 2007.

Cross References. Section 8801 is referred to in section 8823 of this title.

§ 8802. Definitions.

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

"Assessed value." The assessment placed on real property by a county assessment office upon which all real estate taxes shall be calculated.

"Assessment." Assessed value.

"Auxiliary appeal board." An auxiliary board of assessment appeals created in accordance with section 8853 (relating to auxiliary appeal boards).

"Base year." The year upon which real property market values are based for the most recent countywide revision of assessment of real property or other prior year upon which the market value

of all real property of the county is based for assessment purposes. Real property market values shall be equalized within the county and any changes by the board shall be expressed in terms of base-year values.

"Board." The board of assessment appeals or the board of assessment revision established in accordance with section 8851 (relating to board of assessment appeals and board of assessment revision). The term, when used in conjunction with hearing and determining appeals from assessments, shall include an auxiliary appeal board.

"Board of assessment appeals." The assessment appeals board in counties of the second class A and third class, and in counties of the fourth through eighth classes where the county commissioners do not serve as a board of assessment revision.

"Board of assessment revision." County commissioners in counties of the fourth through eighth classes when serving as an assessment appeals board.

"Chief assessor." The individual appointed by the board of county commissioners with the advice of the board of assessment appeals in accordance with section 8831 (relating to chief assessor).

"Common level ratio." The ratio of assessed value to current market value used generally in the county and published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year on appeal before the board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

"County assessment office." The division of county government responsible for preparing and maintaining the assessment rolls, the uniform parcel identifier systems, tax maps and other administrative duties relating to the assessment of real property in accordance with this chapter.

"County commissioners." The board of county commissioners or, in home rule charter counties, the body or individual exercising the equivalent authority.

"Countywide revision of assessment." A change in the established predetermined ratio or revaluation of all real property within a county.

"Established predetermined ratio." The ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.

"High tunnel." A structure which meets the following:

(1) Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, or for the storage of agricultural equipment or supplies.

(2) Is constructed consistent with all of the following:

(i) Has a metal, wood or plastic frame.

(ii) When covered, has a plastic, woven textile or other flexible covering.

(iii) Has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

"Interim assessment." A change to the assessment roll anytime during the year.

"Manufactured home." A manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383, 42 U.S.C. 5402(6)) or a structure designed and used exclusively for living quarters.

"Mobile home." A structure manufactured before 1976, designed and used exclusively for living quarters or commercial purposes, but only incidentally operated on a highway.

"Municipality." A county, city, borough, incorporated town or township.

"Normal regular repairs." The term shall include:

(1) The repair or replacement of materials or components of property features for the purpose of maintenance.

(2) The replacement of existing property features with new versions reasonably similar in function, quality, material and dimension.

"Parcel identifier." An identifying number assigned to real property in accordance with the act of January 15, 1988 (P.L.1, No.1), known as the Uniform Parcel Identifier Law.

"Property features." The term includes roofing, siding, flooring, heating and air conditioning systems and windows.

"Spot reassessment." The reassessment of a property or properties by a county assessment office that is not conducted as part of a countywide revision of assessment and which creates, sustains or increases disproportionality among properties' assessed values. The term does not include board action ruling on an appeal.

"Taxing district." A county, city, borough, incorporated town, township, school district or county institution district. (Dec. 18, 2013, P.L.1190, No.114, eff. 60 days; Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020; July 1, 2020, P.L.543, No.46, eff. Jan. 1, 2021; July 7, 2022, P.L.455, No.41, eff. 60 days)

2022 Amendment. Act 41 added the defs. of "normal regular repairs" and "property features."

2020 Amendment. Act 46 added the defs. of "manufactured home" and "mobile home."

2018 Amendment. Act 155 amended the def. of "auxiliary appeal board."

2013 Amendment. Act 114 added the def. of "high tunnel."

Cross References. Section 8802 is referred to in section 8582 of this title.

§ 8803. Excluded provisions.

Except as otherwise provided in this chapter, this chapter does not repeal or modify:

(1) The act of June 17, 1913 (P.L.507, No.335), entitled "An act to provide revenue for State and county purposes, and, in cities coextensive with counties, for city and county purposes; imposing taxes upon certain classes of personal property; providing for the assessment and collection of the same; providing for the duties and compensation of prothonotaries and recorders in connection therewith; and modifying existing legislation which provided for raising revenue for State purposes."

(2) Any law relating to cities, boroughs, towns, townships, school districts and poor districts.

(3) The act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, as it applies to counties of the first and second classes.

§ 8804. Construction of chapter.

(a) **Dates mandatory.**--All dates specified in this chapter for the performance of any acts or duties shall be construed to be mandatory and not discretionary with the officials or other persons who are designated by this chapter to perform such acts or duties.

(b) **Pari materia.**--This chapter shall be read in pari materia with the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act.

SUBCHAPTER B
SUBJECTS OF LOCAL TAXATION; EXCEPTIONS;
SPECIAL PROVISIONS ON ASSESSMENTS

Sec.

- 8811. Subjects of local taxation.
- 8812. Exemptions from taxation.
- 8813. Temporary tax exemption for residential construction.
- 8814. Temporary assessment change for real estate subject to sewer connection ban order.
- 8815. Catastrophic loss.
- 8816. Clerical and mathematical errors.
- 8817. Changes in assessed valuation.
- 8818. Assessment of lands divided by boundary lines.
- 8819. Separate assessment of coal and surface.
- 8820. Assessment of real estate subject to ground rent or mortgage.
- 8821. Assessment of mobile homes and manufactured homes.
- 8822. Taxing districts lying in more than one county and choice of assessment ratio.
- 8823. Limitation on tax increase after countywide reassessment.

§ 8811. Subjects of local taxation.

(a) **Subjects of taxation enumerated.**--Except as provided in subsection (b), all subjects and property made taxable by the laws of this Commonwealth for county, city, borough, town, township and school district purposes shall, as provided in this chapter, be valued and assessed at the annual rates, including all:

(1) Real estate, namely:

- (i) houses;
- (ii) manufactured homes and mobile homes permanently attached to land or connected with water, gas, electric or sewage facilities;
- (iii) buildings permanently attached to land or connected with water, gas, electric or sewage facilities;
- (iv) lands, lots of ground and ground rents, trailer parks and parking lots;
- (v) mills and manufactories of all kinds, furnaces, forges, bloomeries, distilleries, sugar houses, malt houses, breweries, tan yards, fisheries, ferries and wharves;
- (vi) all office buildings;
- (vii) that portion of a steel, lead, aluminum or like melting and continuous casting structure which encloses or provides shelter or protection from the elements for the various machinery, tools, appliances, equipment, materials or products involved in the mill, mine, manufactory or industrial process; and
- (viii) telecommunication towers that have become affixed to land.

(2) All other things now taxable by the laws of this Commonwealth for taxing districts.

(b) **Exceptions.**--The following are not subject to tax:

- (1) Machinery, tools, appliances and other equipment contained in any mill, mine, manufactory or industrial establishment shall not be considered or included as a part

of the real estate in determining the value for taxation of the mill, mine, manufactory or industrial establishment.

(2) Silos used predominantly for processing or storage of animal feed incidental to operation of the farm on which it is located, freestanding detachable grain bins or corn cribs used exclusively for processing or storage of animal feed incidental to the operation of the farm on which it is located and inground and aboveground structures and containments used predominantly for processing and storage of animal waste and composting facilities incidental to operation of the farm on which the structures and containments are located shall not be considered or included as part of the real estate.

(3) No amusement park rides shall be assessed or taxed as real estate regardless of whether they have become affixed to the real estate.

(4) No sign or sign structure primarily used to support or display a sign shall be assessed as real property by a county for purposes of the taxation of real property by the county or a political subdivision located within the county or by a municipality located within the county authorized to assess real property for purposes of taxation, regardless of whether the sign or sign structure has become affixed to the real estate.

(5) No wind turbine generators or related wind energy appliances and equipment, including towers and tower foundations, shall be considered or included as part of the real property in determining the fair market value and assessment of real property used for the purpose of wind energy generation. Real property used for the purpose of wind energy generation shall be valued under section 8842(b)(2) (relating to valuation of property).

(6) All high tunnels.

(Dec. 18, 2013, P.L.1190, No.114, eff. 60 days; July 1, 2020, P.L.543, No.46, eff. Jan. 1, 2021)

2020 Amendment. Act 46 amended subsec. (a)(1).

2013 Amendmen t. Act 114 added subsec. (b)(6).

Agreements or Assessment Practices. Section 5(2) of Act 93 of 2010 provided that subsec. (b)(5) shall not affect an agreement or agreed to assessment practice actively in place in a county on January 28, 2007.

Cross References. Section 8811 is referred to in section 8801 of this title.

§ 8812. Exemptions from taxation.

(a) General rule.--The following property shall be exempt from all county, city, borough, town, township, road, poor, county institution district and school real estate taxes:

(1) All churches, meetinghouses or other actual places of regularly stated religious worship, with the ground annexed necessary for their occupancy and use.

(2) All actual places of burial, including burial grounds and all mausoleums, vaults, crypts or structures, intended to hold or contain the bodies of the dead if used or held by a person or organization deriving no private or corporate profit from the enterprise and no substantial part of whose activity consists of selling personal property in connection therewith.

(3) All hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence or charity, including fire and rescue stations, with the grounds annexed and necessary for their occupancy

and use, founded, endowed and maintained by public or private charity as long as all of the following apply:

(i) The entire revenue derived by the entity is applied to support the entity and to increase the efficiency and facilities of the entity, the repair and the necessary increase of grounds and buildings of the entity and for no other purpose.

(ii) The property of purely public charities is necessary to and actually used for the principal purposes of the institution and not used in such a manner as to compete with commercial enterprise.

(4) All property of a charitable organization providing residential housing services in which the charitable nonprofit organization receives subsidies for at least 95% of the residential housing units from a low-income Federal housing program as long as any surplus from the assistance or subsidy is monitored by the appropriate governmental agency and used solely to advance common charitable purposes within the charitable organization.

(5) All school buildings belonging to any municipality or school district, with the ground annexed and necessary for the occupancy and use of the school buildings. This exemption shall not apply to assessments or charges for the grading, paving, curbing, macadamizing, maintenance or improvement of streets or roads and constructing sewers and sidewalks and other municipal improvements abutting land owned by the school district. A school district of the second, third or fourth class situated within a county subject to the provisions of this chapter and which is coterminous with a city, borough, town or township shall not be subject to assessments or charges for the grading, paving, curbing, macadamizing, maintenance or improvement of streets or roads and constructing sewers and sidewalks and other municipal improvements abutting land owned by the school district, but the school may agree to pay all or part of the assessments or charges.

(6) All courthouses and jails with the grounds annexed and necessary for their occupancy and use.

(7) All public parks owned and held by trustees for the benefit of the public and used for amusements, recreation, sports and other public purposes without profit.

(8) All other public property used for public purposes with the ground annexed and necessary for the occupancy and use of the property, but this shall not be construed to include property otherwise taxable which is owned or held by an agency of the Federal Government. This chapter or any other law shall not be construed to exempt from taxation any privilege, act or transaction conducted upon public property by persons or entities which would be taxable if conducted upon nonpublic property regardless of the purpose for which the activity occurs, even if conducted as agent for or lessee of any public authority.

(9) All real property used for limited access highways and maintained by public funds.

(10) All real and personal property owned, occupied and used by any branch, post or camp of honorably discharged servicemen or servicewomen and actually and regularly used for benevolent, charitable or patriotic purposes.

(11) All real property owned by one or more institutions of purely public charity, used and occupied partly by the owner or owners and partly by other institutions of purely

public charity and necessary for the occupancy and use of the institutions so using it.

(12) All playgrounds with the equipment and grounds annexed necessary for the occupancy and use of the playgrounds, founded, endowed or maintained by public or private charity which apply their revenue to the support and repair of the playgrounds and to increase the efficiency and facilities thereof, either in ground or buildings or otherwise, and for no other purpose, and owned, leased, possessed or controlled by public school boards or properly organized and duly constituted playground associations, and approved and accepted by the board of the county in which the playgrounds are situated. A school board may, by resolution, agree to pay for grading, paving, macadamizing, maintenance or improvement of streets or roads abutting land owned by the school district.

(13) All buildings owned and occupied by free public nonsectarian libraries and the land on which they stand, and that which is immediately and necessarily appurtenant thereto, notwithstanding the fact that some portion or portions of the building or lands appurtenant may be yielding rentals to the corporation or association managing the library. The net receipts of the corporation or association from rentals shall be used solely for the purpose of maintaining the library.

(14) All property, including buildings and the land reasonably necessary thereto, provided and maintained by public or private charity and used exclusively for public libraries, museums or art galleries and not used for private or corporate profit so long as the public use continues. In the case of concert music halls used partly for exempt purposes and partly for nonexempt purposes, that part measured either in area or in time, whichever is the lesser, which is used for nonexempt purposes shall be valued, assessed and subject to taxation.

(15) Notwithstanding the provisions of subsection (b) or any other provision of this chapter to the contrary, all fire and rescue stations which are founded, endowed and maintained by public or private charity, together with the grounds annexed and necessary for the occupancy and use of the fire and rescue stations, and social halls and grounds owned and occupied by fire and rescue stations and used on a regular basis for activities which contribute to the support of fire and rescue stations, as long as the net receipts from the activities are used solely for the charitable purposes of the fire and rescue stations.

(b) Exceptions.--

(1) Except as otherwise provided in subsection (a) (13) and (15), all property, real or personal, other than that which is actually and regularly used and occupied for the purposes specified in this section, and all property from which any income or revenue is derived, other than from recipients of the bounty of the institution or charity, shall be subject to taxation, except where exempted by law for State purposes.

(2) Except as otherwise provided in subsection (a) (12), all property, real and personal, actually and regularly used and occupied for the purposes specified in this section shall be subject to taxation unless the person or persons, associations or corporation so using and occupying the property shall be seized of the legal or equitable title in the realty and possessor of the personal property absolutely.

(c) Institutions of Purely Public Charity Act.--Each provision of this chapter is to be read in para materia with the act of November 26, 1997 (P.L.508, No.55), known as the Institutions of Purely Public Charity Act, and to the extent that a provision of this chapter is inconsistent with the Institutions of Purely Public Charity Act, the provision is superseded by that act.
(Oct. 24, 2012, P.L.1286, No.160, eff. 60 days)

2012 Amendment . Act 160 amended subsecs. (a) intro. par. and (b) (1).

Cross References. Section 8812 is referred to in section 8844 of this title.

§ 8813. Temporary tax exemption for residential construction.

New single and multiple dwellings constructed for residential purposes and improvements to existing unoccupied dwellings or improvements to existing structures for purposes of conversion to dwellings shall not be valued or assessed for purposes of real property taxes until occupied, conveyed to a bona fide purchaser or 30 months from the first day of the month after which the building permit was issued or, if no building permit or other notification of improvement was required, then from the date construction commenced. The assessment of any multiple dwelling because of occupancy shall be upon the proportion which the value of the occupied portion bears to the value of the entire multiple dwelling. As used in this section, the term "dwellings" means buildings or portions thereof intended for permanent use as homes or residences.

§ 8814. Temporary assessment change for real estate subject to sewer connection ban order.

When a department or agency of the Commonwealth or a municipality has ordered a sewer connection ban because of a lack of adequate sewage treatment facilities, the real estate affected by the order shall be reassessed for the duration of the order. The assessment shall be based on the value of the best use of the land during the period of the reassessment. For the purposes of this section, the term "affected by the order" shall be defined as the application for a building permit and the denial to the applicant of permission to proceed with the building or construction because of a sewer ban order.

§ 8815. Catastrophic loss.

(a) General rule.--Persons who have suffered catastrophic losses to their property shall have the right to appeal before the board within the remainder of the county fiscal year in which the catastrophic loss occurred or within six months of the date on which the catastrophic loss occurred, whichever period is longer. The duty of the board shall be to reassess the property to reflect the loss in value from the date of the loss to the end of the taxable year. Any property improvements made subsequent to the catastrophic loss in the same tax year shall not be added to the assessment roll for the remainder of that tax year but shall be added for the following year.

(b) Refund or credit.--Any adjustments in assessment under this section:

(1) shall be reflected by the appropriate taxing authorities in the form of a credit for the succeeding tax year; or

(2) upon application by the property owner to the appropriate taxing authorities, shall result in a refund being paid to the property owner at the time of issuance of the tax notice for the next succeeding tax year by the respective taxing authorities; however, a reduction in

assessed value for catastrophic loss due to inclusion or proposed inclusion as residential property on either the National Priority List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510, 94 Stat. 2767) or the State priority list under the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act, shall be in effect until remediation is completed.

(c) Definition.--As used in this section, the term "catastrophic loss" means any loss due to mine subsidence, fire, flood or other natural disaster which affects the physical state of the real property and which exceeds 50% of the market value of the real property prior to the loss. The term "catastrophic loss" shall also mean any loss which exceeds 50% of the market value of the real property prior to the loss incurred by residential property owners who are not deemed responsible parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Hazardous Sites Cleanup Act and whose residential property is included or proposed to be included as residential property on:

- (1) the National Priority List by the Environmental Protection Agency under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; or
- (2) the State priority list by the Department of Environmental Resources under the Hazardous Sites Cleanup Act.

Cross References. Section 8815 is referred to in section 8847 of this title.

§ 8816. Clerical and mathematical errors.

(a) Correction.--If, through mathematical or clerical error, an assessment is higher than it should have been and taxes are paid on such incorrect assessment, the county assessment office, upon discovery of the error and correction of the assessment, shall so inform the appropriate taxing district or districts, which shall make a refund to the taxpayer or taxpayers for the period of the error or six years, whichever is less, from the date of application for refund or discovery of the error by the board. Reassessment, with or without application by the owner, as a decision of judgment based on the method of assessment, shall not constitute an error under this section.

(b) Increases.--Nothing in this section shall be construed as prohibiting an assessment office from increasing an assessment for the current taxable year upon the discovery of a clerical or mathematical error.

Cross References. Section 8816 is referred to in section 8847 of this title.

§ 8817. Changes in assessed valuation.

(a) General rule.--In addition to other authorization provided in this chapter, the assessors may change the assessed valuation on real property when a parcel of land is subdivided into smaller parcels or when improvements are made to real property or existing improvements are removed from real property or are destroyed. The recording of a subdivision plan shall not constitute grounds for assessment increases until lots are sold or improvements are installed. The painting of a building or the normal regular repairs to a building shall not be deemed cause for a change in valuation by the assessors under the authority of this section.

(b) Construction.--A change in the assessed valuation on real property authorized by this section shall not be construed

as a spot reassessment under section 8843 (relating to spot reassessment).

(July 7, 2022, P.L.455, No.41, eff. 60 days)

2022 Amendment. Act 41 amended subsec. (a).

Cross References. Section 8817 is referred to in section 8841 of this title.

§ 8818. Assessment of lands divided by boundary lines.

(a) Assessment of lands divided by county boundary lines.--

(1) If county boundary lines divide a tract of land, the land will be assessed in the county in which the mansion house is located.

(2) If county boundary lines pass through the mansion house, the owner of the land may choose the county in which the property will be assessed. If the owner refuses or fails to choose the county in which the property will be assessed, the county in which the larger portion of the mansion house is located has the right of assessment.

(3) If vacant land is divided by the boundary lines of two counties, the land shall be assessed in each county in which it is located.

(b) Assessment of lands divided by township boundary lines.--

(1) If land is divided by the boundary lines of a township and a city, a township and a borough or a township and a town, and the mansion house is located in the township, all of the land will be assessed in the township.

(2) If land is divided by the boundary lines of a township and a city, a township and a borough, a township and a town or two townships, and the mansion house is located in the city, borough, town or one township, then the land shall be assessed in the municipality in which it actually lies.

(3) If vacant land is divided by the boundary lines of two townships, the land shall be assessed in each township in which it is located.

(c) Assessment where township boundary lines pass through mansion house.--If the boundary lines of any township and a city, borough or township pass through the mansion house, the owner of the land may choose the municipality in which the land shall be assessed. If the owner refuses or neglects to choose, the mansion house shall be considered to be entirely located in the township for assessment purposes.

(d) Assessment where lands are divided by boundary lines between cities, boroughs or cities and boroughs.--

(1) If lands are divided by the boundary lines of two or more cities, two or more boroughs, or one or more cities and one or more boroughs, the lands shall be assessed in the city or borough in which the mansion house is located.

(2) If the boundary lines pass through the mansion house, the lands shall be assessed in the city or borough in which the larger portion of the mansion house is located.

(3) If vacant land is divided by the boundary lines of two or more cities, two or more boroughs, or one or more cities and one or more boroughs, the land shall be assessed in each municipality in which it is located.

(e) Assessment of coal underlying lands divided by county, city, township or borough boundary lines.--Where coal is lying underneath lands that are divided by county, city, township or borough lines, and the ownership of the coal has been severed from the ownership of the strata or surface, the county

assessment office shall assess each division of coal in the municipality in which it actually lies.

§ 8819. Separate assessment of coal and surface.

The county assessment office shall assess coal and surface separately in cases where the owner or life tenant of land does not have the right to mine the coal underlying the surface.

§ 8820. Assessment of real estate subject to ground rent or mortgage.

All real estate subject to ground rent or mortgage shall be estimated at its full value and assessed and taxed accordingly. In the case of real estate subject to ground rent, where there is no provision made in the ground rent deed that the lessee shall pay the taxes on the ground rent, the ground rent shall be estimated and assessed for taxes to the owners thereof.

§ 8821. Assessment of mobile homes and manufactured homes.

(a) Duty.--It shall be the duty of the county assessment office to assess all mobile homes and manufactured homes within the county according to the actual value thereof. All mobile homes or manufactured homes which are subject to taxation as real estate as provided in this chapter shall be assessed and taxed in the name of the owner. The land upon which the mobile home or manufactured home is located at the time of assessment shall be assessed separately and shall not include the value of the mobile home or manufactured home located thereon.

(a.1) Value.--In arriving at the actual value of a mobile home or manufactured home, the assessor may consider:

(1) The value placed on the mobile home or manufactured home in the most recent national directory or valuation guide prepared by an association that analyzes mobile home or manufactured home sales and other relevant data.

(2) Any depreciation in value of the unit.

(3) The ability of the mobile home or manufactured home to be readily transported from one site to another.

(4) The fair market value of the mobile home or manufactured home, using the approaches to value specified in section 8842(b)(1) (relating to valuation of property), provided, however, that such fair market value shall not include the value of the land upon which the mobile home or manufactured home is located.

(5) Any improvement made to the mobile home or manufactured home.

(b) Records.--All manufactured housing community owners, which shall mean every person who leases land to three or more persons for the purpose of allowing the lessees to locate on the land a mobile home or manufactured home which is subject to real property taxation, shall maintain a record of the leases, which shall be open for inspection at reasonable times by the county assessment office. Each month, the manufactured housing community owner shall send a record to the county assessment office of the arrivals and departures of mobile homes or manufactured homes in the community during the prior month, including the make, model, manufacturer, year and serial number of the mobile home or manufactured home.

(c) Notice.--Each person in whose name a mobile home or manufactured home is assessed, rated or valued as provided in this chapter shall be notified in writing by the assessor that it shall be unlawful for any person to remove the mobile home or manufactured home from the taxing district without first having obtained removal permits from the local tax collector.

(d) Removal permits.--The local tax collector shall issue removal permits upon application and payment of a fee of \$2 and

of all taxes levied and assessed on the mobile home or manufactured home to be moved.

(e) Penalty.--Any person who moves a mobile home or manufactured home from the territorial limits of the taxing district without first having obtained a removal permit issued under this chapter shall, upon summary conviction, be sentenced to pay a fine of \$100 and costs of prosecution or to imprisonment for not more than 30 days, or both.

(f) Characterization of property.--Nothing in this section shall be construed as prohibiting a mobile home or manufactured home upon which a real property tax is levied as provided by law from being deemed tangible personal property for other purposes.

(July 1, 2020, P.L.543, No.46, eff. Jan. 1, 2021)

§ 8822. Taxing districts lying in more than one county and choice of assessment ratio.

(a) General rule.--Except as provided in subsections (b) and (c), if a taxing district lies in more than one county and the respective counties fix different predetermined ratios for the assessment of property, the following shall apply:

(1) The taxing district may levy its taxes on the ratio to actual value used by any one of the counties.

(2) A county, other than the county whose predetermined ratio has been selected in accordance with paragraph (1), shall certify to the taxing district a copy of the assessment roll which shows the actual valuations of properties within the county's portion of the taxing district, so that taxes to be levied on the property may be calculated using the assessed valuation determined by applying the selected predetermined ratio to actual valuation of the property.

(b) Multiple counties.--In the case of school districts lying in more than one county, section 672.1 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall apply.

(c) Annexation.--If land in one county has been annexed to a borough in another county, the following shall apply:

(1) For county tax purposes, the lands and properties within the borough shall be assessed by the county assessment office of the county in which the lands and properties are located.

(2) For borough and school tax purposes, all lands and properties within the borough, regardless of the county in which they are located, shall be assessed by the county assessment office of the county that assessed lands and properties within the borough prior to the annexation.

§ 8823. Limitation on tax increase after countywide reassessment.

(a) Scope.--

(1) Except as set forth in paragraph (2), this section applies to taxing districts in counties within the scope of this chapter under section 8801(b)(1) (relating to short title and scope of chapter).

(2) This section does not apply to a school district subject to section 327 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

(3) Except as set forth in subsection (f), this section shall apply to all rates of taxes levied on an assessment roll after a countywide revision as provided in subsection (b), including millage rates established by referendum.

(b) Initial rate.--In the first year that any county implements a countywide revision of assessment by revaluing the properties and applies an established predetermined ratio or

changes its assessment base by applying a change in the predetermined ratio, a taxing district levying its real estate taxes on the revised assessment roll for the first time shall reduce each tax rate levied by the taxing district, if necessary, so that the total amount of taxes levied for that year against the real properties contained in the duplicate for that rate does not exceed the total amount it levied on the properties in the preceding year. Each tax rate shall be fixed at a figure that will accomplish this purpose.

(c) Final tax rate.--After establishing a tax rate under subsection (b), a taxing district may, by a separate and specific vote, establish a final tax rate for the first year in which the reassessment is implemented to levy its real estate taxes on the revised assessment. Each tax rate under this subsection shall be fixed at a figure which limits the total amount of taxes levied for that year against the real properties contained in the duplicate for the preceding year to not more than 10% greater than the total amount it levied on the properties the preceding year, notwithstanding the increased valuations of the properties under the revised assessment.

(d) New construction.--For the purpose of determining the total amount of taxes to be levied for the first year under subsections (b) and (c), the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered.

(e) Court approval.--With the approval of the court of common pleas, upon good cause shown, any taxing district may increase the tax rate prescribed in this section, notwithstanding the provisions of this section.

(f) Limitations on changes to certain rates.--Notwithstanding subsection (c) or (e), the rate of any tax which was established by referendum and adjusted as provided in subsection (b) shall be subject to any subsequent increase, decrease or elimination only as provided otherwise by law.
(Nov. 4, 2016, P.L.1184, No.156, eff. 60 days)

2016 Amendment. Section 2 of Act 156 provided that the amendment of section 8823 shall apply to tax rates based on reassessments implemented after the effective date of section 2.

SUBCHAPTER C

COUNTY ASSESSMENT OFFICE

Sec.

- 8831. Chief assessor.
- 8832. Subordinate assessors.
- 8833. Solicitor.
- 8834. Assessment records system.

§ 8831. Chief assessor.

(a) Appointment.--In each county, a chief assessor shall be appointed. The chief assessor shall be appointed by the county commissioners with the advice of the board.

(b) Qualifications.--Any person appointed as a chief assessor under this chapter shall be a Certified Pennsylvania Evaluator pursuant to the act of April 16, 1992 (P.L.155, No.28), known as the Assessors Certification Act. Any person employed as a chief assessor on the effective date of this chapter shall obtain certification in accordance with the Assessors Certification Act.

(c) Duties of chief assessor.--It shall be the duty of the chief assessor to:

(1) Hire subordinate assessors under section 8832 (relating to subordinate assessors).

(2) Prepare and submit to the board for its approval regulations in accordance with this chapter.

(3) Prepare and maintain a permanent records system and other maps, plans, surveys and records as may be deemed necessary to secure a proper and equitable assessment.

(4) Prepare an assessment roll in accordance with this chapter.

(5) Supervise and direct the activities of the subordinate assessors and other employees subject to regulations prescribed by the board.

(6) Perform all duties imposed upon the chief assessor by this chapter.

(7) Compile and periodically update a list of the names and mailing addresses of each taxing district within the county. The list shall be published, with the assistance of the county commissioners, on the county's publicly accessible Internet website and shall be made available in printed form in a manner consistent with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. Content or omissions in a list assembled and distributed in accordance with this paragraph shall not affect the validity of any appeal or give rise to any action in law or equity.

(d) Compensation.--The chief assessor shall receive compensation as determined by the salary board of the county. (Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020)

2018 Amendment. Act 155 added subsec. (c)(7).

Cross References. Section 8831 is referred to in section 8802 of this title.

§ 8832. Subordinate assessors.

(a) Hiring and compensation.--The chief assessor, with the approval of the board, shall hire subordinate assessors subject to any applicable county personnel policy and regulations of the board, as necessary in carrying out the duties imposed by this chapter. A subordinate assessor shall receive compensation as determined by the salary board of the county.

(b) Duties of subordinate assessors and other employees.--In order to carry out the provisions of this chapter, subordinate assessors and other employees shall perform those duties as may be assigned to them by the chief assessor.

(c) Certification of assessors.--The act of April 16, 1992 (P.L.155, No.28), known as the Assessors Certification Act, shall apply to any person responsible for the valuation of real property for ad valorem taxation purposes in accordance with this chapter.

(d) Elected assessors abolished.--The office of local elected assessor in all taxing districts subject to this chapter is hereby abolished.

Cross References. Section 8832 is referred to in section 8831 of this title.

§ 8833. Solicitor.

The board may appoint an attorney as solicitor to the board and assessment office to advise on all legal matters and appear for and represent the board on all appeals taken from its decisions or orders to all courts of competent jurisdiction. The salary of the appointed solicitor shall be fixed by the salary board of the county. If the board does not appoint a

solicitor in accordance with this section, the county solicitor must serve as solicitor to the board and assessment office to the extent that there is not a conflict of interest.

§ 8834. Assessment records system.

It shall be the duty of the county assessment office to maintain a permanent records system consisting of:

(1) Tax maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property and lot lines, set forth dimensions or areas and identify the respective parcels or lots by a number system.

(2) Property record cards identifying the property location on the tax maps and any uniform parcel identifier which may have been assigned, and acreage or dimensions, description of improvements, if any, the owner's name and mailing address and date of acquisition, the purchase price, if any, set forth in the deed of acquisition and the assessed valuation.

(3) Property owner's index consisting of an alphabetical listing of all property owners, cross-indexed with the property record cards or electronic or computerized method of searching for property owners by name.

Cross References. Section 8834 is referred to in section 8851 of this title.

SUBCHAPTER D

ASSESSMENT ROLL, VALUATION, NOTICE AND APPEALS

Sec.

8841. Assessment roll and interim revisions.

8842. Valuation of property.

8843. Spot reassessment.

8844. Notices, appeals and certification of values.

8845. Service of notices.

8846. Notice of changes given to taxing authorities.

8847. Application of assessment changed as result of appeal.

8848. Special provisions relating to countywide revisions of assessments.

§ 8841. Assessment roll and interim revisions.

(a) **Preparation of assessment roll.**--Annually, on or before the first day of July, the county assessment office shall prepare and submit to the board, in a form prescribed by the board, an assessment roll of property subject to local taxation or exempted from local taxation.

(b) **Form of assessment roll.**--The board shall determine the form of the assessment roll which shall include the following for each taxing district:

(1) The name of the last known owner of record of each parcel with the last known address of the owner.

(2) The location of each parcel and the uniform parcel identifier or reference to the tax map.

(3) The assessment of each parcel of land and the assessed value of any improvements.

(4) The aggregate assessments for each municipality.

(5) The assessment of each parcel exempted from local taxation.

(c) **Interim revisions to assessment roll.**--The county assessment office is authorized to make additions and revisions to the assessment roll at any time in the year to change the assessments of existing properties pursuant to section 8817 (relating to changes in assessed valuation) or add properties

and improvements to property mistakenly omitted from the assessment roll as long as notice is provided in accordance with section 8844 (relating to notices, appeals and certification of values). All additions and revisions shall be a supplement to the assessment roll for levy and collection of taxes for the tax year for which the assessment roll was originally prepared.

(d) Public inspection of assessment rolls.--

(1) The assessment roll shall be open to public inspection at the county assessment office during ordinary business hours. Within 15 days after completion of the assessment roll, the county assessment office, by publication in one or more newspapers of general circulation in the county, shall give notice of the following:

(i) The fact that the assessment roll has been completed.

(ii) The place where and time when the assessment roll will be open for inspection.

(iii) The right to file in writing an appeal from an assessment, on or before the first day of September, or an earlier date designated by the county commissioners, in accordance with section 8844.

(2) This subsection shall be not be construed to limit the right of any resident of this Commonwealth to access public records in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 8841 is referred to in sections 8844, 8847, 8851 of this title.

§ 8842. Valuation of property.

(a) Predetermined ratio.--The county assessment office shall assess real property at a value based upon an established predetermined ratio which may not exceed 100% of actual value. The ratio shall be established and determined by the board of county commissioners by ordinance. In arriving at actual value, the county may utilize the current market value or it may adopt a base-year market value.

(b) Valuation.--

(1) Except as set forth in paragraph (2), the following apply:

(i) In arriving at actual value, the price at which any property may actually have been sold, either in the base year or in the current taxable year, shall be considered but shall not be controlling.

(ii) The selling price shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the county.

(iii) In arriving at the actual value, the following methods must be considered in conjunction with one another:

(A) Cost approach, that is, reproduction or replacement, as applicable, less depreciation and all forms of obsolescence.

(B) Comparable sales approach.

(C) Income approach.

(2) The valuation of real property used for the purpose of wind energy generation for assessment purposes shall be developed by the county assessor utilizing the income capitalization approach to value. The valuation shall be determined by the capitalized value of the land lease agreements, supplemented by the sales comparison data approach as deemed necessary by the county assessor. The

lessee, or lessor on behalf of the lessee, shall provide the nonproprietary lease and lease income information reasonably needed by the county assessor to determine value by September 1.

(c) Impact of restrictions and tax credits on valuation.--

(1) In arriving at the actual value of real property, the impact of applicable rent restrictions, affordability requirements or any other related restrictions prescribed by any Federal or State programs shall be considered.

(2) Federal or State income tax credits with respect to property shall not be considered real property or income attributable to real property.

Agreements or Assessment Practices. Section 5(3) of Act 93 of 2010 provided that subsec. (b)(2) shall not affect an agreement or agreed to assessment practice actively in place in a county on January 28, 2007.

Cross References. Section 8842 is referred to in sections 8801, 8811, 8821 of this title.

§ 8843. Spot reassessment.

The county assessment office is prohibited from engaging in the practice of spot reassessment. In the event that the county assessment office engages in the practice of spot reassessment, the property owner may file an appeal to the board, limited to the issue of spot reassessment, in accordance with this chapter. Upon a finding by the board or an adjudication by the court that the property owner has been subjected to a spot reassessment, the property owner shall be entitled to a refund of any taxes paid pursuant to a spot reassessment and interest thereon from the date of payment at the same rate and in the same manner as the Commonwealth is required to pay interest pursuant to section 806.1(b) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. A change in assessment resulting from an appeal to the board by a taxpayer or taxing district shall not constitute a spot reassessment.

Cross References. Section 8843 is referred to in sections 8817, 8854 of this title.

§ 8844. Notices, appeals and certification of values.

(a) Notices.--The county assessment office shall mail to each record property owner, at the last known address of the record property owner, and to the affected taxing districts notice of any change in assessment or new assessment made pursuant to section 8841(c) (relating to assessment roll and interim revisions). The notice shall state:

- (1) Mailing date.
- (2) Property location.
- (3) Parcel identifier.
- (4) Effective date.
- (5) Established predetermined ratio.
- (6) Base-year value.
- (7) Old assessment.

(8) New assessment, including the assessment of each parcel of land and the assessed value of any improvements.

(b) Mailing and notice of appeal.--The notice shall be mailed within five days from the date the county assessment office makes the change or addition to its official records. The notice shall state that any persons aggrieved by the assessment and the affected taxing districts may file an appeal to the board within 40 days of the date of the notice. The appeal shall be in writing and shall identify the following:

- (1) Appellant.

- (2) Property location.
- (3) Owner.
- (4) Assessment or assessments by which the person is aggrieved.
- (5) Address to which notice of the time and place for a hearing of the appeal shall be mailed.

(c) Annual appeal deadline.--

(1) Any person aggrieved by any assessment, whether or not the value thereof shall have been changed since the preceding annual assessment, or any taxing district having an interest in the assessment, may appeal to the board for relief. Any person or taxing district desiring to make an appeal shall, on or before September 1 or the date designated by the county commissioners if the option under paragraph (3) is exercised, file with the board an appeal in writing, identifying the following:

- (i) Appellant.
- (ii) Property location.
- (iii) Owner.
- (iv) Assessment or assessments by which the person is aggrieved.
- (v) Address to which notice of the time and place for a hearing shall be mailed.

(2) The same procedures and deadlines shall apply to a request for real estate tax exemption under section 8812 (relating to exemptions from taxation).

(3) The county commissioners may designate a date no earlier than August 1 as the date on or before which any person desiring to appeal from any assessment shall file with the board an appeal as long as the notice by publication required under section 8841(d)(1) is given at least two weeks prior to the date designated in accordance with this paragraph.

(d) Class action.--For the purpose of assessment appeals, the term "person" shall include, in addition to that provided by law, a group of two or more persons acting on behalf of a class of persons similarly situated with regard to an assessment. The regulations adopted by the board may establish additional criteria for a group of two or more persons to act on behalf of a class, including, but not limited to, specifying a date or time by which any person desiring to be a member of the class must file a written election with the board.

(e) Appeals.--

(1) The board shall meet for the hearing of appeals and shall meet for this purpose until all appeals have been heard and acted upon. The board shall have the power to compel the attendance of witnesses and the furnishing of documents. For the purpose of examining witnesses, any member of the board may administer oaths. All appeals other than appeals brought under section 8841(c) shall be heard and acted upon no later than October 31. When an appeal has been filed, the board shall notify the appellant, property owner and each affected taxing district of the time and place of the hearing. Each party attending the hearing shall have the right to examine any witness. The notice shall be mailed to the appellant at the address designated in the appeal. Notices required by this section shall be mailed no later than 20 days preceding the appeal. Any appellant who fails to appear for the hearing at the time fixed shall be conclusively presumed to have abandoned the appeal unless the hearing date is rescheduled by the mutual consent of the appellant and the board.

(2) In any assessment appeal, the board shall determine the market value of the property as of the date such appeal was filed before the board and shall apply the established predetermined ratio to that value, unless the common level ratio last published by the State Tax Equalization Board varies by more than 15% from the established predetermined ratio, in which case the board shall apply that same common level ratio to the market value of the property. Nothing in this paragraph shall prevent an appellant from appealing a base-year valuation without reference to ratio.

(2.1) When the board has completed the appeal hearings, it shall make the appropriate changes in the assessment roll to conform to the decision of the board and, no later than November 15, provide written notice of its decision to the appellant, property owner and taxing districts. The written notice shall contain, in addition to any content required by the board, the following:

(i) A statement that the decision may be appealed to the court of common pleas within 30 days of the mailing date of the decision in accordance with law and local rules.

(ii) A statement that an appellant must provide each taxing district within which the property lies a copy of the appeal in accordance with law and local rules and that a list of the names and addresses of taxing districts in the county may be found on the county's publicly accessible Internet website or may be requested in print.

(iii) A statement that the board cannot provide advice on filing an appeal to court and that a party may wish to consult with an attorney when considering an appeal.

(3) Nothing in this subsection shall be construed to abridge, alter or limit the right of an appellant to assert a challenge under section 1 of Article VIII of the Constitution of Pennsylvania.

(f) Certification of assessment roll after appeals.--

(1) The county assessment office shall prepare three copies of the assessment roll and shall deliver as follows the copies on or before November 15 with its certificate that each copy is a true copy of the original assessment roll:

(i) One copy to the chief clerk of the county commissioners.

(ii) One copy of the portion of the roll that contains the assessment of persons or property within each school district to the secretary of the board of school directors of the respective school district.

(iii) One copy of the portion of the roll that contains the assessment of persons or property within each city accepting the provisions of this chapter, borough, town or township, to the respective city clerk, borough secretary, town clerk or secretary or township secretary.

(2) All copies of the roll so furnished shall for all purposes be considered as originals. The original assessment roll and the true copies may be corrected, amended or changed after November 15 as circumstances may require. The copies, in addition to the information required to be shown on the original assessment roll, shall provide space to the right of each assessment for the entry of all taxes which may be levied thereon by the respective taxing districts. The

original assessment roll as corrected shall be preserved in the office of the chief assessor or of the board and shall be open to public inspection, subject to regulations that the board may prescribe for the preservation and safekeeping of the roll.

(3) On or before November 15, the board shall certify to the clerk or secretary of each taxing district coming within the scope of this chapter within the county:

(i) The assessed value of real property.

(ii) The value of occupations pursuant to section 8865 (relating to assessment of occupations).

(iii) The number of persons subject to personal taxes appearing in the assessment roll and taxable by the respective taxing districts pursuant to section 8864 (relating to assessment of personal property).

(Oct. 24, 2012, P.L.1286, No.160, eff. 60 days; Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020)

2018 Amendment. Act 155 amended subsec. (e)(2) and added subsec. (e)(2.1).

2012 Amendment . Act 160 amended subsecs. (c)(3) and (e).

Cross References. Section 8844 is referred to in sections 8841, 8851 of this title.

§ 8845. Service of notices.

No defect in service of any notice shall be sufficient grounds for setting any assessment aside, but, upon proof of defective notice, the aggrieved party or taxing district shall have the right to a hearing before the board.

§ 8846. Notice of changes given to taxing authorities.

If the county assessment office makes any change in the assessed value of a property, the county assessment office shall give notice of the change to the taxing districts in which the assessed property is located. The time limit within which the taxing districts are entitled to appeal shall commence to run on the day the notice is mailed.

§ 8847. Application of assessment changed as result of appeal.

(a) **General rule.**--Except as provided in subsection (b), for purposes of taxation, if there is a change in assessment made by the board as a result of an assessment appeal, a taxing district shall apply the changed assessment in computing taxes imposed in the next fiscal year of the taxing district following the fiscal year in which the board heard the appeal and rendered its decision.

(b) **Exceptions.**--Subsection (a) shall not apply to:

(1) Interim assessments made pursuant to section 8841(c) (relating to assessment roll and interim revisions).

(2) Reductions in assessments due to a catastrophic loss pursuant to section 8815 (relating to catastrophic loss).

(3) Correction to assessments made due to clerical or mathematical errors pursuant to section 8816 (relating to clerical and mathematical errors).

§ 8848. Special provisions relating to countywide revisions of assessments.

(a) **Notice requirements.**--If any county proposes to institute a countywide revision of assessments upon real property, the following notice requirements shall apply:

(1) Each property owner shall be notified by mail at the property owner's last known address of the value of the new assessment, the value of the old assessment and the right to appeal within 40 days as provided in subsection (c)(1). The notice shall state a mailing date and shall be deposited

in the United States mail on that date. The notice shall be deemed received by the property owner on the date deposited in the United States mail.

(2) The chief assessor shall maintain a list of all notices and the mailing dates for each and shall affix an affidavit attesting to the mailing dates of the assessment notices. This list shall be a permanent public record of the county assessment office and available for public inspection.

(b) Informal review.--In conjunction with a countywide revision of assessments, a designee of the county assessment office may meet with property owners to review all proposed assessments and correct errors prior to the completion of the final assessment roll. In no event shall the market value or assessed value of a property be adjusted as a result of an informal review except to reflect changes to tabular data or property characteristics inaccurately recorded during the revision. Informal reviews, if conducted, shall be completed no later than June 1.

(c) Appeal process.--

(1) All property owners and affected taxing districts shall have the right to appeal any new assessment value within 40 days of the mailing date stated on the notice.

(2) The county assessment office shall mail all notices on or before July 1. The board in its discretion may commence with the hearing of appeals 40 days following the mailing of the initial notices of reassessment.

(3) The county assessment office shall notify each appellant, property owner, if not the appellant, and each affected taxing district of the time and place of hearing on the appeal by mailing a notice no later than 20 days prior to the scheduled hearing date. Any appellant who fails to appear for hearing at the time fixed shall be conclusively presumed to have abandoned the appeal unless the hearing date is rescheduled by the mutual consent of the appellant and the board.

(4) On or before November 15, the county assessment office shall certify to the taxing districts new assessment rolls resulting from the countywide revision of assessments.

(5) All appeals shall be heard and acted upon by the board not later than October 31.

(d) Common level ratio.--If a county has effected a countywide revision of the assessments, which was used to develop the common level ratio last determined by the State Tax Equalization Board, the following shall apply:

(1) If a county changes its assessment base by applying a change in predetermined ratio, the board shall apply the percentage change between the existing predetermined ratio and newly established predetermined ratio to the county's common level ratio to establish the certified revised common level ratio for the year in which the assessment was revised.

(2) If the county performs a countywide revision of assessments by revaluing the properties and applying an established predetermined ratio, the board shall utilize the established predetermined ratio instead of the common level ratio for the year in which the assessment was revised and until the time that the common level ratio determined by the State Tax Equalization Board reflects the revaluing of properties resulting from the revision of assessments.

(e) Exception.--(Expired).

(Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020; July 1, 2020, P.L.543, No.46, eff. imd.)

2020 Expiration. Subsection (e) expired December 31, 2020.
See Act 46 of 2020.

SUBCHAPTER E
BOARDS AND APPEALS TO COURT

Sec.

8851. Board of assessment appeals and board of assessment revision.

8852. Regulations and training of boards.

8853. Auxiliary appeal boards.

8854. Appeals to court.

8855. Appeals by taxing districts.

§ 8851. Board of assessment appeals and board of assessment revision.

(a) Establishment and membership.--

(1) Counties of the second class A and third class shall, and counties of the fourth through eighth classes may, establish a board to be known as the board of assessment appeals, which shall be composed of three members. The members of the board shall be appointed by the county commissioners to serve for terms of four years each. Vacancies on the board shall be filled by appointment by the county commissioners for the unexpired terms. The salary of the members of the board shall be fixed by the salary board of the county.

(1.1) The county commissioners may, on or after the first organizational meeting occurring after the effective date of this paragraph and every four years thereafter, elect to appoint board members under paragraph (1) for terms of two years each or four years each.

(1.2) The county commissioners shall be prohibited from appointing a member to the board who is an employee of or contractor with the county assessment office or is a party to any contract with the county assessment office other than one that may be created for service as a board member.

(2) In each county of the fourth through eighth classes that has not created a separate board of assessment appeals in accordance with paragraph (1), there is established a board of assessment revision. The county commissioners shall serve as a board of assessment revision. The county commissioner holding the oldest certificate of election shall be the chairman.

(b) Powers and duties of board.--The board has the following powers and duties:

(1) Appoint, with the approval of the county commissioners, clerks, engineers and other employees as necessary.

(2) Promulgate regulations as provided in section 8852 (relating to regulations and training of boards).

(3) Hear and determine appeals, as provided in section 8844 (relating to notices, appeals and certification of values).

(4) Establish the form of the assessment roll as provided in section 8841 (relating to assessment roll and interim revisions).

(5) Prepare annually and submit to the county commissioners an estimate of the expense to be incurred incidental to the carrying out of the provisions of this chapter.

(6) Establish a permanent system of records as required by section 8834 (relating to assessment records system).

(c) Expenses to be paid by county.--The county commissioners shall appropriate annually to the board funds necessary for the payment of salaries, wages and other expenses incurred in carrying out the duties imposed upon the board and its employees by this chapter.

(d) Organization of board meetings; action by majority.--

(1) The members of the board shall meet and organize as a board at the same time and place as the county commissioners meet for the purpose of organizing. The board shall meet from time to time at the call of the chairman or of any member, upon personal notice to each member. No action shall be taken by the board except by a majority vote of all the members of the board, and all actions of the board shall be recorded in writing.

(2) The county commissioners shall appoint a chairman of the board unless the county commissioners serve as the board of assessment revision, in which case the commissioner holding the oldest certificate of election shall be the chairman.

(Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020)

2018 Amendment. Act 155 amended subsec. (b)(2) and added subsec. (a)(1.1) and (1.2).

Cross References. Section 8851 is referred to in section 8802 of this title.

§ 8852. Regulations and training of boards.

(a) Regulations.--Subject to the approval of the county commissioners, the board may adopt, amend, alter and rescind regulations for the administration of and the conduct of business and proceedings for itself and for auxiliary appeal boards. The regulations may require a witness providing testimony at a hearing relative to any aspect of the value of the real estate which is the subject of the assessment or reassessment appeal to disclose, under oath, whether any compensation paid for the testimony is contingent on the result obtained. The regulations shall be in writing and shall be a public record open to examination, inspection and copying in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(b) Training required.--Members of the board and each auxiliary appeal board appointed after the effective date of this subsection shall be authorized to hear appeals only if they have completed training in accordance with this section, subject to the following conditions and exceptions:

(1) A member of the board shall have up to six months from the date of appointment to complete the training required under subsection (c). The member may hear appeals without training during the six-month period. Failure of a board member to obtain the training within six months of appointment shall result in disqualification of the member and shall create a vacancy. A new member shall be appointed to replace the disqualified member within 30 days of the effective date of the vacancy.

(2) A member of an auxiliary appeal board shall be authorized to hear appeals only upon completion of training required under subsection (c).

(3) A member of the board or auxiliary appeal board who holds an active Certified Pennsylvania Evaluator certification shall not be required to complete the training under subsection (c).

(4) A member of the board or auxiliary appeal board who holds an inactive Certified Pennsylvania Evaluator certification shall not be required to complete the training under subsection (c)(1).

(5) In the event of a declaration by the Governor of a disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor), the training required by this section shall not be a precondition or qualification for a member of a board or auxiliary appeal board to hear and decide an appeal until six months or, in the case of a county subject to a court-ordered countywide reassessment on the effective date of the emergency, one year, following the termination of the disaster or emergency or the final extension thereof.

(c) Curriculum and personnel.--The County Commissioners Association of Pennsylvania, in coordination with the Assessors' Association of Pennsylvania, shall establish a curriculum and the method of training delivery. Training may be conducted electronically or remotely, and the curriculum shall include the following:

(1) Three hours of training on the assessment valuation process in this Commonwealth.

(2) Three hours of training on the legal and constitutional issues relating to the assessment process in this Commonwealth and the duties and responsibilities of board members.

(3) In the case of board members, three hours of training on real estate exemptions.

(d) Costs.--Costs of the training shall be paid by the respective counties responsible for the appointment of the board and auxiliary boards.

(Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020; July 1, 2020, P.L.543, No.46, eff. imd.)

2020 Amendment. Act 46 amended subsec. (b).

Cross References. Section 8852 is referred to in sections 8851, 8853 of this title.

§ 8853. Auxiliary appeal boards.

(a) Establishment and authority.--The county commissioners may establish temporary auxiliary appeal boards for terms of existence necessary to hear and determine appeals in a manner consistent with this chapter and the regulations of the board. The authority of the board is restricted to hearing and determining the following matters:

(1) Appeals from assessment values determined in accordance with this chapter, except that an auxiliary appeal board shall not hear exemption appeals.

(2) Appeals arising from applications for the homestead exclusion under Subchapter F of Chapter 85 (relating to homestead property exclusion) or Subchapter E of Chapter 3 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

(b) Membership.--An auxiliary appeal board shall be composed of three residents of the county trained in accordance with section 8852 (relating to regulations and training of boards). An auxiliary appeal board shall not hear an appeal unless all three members are physically present. Any salary of members of an auxiliary appeal board shall be fixed by the salary board of the county.

(c) Alternates.--(Deleted by amendment).

(d) Pools.--The county commissioners may create a pool of qualified residents for potential service as auxiliary appeal

board members. The pool shall be subject to revision or rescission at any time by the county commissioners, and pool members shall not be entitled to any salary unless serving on an auxiliary appeal board. Pool members may serve as directed by the board of assessment appeals on any auxiliary appeal board in the event that a member of an auxiliary appeal board is unavailable for a scheduled hearing by reason of being absent, having a conflict or being disqualified. Nothing in this subsection shall preclude the appointment of qualified auxiliary appeal board members from outside of an established pool.
(Oct. 24, 2018, P.L.1139, No.155, eff. Jan. 1, 2020)

Cross References. Section 8853 is referred to in section 8802 of this title.

§ 8854. Appeals to court.

(a) Court of common pleas.--

(1) Following an appeal to the board, any appellant, property owner or affected taxing district may appeal the board's decision to the court of common pleas in the county in which the property is located in accordance with 42 Pa.C.S. § 5571(b) (relating to appeals generally) and local rules of court.

(2) In any appeal of an assessment the court shall make the following determinations:

(i) The market value as of the date the appeal was filed before the board. In the event subsequent years have been made a part of the appeal, the court shall determine the market value for each year.

(ii) The common level ratio which was applicable in the original appeal to the board. In the event subsequent years have been made a part of the appeal, the court shall determine the applicable common level ratio for each year published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year being appealed.

(3) The court, after determining the market value of the property pursuant to paragraph (2)(i), shall then apply the established predetermined ratio to that value unless the corresponding common level ratio determined pursuant to paragraph (2)(ii) varies by more than 15% from the established predetermined ratio, in which case the court shall apply the applicable common level ratio to the corresponding market value of the property.

(4) If a county has effected a countywide revision of assessments which was used to develop the common level ratio last determined by the State Tax Equalization Board, the following shall apply:

(i) If a county changes its assessment base by applying a change in predetermined ratio, the court shall apply the percentage change between the existing predetermined ratio and the newly established predetermined ratio to the county's common level ratio to establish the certified revised common level ratio for the year in which the assessment was revised.

(ii) If the county performs a countywide revision of assessments by revaluing the properties and applying an established predetermined ratio, the court shall utilize the established predetermined ratio instead of the common level ratio for the year in which the assessment was revised and until the common level ratio determined by the State Tax Equalization Board reflects

the revaluing of properties resulting from the revision of assessments.

(5) If a taxpayer or taxing district has filed an appeal from an assessment, so long as the appeal is pending before the board or before a court on appeal from the determination of the board, as provided by statute, the appeal will also be taken as an appeal by the appellant on the subject property for any valuation for any assessment subsequent to the filing of an appeal with the board and prior to the determination of the appeal by the board or the court. This provision shall be applicable to all pending appeals as well as future appeals.

(6) In any appeal by a taxable person from an action by the board, the board shall have the power and duty to present a prima facie case in support of its assessment, to cross-examine witnesses, to discredit or impeach any evidence presented by the taxable person, to prosecute or defend an appeal in any appellate court and to take any other necessary steps to defend its valuation and assessment.

(7) Appeals to a court of common pleas may be referred by the court to a board of arbitrators under 42 Pa.C.S. Ch. 73 Subch. C (relating to judicial arbitration) or to a board of viewers under 42 Pa.C.S. Ch. 21 Subch. E (relating to boards of viewers) in accordance with the Pennsylvania Rules of Civil Procedure.

(8) The cost of the appeal shall be apportioned or fixed as the court may direct.

(9) Nothing in this subsection shall:

(i) Prevent an appellant from appealing a base-year valuation without reference to ratio.

(ii) Be construed to abridge, alter or limit the right of an appellant to assert a challenge under section 1 of Article VIII of the Constitution of Pennsylvania.

(b) Appeals to Commonwealth Court or Supreme Court.--The board, or any party to the appeal to the court of common pleas, may appeal from the judgment, order or decree of the court of common pleas.

(c) Payment of taxes pending appeal.--An appeal shall not prevent the collection of taxes based on the assessment appealed. If the assessment is reduced, then any overpayment of taxes together with interest at a rate pursuant to section 8843 (relating to spot reassessment) from the date of overpayment shall be returned to the person or persons who paid the taxes. The appellant may protest the taxes due. The protest must be in writing addressed to the tax collector. It shall be the duty of the tax collector to notify the taxing districts of any payment under protest by delivering to them a copy of the protest. The taxing districts shall be required to segregate 25% of the amount of the tax paid in a separate account and shall not be permitted to expend any portion of any segregated amount unless it first petitions the court, alleging that the segregated amount is unjustly withheld. The court shall have power to order the taxing district to use a portion of any segregated amount as the court deems reasonably free from dispute, and the remainder of the segregated amount shall be held segregated by the taxing district, pending the final disposition of the appeal. Upon final disposition of the appeal, the amount of the overpayment found to be due the appellant as a refund shall also be a legal setoff or credit against any future taxes assessed against the appellant by the same taxing district. If a taxing district alleges that it is unable to credit all of the refund due in one year, the court, upon

application of either party, shall determine over what period of time the refund due shall be made and in what manner.

(Oct. 24, 2012, P.L.1286, No.160, eff. 60 days)

2012 Amendment . Act 160 amended subsec. (a)(1).

Cross References. Section 8854 is referred to in section 8855 of this title.

§ 8855. Appeals by taxing districts.

A taxing district shall have the right to appeal any assessment within its jurisdiction in the same manner, subject to the same procedure and with like effect as if the appeal were taken by a taxable person with respect to the assessment, and, in addition, may take an appeal from any decision of the board or court of common pleas as though it had been a party to the proceedings before the board or court even though it was not a party in fact. A taxing district authority may intervene in any appeal by a taxable person under section 8854 (relating to appeals to court) as a matter of right.

SUBCHAPTER F

MISCELLANEOUS PROVISIONS

Sec.

8861. Submission of permit and substantial improvement information to the county assessment office and civil penalty.

8862. Recorder of deeds to furnish record of conveyances, compensation.

8862.1. Grantees of real property to register deed with chief assessor.

8863. Assessment of property of decedent's estates.

8864. Assessment of personal property.

8865. Assessment of occupations.

8866. Limitation on rates of specific taxes.

8867. Prohibition on certain levies.

8868. Optional use by cities.

§ 8861. Submission of permit and substantial improvement information to the county assessment office and civil penalty.

(a) Permit.--Every municipality, third-party agency or the Department of Labor and Industry responsible for the issuance of building permits or demolition permits shall forward a copy of each permit to the county assessment office on or before the first day of every month. In addition to any charge otherwise permitted by law, a municipality, a third-party agency or the Department of Labor and Industry may charge an additional fee of \$10 to each person to whom a permit is issued for administrative costs incurred in compliance with this section. The assessment office may provide for the electronic submission of a permit through electronic mail or any other means of electronic transmission or uploading of the permit in its existing form. The provision of permits or permit information to the assessment office as required by this section shall not be subject to the procedures of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. No agency, public official or public employee shall be liable for civil or criminal damages or penalties for complying with this section.

(a.1) Noncompliance.--

(1) If the county assessment office has reason to believe that there is noncompliance with subsection (a), the assessment office shall provide written notice to the

municipality and, if applicable, a third-party agency, or to the Department of Labor and Industry in the case of noncompliance by the Department of Labor and Industry. Upon receipt of the notice, the municipality, third-party agency or Department of Labor and Industry shall investigate and consult with the assessment office and take any steps the municipality, third-party agency or Department of Labor and Industry deems necessary to remediate the noncompliance.

(2) If, after consultation, noncompliance with subsection (a) continues, the assessment office may, in the case of continuing noncompliance after notice by a municipality or third-party agency, institute an action in mandamus before the court of common pleas to compel compliance with subsection (a). Should the court determine that the noncompliance is intentional, the court shall award any costs, disbursements, reasonable attorney fees and witness fees relating to the action to the assessment office.

(b) Substantial improvement.--If a person makes improvements to any real property, other than painting of or normal regular repairs to a building, aggregating more than \$4,000 in value and a building permit is not required for the improvements, the property owner shall furnish the following information to the board:

(1) the name and address of the person owning the property;

(2) a description of the improvements made or to be made to the property; and

(3) the dollar value of the improvements.

(b.1) County improvement certification form.--The county commissioners may, by ordinance, require that all persons making substantial improvements to property as set forth in subsection (b) submit to the county assessment office a county improvement certification form setting forth the information in subsection (b) prior to beginning any substantial improvement, regardless of whether a building permit is required. The county may provide for the electronic submission of the form and a fee no greater than \$5. The county may cooperate with a municipality, third-party agency or the Department of Labor and Industry in the distribution of forms.

(c) Civil penalty.--

(1) The board may assess a civil penalty of not more than \$100 upon a person for intentionally failing to comply with the provisions of subsection (b) or an ordinance enacted in accordance with subsection (b.1) or intentionally falsifying the information required.

(2) If a civil penalty is assessed against a person under paragraph (1), the board must notify the person by certified mail of the nature of the violation and the amount of the civil penalty and that the person may notify the board in writing within 10 calendar days that the person wishes to contest the civil penalty. If, within 10 calendar days from the receipt of that notification, the person does not notify the county board of assessment of the person's intent to contest the assessed penalty, the civil penalty shall become final.

(3) If timely notification of the intent to contest the civil penalty is given, the person contesting the civil penalty shall be provided with a hearing in accordance with 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action).

(d) Existing provisions preserved.--Nothing in this section shall supersede or preempt any ordinance, resolution or other requirement of a county to submit information on substantial improvements in effect on the effective date of this subsection.

(e) Substantial improvement value.--Beginning January 1 of the year immediately following the effective date of this subsection and each January 1 thereafter, the amount set forth in subsection (b) shall be increased by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, for the most recent 12-month period that figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics immediately prior to the date the adjustment is due to take effect. The chief assessor shall maintain an accurate record of the adjusted amount applicable for each year.

(July 7, 2022, P.L.455, No.41, eff. 60 days)

§ 8862. Recorder of deeds to furnish record of conveyances, compensation.

(a) Maintaining information.--For every deed or conveyance of land recorded, the recorder of deeds shall document and maintain the following information:

- (1) the date of the deed or conveyance;
- (2) the names of the grantor and grantee;
- (3) the address of the grantee;
- (4) the consideration mentioned in the deed;
- (5) the municipality in which the property is located;
- (6) the acreage of the land conveyed, if mentioned; and
- (7) whether the land conveyed is a lot or lots on a recorded plan and, if so, the designation assigned to the land on the plan, if mentioned in the deed.

(b) Filing information.--The recorder of deeds shall, on or before the first Monday of each month, file the information required to be maintained by this section with the county assessment office along with a certification that the information is correct. Fees charged by the recorder of deeds shall be in accordance with the act of April 8, 1982 (P.L.310, No.87), referred to as the Recorder of Deeds Fee Law.

§ 8862.1. Grantees of real property to register deed with chief assessor.

It shall be the duty of every grantee of real property to register the deed of conveyance in the office of the chief assessor for the county in which the land or the greater portion of it in area is situated within 30 days from the date of conveyance unless the deed shall have been previously recorded in the office of the recorder of deeds. Any person who willfully fails to comply with the provisions of this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$100.

(Oct. 24, 2012, P.L.1286, No.160, eff. 60 days)

2012 Amendment. Act 160 added section 8862.1.

§ 8863. Assessment of property of decedent's estates.

If an individual dies leaving real or personal property which, by the existing laws of this Commonwealth, is subject to taxation for county purposes, the property, so long as it belongs to the estate of the decedent, may be assessed in the name of the decedent or in the name of the personal representative.

§ 8864. Assessment of personal property.

If personal property is subject to taxation for county purposes it shall be assessed in the manner provided by existing

laws, except that the county commissioners shall fix the date as of which the valuation of personal property shall be determined, when and to whom returns of taxable personal property shall be made and when appeals from assessments shall be heard in the same manner and with like notice and like periods of time as provided in this section for appeals from assessments of real estate. Personal property assessments shall be entered on separate assessment rolls.

Cross References. Section 8864 is referred to in section 8844 of this title.

§ 8865. Assessment of occupations.

(a) Occupation taxes.--In accordance with the act of August 9, 1955 (P.L.323, No.130), known as The County Code, the county commissioners in counties of the fourth through eighth classes may by resolution levy a tax on trades, occupations, professions and persons who follow no occupation or calling.

(b) List of taxables.--

(1) The county assessment office shall provide a listing each year to the county commissioners of all taxable persons within the county. This list shall set forth the following information for each taxable person:

- (i) Full name and street address.
- (ii) Respective municipality and school district.
- (iii) Occupation.

(2) If a taxable person resides in a house which does not have a street number address, then an address as definite as possible shall be given. The county assessment office shall accept the substitute address of any person certified by the Office of Victim Advocate as eligible to participate in the address confidentiality program pursuant to 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality).

(3) A county assessment office shall not be required to maintain an occupation tax assessment roll if no taxing district in the county levies an occupation tax.

(c) Exemption.--Except where a higher exemption level is specified in law, each county, city, borough, incorporated town, township and school district may, by ordinance or resolution, exempt any person whose total income from all sources is less than \$12,000 per year from its per capita or similar head tax and occupation tax, or any portion thereof. Each taxing authority may adopt regulations for the processing of claims for the exemption.

Cross References. Section 8865 is referred to in section 8844 of this title.

§ 8866. Limitation on rates of specific taxes.

No taxes levied under the provisions of this chapter or section 8402(c) (relating to scope and limitations) shall be levied by any taxing district on admissions to automobile racing facilities with a seating capacity of more than 25,000 and a continuous race area of one mile or more in excess of the percent collected as of January 1, 2002. The tax base upon which the tax shall be levied shall not exceed 40% of the cost of admission to an automobile racing facility.

§ 8867. Prohibition on certain levies.

Notwithstanding the provisions of this chapter, the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, or section 8402(c) (relating to scope and limitations), no taxing district shall levy, assess or collect a tax on admissions to ski facilities after December 1, 2002.

§ 8868. Optional use by cities.

(a) Election.--A city in any county to which this chapter applies may, by adopting an ordinance, elect to become subject to this chapter. A copy of the ordinance approved by the mayor, or other comparable official if so required under an optional form of government or home rule charter, and duly certified, accompanied by a statement of the vote thereon, with the names of the members of council voting for and against the ordinance, shall be forwarded to and filed in the office of the Secretary of the Commonwealth, and, when so filed, the Governor shall under the great seal of the Commonwealth certify the acceptance of the provisions of this chapter which certificate shall be recorded among the minutes of the council and in the office for the recording of deeds in the proper county. A city that has previously opted to become subject to the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, or the act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law, shall continue to be subject to this chapter.

(b) Result.--Upon becoming subject to this chapter in accordance with subsection (a), the property and persons subject to and exempt from taxation in the city for city and school purposes shall be designated in accordance with this chapter, and the assessment and valuation thereof shall be done only in accordance with this chapter and by the officers designated in this chapter. If a city in accepting the provisions of this chapter elects by ordinance to adopt an established predetermined ratio different from that used by the county, then the city shall apply the ratio selected to the actual valuation supplied by the county to determine assessed value for tax purposes. The established predetermined ratio selected by the city, if different from the ratio selected by the county, may be set at any value up to and including the actual valuation supplied by the county.

(c) Alternate ratio.--If a city accepts this chapter in accordance with subsection (a), all the provisions thereof shall apply to the city except that a city may, by ordinance, elect to adopt an established predetermined ratio different from that used by the county.

References in Text. The act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, referred to in subsec. (a), was repealed by the act of October 27, 2010 (P.L.895, No.93). The subject matter is now contained in Chapter 88 of this title.

Cross References. Section 8868 is referred to in section 8801 of this title.

CHAPTER 89

PAYMENT AND COLLECTION OF TAXES

Subchapter

- A. (Reserved)
- B. Register for Certain Taxes (Repealed)
- C. Cities and Counties of the First Class

Enactment. Chapter 89 was added May 5, 1998, P.L.301, No.50, effective January 1, 1999.

SUBCHAPTER A
(Reserved)

SUBCHAPTER B
REGISTER FOR CERTAIN TAXES
(Repealed)

2006 Repeal. Subchapter B (§§ 8911 - 8916) was added May 5, 1998, P.L.301, No.50, and repealed June 27, 2006, Sp.Sess.1, P.L.1873, No.1, effective immediately. The subject matter is now contained in Subchapter F of Chapter 3 of Act 1.

SUBCHAPTER C
CITIES AND COUNTIES OF THE FIRST CLASS

Sec.
8921. Confidentiality of tax information.

Enactment. Subchapter C was added December 18, 2013, P.L.1165, No.106, effective in 60 days.

§ 8921. Confidentiality of tax information.

(a) **General rule.**--Any information gained by a city of the first class as a result of a tax audit, tax return, tax report, investigation of tax liability, administrative hearing regarding tax liability or verification with respect to tax liability shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for an officer, employee or agent of a city of the first class to:

(1) Divulge or make known in any manner any confidential information gained in any such return, investigation, hearing or verification to any person.

(2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.

(3) Print, publish or make known in any manner any confidential tax information.

(b) **Penalty.**--A person who violates subsection (a) commits a misdemeanor of the third degree and shall, upon conviction, be ordered to pay a fine of not more than \$2,500 and costs or to a term of imprisonment for not more than one year, or both. If the person is an officer or employee of the city, the officer or employee shall be dismissed from office or discharged from employment.

SUBPART D
EMPLOYMENT AND EMPLOYEES

Chapter
91. Municipal Pensions

Enactment. Subpart D was added October 27, 2010, P.L.895, No.93, effective immediately.

CHAPTER 91
MUNICIPAL PENSIONS

Subchapter
A. (Reserved)

B. Cities of the Second Class

Enactment. Chapter 91 was added October 27, 2010, P.L.895, No.93, effective immediately.

SUBCHAPTER A
(Reserved)

SUBCHAPTER B
CITIES OF THE SECOND CLASS

Sec.

9111. Scope of subchapter.

9112. Deposits of certain proceeds.

9113. Timing of transfer of administration of pension system fund.

§ 9111. Scope of subchapter.

This subchapter shall apply to pensions in cities of the second class.

§ 9112. Deposits of certain proceeds.

Notwithstanding the provisions of section 902(a)(2) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, in order to exercise the additional taxing authority granted under that section, net proceeds of the lease or sale of a city of a second class' parking authority garages must be deposited as follows:

- (1) into the city's municipal pension system fund; or
- (2) with the Pennsylvania Municipal Retirement System and credited to the city's account in the event the administration of the city's municipal pension system fund has been transferred to the Pennsylvania Municipal Retirement System under section 902(c) of the Municipal Pension Plan Funding Standard and Recovery Act.

§ 9113. Timing of transfer of administration of pension system fund.

Notwithstanding the provisions of section 902(c) of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, if the administration of a city of the second class' municipal pension system fund is to be transferred to the Pennsylvania Municipal Retirement System under that section, the transfer shall be accomplished by October 30, 2011.

APPENDIX TO TITLE 53
MUNICIPALITIES GENERALLY

Supplementary Provisions of Amendatory Statutes

2001, JUNE 19, P.L.287, NO.22

§ 2. Applicability to authorities incorporated under former laws.

The provisions of 53 Pa.C.S. Ch. 56 shall apply to all authorities now existing that were incorporated under the provisions of the former act of June 28, 1935 (P.L.463, No.191), entitled "An act providing, for a limited period of time, for the incorporation, as bodies corporate and politic, of "Authorities" for municipalities; defining the same; prescribing the rights, powers, and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain, and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and for other purposes," and the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945. The provisions of 53 Pa.C.S. Ch. 56, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this act of any act or part of any act shall not affect the existence of any authority previously incorporated. The provisions of this act shall not affect any act done, liability incurred or right accrued or vested or affect any suit pending or to be instituted to enforce any right or penalty under the authority of such repealed laws. All rules and regulations made pursuant to any act or part of any act repealed by 53 Pa.C.S. Ch. 56 shall continue with the same force and effect as if such act had not been repealed.

Explanatory Note. Act 22 added Chapters 55 and 56 of Title 53.

§ 4. Continuation of Municipality Authorities Act of 1945.

The addition of 53 Pa.C.S. Ch. 56 is a continuation of the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945. The following apply:

(1) Except as otherwise provided in 53 Pa.C.S. Ch. 56, all activities initiated under the Municipality Authorities Act of 1945 shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. Ch. 56. Orders, regulations, rules and decisions which were made under the Municipality Authorities Act of 1945 and which are in effect on the effective date of section 3 of this act shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. Ch. 56. Contracts, obligations and collective bargaining agreements entered into under the Municipality Authorities Act of 1945 are not affected or impaired by the repeal of the Municipality Authorities Act of 1945.

(2) Except as set forth in paragraph (3), any difference in language between 53 Pa.C.S. Ch. 56 and the Municipality Authorities Act of 1945 is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Municipality Authorities Act of 1945.

(3) Paragraph (2) does not apply to any of the following provisions:

(i) The addition of the last sentence of 53 Pa.C.S. § 5610(b).

(ii) The addition of 53 Pa.C.S. § 5610(f).

§ 5. Continuation of Parking Authority Law.

The addition of 53 Pa.C.S. Ch. 55 is a continuation of the act of June 5, 1947 (P.L.458, No.208), known as the Parking Authority Law. The following apply:

(1) Except as otherwise provided in 53 Pa.C.S. Ch. 55, all activities initiated under the Parking Authority Law shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. Ch. 55. Orders, regulations, rules and decisions which were made under the Parking Authority Law and which are in effect on the effective date of section 3 of this act shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. Ch. 55. Contracts, obligations and collective bargaining agreements entered into under the Parking Authority Law are not affected or impaired by the repeal of the Parking Authority Law.

(2) Except as set forth in paragraph (3), any difference in language between 53 Pa.C.S. Ch. 55 and the Parking Authority Law is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Parking Authority Law.

(3) Paragraph (2) does not apply to the addition of 53 Pa.C.S. §§ 5508(a) and 5508.1.

2001, DECEMBER 17, P.L.926, NO.110

§ 4. Continuation of membership on board.

Notwithstanding any provision of section 2 of the act of December 20, 2000 (P.L.792, No.112), entitled "An act amending the act of May 2, 1945 (P.L.382, No.164), entitled 'An act providing for the incorporation as bodies corporate and politic of "Authorities" for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates,'" to the contrary, any member of a board of a municipality authority who was appointed prior to the effective date (February 20, 2001) of the act of December 20, 2000 (P.L.792, No.112), and who immediately prior to the effective date (February 20, 2001) of the act of December 20, 2000 (P.L.792, No.112) was qualified to be a member of a board under section 7A of the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, shall remain and be deemed to have remained at all times qualified to be a member of the board until the regular expiration of the member's term.

Explanatory Note. Act 110 amended sections 5505, 5506, 5516, 5602, 5603, 5606, 5607, 5608, 5609, 5610, 5614, 5615, 5619 and 5622 of Title 53.

2003, DECEMBER 30, P.L.404, NO.57

§ 2. Applicability to connection, customer facilities, tapping or similar fees.

Notwithstanding section 5(1) of this act, this act shall apply immediately to any connection, customer facilities, tapping or similar fees which are increased or initially imposed subsequent to the effective date of this section.

Explanatory Note. Act 57 amended section 5607 of Title 53.

§ 3. Applicability of mandatory refund provisions.

Notwithstanding section 5(1) of this act, the mandatory refund provisions of 53 Pa.C.S. § 5607(d)(24)(i)(C)(VI) applicable to tapping fees based upon facilities to be constructed or acquired in the future shall apply to tapping fees collected subsequent to the effective date of this section regardless of when the resolution adopting such tapping fees was adopted.

§ 4. Applicability to sewer tapping fees and original financing.

The following shall apply:

(1) The provisions of 53 Pa.C.S. § 5607(d)(24)(i)(C)(I) and (V)(e) shall not apply for a period of 15 years after the effective date of this section to sewer tapping fees imposed by a joint authority having six or more municipal members which is prohibited from implementing any increase in sewer user fees pursuant to the terms of a contract executed prior to January 1, 2003.

(2) The provisions of 53 Pa.C.S. § 5607(d)(24)(i)(C)(V)(e) shall not apply for a period of five years after the date of closing of original financing when an authority, in order to support the construction of new facilities, used original financing which closed on or before July 1, 2003, which has a term of at least 15 years and in which tapping fees were relied upon to support the debt service on the financing.

2003, DECEMBER 30, P.L.450, NO.65

§ 4. Applicability.

This act shall apply to police officers required by this act to obtain certification under 42 Pa.C.S. Ch. 21 Subch. D (relating to municipal police and training) as follows:

(1) A police officer who, as of the effective date of this section, has successfully completed a basic training course similar to that required under 42 Pa.C.S. Ch. 21 Subch. D shall, after review by the Municipal Police Officers' Education and Training Commission, be certified as having met the basic training requirements of 42 Pa.C.S. Ch. 21 Subch. D.

(2) A police officer who, as of the effective date of this section, has not successfully completed a basic training course similar to that required under 42 Pa.C.S. Ch. 21 Subch. D and is, for that reason, not qualified for certification under paragraph (1), shall be able to perform the duties of a police officer for one year from the effective date of this section. By the end of that year, the police officer must be certified under paragraph (1).

Explanatory Note. Act 65 amended or repealed sections 2162, 2166.1, 2167 and 2170 of Title 53.

References in Text. The references to 42 Pa.C.S. Ch. 21 Subch. D should probably be to 53 Pa.C.S. Ch. 21 Subch. D.

2004, JULY 16, P.L.758, NO.94

§ 20. Pennsylvania Public Utility Commission contracts.

The following provisions shall not apply to or affect the validity of any contract otherwise within the purview of such provisions entered into by the Pennsylvania Public Utility Commission prior to the effective date of this section:

- (1) The reenactment of 53 Pa.C.S. § 5505(d)(23).
- (2) The reenactment of 53 Pa.C.S. § 5508.1(o).
- (2.1) The reenactment of 53 Pa.C.S. § 5508.2.
- (3) The reenactment of 53 Pa.C.S. §§ 5510.1 through 5510.11.
- (4) The reenactment, amendment or addition of 53 Pa.C.S. §§ 5701, 5701.1, 5702, 5703, 5704, 5705, 5706, 5707, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5741, 5741.1, 5742, 5743, 5744 and 5745.
- (5) Section 19 of this act.
- (6) Section 21 of this act.
- (7) Section 22 of this act.
- (8) Section 24 of this act.

Explanatory Note. Act 94 reenacted, amended, added or deleted sections 5503, 5505, 5508.1, 5508.2, 5508.3, 5510.1, 5510.2, 5510.3, 5510.4, 5510.5, 5510.6, 5510.7, 5510.8, 5510.9, 5510.10, 5510.11, 5511, 5701, 5701.1, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5741, 5741.1, 5742, 5743, 5744 and 5745 of Title 53.

§ 21. Preservation of rights, obligations, duties and remedies.

The following provisions do not affect any act done, liability incurred or right accrued or vested or affect any civil or criminal proceeding pending or to be commenced to enforce any right or penalty or punish any offense under any provision of law repealed by section 19 of this act:

- (1) The reenactment of 53 Pa.C.S. § 5508.1(o).
- (2) The reenactment of 53 Pa.C.S. § 5508.2.
- (3) The reenactment of 53 Pa.C.S. §§ 5510.1 through 5510.11.
- (4) The reenactment, amendment or addition of 53 Pa.C.S. §§ 5701, 5701.1, 5702, 5703, 5704, 5705, 5706, 5707, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5741, 5741.1, 5742, 5743, 5744 and 5745.
- (5) The provisions of 66 Pa.C.S. §§ 510(b)(5) and 1103(c) and Ch. 24.
- (6) Section 20 of this act.
- (7) Section 22 of this act.
- (8) Section 24 of this act.

§ 22. Applicability.

The following shall apply:

- (1) The Pennsylvania Public Utility Commission's appropriations, allocations, documents, records, equipment, materials, powers, duties, contracts, rights and obligations which are utilized or accrue in connection with the functions under 66 Pa.C.S. Ch. 24 and in connection with limousine

regulation in cities of the first class shall be transferred to the Philadelphia Parking Authority in accordance with an agreement between the commission and the authority.

(2) Regulations, orders, programs and policies of the commission under 66 Pa.C.S. Ch. 24 and concerning limousine service regulation within cities of the first class shall remain in effect until specifically amended, rescinded or altered by the authority.

(3) The State Treasurer shall coordinate with the authority and transfer the First Class City Taxicab Regulatory Fund to the authority. Upon transfer, fiduciary responsibility over the fund shall pass from the State Treasurer to the authority.

(4) The commission shall assist the authority to prepare for the transfer and to ensure a smooth transition with as little disruption as possible to public safety, consumer convenience and the impacted industries. The commission and the authority are empowered to resolve by mutual agreement any jurisdictional issues that may be associated with the transfer. Any agreement shall be reported to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives and will be considered effective unless either the Senate or the House of Representatives rejects the submitted agreement by resolution within ten legislative days of submission. Upon becoming effective, an agreement shall be published in the Pennsylvania Bulletin.

(4.1) Any revenues generated by a taxicab or limousine while operating under the jurisdiction of the authority shall be exempt from assessment by the commission. The provisions of this paragraph shall have no effect on the fees allowed to be charged by the authority in accordance with the provisions of section 5707.

(5) As soon as is practical but no later than 60 days after the effective date of this paragraph, subject to negotiations between the commission and the authority, the authority shall notify all current employees of the commission whose jobs would be impacted by the transfer of its intention to hire. All employees who receive and accept offers to be transferred shall be employees of the authority, and the authority shall make provisions to transfer longevity credits, payroll credits and other personnel benefits, except for retirement accounts, in a fair and reasonable manner. Notwithstanding the provisions of 53 Pa.C.S. §§ 5505(d)(8) and (20) and 5508.1(1), any ordinance of any city of the first class or any agreement or contract between a city of the first class and the authority, the pension and retirement rights of employees of the commission at the time of the transfer whose jobs are impacted by the transfer and who receive and accept offers to be transferred and be employees of the authority upon the transfer of the funds and programs pursuant to this section shall be determined by the provisions of 71 Pa.C.S. Pt. XXV, and for such employees the authority shall have the obligations and duties of employers under Pt. XXV. The authority shall make every reasonable effort to provide a position similar to that held with the commission.

(6) Reasonable costs of transfer of the Pennsylvania Public Utility Commission shall be paid by the First Class City Taxicab Regulatory Fund.

(7) Employees of the Philadelphia Parking Authority who were employees of the Pennsylvania Public Utility Commission

immediately prior to becoming employees of the Philadelphia Parking Authority and who have been continuously employed by the Philadelphia Parking Authority since the time of becoming an employee of the Philadelphia Parking Authority shall not, after termination of service from the Philadelphia Parking Authority, be considered to be State employees or performing State service if subsequently reemployed as an officer or employee of the Philadelphia Parking Authority.

§ 24. Publication in Pennsylvania Bulletin.

The Pennsylvania Public Utility Commission shall transmit notice of the entry into the agreement under section 22(4) of this act to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

2004, NOVEMBER 30, P.L.1618, NO.207

§ 28. Applicability.

This act shall apply as follows:

(1) Except as otherwise provided in paragraph (2), any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

(2) Paragraph (1) shall not apply to the provisions of 71 Pa.C.S.

Explanatory Note. Act 207 amended section 2915 of Title 53.

§ 29. Construction of law.

Nothing in this act shall be construed or deemed to provide magisterial district judges with retirement benefits or rights that are different from those available to district justices or justices of the peace immediately prior to the effective date of this act. Nothing in this act shall be construed or deemed to provide senior magisterial district judges with retirement benefits or rights that are different from those available to senior district justices immediately prior to the effective date of this act.

2005, JULY 14, P.L.280, NO.49

§ 3. Continuation of prior law.

The addition of 53 Pa.C.S. Ch. 60 is a continuation of the act of December 14, 1992 (P.L.866, No.137), known as the Optional County Affordable Housing Funds Act. The following apply:

(1) All activities initiated under the Optional County Affordable Housing Funds Act shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. Ch. 60. Ordinances, orders, rules and decisions which were made under the Optional County Affordable Housing Funds Act and which are in effect on the effective date of the addition of 53 Pa.C.S. Ch. 60 shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. Ch. 60. Contracts and obligations entered into under the Optional County Affordable Housing Funds Act are not affected nor impaired by the repeal of the Optional County Affordable Housing Funds Act.

(2) Except as set forth in paragraph (3), any difference in language between 53 Pa.C.S. Ch. 60 and the Optional County

Affordable Housing Funds Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Optional County Affordable Housing Funds Act.

(3) Paragraph (2) does not apply to the addition of 53 Pa.C.S. Ch. 60 Subch. C.

Explanatory Note. Act 49 added Chapter 60 of Title 53.

§ 4. Fees in first class cities.

If this act is enacted after July 1, 2005, and prior to July 1, 2006, then the city council of a city of the first class may institute the new fee under 53 Pa.C.S. § 6021(a) for a partial fiscal year and may allocate those funds under 53 Pa.C.S. § 6022(b) within fiscal year 2005-2006.

2008, JULY 9, P.L.999, NO.76

§ 4. Continuation of prior law.

The addition of 53 Pa.C.S. § 8721 is a continuation of section 1970.2 of the Second Class County Code. Except as otherwise provided in 53 Pa.C.S. § 8721, all activities initiated under section 1970.2 of the Second Class County Code shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. § 8721. Orders, regulations, rules and decisions which were made under section 1970.2 of the Second Class County Code and which are in effect on the effective date of section 3(2) of this act shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. § 8721. Contracts, obligations and collective bargaining agreements entered into under section 1970.2 of the Second Class County Code are not affected nor impaired by the repeal of section 1970.2 of the Second Class County Code.

Explanatory Note. Act 76 added Subchapter D of Chapter 11 and Subchapter C of Chapter 87 of Title 53.

References in Text. Section 8721 of Title 53 was repealed by the act of April 20, 2016, P.L.134, No.18.

2010, OCTOBER 27, P.L.895, NO.93

§ 4. Consolidated county assessment in cities of the third class.

If a city of the third class accepts 53 Pa.C.S. Ch. 88, all former city employees in the office of the city assessor who are employed in the office of the county assessor and who are members of the city's pension or retirement system may, notwithstanding the provisions of section 10 of the act of August 31, 1971 (P.L.398, No.96), known as the County Pension Law, relating to compulsory membership, file an election in writing with the county commissioners and the city pension board within one year after they become county employees to retain their membership in the city pension or retirement system. The county shall deduct from the employees' salaries the amounts of their contributions to the pension or retirement system of the city and pay the deductions to the city pension or retirement system. A member who files an election as provided in this section may not thereafter elect to become a member of the county's retirement system and shall continue to remain a

member of the city pension or retirement system until retirement.

Explanatory Note. Act 93 added section 2317, Chapter 88 and Subpart D of Part VII of Title 53.

§ 7. Continuation of prior law.

The following apply:

(1) The addition of 53 Pa.C.S. Ch. 88 is a continuation of the following:

(i) The act of June 26, 1931 (P.L.1379, No.348), referred to as the Third Class County Assessment Board Law.

(ii) The act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law.

(iii) Sections 1770.3 and 1770.9 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code.

(2) Except as otherwise provided in 53 Pa.C.S. Ch. 88, all activities initiated under the statutory provisions referred to in paragraph (1) shall continue and remain in full force and effect and may be completed under 53 Pa.C.S. Ch. 88. Orders, regulations, rules and decisions which were made under the statutory provisions referred to in paragraph (1) and which are in effect on the effective date of section 5 of this act shall remain in full force and effect until revoked, vacated or modified under 53 Pa.C.S. Ch. 88. Contracts, obligations and collective bargaining agreements entered into under the statutory provisions referred to in paragraph (1) are not affected nor impaired by the repeal of the statutory provisions referred to in paragraph (1).

2013, JULY 9, P.L.455, NO.64

§ 7. Appropriation from Philadelphia Taxicab and Limousine Regulatory Fund.

The sum of \$5,874,399 is hereby appropriated to the Philadelphia Parking Authority from the Philadelphia Taxicab and Limousine Regulatory Fund for the fiscal period July 1, 2013, to June 30, 2014, to implement and administer the provisions of this act.

Explanatory Note. Act 64 amended or added sections 5510.2, 5701, 5706, 5707, 5707.1, 5708, 5709, 5710, 5711 and 5718 of Title 53.

2014, MARCH 14, P.L.38, NO.18

§ 1. Legislative findings and declarations.

The General Assembly finds and declares as follows:

(1) The county park police force established by a county of the third class under section 2511 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, has been granted the power to enforce the laws of this Commonwealth and otherwise perform the functions of that office anywhere within the primary jurisdiction of that force.

(2) By participating in the program under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and

training), the officers of the county park police force will receive certification and training to enhance the performance of the powers of the office.

Explanatory Note. Act 18 amended or reenacted section 8951 of Title 42 and sections 2162, 2170 and 2171 of Title 53.

2022, NOVEMBER 3, P.L.1788, NO.121

§ 4. Law enforcement certification.

Campus police, as defined in section 2001-A(20) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, who have successfully completed the basic training course from the commission and obtained a psychological evaluation for employment as a law enforcement officer before the effective date of this section shall be automatically certified by the Municipal Police Officers' Education and Training Commission.

Explanatory Note. Act 121 amended section 67A01 of Title 42 and sections 2162 and 2168 of Title 53.