

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 32

Session of
1981

INTRODUCED BY LEVI, FRYER, A. C. FOSTER, JR. AND DeMEDIO,
JANUARY 19, 1981

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 19, 1981

AN ACT

1 Amending the act of July 12, 1972 (P.L.781, No.185) entitled, as
2 amended, "An act providing debt limits for local government
3 units, including municipalities and school districts;
4 providing the methods of incurring, evidencing, securing and
5 collecting debt; defining the powers and duties of the
6 Department of Community Affairs and certain other public
7 officers and agencies with respect thereto; exercising the
8 inherent legislative authority of the General Assembly by
9 providing additional over-all limitations on the incurring of
10 lease rental and other obligations for the acquisition of
11 capital assets to be repaid from the general tax revenues of
12 such local government units; imposing penalties for filing
13 false or untrue statements or refusing to give information
14 with respect to proceedings for the incurring of debt; and
15 conferring jurisdiction on the Commonwealth Court with
16 respect to certain proceedings relating to the incurring of
17 debt," making technical and editorial changes.

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

20 Section 1. Clause (1.1) of subsection (c) of section 102,
21 subsections (d) and (e) of section 202, section 205, clause (7)
22 of subsection (b) of section 208, subsection (d) of section 303,
23 section 304, clause (1) of section 403, subsection (a) of
24 section 409, subsection (b) of section 410, clause (1) of
25 section 414, the heading of Article V, sections 501, 502, 503,

1 504, 505, 507, 508, 509 and 510, subsections (b) and (c) of
2 section 602, sections 606, 701, 706 and 804, subsection (b) of
3 section 807, subsection (a) of section 809, subsection (a) of
4 section 901, the heading of Article X, subsection (c) of section
5 1006, clause (4) of section 1102, sections 1201 and 1202,
6 subsections (b) and (c) of section 1203 and sections 1204 and
7 1301, act of July 12, 1972 (P.L.781, No.185), known as the
8 "Local Government Unit Debt Act," reenacted and amended April
9 28, 1978 (P.L.124, No.52), are amended to read:

10 Section 102. Definitions.--* * *

11 (c) As used in this act unless the context clearly otherwise
12 requires:

13 * * *

14 (1.1) "Authority" means an authority or nonprofit
15 corporation organized under any law of the Commonwealth by or on
16 behalf of the Commonwealth, any local government unit or jointly
17 by any one or more of the foregoing.

18 * * *

19 Section 202. Limitations on the Incurring of Other Debt.--

20 * * *

21 (d) Additional nonelectoral or additional lease rental debt
22 or both in the aggregate amount of one hundred per cent of the
23 borrowing base may be incurred:

24 (i) by a county which has assumed, either before or after
25 the effective date of this act, county-wide responsibility for;
26 or

27 (ii) where the county has not assumed county-wide
28 responsibility, by a local government unit which has, either
29 before or after the effective date of this act, assumed
30 responsibility for its and its adjacent areas; for hospitals and

1 other public health services, air and water pollution control,
2 flood control, environmental protection, water distribution and
3 supply systems, sewage and refuse collection and disposal
4 systems, education at any level, highways, public transportation
5 or port operations, but such additional debt limit may be so
6 utilized only to provide funds for and towards the cost of
7 capital facilities for any or any combination of the foregoing
8 purposes. Debt, other than electoral debt, at any time incurred
9 for such purposes or any of them, may be assigned by ordinance
10 to this additional debt limit, if the remaining borrowing
11 capacity within the regular limits is insufficient to finance
12 other projects deemed necessary by the governing body of the
13 local government unit.

14 (e) If replacement of assets is required as a result of
15 fire, flood, storm, war, riot, civil commotion or other
16 catastrophe, or such replacement or any improvements are
17 required for the prevention of dangers to health or safety, or
18 if funds are required for the payment of tort liability not
19 covered by insurance, or if funds are required to be used for
20 and towards the costs of mandated installations of health,
21 safety, anti-pollution, environmental protection and control
22 facilities or of complying with other mandated Federal or
23 Commonwealth programs, a local government unit not having
24 sufficient remaining borrowing capacity as nonelectoral or lease
25 rental debt or being otherwise prohibited by section 305 from
26 incurring debt for the purpose, upon petition to the court of
27 common pleas alleging the catastrophe, or the danger to health
28 and safety, or the mandated nature of the program and the
29 estimated costs of the proposed facilities, and upon proof
30 thereof to the satisfaction of the court, shall be authorized,

1 notwithstanding section 305 or the insufficiency of nonelectoral
2 or lease rental borrowing capacity, to incur debt, as either
3 lease rental or nonelectoral debt, up to an additional fifty per
4 cent of its borrowing base, if such increase is found by the
5 court to have been made necessary under this subsection by
6 reason of the causes set forth in the petition. The increase
7 together with all outstanding other additional emergency debt
8 which may have been previously authorized under this subsection
9 (excluding any allocated to the additional debt limit under
10 subsection (d) of this section) shall not exceed fifty per cent
11 of the borrowing base. Public notice of the intention to file
12 such a petition and of the purpose for which the additional
13 emergency debt is to be incurred shall be given by advertisement
14 in at least one and not more than two papers of general
15 circulation and in the legal journal not less than five nor more
16 than twenty days before the filing thereof. Such additional
17 emergency debt may be incurred only for the purposes and upon
18 the terms approved by the court. The amount of such debt
19 initially in excess of the regular debt limits shall not
20 thereafter be included in computing net amounts of nonelectoral
21 or lease rental debt.

22 Section 205. Procedure for Exclusion of Self-liquidating
23 Debt Evidenced by Revenue Bonds or Notes to Determine Net
24 Nonelectoral Debt.--Self-liquidating debt evidenced by revenue
25 bonds or notes shall not be excluded from nonelectoral debt for
26 the purpose of establishing net nonelectoral debt until there
27 has been filed with the department:

28 (1) A statement by the proper officials of the local
29 government unit certifying the amount of such debt, the project
30 for which it was incurred, and the nature of the revenues from

1 which such debt is to be repaid[;].

2 (2) A certificate from a qualified professional engineer or
3 architect, or other person qualified by experience as may be
4 appropriate to the project estimating the revenues and operating
5 expenses of the project, and showing that the net revenues so
6 estimated will be sufficient to pay the annual debt service as
7 it falls due.

8 (3) An opinion of the bond counsel approving the issue, to
9 the effect that the holders of the bonds or notes have no claim
10 upon the taxing power or tax revenues of the local government
11 unit issuing the bonds or notes, but only claims upon the
12 specific revenues pledged and rights to the enforcement of any
13 covenants as to the levying or collection of rates and charges
14 for the use of the project being financed or any covenants as to
15 the assessment of benefits upon properties serviceable by the
16 project as provided in such covenants with the holders of the
17 revenue bonds.

18 Section 208. Determination of Existing Net Nonelectoral Debt
19 and Net Nonelectoral Plus Net Lease Rental Debt.--* * *

20 (b) Net nonelectoral and net lease rental debt shall then be
21 determined by subtracting separately from gross nonelectoral
22 debt and gross lease rental debt respectively, as may be
23 applicable, and as the local government unit may desire to
24 claim:

25 * * *

26 (7) All other solvent debts due the local government unit
27 directly, the payment of which can be enforced as one of the
28 unit's quick assets, and which have not been committed to any
29 other purpose; and

30 * * *

1 Section 303. Conduct of Election.--* * *

2 (d) The election officers and clerks shall make return on
3 forms provided by the county board of elections of the votes
4 cast on such question to the county board of elections, which
5 shall compute the same and transmit a certified return thereof
6 to the governing body of the local government unit which shall
7 enter the same on its minutes. If such certified return shows
8 that a majority of those voting on such question have voted in
9 favor thereof, irrespective of any other law requiring a greater
10 percentage, the local government unit shall file with the
11 department a certified copy of the [desired] desire resolution,
12 the certified return and proofs of publication of the notice of
13 election, whereupon the amount of such debt so approved shall
14 constitute electoral debt from and after the date of the
15 election, subject to the provisions of section 304.

16 Section 304. Finality of Result of Election.--Any interested
17 party or any taxpayer may contest the validity of any election
18 proceedings under this Article III by filing with the [Court]
19 court a petition in the nature of a bill in equity, specifically
20 alleging the error or errors complained of in the proceedings,
21 and the petitioner shall have the burden of proof. If no such
22 petition has been filed or if a petition shall have been filed
23 and shall have been finally dismissed, the election shall be
24 conclusively deemed to be valid for all purposes. If prior to
25 the timely filing of a petition, further proceedings in
26 connection with the incurring of such debt shall have been filed
27 with the department, then any contest shall proceed by way of an
28 appeal from the action of the department upon such proceedings.
29 The petition or appeal provided by this section shall be such
30 party's, or such taxpayer's, sole and exclusive remedy.

Section 403. Contents of Ordinance Authorizing Issuance of Bonds or Notes or Instruments Evidencing Lease Rental Debt; Fixing the Date of Incurring Nonelectoral and Lease Rental Debt; Changes in Purpose of Nonelectoral General Obligation Bonds.-- The ordinance or ordinances or, in the case of notes issued under section 409, 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:

(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 a specified officer or specified officers and their successors to prepare and certify and[,], except in the case of notes issued under section 409, to file the debt statement required by section 410 of this act, to execute and deliver the bonds or notes or the instrument evidencing lease rental debt; and to take other necessary action, and such designation may be changed from time to time thereafter; and

(v) An authorization, in the case of nonelectoral or lease rental debt which is subject to exclusion as subsidized debt or self-liquidating debt if such exclusion is presently desired, to

1 the proper officers of the local government unit to prepare and
2 file any statements required by Article II of this act which are
3 necessary to qualify all or any portion of the debt for
4 exclusion from the appropriate debt limit as self-liquidating
5 debt or subsidized debt.

6 * * *

7 Section 409. Small Borrowing for Capital Purposes.--(a) Any
8 local government unit is hereby authorized to incur debt by
9 resolution rather than by ordinance to be evidenced by notes to
10 provide funds for a project as defined in this act without
11 complying with the requirements of Article VIII provided: (i)
12 that the aggregate amount of such debt outstanding at any one
13 time shall not exceed the lesser of \$50,000 or thirty percent of
14 the borrowing base; (ii) that the principal of each such debt
15 shall mature not later than five years from the date of
16 issuance; (iii) that the incurrence of such debt shall not cause
17 the debt limits of Article II to be exceeded; and (iv) that the
18 provisions of section 10 of Article IX of the Constitution shall
19 have been observed and provided further that the provisions of
20 section 808 shall apply to notes issued in violation of the
21 foregoing requirements.

22 * * *

23 Section 410. Debt Statement.--* * *

24 (b) Where debt has previously been excluded as self-
25 liquidating or subsidized debt, the debt statement shall be
26 accompanied by a certification that no decrease in the amounts
27 to be excluded is required by any change of circumstances, or if
28 there has been a change, other than decreases resulting from the
29 payments of bonds or notes, so that less debt is to be excluded
30 or if it has become possible to exclude a greater amount of

1 debt, and the local government unit desires to do so, the debt
2 statement shall be accompanied by appropriate certificates
3 supporting the revised amount to be excluded and a revised
4 approval shall be obtained from the department. [and filed in
5 the office for the recording of deeds in the county in which
6 such local government unit is located to effectuate such
7 exclusion.]

8 Section 414. Evidence of Signatures of Holders and of
9 Ownership of Bonds, Notes and Tax Anticipation Notes.--* * *

10 (1) The certificate shall state that the person or persons
11 signing such instrument were known to be such persons by the
12 individual certifying and that such person or persons
13 acknowledged the execution of the instrument as his or their
14 act. The authority of an attorney or agent may be proven by like
15 statement of the principal acknowledged in a like manner, but a
16 certificate as to authority shall not be necessary if an
17 instrument is executed on behalf of a corporate holder of bonds,
18 notes or coupons by a person purporting to be the president or a
19 vice-president of such corporation with the corporate seal
20 affixed and attested by a person purporting to be its secretary
21 or an assistant secretary.

22 The fact and date of the execution by the holder of any
23 bond, note or coupon, or the attorney thereof, of any instrument
24 may be proved by the certificate, which, except as hereinafter
25 provided, need not be acknowledged or verified, of:

26 (i) an officer of any bank or bank and trust company which
27 is in Pennsylvania, or which has a correspondent in Pennsylvania
28 certifying to the authenticity of its certificate;

29 (ii) an authorized signer for any broker or dealer in
30 securities doing business in Pennsylvania, or having a

correspondent in Pennsylvania 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 such execution, whose certificate, however, 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.

* * *

ARTICLE V

Tax and Revenue Anticipation Notes and Funding Debt

Section 501. Power to Issue Tax and Revenue Anticipation Notes.--A local government unit shall 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 such notes in the manner, and subject to the limitations provided therefor in this article. References in this act to tax anticipation notes include also revenue anticipation notes and tax and revenue anticipation notes.

Limitations imposed by this act on the incurring of nonelectoral debt shall not apply to the obligations evidenced by tax anticipation notes. Such power to borrow from time to time shall include but not be limited to, the power to make a single authorization and then issue and sell portions of such amount of authorized notes whenever desired during the fiscal year.

Section 502. Limitation on Amount of Tax and Revenue Anticipation Notes.--No local government unit shall authorize or

1 issue tax anticipation notes in any one fiscal year which in the
2 aggregate shall exceed eighty-five per cent of:

3 (1) in the case of notes solely payable from and secured by
4 a pledge of taxes, the amount of such taxes levied for the
5 current fiscal year;

6 (2) in the case of notes solely payable from and secured by
7 a pledge of revenues other than tax revenues, the amount of such
8 revenues pledged; or

9 (3) in the case of notes payable from and secured by a
10 pledge of taxes and other revenues, the sum of such taxes levied
11 and such revenues pledged, which, in all cases, are certified,
12 pursuant to section 506, as remaining to be collected or
13 received in such fiscal year during the period when the notes
14 will be outstanding. The certificate shall be as of a date not
15 more than thirty days prior to, and no later than, the date of
16 the vote on the resolution authorizing the issue and sale of the
17 tax anticipation notes. In computing the aggregate amount of tax
18 anticipation notes outstanding at any given time during the
19 fiscal year for the purpose of the limitation imposed by this
20 section, allowance shall be made for such notes as have already
21 been fully paid and for amounts already paid into appropriate
22 sinking funds, if any.

23 Section 503. Limitation on Stated Maturity Date of Tax and
24 Revenue Anticipation Notes; Time of Payment of Interest.--No tax
25 anticipation notes shall be stated to mature beyond the last day
26 of the fiscal year in which such tax anticipation notes are
27 issued. Interest on tax anticipation notes from the date thereof
28 shall be payable at the maturity of such notes or payable in
29 installments at such earlier dates and at such annual rate or
30 rates as the governing body of the local government unit may

1 determine.

2 Section 504. Other Terms of Tax and Revenue Anticipation
3 Notes.--Tax anticipation notes shall be issued in such
4 denominations, shall be subject to such rights of prior
5 redemption, shall have such privileges of interchange and
6 registration, shall be dated, shall be stated to mature (subject
7 to the provisions of section 503) on such dates and in such
8 amounts, shall be in registered or bearer form with or without
9 coupons, shall be payable in such coin or currency as at the
10 place and at the time of payment shall be legal tender for the
11 payment of public and private debts, and shall be payable at
12 such place or places, one of which shall be within the
13 Commonwealth of Pennsylvania, all as the governing body of the
14 issuing local government unit may determine by resolution.

15 Section 505. Security for Tax and Revenue Anticipation
16 Notes; Sinking Fund.--All tax anticipation notes issued in a
17 single fiscal year, shall be equally and ratably secured by the
18 pledge of, security interest in, and a lien and charge on, the
19 taxes or revenues or both of the local government unit specified
20 in the authorizing resolution to be received during the period
21 when the notes will be outstanding. Such pledge, lien and charge
22 shall be fully perfected as against the local government unit,
23 all creditors thereof, and all third parties in accordance with
24 the terms of such resolution from and after the filing of a
25 financing statement or statements in accordance with the Uniform
26 Commercial Code. For the purpose of such filing the sinking fund
27 depository, if any, otherwise the fiscal agent or paying agent
28 designated in the notes, may act as the representative of
29 noteholders and, in such capacity, execute and file the
30 financing statement and any continuation or termination

1 statements as secured party. The authorizing resolution may
2 establish one or more sinking funds and provide for periodic or
3 other deposits therein, and may contain such covenants or other
4 provisions as the local government unit shall determine. The
5 amount of any tax anticipation notes issued in compliance with
6 this act shall be general obligations of the local government
7 unit and, if the same shall not be paid within the fiscal year
8 in which such notes were issued, shall be deemed to be
9 nonelectoral debt enforceable in the manner of a general
10 obligation which unless funded pursuant to this article, shall
11 be included in the budget of the local government unit for the
12 ensuing fiscal year and shall be payable from the taxes and
13 revenues of such ensuing year notwithstanding that the amount
14 thereof shall cause the nonelectoral debt of such local
15 government unit to exceed the limitations of Article II.

16 The holder of such tax anticipation notes issued by a first
17 class school district or the sinking fund depository of the
18 applicable sinking fund, if any, therefor shall have the right
19 to enforce such pledge of, security interest in and lien and
20 charge on, the pledged taxes and revenues of the first class
21 school district against all State and local public officials in
22 possession of any of such taxes and revenues at any time which
23 may be collected directly from such officials upon notice by
24 such holder or depository for application to the payment thereof
25 as and when due or for deposit in the applicable sinking fund at
26 the times and in the amounts specified in such tax anticipation
27 notes. Any State or local public official in possession of any
28 of such taxes and revenues shall make payment, against receipt
29 therefor, directly to the holder of such tax anticipation notes
30 or to such depository upon such notice and shall thereby be

1 discharged from any further liability or responsibility for such
2 taxes and revenues. If such payment shall be to a holder of tax
3 anticipation notes, it shall be made against surrender of the
4 notes to the payor for delivery to the first class school
5 district in the case of payment in full, otherwise it shall be
6 made against production of the notes for notation thereon of the
7 amount of the payment. The provisions of this paragraph with
8 respect to the enforceability and collection of taxes and
9 revenues which secure tax anticipation notes of a first class
10 school district shall supersede any contrary or inconsistent
11 statutory provision or rule of law. This paragraph shall be
12 construed and applied to fulfill the legislative purpose of
13 clarifying and facilitating temporary borrowings by a first
14 class school district by assuring to holders of tax anticipation
15 notes the full and immediate benefit of the security therefor
16 without delay, diminishment or interference based on any
17 statute, decision, ordinance or administrative rule or practice.

18 Section 507. Sale of Tax and Revenue Anticipation Notes.--
19 Tax anticipation notes may be sold at public, private, or
20 invited sale as the governing body of the local government unit
21 may determine. Any public sale shall be advertised and conducted
22 in the manner and subject to the conditions provided for a
23 public sale of bonds in Article VII of this act, except as
24 modified by this Article V. The governing body of the local
25 government unit shall award the notes by resolution to specified
26 purchasers at a specified price, not less than the principal
27 amount thereof. At the time of delivery of each issue, series or
28 subseries of tax anticipation notes, authorized officers of the
29 local government unit shall certify to the original purchasers
30 thereof that the amount of all such notes to remain outstanding

1 will not exceed the limitations of section 502 calculated,
2 however, from the date of such certificate to the respective
3 maturity dates of all such notes to remain outstanding. Such
4 certificate need not be filed with the department but a copy
5 thereof shall be retained by the local government unit until all
6 tax anticipation notes issued during the fiscal year shall have
7 been paid in full.

8 Section 508. Condition Precedent to Validity of Tax and
9 Revenue Anticipation Notes.--No tax anticipation note shall be
10 valid or obligatory in the hands of an original purchaser
11 thereof until certified copies of the authorizing and awarding
12 resolution, the certificate as to the taxes and revenues
13 remaining to be collected, and a true copy of the accepted
14 proposal for the purchase of the tax anticipation notes shall
15 have been filed with the department. No approval of the
16 department shall be required.

17 Section 509. Unfunded Debt.--For the purpose of this
18 article, unfunded debt shall mean obligations of the same or [a]
19 one or more prior [year] years incurred for current expenses
20 (including tax anticipation notes), due and owing or judgments
21 against the local government unit entered by a court of
22 competent jurisdiction after adversary proceedings, for the
23 payment of either of which category the taxes and other revenues
24 remaining to be collected in the fiscal year and funds on hand
25 will not be sufficient without a curtailment of municipal
26 services to an extent endangering the health or safety of the
27 public or proper education of school children, and the local
28 government unit either may not legally levy a sufficient tax for
29 the balance of the fiscal year, or a sufficient tax, if legally
30 leviable, would not be in the public interest. Unfunded debt

1 shall not, however, include debt incurred under this act nor
2 obligations in respect of a project or part of a project as
3 defined in section 102(c)(12) or incurred in respect of the cost
4 of a project as defined in section 107.

5 Section 510. Approval by Court.--(a) Whenever the governing
6 body of a local government unit shall be of the opinion that it
7 has outstanding unfunded debt, it may, by petition to the court
8 of common pleas setting forth the facts, request approval for
9 the issuance of bonds or notes to fund the unfunded debt. After
10 hearing, on such notice to the local government unit and its
11 taxpayers as the court may prescribe, the court shall make an
12 order granting authority to fund all or a part of such unfunded
13 debt if the court shall find that such unfunded debt is a lawful
14 obligation of the local government unit, that there has been an
15 unforeseeable decline in revenues, or that taxes levied have not
16 produced the revenues anticipated or that it was not reasonable
17 to foresee such obligation; that paying such debt by curtailing
18 municipal services will be dangerous to the public health,
19 safety or education, and that it is not feasible or not in the
20 public interest to levy additional taxes in the current fiscal
21 year. The funding debt so approved shall be stated to mature in
22 such amounts and over such number of years, not exceeding ten,
23 as the court shall find will accomplish the payment of the debt
24 without endangering the rendering of municipal services or
25 requiring the levying of excessive taxes. If the funding of the
26 unfunded debt has not been approved by a vote of the electors,
27 the order of the court upon cause shown may fix the portion
28 thereof, if any, which shall not be charged against the
29 nonelectoral debt limitations of the local government unit under
30 sections 202 and 505 of this act, during the time such funding

1 debt is outstanding. [The percentages fixed by section 202 of
2 this act shall be deemed increased to the extent required for
3 such funding debt.]

4 (b) The bonds or notes representing funding debt so
5 authorized by the court shall be issued and sold by the
6 governing body as provided by other provisions of this act in
7 respect of general obligation bonds except as such provisions
8 are modified by this section or by orders of the court issued
9 under this section, and the proceedings filed by the local
10 government unit in respect of such funding bonds under section
11 801 shall include certified copies of the petition and of the
12 order of the court.

13 (c) This section shall not be applicable to the funding of
14 obligations in respect of a project or part of a project as
15 defined in section 102(c)(12) or incurred in respect of the cost
16 of a project as defined in section 107.

17 Section 602. Limitations on Stated Maturity Dates.--* * *

18 (b) Bonds or notes may be serial bonds or notes, or term
19 bonds or notes or any combination thereof that may be selected
20 by the governing body of the issuing local government unit. If
21 term bonds or notes are issued, such bonds or notes must be
22 subject to mandatory redemption, and, if serial or installment
23 bonds or notes, the amounts of the stated maturities or
24 installments shall be fixed, (1) so as to amortize the issue on
25 at least an approximately level annual debt service plan during
26 the period specified for the payment of principal in subsection
27 (c) of this section 602; or (2) so that the debt service on
28 outstanding debt of the same classification (and for this
29 purpose lease rental debt shall be considered as the same
30 classification as general obligation debt) will be brought more

1 nearly into an over-all level annual debt service plan.

2 (c) Except as provided by subsection (e), stated
3 installments or maturities of principal of any series of bonds
4 or notes or the mandatory redemption of such principal may not
5 be deferred beyond the later of:

6 (1) two years from date of issue, or

7 (2) one year after estimated completion of construction[:].

8 In the case of revenue or guaranteed revenue bonds this
9 provision will be satisfied by a covenant for the mandatory
10 application to term bonds [or] of such revenues as may remain
11 after payment of interest and operating expenses up to such
12 fixed amount conforming to subsection (b) above as shall be
13 specified in the ordinance pursuant to which the bonds or notes
14 are issued.

15 * * *

16 Section 606. Pledge of Revenues.--The governing body of any
17 local government unit which has determined to issue any revenue
18 bonds or notes, or any guaranteed revenue bonds or notes, may
19 provide, by ordinance, for such pledges of or priorities in such
20 rentals, revenues, receipts, rates and charges to be received
21 from projects of the issuing local government unit as may be
22 desirable. Such pledge or priority shall be perfected as a
23 security interest against all creditors of the local government
24 unit and all third parties, in accordance with the terms of such
25 ordinance, from and after the filing of a financing statement or
26 statements in accordance with the Uniform Commercial Code. For
27 the purpose of such filing the sinking fund depositary may act
28 as representative of the bond or note holders and, in such
29 capacity, execute and file the financing statement and any
30 continuation or termination statements as secured party.

1 Section 701. Manner of Sale of Bonds or Notes.--(a) Except
2 as otherwise specifically provided in this act and subject to
3 the following subsection, bonds or notes may be sold at public
4 sale or private sale by negotiation or upon invitation and at
5 such price all as the governing body of the issuing local
6 government unit shall determine. Before making any private sale
7 by negotiation of bonds or notes, the governing body shall adopt
8 a resolution finding that a private sale by negotiation is in
9 the best financial interest of the local government unit. Bonds
10 or notes may be conditionally sold before the final details of
11 the series are fixed.

12 (b) Bonds or notes, if sold at public sale, shall be sold to
13 the highest responsible bidder or bidders after one public
14 notice by advertisement of either the official notice of sale,
15 or of the availability of the official notice of sale, in at
16 least one and not more than two newspapers of general
17 circulation in the county in which the local government unit is
18 located. The advertisement may also be published in a financial
19 journal circulating among the underwriters of securities.
20 Advertisements shall be published not less than ten nor more
21 than thirty days prior to the date fixed for opening proposals,
22 and need not appear on the same date nor successively in each
23 newspaper or journal.

24 Section 706. Required Bid Security.--[Bid] In the case of
25 public sale, bid security shall be given by each bidder, shall
26 be in cash or by certified or official bank check payable to the
27 local government unit, and shall be not less than two per cent
28 of the principal amount of the bonds or notes to be purchased.
29 The bid security of the unsuccessful bidder or bidders shall be
30 returned to each unsuccessful bidder, without interest in

1 accordance with written instructions of the bidder conforming to
2 the official notice of sale, promptly upon an award of the bonds
3 or notes or upon the rejection of all bids. The bid security of
4 the successful bidder shall be retained by the treasurer of the
5 local government unit and (with or without allowance for
6 interest as the official notice of sale may specify) shall be
7 applied on the purchase price when the bonds or notes are
8 actually delivered and paid for, retained as liquidated damages
9 if the bidder defaults, or returned to the bidder with interest
10 at the judgment rate if, after an acceptance of the proposal,
11 the bonds or notes are not issued for any reason not
12 constituting a default by the bidder. Unless required by the
13 local governing body, no bid security shall be required in the
14 case of tax anticipation notes, bond anticipation notes or notes
15 to be issued under section 409.

16 Section 804. Examination of Bond or Note Transcript and
17 Other Filings by Department; Certificate of Approval.--The
18 department shall, upon receipt of any bond or note transcripts,
19 or other filings, carefully examine the same to determine
20 whether the debt outstanding and to be outstanding is within the
21 applicable limitations imposed by this act, and whether the
22 proceedings for incurring the debt, for issuing and selling the
23 bonds or notes and for excluding self-liquidating and subsidized
24 debt have been taken in conformity with the Constitution and
25 [all then applicable laws] this act. If, upon completion of its
26 examination, a transcript or other filing is found by the
27 department to be in conformity with the Constitution and
28 [existing laws] this act, the department shall certify its
29 approval, if required under other provisions of this act, to the
30 local government unit.

Section 807. Records of Department.--* * *

(b) 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 such series represents nonelectoral, lease rental or electoral debt, and the extent to which such 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 each such 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.

* * *

Section 809. Finality of Proceedings; Validity of Bonds, Notes, Tax Anticipation Notes, Leases, Guaranties, Subsidy Contracts or Other Agreements.--(a) Where a certificate of approval has been issued by the department or has been deemed issued under section 806, or, in the case of tax anticipation notes where the filing with the department required by section 508 has occurred, and no petition for a declaratory order or complaint has been filed within the applicable time limits

1 specified in section 901, or when after a petition for a
2 declaratory order or complaint has been filed, the proceedings
3 have been approved finally by [the court,] the department, and
4 no appeal to court has been taken, or an appeal to court has
5 been taken, and the proceedings have been approved finally by
6 the court or the appeal has been dismissed, the validity of the
7 proceedings, the right of the local government unit lawfully to
8 issue its bonds or notes or to enter into a lease, guaranty,
9 subsidy contract or other agreement evidencing lease rental debt
10 pursuant to such proceedings, and the validity and due
11 enforceability of the bonds, notes or other instruments in
12 accordance with their terms shall not thereafter be inquired
13 into judicially, in equity, at law, or by civil or criminal
14 proceedings, or otherwise, either directly or collaterally. The
15 effect of the approval by the department, or by the court on
16 appeal, or, in the case of tax anticipation notes, the effect of
17 filing in compliance with section 508, shall be to ratify,
18 validate and confirm such proceedings absolutely, including the
19 lawful nature of the project and, in the case of tax
20 anticipation notes, the accuracy of the estimates contained in
21 the certificate as to taxes and revenues to be collected,
22 notwithstanding any defect or error in such proceedings, except
23 as specifically provided hereinafter in this section, and any
24 debt limit imposed by this act shall be deemed increased to the
25 extent necessary to validate such debt or obligation. Nothing
26 herein contained shall, however, free an initial purchaser of
27 bonds or notes from liability to a local government unit for the
28 payment of the consideration agreed in the contract of sale, or
29 make all such bonds or notes valid and enforceable in the hands
30 of an initial purchaser unless the issuer shall have received a

1 substantial consideration for the series as a whole.

2 * * *

3 Section 901. Petitions for Declaratory Orders and Complaints
4 to the Department; Exclusive Jurisdiction of Department.--(a)
5 Where proceedings for the incurring of debt represented by bonds
6 or notes or by a lease, guaranty, subsidy contract or other
7 agreement evidencing the acquisition of a capital asset, for the
8 issuance of tax anticipation notes, or for the exclusion of debt
9 as self-liquidating or subsidized, have been taken by a local
10 government unit, such local government unit, or any taxpayer of
11 the local government unit, or other interested party may file
12 with the department a petition for a declaratory order asserting
13 the validity or a complaint asserting the invalidity of such
14 proceedings, or any part thereof. Any such complaint asserting
15 the invalidity of such proceedings or part thereof taken under
16 section 409 may be filed at any time not later than one year
17 after final adoption of the resolution authorizing the debt. Any
18 such complaint asserting the invalidity of such proceedings or
19 part thereof excluding debt as self-liquidating under section
20 205 or authorizing tax anticipation notes under Article V may be
21 filed at any time not later than fifteen days after the filing
22 with the department of the documents required by section 205 or
23 of the proceedings pursuant to section 506, as the case may be.
24 Any such complaint asserting the invalidity of any such
25 proceedings or part thereof in cases in which, under this act,
26 the approval or deemed approval of the department is required,
27 may be filed with the department at any time not later than the
28 later of (i) fifteen days after the date of the submission of
29 the proceedings by the local government unit to the department
30 for approval even though such proceeding may be subject to

1 correction as provided in section 805 or otherwise or (ii) five
2 days after the date of the last submission of any such corrected
3 document or certification to the department.

4 If a petition for a declaratory order or complaint shall be
5 filed in respect of proceedings requiring the approval of the
6 department after the submission of the proceedings to the
7 department but prior to approval, disapproval or deemed
8 approval, the department shall not be deemed to have approved
9 the proceedings during the pendency of the matter before the
10 department.

11 * * *

12 ARTICLE X

13 Sinking and Assessment Funds[:]; Reserves 14 and Pledged Revenues

15 Section 1006. Inspection of Sinking Funds; Orders to
16 Comply.--* * *

17 (c) In addition to the criminal prosecutions provided for in
18 Article XIII of this act, or in lieu thereof, the department
19 may, in its discretion, apply to the [Court] court for a writ of
20 mandamus to issue to such officer or governing body of the local
21 government unit to compel compliance with such order of the
22 department or such order with such modifications thereof as to
23 the court may seem just and proper.

24 Section 1102. Treatment of Costs Upon a Refunding.--In any
25 refunding, a principal amount of refunding bonds or notes or
26 obligations evidencing lease rental debt equal to the sum of the
27 following:

28 * * *

29 (4) The costs of issue and sale of the refunding bonds,
30 notes or obligations; may be considered as interest on the

1 refunding bonds, notes or obligations, may be separately stated
2 in all reporting of debt, and in all computation of debt limits
3 and if so considered and reported by the local government unit
4 shall not be considered as electoral, nonelectoral or lease
5 rental debt. In subsequent debt statements, any such separately
6 stated principal amount of bonds, notes or obligations shall be
7 reported as being amortized in the same proportion as the series
8 of which they are a part.

9 * * *

10 Section 1201. Failure to Budget Debt Service.--If a local
11 government unit having outstanding any general obligation bonds
12 or notes or guaranteed revenue bonds or notes, lease rental debt
13 or guaranty of authority obligations fails or refuses to make
14 adequate provision in its budget for any fiscal year for the
15 sums payable in respect of such bonds or notes, lease rental or
16 guaranty in such year or shall fail to appropriate or pay the
17 moneys necessary in such year for the payment of the amount of
18 the lease rental or guaranty, [or] as the case may be, of the
19 maturing principal of and the interest on such bonds or notes or
20 any of them, or any tax anticipation notes, or any sinking fund
21 obligation for such bonds or notes or tax anticipation notes, or
22 guaranty or the lease rental payment coming due in the fiscal
23 year of such budget or for which such appropriations or payments
24 should have been made, then at the suit of the holder of any
25 bond, note, or tax anticipation note, or coupon or guaranty, or
26 the holder of any authority obligation secured by a lease
27 evidencing the acquisition of a capital asset or of any taxpayer
28 of the local government unit, the court of common pleas shall,
29 after a hearing held upon such notice to the local government
30 unit as the court may direct, and upon a finding of such failure

1 or neglect, by writ of mandamus, require the treasurer of the
2 local government unit, and it shall be the duty of such
3 treasurer, to pay into the sinking fund for each series of bonds
4 or notes then outstanding, or for each guaranty or lease rental
5 payment, the first tax moneys or other available revenues or
6 moneys thereafter received in such fiscal year by such
7 treasurer, equally and ratably for each series for which
8 provision has not been made in proportion to debt service for
9 such year on each such series then outstanding, or the amounts
10 due upon guaranties or as payments with respect to lease rental
11 debt, as the case may be, (except that any priority on incoming
12 tax moneys accorded to a separate sinking fund for tax
13 anticipation notes under the authority of section 505, shall not
14 be affected by this provision), until the sum on deposit in each
15 sinking fund shall equal the moneys that should have been
16 budgeted or appropriated for each such series.

17 Section 1202. Failure to Pay Principal or Interest.--(a) If
18 a local government unit fails or neglects to pay or cause to be
19 paid the interest or principal on any of its general obligation
20 bonds or notes, or tax anticipation notes, as the same becomes
21 due and payable whether at the stated maturity date or upon an
22 unrevoked call for prior redemption, or to perform its payment
23 obligations with respect to any lease rental debt or guaranteed
24 revenue bonds or notes, and such failure shall continue for
25 thirty days, the holder thereof shall, subject to priorities
26 created under sections 505, 1201 and 1203 of this act and to any
27 limitations upon individual rights of action properly provided
28 in the bond ordinance or any indenture, have the right to
29 recover the amount due in an action in the court of common
30 pleas. The judgment recovered shall have an appropriate priority

1 upon the moneys next coming into the treasury of the local
2 government unit and shall be a judgment upon which funding bonds
3 may be issued pursuant to Article V of this act.

4 (b) If a local government unit fails or neglects to pay or
5 cause to be paid the principal of or the interest upon any
6 revenue bond or note as the same shall become due, whether at
7 the stated maturity or upon call for prior redemption, the
8 holder thereof shall, subject to priorities created under
9 sections 505, 1202 and 1203 of this act and to any limitations
10 upon individual rights of action properly provided in the bond
11 ordinance or any indenture, have the right to recover the amount
12 due in an action in the court of common pleas but the judgment
13 shall be limited to payment out of the assessments, revenues,
14 rates, rents, tolls and charges from the project which are
15 pledged for the payment of such bonds or notes.

16 Section 1203. Trustee for Bondholders.--* * *

17 (b) Such trustee may, and upon written request of the
18 holders of twenty-five per cent in principal amount of such
19 bonds or notes then outstanding and upon being furnished with
20 [identity] indemnity satisfactory to it shall, in his or its own
21 name take one or more of the actions set forth below and the
22 taking of such actions shall preclude similar action whether
23 previously or subsequently initiated by individual holders of
24 bonds or notes.

25 (1) By mandamus or other suit, action or proceeding at law
26 or in equity enforce all rights of the holders of the bonds or
27 notes, including in the case of revenue or guaranteed revenue
28 obligations the right to require the local government unit to
29 impose and collect rents, rates, tolls and charges adequate to
30 carry out any agreement or covenant as to, or pledge of such

1 rents, rates, tolls or charges, for the use of the project or
2 projects financed by such bonds or notes, or to require the
3 local government unit to carry out any other agreements with the
4 holders of such bonds or notes;

5 (2) Bring suit on the bonds or notes without the necessity
6 for producing the bonds or notes, and with same effect as a suit
7 by any holder;

8 (3) In the case of revenue or guaranteed revenue bonds or
9 notes to require the local government unit to account as if it
10 were the trustee of an express trust for the holders of such
11 bonds or notes, for any pledged revenues received;

12 (4) In the case of general obligation bonds or notes,
13 petition the court to levy, and the court is hereby empowered to
14 levy, after a hearing upon such notice to the owners of
15 assessable real estate, as the court may prescribe, the amount
16 due before or after the exercise of any right of acceleration on
17 the bonds or notes plus estimated costs of collection as an
18 assessment upon the properties benefited by the improvement
19 pursuant to the front foot rule if the project is an assessable
20 improvement, otherwise upon all taxable real estate and other
21 property subject to ad valorem taxation in the local government
22 unit, in proportion to the value thereof as assessed for tax
23 purposes, and the trustee may collect or cause the local
24 government unit to collect, such assessments as by foreclosure
25 of a mortgage or security interest on the realty or other
26 property if not paid on demand;

27 (5) In the case of guaranteed revenue bonds or notes or a
28 guarantee of authority obligations or unpaid lease rentals under
29 leases evidencing the acquisition of capital assets, to petition
30 the court to levy, and the court is hereby empowered to levy,

1 after hearing upon such notice to the owners of assessable real
2 estate, and other property subject to ad valorem taxation, as
3 the court may prescribe, the amount due on the guaranty or under
4 the lease plus estimated costs of collection as an annual
5 assessment for the current and future years upon all taxable
6 real estate and other properties subject to ad valorem taxation
7 in the local government unit in proportion to the value thereof
8 as assessed for tax purposes, and the trustee may collect or
9 cause the local government unit to collect such assessments as
10 by foreclosure of a mortgage or security interest on the realty
11 or other property if not paid on demand. The levy shall bear
12 interest, until paid, at a rate sufficient to cover accruing
13 interest on the bonds or notes;

14 (6) By suit in equity, enjoin any acts or things which may
15 be unlawful or in violation of the rights of the holders of such
16 bonds, notes, guaranty, or authority obligations under a lease
17 evidencing the acquisition of capital assets;

18 (7) After thirty days prior written notice to the local
19 government unit, and subject to any limitations in the bond
20 ordinance or relevant indenture declare the unpaid principal of
21 all such bonds or notes to be, and it shall thereby become
22 forthwith due and payable with interest at the rates stated in
23 the bonds until final payment, and, if all defaults shall be
24 made good then to annul such declaration and its consequences.

25 Any assessment levied pursuant to clauses (4) and (5) above
26 shall have the same priority and preference as to other liens or
27 mortgages on the real estate or security interests in fixtures
28 thereon or other property, as a lien for unpaid taxes.

29 (c) The court of common pleas in cases of extreme hardship
30 may provide for the payment of sums levied in five or less

1 annual installments with interest at a rate sufficient to cover
2 the interest accruing on the bonds or notes.

3 * * *

4 Section 1204. Receiver for Revenue Projects.--A trustee for
5 the holders of defaulted bonds or notes, whether or not the
6 series of bonds [presented] represented by the trustee has been
7 declared to be and has become forthwith due and payable, shall
8 be entitled as of right to the appointment, by the court of
9 common pleas [of the county in which such local government unit
10 is located, or, if located in two counties, then of either
11 county,] of a receiver of all or any part or parts of a project
12 or the projects, the rents, rates, revenues, tolls and charges
13 of which are pledged for the security of the bonds or notes of
14 such series. Except as otherwise provided in [the] this section,
15 such receiver shall have no power to sell, assign, mortgage, or
16 otherwise dispose of, but may enter and take possession of the
17 project or projects or part or parts thereof, and, subject to
18 the equal or prior rights of the holders of any other series of
19 bonds or notes, shall take possession of all moneys and other
20 property derived from or applicable to the construction,
21 operation, maintenance, repair and reconstruction of such
22 project or projects or parts thereof. The receiver may
23 thereafter proceed with any construction or other work thereon
24 which the local government unit is under obligation to do. The
25 receiver may operate, maintain, repair, and reconstruct such
26 project or projects, or parts thereof and collect and receive
27 all rents, rates, receipts, tolls, other charges and revenues
28 arising therefrom, subject to the equal or prior rights of the
29 holders of any other series of bonds or notes therein. As part
30 of his power to operate and maintain a project, the receiver may

1 sell or otherwise dispose of equipment which is no longer used
2 or usable by the project. The receiver shall perform the public
3 duties and carry out the lawful agreements and obligations of
4 the local government unit with respect to the project or
5 projects or parts thereof, all under the direction of the court
6 but shall not perform any essential governmental functions.

7 Section 1301. False Statement in Documents [Constitute]
8 Constitutes Perjury; Fines and Penalties Therefor.--Whoever
9 wilfully and corruptly makes under oath false oral or written
10 statements or any false statement in any document required to be
11 filed in the department, [in the office of the recorder of
12 deeds] or in the office of the prothonotary of the appropriate
13 county, is guilty of perjury, or false swearing, as the case may
14 be, and whoever wilfully and corruptly procures or suborns any
15 other person to make any such false statement, is guilty of a
16 crime, and on conviction of either offense, shall be sentenced
17 to pay a fine or undergo imprisonment or both within the limits
18 prescribed by Title 18 Pa.C.S. (relating to crimes and
19 offenses).

20 Section 2. This act shall take effect in 60 days.