

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 857 Session of
1989

INTRODUCED BY MADIGAN, CORMAN, BRIGHTBILL, LOEPER, REIBMAN,
SHAFFER, SALVATORE, ROCKS, PUNT, GREENWOOD, STEWART, STOUT,
BELL, WILT, WENGER, LINCOLN, REGOLI, LEMMOND, SHUMAKER,
STAPLETON, PETERSON, MUSTO, ROSS, O'PAKE, LEWIS, BELAN,
AFFLERBACH, PORTERFIELD AND MELLOW, APRIL 25, 1989

REFERRED TO LOCAL GOVERNMENT, APRIL 25, 1989

AN ACT

1 Amending the act of July 12, 1972 (P.L.781, No.185), entitled,
2 as amended, "An act providing debt limits for local
3 government units, including municipalities and school
4 districts; providing the methods of incurring, evidencing,
5 securing and collecting debt; defining the powers and duties
6 of the Department of Community Affairs and certain other
7 public officers and agencies with respect thereto; exercising
8 the 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," further defining "project"; including capital costs as
18 project costs; further providing for small borrowing for
19 capital purposes; providing for self insurance; and further
20 providing for the determination of the useful life of
21 projects.

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

24 Section 1. Section 102(c)(12) of the act of July 12, 1972
25 (P.L.781, No.185), known as the Local Government Unit Debt Act,
26 reenacted and amended April 28, 1978 (P.L.124, No.52) and

1 amended April 30, 1986 (P.L.104, No.34), is amended to read:

2 Section 102. Definitions.--* * *

3 (c) As used in this act unless the context clearly otherwise
4 requires:

5 * * *

6 (12) "Project" means (i) any item of construction,
7 acquisition, extraordinary maintenance or repair which has been
8 undertaken by a local government unit, (ii) any preliminary
9 studies, surveying, planning, testing or design work for any
10 such, (iii) any lands or rights in land to be acquired, (iv) any
11 furnishings, machinery, apparatus or equipment normally
12 classified as capital items, but such items must have a useful
13 life of five years or more if financed separately and not as a
14 part of a construction or acquisition project, (v) the local
15 government unit's share of the cost of a project undertaken
16 jointly with one or more other local government units or the
17 Commonwealth or one of its agencies, (vi) [funding or refunding
18 of debt incurred for any or all of the foregoing purposes,
19 (vii)] county-wide revision of assessment of real property, [or
20 (viii)] (vii) funding of all, or any portion of, a reserve, or a
21 contribution toward a combined reserve, pool or other
22 arrangement, relating to self-insurance, which has been
23 established by one or more local government units, pursuant to
24 42 Pa.C.S. § 8564 (relating to liability insurance and self-
25 insurance), up to, but not exceeding the amount provided in
26 section 107 of this act, (viii) funding or refunding of debt
27 incurred for any or all of the foregoing purposes, or (ix) any
28 combination of any or all of the foregoing, as any or all of the
29 above may be designated as a project by the governing body for
30 the financing of which it desires to incur debt. The term shall

1 also include any deficit to be funded by bonds or notes as
2 provided herein, or the creation of a revolving fund for
3 specific improvements. Where a local government unit has adopted
4 a capital budget, the term project shall mean any unfunded
5 portion of the capital budget selected by ordinance for current
6 funding.

7 * * *

8 Section 2. Section 107 of the act is amended to read:

9 Section 107. Cost of a Project.--The cost of a project shall
10 include the amount of all payments to contractors or for the
11 acquisition of a project or for lands, easements, rights and
12 other appurtenances deemed necessary for the project, fees of
13 architects, engineers, appraisers, consultants, financial
14 advisors, and attorneys incurred in connection with the project
15 financing costs, costs of necessary printing and advertising,
16 the costs of preliminary feasibility studies and tests, cost
17 estimates, and interest on money borrowed to finance the
18 project, if capitalized, to the date of completion of
19 construction and, if deemed necessary, for one year thereafter,
20 amounts to be placed in reserve funds, if any, a reasonable
21 initial working capital for operating the project [and], a
22 proper allowance for contingencies and any amount which
23 constitutes, under generally accepted accounting principles, a
24 cost of, and which has been determined by an independent actuary
25 or other expert to be required for the purposes of, a reserve or
26 a contribution toward a combined reserve, pool or other
27 arrangement, for losses or liabilities covered by a self-
28 insurance arrangement established by one or more local
29 government units.

30 Section 3. The act is amended by adding a section to read:

1 Section 109. Guaranty Funds and Compulsory Associations.--

2 (a) No self-insurance program funded pursuant to this act shall
3 be required or permitted to join or contribute financially to
4 any insurance insolvency guaranty fund, or similar mechanism, in
5 this Commonwealth, nor shall any such self-insurance program
6 funded pursuant to this act, or its insureds or claimants
7 against its insureds, receive any benefit from any such fund for
8 claims arising under the coverage provided by such self-
9 insurance program.

10 (b) When a local government unit or group of local
11 government units obtains insurance from a self-insurance program
12 funded pursuant to this act, such risks, wherever resident or
13 located, shall not be covered by any insurance guaranty fund or
14 similar mechanism in this Commonwealth.

15 Section 4. Section 409(a) of the act, amended May 22, 1981
16 (P.L.54, No.19), is amended to read:

17 Section 409. Small Borrowing for Capital Purposes.--(a) Any
18 local government unit is hereby authorized to incur debt by
19 resolution rather than by ordinance to be evidenced by notes to
20 provide funds for a project as defined in this act without
21 complying with the requirements of Article VIII provided: (i)
22 that the aggregate amount of such debt outstanding at any one
23 time shall not exceed the lesser of [\$50,000] \$100,000 or thirty
24 percent of the borrowing base; (ii) that the principal of each
25 such debt shall mature not later than five years from the date
26 of issuance; (iii) that the incurrence of such debt shall not
27 cause the debt limits of Article II to be exceeded; and (iv)
28 that the provisions of section 10 of Article IX of the
29 Constitution shall have been observed and provided further that
30 the provisions of section 808 shall apply to notes issued in

1 violation of the foregoing requirements.

2 * * *

3 Section 5. Section 602(a) of the act, amended April 30, 1986
4 (P.L.104, No.34), is amended to read:

5 Section 602. Limitations on Stated Maturity Dates.--(a) No
6 bonds or notes shall be issued with a stated maturity date
7 exceeding the sooner to occur of:

8 (1) Forty years from the date of the series of any bonds or
9 notes issued to evidence debt for the purpose of financing the
10 cost of actually constructing, acquiring or improving a project
11 or a separately financed portion of a project; or

12 (2) (i) The useful life of the project being financed as
13 stated in the ordinance of the local government unit enacted in
14 connection with the series of bonds or notes to be issued for
15 such project, which statement in such ordinance shall be
16 conclusive for all purposes. If projects have been combined for
17 financing pursuant to section 401 and such projects have
18 different useful lives, it shall be sufficient for this section
19 if an aggregate principal amount of bonds or notes equal to the
20 separate cost of each project having a shorter useful life shall
21 have been stated to mature prior to the end of such useful life,
22 and the balance prior to the end of the longest useful life. For
23 the purpose of this section, the inclusion of furnishings,
24 machinery, apparatus or equipment for a construction or
25 acquisition project shall not be deemed to be the combining of
26 projects but the useful life of such project shall be that of
27 the building, structure or improvement constructed or acquired.

28 (ii) Where capital budgeting is practiced, and bonds are
29 issued to fund the current portion of a capital budget involving
30 projects of varying useful lives a uniform term of thirty years

1 may be used.

2 (iii) Where the project being financed is a county-wide
3 revision of assessment of real property, the useful life shall
4 be a term of no more than ten years.

5 (iv) Where a project consists of the funding of all or a
6 portion of a reserve, or a contribution toward a combined
7 reserve, pool or other arrangement, relating to self-insurance,
8 the useful life shall be the term specified in the ordinance of
9 the local government unit, not to exceed twenty years, or if
10 none is specified, then the useful life shall be deemed to be
11 twenty years.

12 * * *

13 Section 6. This act shall take effect immediately.