

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1687 Session of
1994

INTRODUCED BY HECKLER, DAWIDA, HART, AFFLERBACH, JUBELIRER,
MOWERY, LOEPER, BRIGHTBILL, FATTAH AND REIBMAN,
APRIL 25, 1994

REFERRED TO FINANCE, APRIL 25, 1994

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"; providing for the
18 exclusion of debt issued to fund unfunded actuarial accrued
19 liability from debt limits and for the exclusion of debt
20 issued to fund unfunded actuarial accrued liability in the
21 calculation of net nonelectoral debt; authorizing the pledge
22 of proceeds of bonds or notes issued to fund unfunded
23 actuarial accrued liability as security for such bonds or
24 notes; providing for the maturity date of bonds or notes
25 issued to fund unfunded actuarial accrued liability to be not
26 more than 40 years from the date of issuance of such bonds or
27 notes and for the exclusion of debt issued to fund unfunded
28 actuarial accrued liability from level debt service
29 requirements; and authorizing local government units to
30 contribute to a pension trust fund or funds the proceeds of
31 bonds or notes issued to fund unfunded actuarial accrued
32 liability.

33 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 102(c)(12) of the act of July 12, 1972
3 (P.L.781, No.185), known as the Local Government Unit Debt Act,
4 reenacted and amended April 28, 1978 (P.L.124, No.52) and
5 amended May 4, 1990 (P.L.169, No.40), is amended and the
6 subsection is amended by adding a clause to read:

7 Section 102. Definitions.--* * *

8 (c) As used in this act unless the context clearly otherwise
9 requires:

10 * * *

11 (12) "Project" means (i) any item of construction,
12 acquisition, extraordinary maintenance or repair which has been
13 undertaken by a local government unit, (ii) any preliminary
14 studies, surveying, planning, testing or design work for any
15 such, (iii) any lands or rights in land to be acquired, (iv) any
16 furnishings, machinery, apparatus or equipment normally
17 classified as capital items, but such items must have a useful
18 life of five years or more if financed separately and not as a
19 part of a construction or acquisition project, (v) the local
20 government unit's share of the cost of a project undertaken
21 jointly with one or more other local government units or the
22 Commonwealth or one of its agencies, (vi) county-wide revision
23 of assessment of real property, (vii) funding of all or any
24 portion of a reserve, or a contribution toward a combined
25 reserve, pool or other arrangement, relating to self-insurance,
26 which has been established by one or more local government
27 units, pursuant to 42 Pa.C.S. § 8564 (relating to liability
28 insurance and self-insurance), up to, but not exceeding, the
29 amount provided in section 107 of this act, (vii.1) funding of
30 an unfunded actuarial accrued liability or any portion thereof,

1 (viii) funding or refunding of debt incurred for any or all of
2 the foregoing purposes, or (ix) any combination of any or all of
3 the foregoing, as any or all of the above may be designated as a
4 project by the governing body for the financing of which it
5 desires to incur debt. The term shall also include any deficit
6 to be funded by bonds or notes as provided herein, or the
7 creation of a revolving fund for specific improvements. Where a
8 local government unit has adopted a capital budget, the term
9 project shall mean any unfunded portion of the capital budget
10 selected by ordinance for current funding.

11 * * *

12 (17) "Unfunded actuarial accrued liability" means, with
13 respect to a local government unit retirement system, pension
14 plan or pension trust fund, the excess of the actuarial accrued
15 liability over the actuarial value of assets of the retirement
16 system, pension plan or pension trust fund and shall be
17 computed:

18 (i) in the case of a local government unit that is subject
19 to the act of December 18, 1984 (P.L.1005, No.205), known as the
20 "Municipal Pension Plan Funding Standard and Recovery Act," in
21 accordance with the requirements of that act; and

22 (ii) in the case of a local government unit that is not
23 subject to the "Municipal Pension Plan Funding Standard and
24 Recovery Act," in accordance with the applicable laws for that
25 local government unit regarding minimum funding requirements for
26 the unit's retirement system, pension plan or pension trust fund
27 or, if there are no such laws, in accordance with the ordinance,
28 resolution or contract under which the local government unit
29 participates in the retirement system, pension plan or pension
30 trust fund.

1 Unfunded actuarial accrued liability in the case of a local
2 government unit that participates in a retirement system,
3 pension plan or pension trust fund for employees of more than
4 one local government unit, including, without limitation, any
5 association of local government units cooperating under the act
6 of July 12, 1972 (P.L.762, No.180), referred to as the
7 Intergovernmental Cooperation Law, shall include the local
8 government unit's pro rata share of the total unfunded actuarial
9 accrued liability f the retirement system, pension plan or
10 pension trust fund, as the pro rata share may be determined
11 under the applicable laws or, if there are no applicable laws,
12 under the ordinance, resolution or contract under which the
13 local government unit participates in the retirement system,
14 pension plan or pension trust fund.

15 Section 2. Sections 202(c) and 208(b)(5) of the act are
16 amended to read:

17 Section 202. Limitations on the Incurring of Other Debt.--*

18 * *

19 (c) The limitations and prohibitions of the preceding
20 subsections (hereinafter called the "regular debt limits") shall
21 not apply to electoral debt, nor to debt excluded in computing
22 net amounts of nonelectoral debt or of lease rental debt, as
23 self-liquidating or because subsidized, when such exclusion is
24 made pursuant to sections 204, 205 and 206 of this act[.], nor
25 to debt incurred to fund an unfunded actuarial accrued
26 liability; except that bonds or notes issued to fund an unfunded
27 actuarial accrued liability shall be limited to the principal
28 amount necessary (after deduction of costs of issuance,
29 underwriter's discount and original issue discount) to fund the
30 unfunded actuarial accrued liability.

1 * * *

2 Section 208. Determination of Existing Net Nonelectoral Debt
3 and Net Nonelectoral Plus Net Lease Rental Debt.--* * *

4 (b) Net nonelectoral and net lease rental debt shall then be
5 determined by subtracting separately from gross nonelectoral
6 debt and gross lease rental debt respectively, as may be
7 applicable, and as the local government unit may desire to
8 claim:

9 * * *

10 (5) The amount of self-liquidating debt [and], subsidized
11 debt and debt issued to fund an unfunded actuarial accrued
12 liability properly excluded and concurrently excludable from
13 each respective category being computed;

14 * * *

15 Section 3. The act is amended by adding sections to read:

16 Section 416. Condition Precedent to Validity of Debt
17 Incurred to Fund an Unfunded Actuarial Accrued Liability.--No
18 bond or note issued to fund an unfunded actuarial accrued
19 liability shall be valid or obligatory in the hands of an
20 original purchaser thereof until certified copies of the
21 ordinance or ordinances authorizing the bonds or notes, the
22 ordinance or resolution awarding the bonds or notes and the
23 certificate of approval of the department shall have been filed
24 with the Public Employee Retirement Commission. No approval of
25 the Public Employee Retirement Commission shall be required.

26 Section 417. Pledge of Proceeds of Certain Bonds or Notes
27 Authorized.--A local government unit may pledge to the holders
28 of its bonds or notes issued to fund an unfunded actuarial
29 accrued liability (or to a trustee or paying agent acting on
30 behalf of the holders), as security for the payment of the bonds

1 or notes, the proceeds of such bonds or notes (and investment
2 income on such proceeds), notwithstanding that such proceeds
3 have become assets of the local government unit's retirement
4 system, pension plan or pension trust fund. The pledge shall be
5 valid and binding from the time the pledge is made, and the lien
6 of the pledge is valid and binding as against all persons having
7 claims of any kind in tort, contract or otherwise against the
8 local government unit or the retirement system, pension plan or
9 pension trust fund, whether or not the persons have notice.
10 Except as provided in section 416, neither the proceedings of
11 the local government unit relating to the bonds or notes nor any
12 other instrument by which a pledge is made nor any financing
13 statement in respect thereof need be recorded or filed. The
14 local government unit shall cause the proceeds of bonds or notes
15 (and investment earnings thereon) that are subject to the pledge
16 to be segregated from other assets of the retirement system,
17 pension plan or pension trust fund so that such proceeds will be
18 identifiable.

19 Section 4. Section 602(a)(1) and (b) of the act, amended May
20 22, 1981 (P.L.54, No.19) and May 4, 1990 (P.L.169, No.40), are
21 amended to read:

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

25 (1) Forty years from the date of the series of any bonds or
26 notes issued to evidence debt for the purpose of financing the
27 cost of actually constructing, acquiring or improving a project
28 or a separately financed portion of a project or funding an
29 unfunded actuarial accrued liability; or

30 * * *

1 (b) Bonds or notes may be serial bonds or notes, or term
2 bonds or notes or any combination thereof that may be selected
3 by the governing body of the issuing local government unit. If
4 term bonds or notes are issued, such bonds or notes must be
5 subject to mandatory redemption, and, if serial or installment
6 bonds or notes, the amounts of the stated maturities or
7 installments shall be fixed, (1) so as to amortize the issue on
8 at least an approximately level annual debt service plan during
9 the period specified for the payment of principal in subsection
10 (c) of this section 602; or (2) so that the debt service on
11 outstanding debt of the same classification (and for this
12 purpose lease rental debt shall be considered as the same
13 classification as general obligation debt) will be brought more
14 nearly into an over-all level annual debt service plan. The
15 limitation of this subsection shall not apply to bonds or notes
16 issued to fund an unfunded actuarial accrued liability.

17 * * *

18 Section 5. The act is amended by adding a section to read:

19 Section 602.1. Disposition of Proceeds Notwithstanding
20 Certain Limitations.--A local government unit that issues bonds
21 or notes to fund an unfunded actuarial accrued liability shall
22 contribute to the applicable pension trust fund or funds the
23 proceeds of the bonds or notes (after deduction of costs of
24 issuance, underwriter's discount and original issue discount)
25 notwithstanding that the contribution may exceed a limitation on
26 contributions to retirement systems, pension plans or pension
27 trust funds otherwise applicable to the local government unit.

28 Section 6. This act shall take effect immediately.