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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 10**

Session of  
1999

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INTRODUCED BY JUBELIRER, LOEPER AND MELLOW, JANUARY 22, 1999

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
FEBRUARY 3, 1999

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AN ACT

1 Providing for borrowing for capital facilities; conferring  
2 powers and duties on various administrative agencies and  
3 officers; making appropriations; and making repeals.

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

30 CHAPTER 1

PRELIMINARY PROVISIONS

Section ~~1~~ 101. Short title. <—

This act shall be known and may be cited as the Capital Facilities Debt Enabling Act.

CHAPTER 3 <—

CAPITAL FACILITIES

SECTION 301. RECODIFICATION.

THIS CHAPTER IS A RECODIFICATION OF ARTICLE XVI-B OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

THIS CHAPTER IS A REENACTMENT AND CONTINUATION OF ARTICLE XVI-B OF THE FISCAL CODE.

Section ~~2~~ 302. Definitions. <—

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

"Acquisition cost." ~~includes the~~ THE cost of acquiring: <—

(1) buildings;

(2) structures;

(3) facilities;

(4) property, real, personal or mixed, tangible or

intangible; or

(5) any other interest;

necessary or desirable in connection with a capital project, whether the acquisition be by purchase or by condemnation, including the amount of an award or final judgment in a proceeding to acquire by condemnation lands, rights-of-way, rights-of-slope, property rights, franchises, easements or other interests as deemed necessary or convenient in connection with the acquisition or construction of a project, and costs of options and partial payments on and under options.

1 ~~"Capital project." Includes all of the following:~~ <—

2 ~~(1) Any:~~

3 ~~(i) building, structure, facility or physical public~~  
4 ~~betterment or improvement;~~

5 ~~(ii) land or rights in land;~~

6 ~~(iii) furnishings, machinery, apparatus or~~  
7 ~~equipment, for a public betterment or improvement; or~~

8 ~~(iv) undertaking to construct, repair, renovate,~~  
9 ~~improve, equip, furnish or acquire any of the items~~

10 ~~listed in subparagraphs (i) through (iii): provided that~~  
11 ~~the project is designated in a capital budget as a~~  
12 ~~capital project; has an estimated useful life in excess~~  
13 ~~of five years; and has an estimated financial cost in~~  
14 ~~excess of \$100,000, excluding original equipment and~~  
15 ~~furnishings for previously authorized public improvement~~  
16 ~~projects.~~

17 ~~(2) A project to be financed by the incurring of debt.~~

18 ~~Projects under this paragraph are categorized as:~~

19 ~~(i) Community college projects.~~

20 ~~(ii) Flood control projects.~~

21 ~~(iii) Highway projects.~~

22 ~~(iv) Other capital projects.~~

23 ~~(v) PIDA projects.~~

24 ~~(vi) Public improvement projects.~~

25 ~~(vii) Redevelopment assistance projects.~~

26 ~~(viii) Site development projects.~~

27 ~~(ix) Transportation assistance projects.~~

28 "CAPITAL PROJECT." A PROJECT WHICH IS FINANCED BY DEBT OR BY <—

29 OTHER FUNDS AND WHICH MEETS ALL OF THE FOLLOWING:

30 (1) IS AN UNDERTAKING TO CONSTRUCT, REPAIR, RENOVATE,

1 IMPROVE, EQUIP, FURNISH OR ACQUIRE ANY:

2 (I) BUILDING, STRUCTURE, FACILITY OR PHYSICAL PUBLIC  
3 BETTERMENT OR IMPROVEMENT;

4 (II) LAND OR RIGHTS IN LAND; OR

5 (III) FURNISHINGS, MACHINERY, APPARATUS OR  
6 EQUIPMENT, FOR A BUILDING, STRUCTURE, FACILITY OR  
7 PHYSICAL PUBLIC BETTERMENT OR IMPROVEMENT.

8 (2) IS DESIGNATED IN A CAPITAL BUDGET AS A CAPITAL  
9 PROJECT.

10 (3) HAS AN ESTIMATED USEFUL LIFE IN EXCESS OF FIVE  
11 YEARS.

12 (4) HAS AN ESTIMATED FINANCIAL COST IN EXCESS OF  
13 \$100,000. THIS PARAGRAPH DOES NOT APPLY TO ORIGINAL EQUIPMENT  
14 OR FURNISHINGS FOR PREVIOUSLY AUTHORIZED PUBLIC IMPROVEMENT  
15 PROJECTS.

16 CAPITAL PROJECTS ARE CATEGORIZED AS COMMUNITY COLLEGE PROJECTS,  
17 FLOOD CONTROL PROJECTS, HIGHWAY PROJECTS, OTHER CAPITAL  
18 PROJECTS, PIDA PROJECTS, PUBLIC IMPROVEMENT PROJECTS,  
19 REDEVELOPMENT ASSISTANCE CAPITAL PROJECTS, REDEVELOPMENT  
20 ASSISTANCE PROJECTS, SITE DEVELOPMENT PROJECTS AND  
21 TRANSPORTATION ASSISTANCE PROJECTS.

22 "Commonwealth agency or authority." Excludes an agency or  
23 authority organized by action of a political subdivision.

24 "Community college projects." ~~include projects~~ PROJECTS for ←  
25 a community college of a type which the State Public School  
26 Building Authority is authorized to undertake under the  
27 provisions of the act of July 5, 1947 (P.L.1217, No.498), known  
28 as the State Public School Building Authority Act, to the extent  
29 that obligations issued to finance these projects are debt  
30 within the meaning of this ~~act~~ CHAPTER. ←

1 "Construction cost." ~~Includes obligations~~ OBLIGATIONS

<—

2 incurred:

3 (1) for labor and to contractors, builders and  
4 materialmen in connection with the construction, fabrication  
5 or assembly of a capital project;

6 (2) for machinery and equipment required for  
7 construction under paragraph (1);

8 (3) for the restoration of property damaged or destroyed  
9 in connection with construction under paragraph (1); and

10 (4) for the payment of damages incurred by others  
11 incident to or consequent upon construction under paragraph  
12 (1), which the Commonwealth or its agency or authority is  
13 under legal obligation to pay or desires to pay in settlement  
14 of a disputed claim of liability.

15 "Debt." The issued and outstanding obligations of the  
16 Commonwealth incurred without a vote of the electorate or  
17 incurred with such vote under a law making such debt subject to  
18 the provisions of section 7(a)(4) of Article VIII of the  
19 Constitution of Pennsylvania. The term includes obligations of  
20 Commonwealth agencies and authorities to the extent that such  
21 obligations are to be repaid from lease rentals or other charges  
22 payable directly or indirectly from revenues of the  
23 Commonwealth. The term does not include:

24 (1) that portion of debt which is to be repaid from  
25 charges made to the public for the use of the capital  
26 projects financed, as such portion of debt may be determined  
27 by the Auditor General;

28 (2) obligations to be repaid from lease rentals or other  
29 charges payable by a school district or other local taxing  
30 authority; or

1 (3) obligations to be repaid by agencies or authorities  
2 created for the joint benefit of the Commonwealth and one or  
3 more other state governments.

4 "Financial cost." ~~Includes acquisition~~ ACQUISITION cost and ←  
5 construction cost, where applicable, and an allocated portion of  
6 all of the following:

7 (1) Fees, expenses and costs of issuing obligations the  
8 proceeds of which are used to finance the project.

9 (2) Fees, expenses and costs of issuing and selling  
10 notes or replacement notes issued under this ~~act~~ CHAPTER. ←

11 (3) Establishing and maintaining any purchase, loan or  
12 credit agreements in connection with an issue or series of  
13 issues of notes, and the fees and expenses of any fiscal or  
14 loan and transfer agent and bond counsel incurred in  
15 connection with the issue of the obligations.

16 (4) Premiums on insurance in connection with a project  
17 during construction.

18 (5) Taxes and other municipal or governmental charges,  
19 lawfully levied or assessed during construction.

20 (6) Fees and expenses of architects, engineers and other  
21 professionals for:

22 (i) making preliminary studies, reports or estimates  
23 of costs;

24 (ii) preparing plans and specifications and  
25 inspecting and reviewing the progress of construction;  
26 and

27 (iii) obtaining abstracts of title, title insurance  
28 or title opinions.

29 (7) Costs and expenses of preliminary investigations,  
30 preplanning, surveys and reports to determine the proper



1 scope, feasibility and probable costs of capital projects to  
2 be included in future capital budgets.

3 (8) Costs of administration, including the salaries and  
4 expenses of administrators, reviewing architects and  
5 engineers, construction inspectors, accountants and legal  
6 counsel of the Commonwealth and its agencies or authorities,  
7 incurred for the proper planning and supervision of the  
8 capital projects program.

9 "Flood control projects." ~~Include projects~~ PROJECTS of the ←  
10 type which the Water and Power Resources Board is authorized to  
11 construct, improve, equip, maintain, acquire or operate under  
12 the provisions of the act of August 7, 1936 (1st Sp.Sess.,  
13 P.L.106, No.46), referred to as the Flood Control Law.

14 ~~"Fund." Excludes any fund, or account in a fund, established ←  
15 by this act.~~

16 "FUND." ANY FUND OTHER THAN A FUND, OR AN ACCOUNT IN A FUND, ←  
17 ESTABLISHED BY THIS CHAPTER.

18 "Funding bonds." General obligation bonds used to provide  
19 funds for and towards the payment of outstanding notes or to  
20 refund other outstanding bonds prior to or at or after the  
21 stated maturity date of the bonds being refunded or of the notes  
22 being funded.

23 "Highway projects." ~~Include projects~~ PROJECTS of a type ←  
24 which the Department of Transportation is authorized to  
25 construct, improve, equip, maintain, acquire or operate.

26 "Issuing officials." The Governor, the Auditor General and  
27 the State Treasurer.

28 "Net debt."

29 (1) The aggregate principal amount of all debt; plus

30 (2) the amount of any past due and unpaid interest on

1 that debt; minus

2 (3) all funds held exclusively for the payment of that  
3 principal and past due interest.

4 Neither accrued but not yet past due interest nor funds held for  
5 the payment of the interest next falling due, up to the amount  
6 of such interest, shall be included in such computations.

7 "Notes." ~~Include temporary~~ TEMPORARY obligations and ←  
8 replacement notes issued by the Commonwealth pursuant to this  
9 ~~act~~ CHAPTER in anticipation of bonds. ←

10 "Obligations." Notes or bonds of the Commonwealth, its  
11 agencies or authorities, issued pursuant to any debt authorizing  
12 act.

13 "Other capital projects." Only that undertaking to equip and  
14 furnish those public improvement projects which are specifically  
15 enumerated under the heading of "Other Capital Projects" in  
16 section 3(d) of the act of July 20, 1968 (P.L.560, No.218),  
17 known as the Capital Budget Act for the 1968-1969 Fiscal Year.  
18 Upon final completion of the undertakings authorized by section  
19 3(d) of that act, no equipment or furnishing undertaking or any  
20 other undertaking or project shall be listed in any capital  
21 budget act for the fiscal year 1969-1970 or any fiscal year  
22 thereafter under the heading of "Other Capital Projects"; but if  
23 the undertaking or project comes within the meaning of a capital  
24 project, it shall be listed in future capital budget acts as a  
25 capital project under one of the categories enumerated in  
26 paragraph (2) of the definition of "capital project."

27 "PIDA projects." ~~Include projects~~ PROJECTS of the type which ←  
28 the Pennsylvania Industrial Development Authority is authorized  
29 to finance under the provisions of the act of May 17, 1956 (1955  
30 P.L.1609, No.537), known as the Pennsylvania Industrial

1 Development Authority Act.

2 "Public improvement projects." ~~Include projects~~ PROJECTS of ←  
3 a type which the General State Authority is authorized to  
4 construct, improve, equip, furnish, maintain, acquire or operate  
5 under the provisions of the act of March 31, 1949 (P.L.372,  
6 No.34), known as The General State Authority Act of one thousand  
7 nine hundred forty-nine, and projects which the Department of  
8 General Services is authorized to construct, improve, equip,  
9 furnish, maintain, acquire or operate.

10 "Redevelopment assistance capital project." The design and  
11 construction of facilities which meet the following:

12 (1) Are facilities, other than housing units, highways,  
13 bridges, waste disposal facilities, sewage ~~systems or~~ ←  
14 facilities or water ~~systems or~~ facilities, which cannot ←  
15 obtain funding under other Federal or State programs.

16 (2) Are economic development projects which generate  
17 substantial increases in employment, tax revenues or other  
18 measures of economic activity. This paragraph includes  
19 projects with cultural, historical or civic significance.

20 (3) Are facilities which have a regional or  
21 multijurisdictional impact.

22 (4) Are eligible for tax-exempt bond funding under  
23 existing Federal law and regulations.

24 (5) Have a 50% non-State participation documented at the  
25 time of application, including a portion of any funds  
26 reserved for future physical maintenance and operation of the  
27 facilities:

28 (i) at least half of which is secured funding;

29 (ii) ~~in~~ TOWARD which the only noncash non-State ←  
30 participation permitted is land ~~donation~~ OR FIXED ASSETS ←

1 WHICH HAVE A SUBSTANTIAL USEFUL LIFE AND ARE DIRECTLY  
2 RELATED TO THE PROJECT; and

3 (iii) toward which State funds from other programs  
4 may not be used.

5 (6) Have a total project cost as follows:

6 (i) At least \$5,000,000 for projects in:

7 (A) counties of the first class; or

8 (B) counties of the second class.

9 (ii) At least ~~\$2,000,000~~ \$1,000,000 for projects in <—  
10 counties of the second class A through eighth class.

11 (iii) At least \$1,000,000 for projects in:

12 (A) municipalities designated as financially  
13 distressed municipalities under the act of July 10,  
14 1987 (P.L.246, No.47), known as the Municipalities  
15 Financial Recovery Act;

16 (B) municipalities which are identified at the  
17 time of application by the Department of Community  
18 and Economic Development, under the department's  
19 early warning system, as scoring at least one-half  
20 standard deviation above the mean score; or

21 (C) municipalities which have part or all of an  
22 enterprise zone within the municipal boundaries.

23 (7) Have a cooperation agreement between the applicant  
24 and a redevelopment authority or industrial development  
25 authority or general purpose unit of local government if the  
26 applicant does not administer the grant. Applicants can be  
27 ~~redevelopment authorities, industrial development authorities~~ <—  
28 ~~or general purpose units of local government.~~ ANY OF THE <—

29 FOLLOWING:

30 (I) A REDEVELOPMENT AUTHORITY.

- 1 (II) AN INDUSTRIAL DEVELOPMENT AUTHORITY.
- 2 (III) A GENERAL PURPOSE UNIT OF LOCAL GOVERNMENT.
- 3 (IV) A LOCAL DEVELOPMENT DISTRICT WHICH HAS AN
- 4 AGREEMENT WITH A GENERAL PURPOSE UNIT OF LOCAL GOVERNMENT
- 5 UNDER WHICH THE UNIT ASSUMES ULTIMATE RESPONSIBILITY FOR
- 6 DEBT INCURRED TO OBTAIN THE 50% NON-STATE PARTICIPATION
- 7 REQUIRED BY PARAGRAPH (5).

8 "Redevelopment assistance projects." ~~Include projects~~ <—

9 PROJECTS of the type which the Department of Community and <—

10 Economic Development is authorized to finance by capital grants

11 under the act of May 20, 1949 (P.L.1633, No.493), known as the

12 Housing and Redevelopment Assistance Law, and Reorganization

13 Plan No.2 of 1966.

14 "Replacement notes." Notes:

15 (1) the net proceeds of which are used to pay principal,

16 accrued interest and premium of previously issued notes or

17 replacement notes; and

18 (2) which evidence the same temporary borrowing of the

19 Commonwealth as the notes or replacement notes replaced.

20 ~~"Site development projects." Include projects of the type~~ <—

21 ~~which the Department of Community and Economic Development is~~

22 ~~authorized to finance by site development grants under the act~~

23 ~~of July 11, 1996 (P.L.677, No.116), known as the "Infrastructure~~

24 ~~Development Act."~~

25 "SITE DEVELOPMENT PROJECTS." PROJECTS OF THE TYPE AUTHORIZED <—

26 FOR THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT UNDER

27 THE ACT OF MAY 6, 1968 (P.L.117, NO.61), KNOWN AS THE SITE

28 DEVELOPMENT ACT.

29 "Tax revenues." All revenues from Commonwealth imposed

30 taxes, regardless of the fund to which they are deposited,

1 including revenues from motor vehicle licenses, which are  
2 declared to be taxes for purposes of this ~~act~~ CHAPTER. The term <—  
3 does not include revenues from any other licenses or from  
4 interest, fees, fines or penalties.

5 "Transportation assistance projects." ~~Include projects~~ <—  
6 PROJECTS of a type which the Department of Transportation is <—  
7 authorized to construct, improve, equip, furnish, maintain,  
8 acquire or operate under 74 Pa.C.S. Pt. II (relating to public  
9 transportation) and capital projects which the Department of  
10 Transportation is authorized to construct, improve, equip or  
11 furnish under the provisions of the act of February 11, 1976  
12 (P.L.14, No.10), known as the Pennsylvania Rural and Intercity  
13 Common Carrier Surface Transportation Assistance Act, including  
14 the acquisition of property authorized in those statutes.  
15 Section ~~3~~ 303. Procedures for capital budget bill and debt <—  
16 authorizing legislation.

17 (a) Legislative process.--A capital budget prepared in  
18 accordance with this ~~act~~ CHAPTER shall be submitted for each <—  
19 fiscal year by the Governor to the General Assembly and shall be  
20 considered in the form of a bill as provided in Article III of  
21 the Constitution of Pennsylvania.

22 (b) Itemization.--The capital budget bill must specifically  
23 itemize, by brief identifying description and estimated  
24 financial cost, the capital projects to be financed from the  
25 proceeds of obligations of the Commonwealth except where such  
26 itemization is contained in or approved by prior legislation  
27 referred to in the capital budget bill or except where such  
28 itemization is included in one or more supplemental capital  
29 budget bills. Projects must be listed in separate categories, as  
30 well as according to the fund to be charged with the repayment

1 of the obligations to be incurred. The capital budget bill must  
2 state the maximum amount of such obligations which may be  
3 incurred in the ensuing fiscal year to provide funds for and  
4 towards the financial costs of each category of capital  
5 projects, which shall be by the issue of general obligations of  
6 the Commonwealth.

7 (c) Timing.--Each year, the Governor shall submit a capital  
8 budget bill for the ensuing fiscal year.

9 (d) Additional bills.--At the time the Governor submits the  
10 capital budget or a supplement, the Governor shall, to the  
11 extent the debt to be incurred is not within the limits of  
12 legislation then in force authorizing the incurring of debt,  
13 submit additional bills for each category of capital projects,  
14 authorizing the incurring of debt to provide funds for and  
15 towards the payment of the financial costs of capital projects  
16 in such category which have been specifically itemized in a  
17 capital budget for the same or any prior year.

18 (e) Categories.--Each debt authorizing bill must do all of  
19 the following:

20 (1) State the category of capital projects to be  
21 financed by the debt so authorized but need not enumerate the  
22 capital projects to be financed.

23 (2) Authorize the incurring of debt in not less than the  
24 amount of the financial cost of all capital projects in such  
25 category not covered by a previous debt authorization,  
26 including any overall allowance for contingencies.

27 (3) State the estimated useful lives of the capital  
28 projects to be financed in such detail as may be requisite if  
29 capital projects of varying useful lives are to be combined  
30 for financing purposes.

1 (4) State the maximum term of the debt to be incurred.

2 Section 4 304. Certificates of the Auditor General. ←

3 (a) Requirement.--By March 1 and September 1, the Auditor  
4 General shall certify to the Governor and the General Assembly  
5 the average annual tax revenues deposited in all funds in the  
6 five fiscal years ended next preceding the date of the  
7 certificate, determined by adding the total of such revenues so  
8 deposited and dividing the sum by five. At the time of each  
9 certification, the Auditor General shall also certify as  
10 separate items:

11 (1) the amount of outstanding net debt as of the end of  
12 the preceding fiscal year;

13 (2) the amount of outstanding net debt as of the date of  
14 the certificate;

15 (3) the difference between the limitation upon all  
16 outstanding net debt as provided in section 7(a)(4) of  
17 Article VIII of the Constitution of Pennsylvania and  
18 paragraph (2);

19 (4) the amount of outstanding net debt scheduled to be  
20 repaid during the remainder of the fiscal year in which the  
21 certificate is issued;

22 (5) the amount of debt authorized by law to be issued  
23 but not yet incurred; and

24 (6) the amount of outstanding obligations excluded from  
25 outstanding debt as self-sustaining pursuant to section  
26 7(c)(1), (2) and (3) of Article VIII of the Constitution of  
27 Pennsylvania.

28 (b) Additional certificates.--As required in connection with  
29 the sale of or settlement for obligations of the Commonwealth,  
30 the Auditor General shall issue certificates containing items



1 listed in subsection (a)(2) and (3) as of the dates determined  
2 by the Governor to be relevant to such sales or settlements.

3 (c) ~~Auditor General~~ RELIANCE ON CERTIFICATIONS.--In making <—  
4 certificates, the Auditor General shall be entitled to rely, as  
5 to any of items listed in subsection (a)(1) through (5), upon:

6 (1) any certificate furnished by the State Treasurer  
7 with respect to outstanding Commonwealth general obligation  
8 bonds; and <—

9 (2) any certificate furnished by the Department of  
10 Revenue ~~or by the appropriate bank or trust company acting as~~ <—  
11 REVENUE; AND <—

12 (3) ANY CERTIFICATE FURNISHED BY THE APPROPRIATE BANK OR  
13 TRUST COMPANY OPERATING AS fiscal agent or trustee, with  
14 respect to the outstanding obligations of any authority.

15 Section 5 305. Constitutional limitations, authorizations, <—  
16 issuing officials.

17 Within the limitation set forth in section 7(a)(4) of Article  
18 VIII of the Constitution of Pennsylvania, the issuing officials  
19 are authorized and directed to borrow, on the credit of the  
20 Commonwealth and subject to the conditions and limitations of  
21 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal  
22 Code, money necessary to carry out the purposes of debt  
23 authorizing acts passed in accordance with the provisions of  
24 this ~~act~~ CHAPTER. <—

25 ~~Section 6. Temporary financing authorizing.~~ <—

26 SECTION 306. TEMPORARY BORROWING. <—

27 (a) Authorization.--Pending the issuance of bonds of the  
28 Commonwealth as authorized in section 7 307, the issuing <—  
29 officials are authorized, in accordance with the provisions of  
30 this ~~act~~ CHAPTER and on the credit of the Commonwealth, to make <—

1 temporary borrowings not to exceed three years in anticipation  
2 of the issue of bonds in order to provide funds in such amounts  
3 as deemed advisable to carry out the purposes of any debt  
4 authorizing acts prior to the issue of bonds. In order to  
5 provide for and in connection with the temporary borrowings, the  
6 issuing officials are authorized in the name and on behalf of  
7 the Commonwealth to enter into any purchase, loan or credit  
8 agreement or other agreement with banks, trust companies,  
9 lending institutions, investment banking firms or persons in the  
10 United States having the appropriate power. Agreements may  
11 contain provisions not inconsistent with the provisions of this  
12 ~~act~~ CHAPTER, as authorized by the issuing officials. ←

13 (b) Evidence.--All temporary borrowings made under the  
14 authorization of this section shall be evidenced by notes of the  
15 Commonwealth, which shall be issued for such amounts not  
16 exceeding in the aggregate the applicable statutory and  
17 constitutional debt limitation, in form and denominations and  
18 subject to terms and conditions of sale and issue, prepayment or  
19 redemption and maturity, rate of interest and time of payment of  
20 interests, as the issuing officials authorize and direct and in  
21 accordance with the applicable debt authorizing act.

22 Authorization and direction may provide for the subsequent  
23 issuance of replacement notes to refund outstanding notes or  
24 replacement notes. Replacement notes shall, upon issuance,  
25 evidence the borrowing and may specify other terms and  
26 conditions with respect to the notes and replacement notes  
27 authorized for issuance as the issuing officials may determine  
28 and direct.

29 (c) Replacement ~~notice~~ NOTES.-- ←

30 (1) If the authorization and direction of the Governor,

1 the Auditor General and the State Treasurer provide for the  
2 issuance of replacement notes, the Governor, the Auditor  
3 General and the State Treasurer are authorized, in the name  
4 and on behalf of the Commonwealth, to issue, enter into or  
5 authorize and direct the State Treasurer to ~~enter into~~ DO THE <—  
6 FOLLOWING:

7 (I) ENTER INTO agreements with banks, trust  
8 companies, investment banking firms or other institutions  
9 or persons in the United States having appropriate power  
10 to ~~do all of the following:~~ <—

11 ~~(i) Purchase or underwrite an issue or series of~~  
12 PURCHASE OR UNDERWRITE AN ISSUE OR SERIES OF issues of <—  
13 notes.

14 ~~(ii) Credit.~~ <—

15 ~~(iii)~~ (II) Enter into a purchase, loan or credit <—  
16 agreement.

17 ~~(iv)~~ (III) Draw money pursuant to a purchase, loan <—  
18 or credit agreement on the terms and conditions set forth  
19 in the agreement.

20 ~~(v)~~ (IV) Issue notes as evidence of borrowings made <—  
21 under a purchase, loan or credit agreement.

22 ~~(vi)~~ (V) Appoint an issuing and paying agent or <—  
23 agents with respect to notes.

24 ~~(vii)~~ (VI) Perform acts necessary or appropriate to <—  
25 provide for the payment, when due, of the interest on and  
26 principal of notes.

27 (2) Agreements under paragraph (1) may provide that the  
28 compensation of purchasers or underwriters of notes or  
29 replacement notes, by discount in the purchase price of the  
30 notes or by payment of a fixed fee or commission at the time

1 of issuance of the notes and that all other costs and  
2 expenses, including fees for agreements related to the notes,  
3 issuing and payment agent costs, and costs and expenses of  
4 issuance, may be paid from the proceeds of the notes.

5 (d) ~~State Treasurer~~ ISSUANCE OF REPLACEMENT NOTES.--If the ←  
6 authorization and direction of the Governor, the Auditor General  
7 and the State Treasurer provide for the issuance of replacement  
8 notes, the State Treasurer shall, by the time of delivery of  
9 these notes or replacement notes, determine the principal  
10 amounts, dates of issuance, interest rates or procedures for  
11 establishing interest rates, rates of discount, denominations  
12 and all other terms and conditions relating to the issuance and  
13 shall perform all acts necessary to pay, or cause to be paid,  
14 when due, all principal of and interest on the notes being  
15 refunded by replacement notes and to assure that payment may  
16 draw upon any money available for that purpose pursuant to any  
17 purchase, loan or credit agreements established with respect to  
18 the notes, subject to the authorization and direction of the  
19 Governor, the Auditor General and the State Treasurer.

20 (e) Funding and retirement.--Outstanding notes evidencing  
21 borrowings may be funded and retired by the issuance and sale of  
22 the bonds of the Commonwealth under ~~sections 7 and 9~~ SECTION ←  
23 312. Funding bonds must be issued and sold not later than a date  
24 three years after the date of issuance of the first notes  
25 evidencing the borrowings, to the extent that payment of the  
26 notes has not otherwise been made or provided for by sources  
27 other than proceeds of replacement notes.

28 (f) Proceeds.--The proceeds of temporary borrowings, except  
29 those evidenced by replacement notes, shall be paid to the State  
30 Treasurer to be held and disposed of under section ~~10~~ 310. The ←

1 proceeds of temporary borrowings evidenced by replacement notes  
2 shall be paid to the State Treasurer to be held and disposed of  
3 under subsection (d).

4 Section 7 307. Bonds, issue of bonds and notes, maturity, <—  
5 interest.

6 (a) Issue.--As evidence of indebtedness as authorized,  
7 ~~funding~~ bonds, which may be for one or more purposes, shall be <—  
8 issued under this ~~act~~ CHAPTER for all of the following purposes: <—

9 (1) To fund or retire notes issued under section ~~6~~ 306 <—  
10 AND BONDS ISSUED UNDER PARAGRAPH (2).

11 (2) To provide money necessary to carry out the purposes  
12 of a debt authorizing statute.

13 (b) Series.--The bonds of each ~~issued~~ ISSUE shall constitute <—  
14 a separate series to be designated by the issuing officials or  
15 may be combined for sale as one series with other general  
16 obligation bonds of the Commonwealth. Each series of bonds shall  
17 bear such rate of interest as determined by the issuing  
18 officials. Bonds shall be issued in denominations and in form,  
19 whether coupon or registered as to both principal and interest,  
20 and with or without such provisions of interchangeability, as  
21 the issuing officials determine. If interest coupons are  
22 attached, they shall, unless the debt authorizing act provides  
23 otherwise, contain the facsimile signature of the State  
24 Treasurer.

25 (c) Terms and conditions.--

26 (1) Except as set forth in subsection (a) or (b), the  
27 terms and conditions of issue, redemption and maturity and  
28 time of payment of interest shall be as the issuing officials  
29 shall specify. Bonds of any series shall mature within a  
30 period not to exceed the estimated useful lives of the

1 capital ~~facilities~~ projects as stated in the debt authorizing ←  
2 act but not later than 30 years from the date of issuance.

3 (2) The issuing officials shall provide for the  
4 amortization of the bonds in substantial and regular amounts  
5 over the term of the debt, but the first retirement of  
6 principal shall be stated to mature prior to the expiration  
7 of a period of time equal to one-tenth of the time from the  
8 date of the first obligation issued to evidence the debt to  
9 the date of the expiration of the term of the debt.

10 (3) Retirements of principal shall be regular and  
11 substantial if made in annual or semiannual amounts whether  
12 by stated serial maturities or by mandatory sinking fund  
13 retirements computed in accordance with either a level annual  
14 debt service plan, as nearly as may be, or upon the equal  
15 annual maturities plan.

16 (4) If debt is incurred in one issue of bonds to provide  
17 funds for and towards the financial cost of capital projects  
18 having estimated useful lives of varying length, the  
19 following shall apply:

20 (i) The aggregate of the financial costs shall be  
21 considered as the debt to be incurred for the purpose of  
22 fixing the regular and substantial amounts of principal  
23 to be retired.

24 (ii) The term of the debt shall be to the end of the  
25 longest estimated useful life for the purpose of  
26 determining the first date for the retirement of  
27 principal. At the end of the estimated useful life of  
28 each project, the aggregate principal retirements  
29 required to be made at or before that date shall exceed:

30 (A) the aggregate financial cost of all capital

1 projects having the same or shorter estimated useful  
2 lives; or

3 (B) if bonds are issued for less than the full  
4 financial cost of all projects being financed in the  
5 same category, a proportionate amount in each case.

6 (5) The issuing officials are authorized to carry out  
7 the provisions of this ~~act~~ CHAPTER relating to the issuance <—  
8 of bonds and shall determine all matters in connection with  
9 the issuance of bonds subject to the provisions hereof.

10 (d) Verification.--

11 (1) Bonds issued under the authority of this ~~act~~ <—  
12 CHAPTER, unless the debt authorizing acts provides another <—  
13 method of signature, shall bear the facsimile signatures of  
14 the issuing officials and a facsimile of the Great Seal of  
15 the Commonwealth of Pennsylvania and shall be countersigned  
16 by an officer of an authorized loan and transfer agent of the  
17 Commonwealth.

18 (2) The action taken by the issuing officials  
19 authorizing the issuance of bonds or notes shall set forth  
20 the title and citation of the debt authorizing acts.

21 (3) Notes and bonds issued under the authority of this  
22 ~~act~~ CHAPTER shall: <—

23 (i) either contain a similar recital or refer to the  
24 recital of titles and citations set forth in the action  
25 authorizing issuance; and

26 (ii) state that the bonds or notes are issued in  
27 accordance with the provisions of this ~~act~~ CHAPTER. In <—  
28 any action or proceeding involving the validity or  
29 enforceability of bonds or notes under this ~~act~~ CHAPTER, <—  
30 a recital under paragraph (3) shall be conclusive as to

1 their authorization.

2 Section § 308. Direct obligations, exemption from taxation, <—  
3 means of payment.

4 (a) Direct obligation.--Notes and bonds issued under this  
5 ~~aet~~ CHAPTER shall be direct obligations of the Commonwealth, and <—  
6 the full faith and credit of the Commonwealth are pledged for  
7 the payment of the interest as it becomes due and the payment of  
8 the principal at maturity.

9 (b) Exemptions.--Notes and bonds issued under this ~~aet~~ <—  
10 CHAPTER shall be exempt from taxation for State and local <—  
11 purposes EXCEPT AS PROVIDED UNDER THE ACT OF MARCH 4, 1971 <—  
12 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

13 (c) Payment.--The principal of and interest on notes and  
14 bonds issued under this ~~aet~~ CHAPTER shall be payable in lawful <—  
15 money of the United States of America.

16 Section § 309. Sale of bonds. <—

17 (a) Public sale.--When bonds are issued under this ~~aet~~ <—  
18 CHAPTER, they shall be offered for sale at not less than 98% of <—  
19 the principal amount and accrued interest and shall be sold by  
20 the issuing officials to the highest and best bidder OR BIDDERS <—  
21 after public advertisement on terms and conditions and upon open  
22 competitive bidding as the issuing officials direct. The manner  
23 and times of advertising shall be prescribed by the issuing  
24 officials.

25 (b) Private sale.--Any portion of a bond issue offered under  
26 subsection (a) and not sold or subscribed to may be disposed of  
27 by private sale by the issuing officials in a manner and at  
28 prices, not less than 98% of the principal amount and accrued  
29 interest, as the Governor directs. No commission shall be  
30 allowed or paid for the sale of bonds issued under this ~~aet~~ <—



1 CHAPTER. ←

2 (c) Temporary bonds.--Until permanent bonds can be prepared,  
3 the issuing officials may issue, in lieu of permanent bonds,  
4 temporary bonds in form and with privileges as to the  
5 registration and exchange for permanent bonds as may be  
6 determined by the issuing officials.

7 Section ~~10~~ 310. Disposition and use of proceeds. ←

8 (a) General rule.--The proceeds of temporary borrowings made  
9 under section ~~6~~ 306, other than the proceeds of replacement ←  
10 notes, and the proceeds from the sale of bonds, other than  
11 funding bonds, shall be paid to the State Treasurer and be held  
12 by the State Treasurer in a separate fund and shall be deposited  
13 in depositories as selected by the State Treasurer to the credit  
14 of the Capital Facilities Fund, which shall have such separate  
15 accounts as may be deemed desirable by the issuing officials,  
16 but not less than one separate account for each category of  
17 capital projects. The proceeds of replacement notes shall be  
18 deposited and applied as provided in section ~~6(d)~~. 306(D). THE ←  
19 PROCEEDS OF FUNDING BONDS SHALL BE DEPOSITED AND APPLIED AS  
20 PROVIDED IN SECTION 312.

21 (b) Dedication.--The money in the Capital Facilities Fund is  
22 specifically dedicated to meeting the financial costs of capital  
23 projects. The money shall be paid by the State Treasurer to  
24 those departments, agencies or authorities authorized to expend  
25 it as required by them to pay financial costs at the time the  
26 department, agency or authority certifies the payment to be due  
27 and payable.

28 (c) Investment.--Pending their application to the purposes  
29 authorized, money held or deposited by the State Treasurer may  
30 be invested and reinvested as are other funds in the custody of

1 the State Treasurer in the manner provided by law. Earnings  
2 received from the investment or deposit of the funds shall be  
3 paid into the State Treasury to the credit of the account in the  
4 Capital Facilities Fund to which the funds were originally  
5 deposited.

6 Section ~~11~~ 311. Capital Debt Fund; investments; redemption of <—  
7 bonds.

8 (a) Capital Debt Fund.--Bonds issued under this ~~act~~ CHAPTER <—  
9 shall be paid at maturity. Interest due, after July 1, 1968, on  
10 bonds and on notes, issued under this ~~act~~ CHAPTER, shall be paid <—  
11 by the Board of Finance and Revenue from the Capital Debt Fund.  
12 The General Assembly shall appropriate annually the money  
13 necessary to pay the interest on the bonds and notes and the  
14 principal of the bonds and notes at maturity if no other  
15 provision is made. Money appropriated shall be paid into the  
16 Capital Debt Fund by the State Treasurer.

17 (b) Investment.--Money received under subsection (a) prior  
18 to the date for disbursement shall be invested by the board  
19 pending disbursement in securities as are provided by law for  
20 the investment of surplus money of the Commonwealth. The  
21 investment and the accumulations in the Capital Debt Fund shall  
22 be devoted to and be used exclusively for the payment of the  
23 interest accruing on the bonds and notes and for the redemption  
24 of the bonds and notes at maturity or upon the redemption date,  
25 if called for prior redemption. The board is authorized to use  
26 such funds for the purchase and retirement of all or any part of  
27 the bonds issued under this ~~act~~ CHAPTER; but no purchase may be <—  
28 made which will reduce the money in the Capital Debt Fund below  
29 the amount necessary to pay all principal and interest still to  
30 become due in the fiscal year of the purchase. If all or any

1 part of any bonds issued under this ~~act~~ CHAPTER are purchased by <—  
2 the Commonwealth, they shall be canceled and returned to the  
3 State Treasurer as canceled and paid bonds. Thereafter, all  
4 payment of interest on the bonds shall cease; and the canceled  
5 bonds and coupons shall be destroyed, ~~within two years after~~ <—  
6 ~~cancellation, in the presence of the issuing officials or their~~  
7 ~~authorized representatives. A certificate evidencing the~~  
8 ~~destruction, satisfactory to the authorized loan and transfer~~  
9 ~~agent of the Commonwealth, shall be furnished to it. Canceled~~  
10 ~~bonds and coupons shall be mutilated as to make the canceled~~  
11 ~~bonds and coupons nonnegotiable.~~ IN ACCORDANCE WITH THE ACT OF <—  
12 APRIL 27, 1925 (P.L.319, NO.180), ENTITLED, "AN ACT RELATING TO  
13 THE DESTRUCTION OF CANCELLED OR UNUSED BONDS OR OTHER EVIDENCES  
14 OF INDEBTEDNESS OF THIS COMMONWEALTH."

15 Section ~~12~~ 312. Funding bonds. <—

16 The issuing officials, subject to the provisions of a bond  
17 resolution or trust indenture are authorized to issue funding  
18 bonds for the purpose of refunding obligations then outstanding,  
19 to provide funds to redeem and retire such outstanding  
20 obligations with accrued interest and any premium payable  
21 thereon, at maturity or any call date. The issuance of funding  
22 bonds, the maturities and other details, the rights of the  
23 holders and the duties of the issuing officials shall be  
24 governed by the applicable provisions of sections ~~3 through 11~~ <—  
25 303 THROUGH 311. Funding bonds may be issued to refund bonds <—  
26 previously issued for refunding purposes. The proceeds of the  
27 sale of funding bonds shall be paid to the State Treasurer and  
28 applied to the payment of the principal of, and any accrued  
29 interest and premium on, the bonds or notes for the refunding of  
30 which funding bonds have been issued. No funding bonds shall be

1 issued having a stated maturity date later than the expiration  
2 of the useful life of the capital projects constructed or  
3 acquired from the proceeds of the debt originally incurred in  
4 respect of the bonds or notes being refunded, nor shall funding  
5 bonds be issued to refund beyond the same fiscal year any  
6 portion of debt required by this ~~act~~ CHAPTER and the <—  
7 Constitution of Pennsylvania to be retired in the year of issue  
8 of the funding bonds in order to comply with the retirement in  
9 substantial and regular amounts as provided in section ~~7(d)~~ <—  
10 307(D). <—

11 Section ~~13~~ 313. Reporting requirements. <—

12 The State Treasurer shall determine and report to the Budget  
13 Secretary by January 1 of each year the amount of money  
14 necessary for the payment of interest on outstanding obligations  
15 and the principal of the obligations, for the following fiscal  
16 year and the time and amounts of payments.

17 Section ~~14~~ 314. Registration of bonds. <—

18 The Auditor General shall prepare the necessary registry  
19 books to be kept in the office of the authorized loan and  
20 transfer agent of the Commonwealth for the registration of any  
21 bonds of the Commonwealth according to the terms and conditions  
22 of issue specified by the issuing officials under section ~~7(d)~~ <—  
23 307(D). Bonds issued without interest coupons attached shall be <—  
24 registered in the registry books kept by the authorized loan and  
25 transfer agent of the Commonwealth.

26 Section ~~15~~ 315. Voting requirements. <—

27 If this ~~act~~ CHAPTER requires an action to be taken or a <—  
28 decision to be made by the issuing officials and the three  
29 officers shall not be able to agree unanimously, the action or  
30 decision of the Governor and either the Auditor General or State

1 Treasurer shall be binding and final.

2 Section ~~16~~ 316. Appropriation. <—

3 The money received by the Commonwealth from the issuance and  
4 sale of bonds and notes pursuant to this ~~act~~ CHAPTER and any <—  
5 debt authorizing act adopted after July 23, 1984, shall be  
6 appropriated by the General Assembly from the Capital Facilities  
7 Fund in the debt authorizing acts for the purposes set forth in  
8 those acts.

9 Section ~~17~~ 317. Appropriation for and limitation on <—

10 redevelopement assistance capital projects.

11 (a) Appropriation.--The amount necessary to pay principal of  
12 and interest on all obligations issued to provide funds for  
13 redevelopement assistance capital projects is hereby appropriated  
14 from the General Fund and shall be transferred to the Capital  
15 Debt Fund upon authorization by the Governor.

16 (b) Limitation.--The maximum amount of redevelopement  
17 assistance capital projects undertaken by the Commonwealth for  
18 which obligations are ~~to be issued~~ OUTSTANDING shall not exceed, <—  
19 in aggregate, ~~\$850,000,000~~ \$1,200,000,000. <—

20 Section ~~18~~ 318. Funding and administration of redevelopement <—

21 assistance capital projects.

22 (a) Officers.--The Secretary of the Budget, in consultation  
23 with the Secretary of Community and Economic Development, shall  
24 approve or disapprove redevelopement assistance capital projects.

25 (b) Time period.--State funding for approved redevelopement  
26 assistance capital projects shall be paid over not less than a  
27 36-month period, unless the Secretary of the Budget authorizes a  
28 shorter period.

29 (c) Costs.--Fees for professional services incurred for the  
30 design and construction of redevelopement assistance capital

1 projects shall be paid from non-State funds. Land acquisition is  
2 a permissible State-funded expenditure if the acquisition cost  
3 is supported by an appraisal done by a ~~member of the Master~~ ←  
4 ~~Appraisal Institute~~ CERTIFIED APPRAISER. ←

5 (d) Proportion.--Expenditure of State and non-State funds  
6 shall be made on a proportional basis for DIRECT LAND AND ←  
7 BUILDING ACQUISITION COSTS AND construction expenses.

8 (e) Verification.--Redevelopment assistance capital project  
9 cost estimates must be verified by the Office of the Budget or  
10 its designated agent before final approval is given to a project  
11 application. Cost estimates include total project cost,  
12 projected use for State and non-State funds and a year-by-year  
13 schedule of costs for the entire project construction phase.

14 (f) Bids.--The solicitation of a minimum of three written  
15 bids is required for all general contracted work in  
16 redevelopment assistance CAPITAL projects. ←

17 (g) Review and audit.--Redevelopment assistance capital  
18 projects shall be reviewed at regular intervals by the Office of  
19 the Budget or its designated agent during the funding phase to  
20 ensure financial and program compliance. A final close-out audit  
21 shall be performed by the Office of the Budget or its designated  
22 agent for all projects.

23 (h) Fee.--To pay for administrative expenses related to  
24 redevelopment assistance capital projects funded by Commonwealth  
25 general obligation bonds, the Office of the Budget shall charge  
26 a fee against proceeds from bonds AND NOTES which were sold to ←  
27 finance construction or acquisition costs of projects.

28 CHAPTER 5 ←

29 SPORTS FACILITIES FINANCING

30 SECTION 501. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
2 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
3 CONTEXT CLEARLY INDICATES OTHERWISE:

4 "BASE LINE TAX AMOUNT." THE AVERAGE OF TAXES REFERRED TO IN  
5 SECTION 504(7)(I) PAID TO THE COMMONWEALTH IN 1996, 1997 AND  
6 1998.

7 "CONTRACTING AUTHORITY." AN AUTHORITY CREATED PURSUANT TO  
8 THE ACT OF MAY 2, 1945 (P.L.382, NO.164), KNOWN AS THE  
9 MUNICIPALITY AUTHORITIES ACT OF 1945, FOR THE PURPOSE OF  
10 CONSTRUCTING OR RENOVATING A FACILITY OR OTHER AUTHORITY  
11 ESTABLISHED UNDER THE LAWS OF THIS COMMONWEALTH WHICH IS  
12 ELIGIBLE TO APPLY FOR AND RECEIVE REDEVELOPMENT ASSISTANCE  
13 CAPITAL GRANTS UNDER CHAPTER 3, UNDER A CONTRACT WITH THE OFFICE  
14 TO RECEIVE COMMONWEALTH GRANTS UNDER THIS CHAPTER.

15 "CONTRACTING MUNICIPALITY." A CITY, COUNTY, TOWNSHIP, TOWN  
16 OR BOROUGH WHICH CONTRACTS WITH THE OFFICE TO RECEIVE  
17 COMMONWEALTH FUNDS TO CONSTRUCT OR RENOVATE A FACILITY.

18 "FACILITY." A STADIUM, ARENA OR OTHER PLACE OWNED OR LEASED  
19 BY A PROFESSIONAL SPORTS ORGANIZATION AT WHICH A PROFESSIONAL  
20 ATHLETIC EVENT IS CONDUCTED IN THE PRESENCE OF INDIVIDUALS WHO  
21 PAY ADMISSION TO VIEW THE EVENT. THE TERM INCLUDES A FACILITY TO  
22 BE CONSTRUCTED AS WELL AS AN EXISTING FACILITY.

23 "OFFICE." THE OFFICE OF THE BUDGET.

24 "PROFESSIONAL SPORTS ORGANIZATION." A SOLE PROPRIETORSHIP,  
25 CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR  
26 ASSOCIATION THAT:

27 (1) OWNS A PROFESSIONAL MAJOR LEAGUE BASEBALL OR  
28 NATIONAL FOOTBALL FRANCHISE; AND

29 (2) CONDUCTS PROFESSIONAL ATHLETIC EVENTS OF THE  
30 FRANCHISE AT A FACILITY.

1 SECTION 502. COMMONWEALTH FUNDS.

2 THE RECEIPT OF GRANTS OF COMMONWEALTH FUNDS BY A CONTRACTING  
3 MUNICIPALITY OR CONTRACTING AUTHORITY UNDER THIS ACT TO FINANCE  
4 ANY COST RELATED TO THE CONSTRUCTION OR RENOVATION OF A FACILITY  
5 SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS CHAPTER.

6 SECTION 503. ELIGIBILITY.

7 IN ORDER FOR A FACILITY TO QUALIFY FOR GRANTS OF COMMONWEALTH  
8 FUNDS, THE PROFESSIONAL SPORTS ORGANIZATION UTILIZING THE  
9 FACILITY MUST CERTIFY THAT:

10 (1) IT MAINTAINS ITS HEADQUARTERS, PRINCIPAL BUSINESS  
11 OFFICES, TRAINING FACILITIES AND CAMPS EXCEPT BASEBALL SPRING  
12 TRAINING, AND RELATED ENTERPRISES AND ACTIVITIES EXCEPT MINOR  
13 LEAGUE ACTIVITIES, IN THIS COMMONWEALTH;

14 (2) EXCEPT FOR A SOLE PROPRIETORSHIP, IT IS  
15 INCORPORATED, ORGANIZED OR OTHERWISE CREATED UNDER THE LAWS  
16 OF THIS COMMONWEALTH; AND

17 (3) IT WILL CONTINUE TO COMPLY WITH THE CERTIFICATIONS  
18 UNDER PARAGRAPHS (1) AND (2) FOR THE DURATION OF THE LEASE  
19 UNDER SECTION 504(1) OR FOR THE INITIAL TERM OF THE DEBT,  
20 WHICHEVER IS LONGER.

21 SECTION 504. REQUIREMENT.

22 IN ORDER FOR GRANTS OF COMMONWEALTH FUNDS TO BE USED TO  
23 CONSTRUCT OR RENOVATE A FACILITY, THE CONTRACTING MUNICIPALITY  
24 OR CONTRACTING AUTHORITY MUST CONTRACT WITH THE PROFESSIONAL  
25 SPORTS ORGANIZATION TO ENSURE COMPLIANCE BY THE PROFESSIONAL  
26 SPORTS ORGANIZATION WITH THE FOLLOWING TERMS AND CONDITIONS:

27 (1) AGREEMENT BY THE PROFESSIONAL SPORTS ORGANIZATION TO  
28 REMAIN AND CONDUCT PROFESSIONAL SPORTING EVENTS IN THE  
29 FACILITY FOR THE DURATION OF THE LEASE OR FOR THE TERM OF ANY  
30 DEBT OF THE COMMONWEALTH, WHICHEVER IS LONGER, BUT IN NO



1 EVENT LONGER THAN 29.5 YEARS. THE CONTRACT SHALL INCLUDE  
2 AGREEMENT BY THE PROFESSIONAL SPORTS ORGANIZATION THAT, IF  
3 THE AGREEMENT TO REMAIN AND CONDUCT PROFESSIONAL SPORTING  
4 EVENTS IS VIOLATED, THE CONTRACTING MUNICIPALITY OR  
5 CONTRACTING AUTHORITY SHALL SEEK SPECIFIC PERFORMANCE OF THE  
6 AGREEMENT TO REMAIN AND CONDUCT PROFESSIONAL SPORTING EVENTS  
7 OR RECEIVE A PAYMENT IN THE AMOUNT SET FORTH IN THE AGREEMENT  
8 BETWEEN THE CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY  
9 AND THE PROFESSIONAL SPORTS ORGANIZATION AND THE AMOUNT EQUAL  
10 TO THE COMMONWEALTH'S PRINCIPAL CONTRIBUTION UNDER THIS ACT  
11 TO THE CONSTRUCTION OR RENOVATION OF THE FACILITY.

12 (2) ESTABLISHMENT OF A PROCEDURE TO PROVIDE WRITTEN  
13 NOTICE BY THE PROFESSIONAL SPORTS ORGANIZATION TO THE  
14 CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY AND THE  
15 COMMONWEALTH OF ANY SALE, TRANSFER OR RELOCATION OF ITS  
16 SPORTS FRANCHISE OR TEAM IMMEDIATELY UPON ENTERING INTO ANY  
17 COMMITMENT TO SELL, TRANSFER OR RELOCATE THE SPORTS FRANCHISE  
18 OR TEAM.

19 (3) AGREEMENT THAT, IF THE PROFESSIONAL SPORTS  
20 ORGANIZATION SELLS OR TRANSFERS ITS SPORTS FRANCHISE OR TEAM,  
21 THE PURCHASER OR TRANSFEREE SHALL BE BOUND BY AND SHALL  
22 CONTRACT TO BE SUBJECT TO THE SAME TERMS AND CONDITIONS  
23 REQUIRED BY THIS CHAPTER AS A CONDITION OF THE SALE.

24 (4) AGREEMENT THAT ALL COSTS OF DESIGN AND CONSTRUCTION  
25 OF A NEW OR RENOVATED FACILITY WHICH ARE DUE TO DELAYS OR  
26 WHICH EXCEED THE PROJECTED COSTS SET FORTH IN THE FINANCIAL  
27 PLAN OR CONTRACT WITH THE OFFICE, SHALL BE THE RESPONSIBILITY  
28 OF THE CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY OR  
29 THE PROFESSIONAL SPORTS ORGANIZATION.

30 (5) AGREEMENT THAT DURING THE TERM OF THE LEASE FOR THE

1 FACILITY, THE PROFESSIONAL SPORTS ORGANIZATION OR THE  
2 CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY SHALL BE  
3 RESPONSIBLE FOR ALL CAPITAL IMPROVEMENTS TO THE FACILITY AND  
4 FOR ALL OPERATING EXPENSES RELATING TO THE USE OF THE  
5 FACILITY, INCLUDING SECURITY, CLEANING, INSURANCE,  
6 MAINTENANCE AND UTILITIES.

7 (6) AGREEMENT TO SET ASIDE A SPECIFIED MINIMUM NUMBER OF  
8 DAYS, AT REASONABLE TIMES THROUGHOUT THE YEAR, TO BE  
9 AVAILABLE FOR THE USE OF THE FACILITY BY THE CONTRACTING  
10 MUNICIPALITY OR CONTRACTING AUTHORITY OR BY THE COMMONWEALTH.  
11 UNDER THIS AGREEMENT, THE COMMONWEALTH SHALL RECEIVE THE SAME  
12 NUMBER OF DAYS AND BE ENTITLED TO THE SAME TERMS AS THE  
13 CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY.

14 (7) AGREEMENT TO MAKE AN ADDITIONAL RENTAL PAYMENT OF  
15 \$25,000,000 REDUCED BY AVAILABLE CREDITS UNDER SUBPARAGRAPHS  
16 (I) THROUGH (III) IN THE TAX YEAR IMMEDIATELY FOLLOWING THE  
17 EXPIRATION OF THE FIRST TEN-YEAR PERIOD OF OCCUPANCY OR LEASE  
18 OF THE FACILITY, AND AT THE EXPIRATION OF EVERY TEN-YEAR  
19 PERIOD THEREAFTER. THE PROFESSIONAL SPORTS ORGANIZATION SHALL  
20 PAY THE ADDITIONAL RENTAL PAYMENT TO THE CONTRACTING  
21 MUNICIPALITY OR CONTRACTING AUTHORITY, WHICH SHALL REMIT THE  
22 ADDITIONAL RENTAL PAYMENT TO THE COMMONWEALTH. THE ADDITIONAL  
23 RENTAL PAYMENT MADE BY THE PROFESSIONAL SPORTS ORGANIZATION  
24 SHALL BE REDUCED BY THE FOLLOWING CREDITS:

25 (I) THE CREDITS AVAILABLE FOR THE FIRST TEN-YEAR  
26 PERIOD OF OCCUPANCY OR LEASE SHALL BE AMOUNTS PAID TO THE  
27 COMMONWEALTH WHICH EXCEED THE PRODUCT OF THE BASE LINE  
28 TAX AMOUNT MULTIPLIED BY 7.5. THE CREDITS AVAILABLE FOR  
29 EACH SUBSEQUENT TEN-YEAR PERIOD OF OCCUPANCY SHALL BE THE  
30 AMOUNTS PAID TO THE COMMONWEALTH WHICH EXCEED THE PRODUCT

1 OF THE BASE LINE TAX AMOUNT MULTIPLIED BY 10. AVAILABLE  
2 CREDITS INCLUDE ALL OF THE FOLLOWING:

3 (A) AN AMOUNT EQUAL TO ALL CORPORATE NET INCOME  
4 TAX, CAPITAL STOCK AND FRANCHISE TAX AND PERSONAL  
5 INCOME TAX RELATED TO THE OWNERSHIP AND OPERATION OF  
6 THE PROFESSIONAL SPORTS ORGANIZATION.

7 (B) AN AMOUNT EQUAL TO:

8 (I) ALL PERSONAL INCOME TAX WITHHELD FROM  
9 ITS EMPLOYEES BY THE PROFESSIONAL SPORTS  
10 ORGANIZATION;

11 (II) ALL PERSONAL INCOME TAX WITHHELD FROM  
12 THE EMPLOYEES OF ANY PROVIDER OF EVENTS AT, OR  
13 SERVICES TO, OR ANY OPERATOR OF AN ENTERPRISE IN,  
14 A FACILITY OR FACILITY COMPLEX; AND

15 (III) ALL PERSONAL INCOME TAX TO WHICH THE  
16 COMMONWEALTH WOULD BE ENTITLED FROM PERFORMERS OR  
17 OTHER PARTICIPANTS, INCLUDING VISITING TEAMS, AT  
18 AN EVENT OR ACTIVITY AT THE FACILITY.

19 (C) AN AMOUNT EQUAL TO ALL SALES AND USE TAX  
20 RELATED TO THE OPERATION OF THE PROFESSIONAL SPORTS  
21 ORGANIZATION AND THE FACILITY AND ENTERPRISES  
22 DEVELOPED AS PART OF THE FACILITY COMPLEX. THIS  
23 CLAUSE INCLUDES SALES AND USE TAX PAID BY ANY  
24 PROVIDER OF EVENTS OR ACTIVITIES AT, OR SERVICES TO,  
25 A FACILITY, INCLUDING SALES AND USE TAX PAID BY  
26 VENDORS AND CONCESSIONAIRES AND CONTRACTORS AT THE  
27 FACILITY.

28 (D) AN AMOUNT EQUAL TO ALL TAX PAID, BY THE  
29 PROFESSIONAL SPORTS ORGANIZATION OR BY ANY PROVIDER  
30 OF EVENTS OR ACTIVITIES AT, OR SERVICES TO, A

1 FACILITY, TO THE COMMONWEALTH RELATED TO THE SALE OF  
2 ANY LIQUOR, WINE OR MALT OR BREWED BEVERAGE IN THE  
3 FACILITY OR FACILITY COMPLEX.

4 (E) THE AMOUNT PAID BY THE PROFESSIONAL SPORTS  
5 ORGANIZATION OR BY ANY PROVIDER OF EVENTS OR  
6 ACTIVITIES AT, OR SERVICES TO, A FACILITY OR FACILITY  
7 COMPLEX OF ANY NEW TAX ENACTED BY THE COMMONWEALTH  
8 FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER.

9 (II) IN ADDITION TO THE CREDITS AVAILABLE UNDER  
10 SUBPARAGRAPH (I), THE PROFESSIONAL SPORTS ORGANIZATION  
11 MAY CREDIT AN AMOUNT EQUAL TO ONE-THIRD OF THE FOLLOWING,  
12 INCURRED PRIOR TO THE OCCUPANCY OR LEASE OF THE FACILITY:

13 (A) ALL PERSONAL INCOME TAX WITHHELD FROM  
14 PERSONNEL BY THE PROFESSIONAL SPORTS ORGANIZATION OR  
15 BY A CONTRACTOR OR OTHER ENTITY INVOLVED IN THE  
16 CONSTRUCTION OR RENOVATION OF THE FACILITY; AND

17 (B) SALES AND USE TAX PAID ON MATERIALS AND  
18 OTHER CONSTRUCTION COSTS, WHETHER WITHHELD OR PAID BY  
19 THE PROFESSIONAL SPORTS ORGANIZATION OR OTHER ENTITY,  
20 DIRECTLY RELATED TO THE CONSTRUCTION OR RENOVATION OF  
21 THE FACILITY.

22 (III) TO THE EXTENT THE AMOUNT OF THE CREDITS  
23 AVAILABLE FOR A SPECIFIC TEN-YEAR PERIOD UNDER  
24 SUBPARAGRAPHS (I) AND (II) EXCEEDS \$25,000,000, THE  
25 EXCESS MAY BE CARRIED OVER AND ADDED TO THE AMOUNT OF  
26 CREDITS CLAIMED UNDER SUBPARAGRAPHS (I) AND (II) FOR THE  
27 FOLLOWING TEN-YEAR PERIOD. ANY EXCESS CREDIT STILL  
28 REMAINING SHALL BE CARRIED OVER TO SUBSEQUENT TEN-YEAR  
29 PERIODS UNTIL IT IS EXHAUSTED OR UNTIL THE EXPIRATION OF  
30 THIS CHAPTER UNDER SECTION 509, WHICHEVER IS SOONER.

1 (IV) PAYMENTS SHALL BE MADE BY THE PROFESSIONAL  
2 SPORTS ORGANIZATION AND REMITTED BY THE CONTRACTING  
3 MUNICIPALITY OR CONTRACTING AUTHORITY AT A TIME AND IN A  
4 MANNER, INCLUDING REQUIRED DOCUMENTATION OF ALL CREDITS,  
5 AS THE OFFICE PRESCRIBES. THIS SUBPARAGRAPH INCLUDES  
6 ANNUAL RECONCILIATION OF ALL CREDITS UNDER SUBPARAGRAPHS  
7 (I) THROUGH (III). ALL TAX RECORDS AND INFORMATION SHALL  
8 BE SUBJECT TO ALL CONFIDENTIALITY PROTECTIONS PROVIDED BY  
9 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX  
10 REFORM CODE OF 1971; HOWEVER, THE DEPARTMENT OF REVENUE  
11 SHALL PROVIDE RECORDS AND INFORMATION TO THE OFFICE AS  
12 NECESSARY FOR THE OFFICE TO ENFORCE THIS CHAPTER.

13 (8) AN AGREEMENT THAT, UPON SALE OF THE FACILITY OR THE  
14 EXPIRATION OF TERMINATION OF THE LEASE AT THE FACILITY, THE  
15 COMMONWEALTH SHALL HAVE AN OPTION TO PURCHASE FOR \$1 A ONE-  
16 THIRD INTEREST IN THE FACILITY.

17 SECTION 505. OTHER AGREEMENTS.

18 THE CONTRACTING MUNICIPALITY OR THE CONTRACTING AUTHORITY AND  
19 THE PROFESSIONAL SPORTS ORGANIZATION MAY ENTER INTO ALL OTHER  
20 AGREEMENTS NECESSARY AND APPROPRIATE FOR THE CONSTRUCTION,  
21 RENOVATION AND OPERATION OF THE FACILITY. THE CONTRACTING  
22 MUNICIPALITY OR THE CONTRACTING AUTHORITY SHALL ENTER INTO ALL  
23 CONTRACTS WITH THE OFFICE REQUIRED TO RECEIVE COMMONWEALTH  
24 FUNDS.

25 SECTION 506. REPORT.

26 THE OFFICE SHALL FILE A REPORT EVERY TEN YEARS TO THE GENERAL  
27 ASSEMBLY REGARDING THE ADDITIONAL RENTAL PAYMENTS UNDER THIS  
28 CHAPTER.

29 SECTION 507. FINANCIAL COMMITMENT.

30 THE CONTRACTING MUNICIPALITY OR CONTRACTING AUTHORITY AND THE

1 PROFESSIONAL SPORTS ORGANIZATION MUST PROVIDE TO THE OFFICE ALL  
2 OF THE FOLLOWING:

3 (1) A FINANCIAL PLAN FOR ALL FUNDING RELATED TO THE  
4 CONSTRUCTION OR RENOVATION OF THE FACILITY, TO INCLUDE  
5 DETAILS REGARDING THE FINANCIAL COMMITMENT OF THE PARTIES TO  
6 THE PROJECT.

7 (2) AN ECONOMIC DEVELOPMENT PLAN FOR THE AREA  
8 SURROUNDING THE FACILITY.

9 (3) A PLAN TO PROVIDE AFFORDABLE SEATING WITHIN A  
10 PORTION OF THE FACILITY.

11 (4) A REPRESENTATION FROM THE CONTRACTING MUNICIPALITY  
12 OR CONTRACTING AUTHORITY THAT TAX REVENUES TO THE  
13 COMMONWEALTH WILL BE INCREASED AND A DESCRIPTION OF HOW THE  
14 GRANT OF COMMONWEALTH FUNDS WILL PROVIDE THE INCREASE.

15 SECTION 508. ENFORCEMENT AND PENALTIES.

16 (A) INJUNCTION.--THE COMMONWEALTH MAY ENJOIN A VIOLATION OF  
17 SECTION 504.

18 (B) WITHHOLD FUNDING.--THE COMMONWEALTH HAS THE RIGHT TO  
19 WITHHOLD FUNDING UNDER THIS CHAPTER AND TO EXERCISE ALL RIGHTS  
20 AND REMEDIES AT LAW OR IN EQUITY FOR ANY OF THE FOLLOWING:

21 (1) FAILURE OF A PROFESSIONAL SPORTS ORGANIZATION TO  
22 COMPLY WITH THE PROVISIONS OF THIS CHAPTER IN A TIMELY AND  
23 APPROPRIATE MANNER.

24 (2) A VIOLATION OF A COVENANT UNDER ANY AGREEMENT WITH,  
25 OR FOR THE BENEFIT OF, THE COMMONWEALTH, RELATING TO THE  
26 CONSTRUCTION OR RENOVATION OR USE OF THE FACILITY.

27 (3) ANY OTHER VIOLATION OF LAW APPLICABLE TO THE  
28 CONSTRUCTION OR RENOVATION OR USE OF THE FACILITY.

29 (C) CIVIL PENALTY.--A PERSON THAT INTENTIONALLY, RECKLESSLY,  
30 OR NEGLIGENTLY VIOLATES THIS CHAPTER SHALL BE SUBJECT TO A CIVIL

1 PENALTY OF UP TO \$100,000 PER VIOLATION.

2 (D) CRIMINAL PENALTY.--A PERSON THAT INTENTIONALLY OR  
3 KNOWINGLY PROVIDES FALSE OR FRAUDULENT INFORMATION OR MAKES A  
4 MATERIAL MISREPRESENTATION UNDER THIS CHAPTER COMMITS A  
5 MISDEMEANOR OF THE THIRD DEGREE.

6 SECTION 509. EXPIRATION.

7 THIS CHAPTER SHALL CEASE TO APPLY TO EACH PARTICIPATING  
8 PROFESSIONAL SPORTS ORGANIZATION 30 YEARS FOLLOWING THE  
9 OCCUPANCY OR LEASE OF THE FACILITY.

10 SECTION 510. SCOPE.

11 THIS ISSUANCE OF GRANTS UNDER THIS CHAPTER IS SUBJECT TO  
12 CHAPTER 3.

13 CHAPTER 51

14 MISCELLANEOUS PROVISIONS

15 Section ~~19~~ 5101. Repeals. <—

16 (a) Absolute.--Article XVI-B of the act of April 9, 1929  
17 (P.L.343, No.176), known as The Fiscal Code, is repealed.

18 (b) General.--All other acts and parts of acts are repealed  
19 insofar as they are inconsistent with ~~this act~~ CHAPTER 3. <—

20 ~~Section 20. Recodification.~~ <—

21 ~~This act is a recodification of Article XVI B of the act of~~  
22 ~~April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. This~~  
23 ~~act is a continuation of, and is not intended to make any~~  
24 ~~changes in, Article XVI B of The Fiscal Code except for~~  
25 ~~paragraph (6)(ii) of the definition of "redevelopment assistance~~  
26 ~~capital project" in section 2.~~

27 Section ~~21~~ 5102. Effective date. <—

28 This act shall take effect immediately.