

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 904 Session of 2013

INTRODUCED BY TEPLITZ, FOLMER, BLAKE, EICHELBERGER, BOSCOLA, YUDICHAK, WOZNIAK, SOLOBAY, BREWSTER, FARNESE, WAUGH AND BROWNE, JUNE 7, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JULY 1, 2014

AN ACT

1 Providing for requirements for interest rate management
2 agreements entered into by a city or county of the first
3 class.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 SECTION 1. SHORT TITLE. <--

7 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE FIRST CLASS
8 CITY AND COUNTY INTEREST RATE MANAGEMENT AGREEMENT ACT.

9 Section 2. Definitions. <--

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

13 "CONTRACTING AUTHORITY." ANY OF THE FOLLOWING THAT ENTER <--
14 INTO AN INTEREST RATE MANAGEMENT AGREEMENT UNDER THIS ACT:

- 15 (1) A CITY OF THE FIRST CLASS.
16 (2) A COUNTY OF THE FIRST CLASS.
17 (3) A MUNICIPAL AUTHORITY CREATED UNDER 53 PA.C.S. CH.

1 56 (RELATING TO MUNICIPAL AUTHORITIES) BY AN ENTITY LISTED  
2 UNDER PARAGRAPH (1) OR (2).

3 "Department." The Department of Community and Economic  
4 Development of the Commonwealth.

5 "Interest rate management agreement." An agreement,  
6 including a confirmation evidencing a transaction effected under  
7 a master agreement, entered into by a ~~first class city or county~~ <--  
8 CONTRACTING AUTHORITY in accordance with and fulfilling the <--  
9 requirements of section 2, which agreement in the judgment of  
10 the ~~first class city or county~~ CONTRACTING AUTHORITY is designed <--  
11 to manage interest rate risk or interest cost of the ~~first class~~ <--  
12 ~~city or county~~ CONTRACTING AUTHORITY on any debt or other debt- <--  
13 related obligations a ~~first class city or county~~ CONTRACTING <--  
14 AUTHORITY is authorized to incur, including, but not limited to,  
15 swaps, interest rate caps, collars, corridors, ceiling and floor  
16 agreements, forward agreements, float agreements and other  
17 similar arrangements which in the judgment of the ~~first class~~ <--  
18 ~~city or county~~ CONTRACTING AUTHORITY will assist the ~~first class~~ <--  
19 ~~city or county~~ CONTRACTING AUTHORITY in managing the interest <--  
20 rate risk or interest cost of the ~~first class city or county~~ <--  
21 CONTRACTING AUTHORITY. <--

22 Section 2 3. Interest rate management agreement requirements. <--

23 (a) General rule.--Notwithstanding any other law to the  
24 contrary, any interest rate management agreement entered into by  
25 a ~~first class city or county~~ CONTRACTING AUTHORITY shall comply <--  
26 with the provisions of this section.

27 (b) Requirements.--The following requirements shall apply:

28 (1) A ~~county or city of the first class~~ CONTRACTING <--  
29 AUTHORITY shall authorize and award by resolution each  
30 interest rate management agreement or any confirmation of a

1 transaction.

2 (2) No payments shall be made to or on behalf of a ~~first~~ <--  
3 ~~class city or county~~ CONTRACTING AUTHORITY by the other party <--  
4 to an interest rate management agreement except periodic  
5 scheduled payments, termination payments and attorney fees  
6 and other consultant fees incurred in connection with  
7 entering into an interest rate management agreement.

8 (3) Periodic scheduled payments on an interest rate  
9 management agreement must commence not later than three years  
10 after the date of the confirmation associated with the  
11 interest rate management agreement.

12 (4) The index or basis used for calculating the periodic  
13 scheduled payments receivable by the ~~first class city or~~ <--  
14 ~~county~~ CONTRACTING AUTHORITY on an interest rate management <--  
15 agreement shall be substantially similar to the index or  
16 basis used for calculating the interest due on the associated  
17 debt or other debt-related obligations of the ~~first class~~ <--  
18 ~~city or county~~ CONTRACTING AUTHORITY. <--

19 (5) At the time an interest rate management agreement is  
20 entered into, the sum of the notional amount thereof, without  
21 duplication for the notional amount of any offsetting  
22 transactions, and all other interest rate management  
23 agreements entered into or guaranteed, and then in effect of  
24 a ~~first class city or county~~ CONTRACTING AUTHORITY, shall not <--  
25 exceed 30% of the total principal amount of the aggregate  
26 general obligation debt and other debt-related obligations  
27 payable from or supported by its general fund then  
28 outstanding. If an interest rate management agreement is  
29 payable from or supported by another specified fund or  
30 revenues, the limitation shall apply based solely on interest

1 rate management agreements and debt and other debt-related  
2 obligations payable from or supported by the specified fund  
3 or revenues.

4 (6) Scheduled periodic payments and termination payments  
5 received by a ~~first class city or county~~ CONTRACTING <--  
6 AUTHORITY on an interest rate management agreement shall be  
7 deposited in a payment account to:

8 (i) Pay periodic swap payments or to pay principal  
9 and interest on the debt or debt-related obligations  
10 related to the interest rate management agreement.

11 (ii) If the interest rate management agreement  
12 described under subparagraph (i) has been terminated and  
13 none of the related debt or debt-related obligations are  
14 outstanding, pay periodic swap payments on interest rate  
15 management agreements or principal and interest on debt  
16 or debt-related obligations payable from or supported by  
17 the same fund or revenues as the interest rate management  
18 agreement described under subparagraph (i).

19 (iii) If all of the interest rate management  
20 agreements described under subparagraph (ii) have been  
21 terminated and no debt or debt-related obligations  
22 described under subparagraph (ii) are outstanding, pay  
23 any other obligations of the ~~first class city or county~~ <--  
24 CONTRACTING AUTHORITY. <--

25 (7) The scheduled expiration date of an interest rate  
26 management agreement shall not exceed ten years from the date  
27 of the related confirmation unless the interest rate  
28 management agreement contains a provision allowing the ~~first~~ <--  
29 ~~class city or county~~ CONTRACTING AUTHORITY to terminate the <--  
30 same at any time after ten years from the date of the related

1 confirmation without making a termination payment.

2 (8) An interest rate management agreement shall contain  
3 a certification by the other party to the interest rate  
4 management agreement in which the other party does all of the  
5 following:

6 (i) Acknowledges that the ~~first class city or county~~ <--  
7 CONTRACTING AUTHORITY which is entering into the interest <--  
8 rate management agreement under this subpart is a  
9 political subdivision of this Commonwealth, OR A <--  
10 MUNICIPAL AUTHORITY CREATED UNDER 53 PA.C.S. CH. 56  
11 (RELATING TO MUNICIPAL AUTHORITIES) BY A CITY OF THE  
12 FIRST CLASS OR A COUNTY OF THE FIRST CLASS.

13 (ii) Acknowledges that it has read this act.

14 (iii) Acknowledges that a ~~first class city or county~~ <--  
15 CONTRACTING AUTHORITY may only enter into an interest <--  
16 rate management agreement to manage interest rate risk or  
17 interest cost of the ~~first class city or county~~ <--  
18 CONTRACTING AUTHORITY on debt or other debt-related <--  
19 obligations of the ~~first class city or county~~ CONTRACTING <--  
20 AUTHORITY.

21 (iv) Acknowledges and agrees that it will notify the  
22 department, in writing, promptly upon the payment to the  
23 other party of a termination payment by the ~~first class~~ <--  
24 ~~city or county~~ CONTRACTING AUTHORITY, including the date <--  
25 and amount of the payment and the identity of the  
26 interest rate management agreement under which the  
27 payment was made.

28 Section ~~3~~ 4. Notice and retention of records. <--

29 (a) Notice.--Within 15 days following the adoption of a  
30 resolution authorizing an interest rate management agreement, a

1 ~~first class city or county~~ CONTRACTING AUTHORITY shall file with <--  
2 the department certified copies of the resolution, including any  
3 appendix to the resolution together with an itemized statement  
4 of all attorney fees, consultant fees and any other costs  
5 expected to be paid on behalf of a ~~first class city or county~~ <--  
6 CONTRACTING AUTHORITY by the other party to such interest rate <--  
7 management agreement.

8 (b) Records.--The department shall keep copies of all  
9 documents filed with the department under this section as long  
10 as an interest rate management agreement is in effect.

11 Section 4 5. Financial reporting. <--

12 A ~~first class city or county~~ CONTRACTING AUTHORITY which has <--  
13 entered into an interest rate management agreement shall include  
14 in its annual financial statements information with respect to  
15 each interest rate management agreement it has authorized or  
16 entered into, including any information required pursuant to any  
17 statement issued by the Governmental Accounting Standards Board.

18 Section 5 6. Applicability. <--

19 The following shall apply:

20 (1) This act shall apply to all interest rate management  
21 agreements entered into by a ~~first class city or county~~ <--  
22 CONTRACTING AUTHORITY on or after the effective date of this <--  
23 ~~act~~ SECTION. <--

24 (2) This act shall not apply to any amendment,  
25 termination or novation of an interest rate management  
26 agreement ~~where such~~ IF THE interest rate management <--  
27 agreement was entered into prior to the effective date of  
28 ~~this act as long as~~ SECTION IF the term of the interest rate <--  
29 management agreement is not extended.

30 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS ACT <--

1       SHALL APPLY TO AN INTEREST RATE MANAGEMENT AGREEMENT ENTERED  
2       INTO BY ANY OF THE FOLLOWING:

3               (I)   A CITY OF THE FIRST CLASS.

4               (II)  A COUNTY OF THE FIRST CLASS.

5               (III) A MUNICIPAL AUTHORITY CREATED UNDER 53 PA.C.S.  
6       CH. 56 (RELATING TO MUNICIPAL AUTHORITIES) BY AN ENTITY  
7       LISTED UNDER SUBPARAGRAPH (I) OR (II).

8   Section ~~6~~ 40.   Effective date.

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9       This act shall take effect in 60 days.