

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1221 Session of 2015

INTRODUCED BY COSTA, FONTANA, SCARNATI, TEPLITZ, VULAKOVICH, RESCHENTHALER, BREWSTER, YUDICHAK AND HUGHES, MAY 2, 2016

SENATOR WARD, COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT, AS AMENDED, MAY 18, 2016

AN ACT

1 Amending the act of February 12, 2004 (P.L.73, No.11), entitled
2 "An act providing for intergovernmental cooperation in cities
3 of the second class; establishing an intergovernmental
4 authority; providing for financing, for bankruptcy and for
5 sovereign immunity; and making an appropriation," in general
6 provisions, further providing for definitions; in
7 intergovernmental cooperation authority for cities of the
8 second class, further providing for governing board, for
9 powers and duties, for term of existence, for annual report
10 to be filed and annual audits and providing for distribution
11 of gaming revenue.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 104 of the act of February 12, 2004
15 (P.L.73, No.11), known as the Intergovernmental Cooperation
16 Authority Act for Cities of the Second Class, is amended by
17 adding a definition to read:

18 Section 104. Definitions.

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

22 * * *

1 "Gaming revenue." The local share assessment collected from
2 gaming revenue by the Department of Revenue for distribution to
3 municipalities hosting licensed facilities under 4 Pa.C.S. Ch.
4 14 (relating to revenues).

5 * * *

6 Section 2. Section 202(d) and ~~(h)(1)~~ (H) of the act are <--
7 amended to read:

8 Section 202. Governing board.

9 * * *

10 (d) Meetings.--After the initial organizational meeting, the
11 board shall meet as frequently as it deems appropriate but at
12 least once during each quarter of the fiscal year. In addition,
13 a meeting of the board shall be called by the chairperson if a
14 request for a meeting is submitted to the chairperson by at
15 least two members of the board.

16 (d.1) Quorum AND OPEN MEETINGS.--A majority of the board <--
17 shall constitute a quorum for the purpose of conducting the
18 business of the board and for all other purposes. All actions of
19 the board shall be taken by a majority of the board members
20 present, except as otherwise specifically noted. The provisions
21 of 65 Pa.C.S. Ch. 7 (relating to open meetings) shall apply to
22 the board.

23 * * *

24 (h) Statutes applying to authority.--

25 (1) The provisions of the following acts shall apply to
26 the ~~board and executive director of the~~ [authority] BOARD: <--

27 (i) 65 Pa.C.S. Ch. 7 (relating to open meetings).

28 (ii) The act of [June 21, 1957 (P.L.390, No.212),
29 referred to] February 14, 2008 (P.L.6, No.3), known as
30 the Right-to-Know Law.

1 (iii) Except as set forth in paragraph (2), the act
2 of July 19, 1957 (P.L.1017, No.451), known as the State
3 Adverse Interest Act.

4 (iv) 65 Pa.C.S. Ch. 11 (relating to ethics standards
5 and financial disclosure).

6 (v) 62 Pa.C.S. (relating to procurement).

7 * * *

<--

8 (1.1) THE PROVISIONS OF THE FOLLOWING ACTS SHALL APPLY

<--

9 TO THE EXECUTIVE DIRECTOR OF THE AUTHORITY:

10 (I) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE ACT OF
11 JULY 19, 1957 (P.L.1017, NO.451), KNOWN AS THE STATE
12 ADVERSE INTEREST ACT.

13 (II) 65 PA.C.S. CH. 11 (RELATING TO ETHICS STANDARDS
14 AND FINANCIAL DISCLOSURE).

15 (2) NOTWITHSTANDING THE PROVISIONS OF THE STATE ADVERSE
16 INTEREST ACT, THE SECRETARY OF THE BUDGET AND THE DIRECTOR OF
17 FINANCE OF EACH ASSISTED CITY SHALL, WHILE SERVING AS EX
18 OFFICIO MEMBERS OF THE BOARD, ALSO SERVE IN THEIR OFFICIAL
19 CAPACITIES WITH RESPECT TO THE NEGOTIATION AND EXECUTION OF
20 INTERGOVERNMENTAL COOPERATION AGREEMENTS AND OTHER AGREEMENTS
21 BETWEEN AN ASSISTED CITY AND THE AUTHORITY.

22 Section 3. Section 203(b) (4) of the act is amended and the
23 subsection is amended by adding paragraphs to read:

24 Section 203. Powers and duties.

25 * * *

26 (b) Specific duties.--The authority shall have the powers
27 and its duties shall be:

28 * * *

29 (4) To make annual signed reports within 120 days after
30 the close of the assisted city's fiscal year[, commencing

<--

1 with the fiscal year ending December 31, 2003,] to the
 2 Governor and the General Assembly describing the city's
 3 financial condition and the authority's progress with respect
 4 to restoring the financial stability of assisted cities and
 5 achieving balanced budgets for assisted cities. [Such reports
 6 shall be] Each report shall:

7 (i) Be filed with the Governor, with the presiding
 8 officers of the Senate and the House of Representatives,
 9 with the chairperson and minority chairperson of the
 10 Appropriations Committee of the Senate and the
 11 chairperson and the minority chairperson of the
 12 Appropriations Committee of the House of Representatives
 13 and with the governing body, mayor and controller of the
 14 assisted city and be publicly available in the assisted
 15 city during normal business hours for public inspection
 16 and on the authority's publicly accessible Internet
 17 website, and may be reproduced by any member of the
 18 public at commercial costs of reproduction. [Such report
 19 shall clearly]

20 (ii) Clearly show by consistent category the last
 21 five years of operating revenues and expenditures,
 22 capital expenditures, gross and net indebtedness
 23 transactions, including a schedule of principal and
 24 interest, five-year projections of the assisted city's
 25 operating and capital budgets, and the entire projected
 26 indebtedness transactions, including a schedule of
 27 principal and interest of such indebtedness until any and
 28 all debt has been completely retired. [Such report shall
 29 contain]

30 (iii) Contain a narrative explaining progress of the

1 assisted city in meeting its annual and five-year
2 budgetary objectives, an appraisal by the authority of
3 the progress the assisted city is making to achieve its
4 goals and an appraisal of the extent to which the
5 assisted city is making a good faith effort to achieve
6 its goals. [Such report shall disclose]

7 (iv) Disclose any violations of Federal and State
8 law that the authority may have discovered. [Such report
9 shall include]

10 (v) Include as appendixes all historical loans or
11 other contracts entered into by the assisted city and its
12 authorities.

13 (vi) Contain detailed accounting on any gaming <--
14 revenue that the authority is withholding from an <--
15 assisted city, as provided for under 4 Pa.C.S. § 1403(c)
16 (3)(xv) (relating to establishment of State Gaming Fund
17 and net slot machine revenue distribution), including the <--
18 reasons that the revenue is being withheld, the
19 conditions that the assisted city must meet for the
20 revenue to be released and the amount of revenue being
21 withheld. AND THE DISTRIBUTION OF GAMING REVENUE IN <--
22 ACCORDANCE WITH SECTION 210.1, THAT SHALL INCLUDE THE
23 STATUS OF ALL GAMING REVENUE NOT YET DISTRIBUTED AND
24 DEMONSTRATE COMPLIANCE WITH THE PROCEDURES AND
25 REQUIREMENTS OF SECTION 210.1(C).

26 (5) To establish and maintain a publicly accessible
27 Internet website that contains, but is not limited to, all of
28 the following:

29 (i) Intergovernmental cooperation agreements under
30 paragraph (3).

1 (ii) Annual reports required under paragraph (4).

2 (iii) The authority's annually adopted budget under
3 section 206.

4 (iv) Audits required under section 207.

5 (v) Contracts that the authority has entered into
6 with third parties.

7 (6) To adopt and publish a records retention policy that
8 is consistent with the records retention policy of the Office
9 of Administration as published in Manual 210.9, The
10 Commonwealth's General Records Retention and Disposition
11 Schedule, adopted April 4, 2016, and shall annually update <--
12 the policy. THE POLICY SHALL BE UPDATED ANNUALLY to remain <--
13 consistent with the Office of Administration.

14 * * *

15 Section 4. Sections 204 and 207 of the act are amended to
16 read:

17 Section 204. Term of existence.

18 (a) Length.--The authority shall exist for a term of at
19 least seven years. If, after seven years, an assisted city has
20 had annual operating budgets and five-year financial plans
21 approved by the board for at least the three immediately
22 preceding years, the Secretary of Community and Economic
23 Development shall certify that the authority is no longer
24 needed, and the provisions of this chapter [will no longer be in <--
25 effect] SHALL NO LONGER APPLY TO THE ASSISTED CITY 90 days <--
26 following that certification. Upon termination of the authority,
27 records and documents of the authority shall be transferred to
28 the director of finance of the assisted city. The authority
29 shall submit a final report on its activities and the city's
30 fiscal condition to the Governor and the General Assembly within

1 60 days of its termination.

2 (b) Limitation.--The Secretary of Community and Economic
3 Development may not certify that THE authority is no longer <--
4 necessary under subsection (a) until oversight is terminated
5 under the act of July 10, 1987 (P.L.246, No.47), known as the
6 Municipalities Financial Recovery Act, or June 30, 2019,
7 whichever is later.

8 ~~(c) Redistribution. If the authority is terminated under~~ <--
9 ~~subsection (a) or (b) and gaming revenue was distributed to and~~
10 ~~under the exclusive control of the authority under 4 Pa.C.S. §~~
11 ~~1403(c)(3)(xv) (relating to establishment of State Gaming Fund~~
12 ~~and net slot machine revenue distribution), the gaming revenue~~
13 ~~shall be redistributed to an assisted city to increase the level~~
14 ~~of funding to the municipal pension funds of an assisted city.~~

15 (C) REDISTRIBUTION.-- <--

16 (1) IF THE AUTHORITY IS TERMINATED UNDER SUBSECTION (A)
17 OR (B) AND GAMING REVENUE WAS DISTRIBUTED TO AND UNDER THE
18 EXCLUSIVE CONTROL OF THE AUTHORITY UNDER 4 PA.C.S. § 1403(C)
19 (3)(XV) (RELATING TO ESTABLISHMENT OF STATE GAMING FUND AND
20 NET SLOT MACHINE REVENUE DISTRIBUTION), THE GAMING REVENUE
21 SHALL BE REDISTRIBUTED TO AN ASSISTED CITY TO INCREASE THE
22 LEVEL OF FUNDING TO THE MUNICIPAL PENSION FUNDS OF AN
23 ASSISTED CITY.

24 (2) THE GAMING REVENUE SHALL BE IN ADDITION TO AND SHALL
25 NOT REPLACE THE MINIMUM OBLIGATION THAT THE ASSISTED CITY IS
26 REQUIRED TO CONTRIBUTE TO ITS PENSION FUNDS UNDER THE ACT OF
27 DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN AS THE MUNICIPAL
28 PENSION PLAN FUNDING STANDARD AND RECOVERY ACT.

29 Section 207. Annual report to be filed; annual audits.

30 [The] By December 31 following the end of each fiscal year,

1 the authority shall file a signed annual report with the
2 chairperson and the minority chairperson of the Appropriations
3 Committee of the Senate and chairperson and the minority
4 chairperson of the Appropriations Committee of the House of
5 Representatives, which shall make provisions for the accounting
6 of revenues and expenses. The authority shall have its books,
7 accounts and records audited annually in accordance with
8 generally accepted auditing standards by an independent auditor
9 who shall be a certified public accountant, and a copy of his
10 audit report shall be attached to and be made a part of the
11 authority's annual report. A concise financial statement shall
12 be published annually in the Pennsylvania Bulletin.

13 Section 5. The act is amended by adding a section to read:
14 Section 210.1. Distribution of gaming revenue.

15 (a) Authority determination.--Notwithstanding any other
16 provision of law and not less than 30 days preceding each
17 scheduled quarterly distribution of gaming revenue under 4
18 Pa.C.S. § 1403(c)(3)(i) (relating to establishment of State <--
19 Gaming Fund and net slot machine revenue distribution) to a host
20 municipality that is an assisted city, the board shall, by a <--
21 majority vote of all the members, VOTE WHETHER OR NOT TO direct <--
22 the assisted city to use the gaming revenue pursuant to 4
23 Pa.C.S. § 1403(c)(3)(xv). <--

24 (b) Debt or pension funding. If the authority votes to <--
25 require an assisted city to use gaming revenue under 4 Pa.C.S.
26 1403(c)(3)(xv)(A) or (B), the authority shall notify the
27 Secretary of the Budget, the Commonwealth shall distribute the
28 gaming revenue directly to the assisted city as provided for
29 under 4 Pa.C.S. § 1403(c)(3)(i) and the assisted city shall use
30 the gaming revenue as required by the authority.

1 ~~(c) Other purpose. If the authority votes to require an~~
2 ~~assisted city to use gaming revenue for a purpose under 4-~~
3 ~~Pa.C.S. § 1403(c) (3) (xv) (C), the authority shall transmit in-~~
4 ~~writing to the assisted city and the Secretary of the Budget no~~
5 ~~more than five days from the time of the vote, the purpose and-~~
6 ~~conditions that the assisted city must meet before distribution~~
7 ~~of the gaming revenue is made to the assisted city. The~~
8 ~~following shall apply:~~

9 ~~(1) If the assisted city provides the authority with~~
10 ~~information that, to the authority's satisfaction, meets the~~
11 ~~conditions required under this subsection, the authority~~
12 ~~shall notify the Secretary of the Budget and the Commonwealth~~
13 ~~shall distribute the gaming revenue directly to the assisted~~
14 ~~city as provided for under 4 Pa.C.S. § 1403(c) (3) (i).~~

15 ~~(2) If the assisted city requires additional time to~~
16 ~~meet the conditions required by the authority, the assisted~~
17 ~~city shall reply in writing within five days with an update~~
18 ~~on the process for meeting the conditions and a projection of~~
19 ~~time period that will be needed to complete the requirements.~~
20 ~~The authority shall notify the Secretary of the Budget that~~
21 ~~the assisted city is not in compliance with the conditions to~~
22 ~~meet the purposes required under paragraph (3) and that no~~
23 ~~distribution of gaming revenue is to be made to the assisted~~
24 ~~city until the conditions are met. The authority shall, by~~
25 ~~majority vote, determine when the conditions which caused an~~
26 ~~assisted city to be certified as not in compliance have~~
27 ~~ceased to exist and shall promptly notify the Secretary of~~
28 ~~the Budget of the vote. Upon notification, the Secretary of~~
29 ~~the Budget shall release the gaming funds held in escrow,~~
30 ~~including the interest and income earned on the funds during~~

1 ~~the period held in escrow directly to the assisted city.~~

2 ~~(3) If the assisted city and the authority are in~~
3 ~~dispute as to whether the conditions have been met, the~~
4 ~~assisted city may make a request to the Secretary of the~~
5 ~~Budget to make a determination that the assisted city has met~~
6 ~~the conditions. The following shall apply:~~

7 ~~(i) If the Secretary of the Budget determines that~~
8 ~~the conditions have been met, the Secretary of the Budget~~
9 ~~shall provide notice to the assisted city and the~~
10 ~~authority and shall release the gaming funds held in~~
11 ~~escrow, including interest and income earned on the~~
12 ~~gaming funds during the period held in escrow directly to~~
13 ~~the assisted city.~~

14 ~~(ii) If the Secretary of the Budget determines that~~
15 ~~the assisted city has not met the conditions, the~~
16 ~~Secretary of the Budget shall provide notice to the~~
17 ~~assisted city and the authority and require that the~~
18 ~~assisted city continue to meet the conditions under this~~
19 ~~section.~~

20 ~~(B) DEBT OR PENSION FUNDING.--IF THE AUTHORITY VOTES TO~~ <--
21 ~~REQUIRE AN ASSISTED CITY TO USE GAMING REVENUE UNDER 4 PA.C.S. §~~
22 ~~1403(C) (3) (XV) (A) OR (B):~~

23 ~~(1) THE AUTHORITY SHALL NOTIFY THE SECRETARY OF THE~~
24 ~~BUDGET;~~

25 ~~(2) THE COMMONWEALTH SHALL DISTRIBUTE THE GAMING REVENUE~~
26 ~~DIRECTLY TO THE ASSISTED CITY AS PROVIDED FOR UNDER 4 PA.C.S.~~
27 ~~§ 1403(C) (3) (I); AND~~

28 ~~(3) THE ASSISTED CITY SHALL USE THE GAMING REVENUE AS~~
29 ~~DIRECTED BY THE AUTHORITY.~~

30 ~~(C) OTHER PURPOSE.--~~

1 (1) IF THE AUTHORITY VOTES TO DIRECT AN ASSISTED CITY TO
2 USE GAMING REVENUE FOR A PURPOSE UNDER 4 PA.C.S. § 1403(C) (3)
3 (XV) (C), THE AUTHORITY SHALL TRANSMIT IN WRITING TO THE
4 ASSISTED CITY AND THE SECRETARY OF THE BUDGET NO MORE THAN
5 FIVE DAYS FROM THE TIME OF THE VOTE, CONDITIONS THAT THE
6 ASSISTED CITY MUST MEET, INCLUDING THE PURPOSE AND TIME
7 PERIOD FOR MEETING THE CONDITIONS, BEFORE DISTRIBUTION OF THE
8 GAMING REVENUE MAY BE MADE TO THE ASSISTED CITY.

9 (2) IF THE ASSISTED CITY PROVIDES THE AUTHORITY WITH
10 INFORMATION THAT, TO THE AUTHORITY'S SATISFACTION, MEETS THE
11 CONDITIONS IMPOSED BY THE AUTHORITY, THE AUTHORITY SHALL
12 CERTIFY ITS DECISION TO THE SECRETARY OF THE BUDGET AND THE
13 COMMONWEALTH SHALL DISTRIBUTE THE GAMING REVENUE DIRECTLY TO
14 THE ASSISTED CITY AS PROVIDED FOR UNDER 4 PA.C.S. § 1403(C)
15 (3) (I).

16 (3) IF THE ASSISTED CITY NEEDS ADDITIONAL TIME TO MEET
17 THE CONDITIONS IMPOSED BY THE AUTHORITY, THE ASSISTED CITY
18 SHALL REPLY TO THE AUTHORITY IN WRITING WITH AN UPDATE ON THE
19 PROCESS FOR MEETING THE CONDITIONS AND A PROJECTION OF THE
20 TIME PERIOD THAT WILL BE NEEDED TO COMPLETE THE CONDITIONS.

21 (4) (I) THE AUTHORITY SHALL CERTIFY TO THE SECRETARY OF
22 THE BUDGET IF THE ASSISTED CITY FAILS TO MEET THE
23 CONDITIONS IMPOSED UNDER PARAGRAPH (1) AND THAT NO
24 DISTRIBUTION OF GAMING REVENUE SHOULD BE MADE TO THE
25 ASSISTED CITY UNTIL THE CONDITIONS ARE MET.

26 (II) THE AUTHORITY SHALL, BY MAJORITY VOTE,
27 DETERMINE WHEN THE CONDITIONS WHICH CAUSED AN ASSISTED
28 CITY TO BE CERTIFIED AS NOT IN COMPLIANCE HAVE BEEN MET
29 AND SHALL PROMPTLY CERTIFY THAT FACT TO THE SECRETARY OF
30 THE BUDGET.

1 (III) UPON RECEIPT OF THE CERTIFICATION, THE
2 SECRETARY OF THE BUDGET SHALL RELEASE THE GAMING REVENUE
3 WITHHELD FROM THE ASSISTED CITY, INCLUDING THE INTEREST
4 AND INCOME EARNED ON THE GAMING REVENUE DURING THE PERIOD
5 WITHHELD, DIRECTLY TO THE ASSISTED CITY.

6 (5) (I) IF THE ASSISTED CITY DISAGREES WITH THE
7 AUTHORITY'S CERTIFICATION THAT THE CONDITIONS HAVE NOT
8 BEEN MET, THE ASSISTED CITY MAY REQUEST THAT THE
9 SECRETARY OF THE BUDGET DETERMINE WHETHER THE ASSISTED
10 CITY HAS MET THE CONDITIONS.

11 (II) IF THE SECRETARY OF THE BUDGET DETERMINES THAT
12 THE CONDITIONS HAVE BEEN MET, THE SECRETARY OF THE BUDGET
13 SHALL PROVIDE NOTICE TO THE ASSISTED CITY AND THE
14 AUTHORITY AND SHALL DISTRIBUTE THE GAMING REVENUE,
15 INCLUDING INTEREST AND INCOME EARNED ON THE GAMING
16 REVENUE DURING THE PERIOD WITHHELD, DIRECTLY TO THE
17 ASSISTED CITY.

18 (III) IF THE SECRETARY OF THE BUDGET DETERMINES THAT
19 THE CONDITIONS HAVE NOT BEEN MET, THE SECRETARY OF THE
20 BUDGET SHALL PROVIDE NOTICE TO THE ASSISTED CITY AND THE
21 AUTHORITY AND REQUIRE THAT THE ASSISTED CITY MEET THE
22 CONDITIONS UNDER THIS SECTION.

23 (IV) THE SECRETARY OF THE BUDGET MAY NOT DISTRIBUTE
24 THE GAMING REVENUE, INCLUDING INTEREST AND INCOME EARNED
25 ON THE GAMING REVENUE DURING THE PERIOD WITHHELD, UNDER
26 THIS PARAGRAPH UNTIL THE SECRETARY OF BUDGET IS SATISFIED
27 THAT THE ASSISTED CITY HAS MET THE CONDITIONS IMPOSED
28 UNDER THIS SECTION.

29 Section 6. This act shall take effect in 60 days.