
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 104 Session of
2017

INTRODUCED BY GODSHALL, MOUL, GILLEN, B. MILLER AND KORTZ,
JANUARY 23, 2017

SENATOR WAGNER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
JANUARY 30, 2018

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in municipal authorities, further
3 providing for money of authority and for transfer of existing
4 facilities to authority and providing for sale or transfer of
5 authority water or sewer infrastructure.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 5612(b) and 5613(b) of Title 53 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 5612. Money of authority.

11 * * *

12 (b) Report.--[Every authority whose fiscal year ends
13 December 31 shall file on or before July 1 an annual report of
14 its fiscal affairs covering the preceding calendar year with the
15 Department of Community and Economic Development and with the
16 municipality creating the authority on forms prepared and
17 distributed by the Department of Community and Economic
18 Development. Authorities whose fiscal year does not end on

1 December 31 shall file the report within 90 days after the end
2 of their fiscal year.]

3 (1) Every authority shall file, on or before 180 days
4 following the end of its fiscal year, an annual report of its
5 fiscal affairs covering the preceding fiscal year with the
6 Department of Community and Economic Development and with the
7 municipality or municipalities creating the authority on
8 forms prepared and distributed by the Department of Community
9 and Economic Development. The report shall also be posted on
10 the authority's publicly accessible Internet website. If the
11 authority does not maintain a publicly accessible Internet
12 website, the report shall be provided by electronic or other
13 means to any other municipality that has customers served by
14 the authority.

15 (2) Every authority shall have its books, accounts and
16 records audited annually by a certified public accountant,
17 and a copy of his audit report shall be filed in the same
18 manner and within the same time period as the annual report.
19 A concise financial statement shall be published annually at
20 least once in a newspaper of general circulation in the
21 municipality where the principal office of the authority is
22 located. If the publication is not made by the authority, the
23 municipality shall publish such statement at the expense of
24 the authority. If the authority fails to make such an audit,
25 then the controller, auditor or accountant designated by the
26 municipality is hereby authorized and empowered from time to
27 time to examine at the expense of the authority the accounts
28 and books of it, including its receipts, disbursements,
29 contracts, leases, sinking funds, investments and any other
30 matters relating to its finances, operation and affairs.

1 * * *

2 § 5613. Transfer of existing facilities to authority.

3 * * *

4 (b) Acquisition.--

5 (1) An authority may not acquire by any device or means,
6 including a consolidation, merger, purchase or lease or
7 through the purchase of stock, bonds or other securities,
8 title to or possession or use of all or a substantial portion
9 of any existing facilities constituting a project [as defined
10 under this chapter] if the project is subject to the
11 jurisdiction of the Pennsylvania Public Utility Commission
12 without first reporting to and advising the municipality
13 which created or which are members of the authority of the
14 agreement to acquire, including all its terms and conditions.

15 (2) The proposed action of the authority and the
16 proposed agreement to acquire shall be approved by the
17 governing body of the municipality which created or which are
18 members of the authority and to which the report is made.
19 Where there are one or two member municipalities of the
20 authority, such approval shall be by two-thirds vote of all
21 of the members of the governing body or of each of the
22 governing bodies. If there are more than two member
23 municipalities of the authority, approval shall be by
24 majority vote of all the members of each governing body of
25 two-thirds of the member municipalities.

26 (3) An authority may not acquire by a device or means,
27 including a consolidation, merger, purchase or lease or
28 through the purchase of stock, bonds or other security, title
29 to or possession or use of all or a substantial portion of a
30 facility constituting a project, unless the authority has

1 discussed the acquisition at a public meeting and the written
2 minutes of the meeting contain details relating to the
3 anticipated or projected public benefit that will be realized
4 by the acquisition. For purposes of this paragraph, a public
5 benefit may include rate reduction, improved service quality,
6 rate stabilization, improved service reliability, action
7 resulting from an agreement with a Federal or State
8 regulatory agency or other clearly defined benefit to a
9 ratepayer of the authority.

10 * * *

11 Section 2. Title 53 is amended by adding a section to read:

12 § 5613.1. Sale or transfer of authority water or sewer
13 infrastructure.

14 (a) Prohibition.--An authority may not sell or transfer
15 title to all or a portion of the water or sewer infrastructure
16 of the authority, unless the authority has discussed the sale or
17 transfer at a public meeting and the written minutes of the
18 meeting contain details relating to the anticipated or projected
19 public benefit that will be realized by the sale or transfer.

20 (b) Definition.--As used in this section, the term "public
21 benefit" may include a rate reduction, improved service quality,
22 rate stabilization, improved service reliability, action
23 resulting from an agreement with a Federal or State regulatory
24 agency or other clearly defined benefit to a ratepayer of the
25 authority.

26 Section 3. The addition of 53 Pa.C.S. § 5613(b)(3) shall
27 apply to title to or possession or use of all or a substantial
28 portion of a facility constituting a project which is acquired
29 on or after the effective date of this section.

30 Section 4. The addition of 53 Pa.C.S. § 5613.1 shall apply

1 to the sale or transfer of title to all or a portion of the
2 water or sewer infrastructure sold or transferred on or after
3 the effective date of this section.

4 Section 5. This act shall take effect in ~~60~~ 90 days.

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