

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 104 Session of
2017

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 15, 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 SECTION 1. SECTION 5612(B) OF TITLE 53 OF THE PENNSYLVANIA <--
11 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
12 ADDING A SUBSECTION TO READ:

13 § 5612. Money of authority.

14 * * *

15 (b) Report.--[Every authority whose fiscal year ends
16 December 31 shall file on or before July 1 an annual report of
17 its fiscal affairs covering the preceding calendar year with the
18 Department of Community and Economic Development and with the

1 municipality creating the authority on forms prepared and
2 distributed by the Department of Community and Economic
3 Development. Authorities whose fiscal year does not end on
4 December 31 shall file the report within 90 days after the end
5 of their fiscal year.]

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

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

1 and books of it, including its receipts, disbursements,
2 contracts, leases, sinking funds, investments and any other
3 matters relating to its finances, operation and affairs.

4 * * *

5 (D) AUDITOR GENERAL.--THE AUDITOR GENERAL, THROUGH AGENTS AS <--
6 THE AUDITOR GENERAL MAY SELECT, SHALL PERFORM AN AUDIT OF A
7 MUNICIPAL AUTHORITY LOCATED IN A COUNTY OF THE THIRD CLASS WITH
8 A POPULATION OF MORE THAN 355,000 BUT LESS THAN 400,000 AS <--
9 DETERMINED BY THE 2010 CENSUS, INCORPORATED PURSUANT TO THIS
10 CHAPTER AS A PUBLIC CORPORATION OF THE COMMONWEALTH OF
11 PENNSYLVANIA ON APRIL 15, 1942, AND ORGANIZED FOR THE PURPOSE OF
12 PROVIDING MUNICIPAL SERVICES, PRINCIPALLY CONSISTING OF
13 OPERATION OF A WATER COLLECTION, TREATMENT AND DISTRIBUTION
14 SYSTEM. THE AUDIT SHALL BE A THOROUGH REVIEW OF ALL FINANCIAL
15 INFORMATION AND EXAMINE THE EFFECTIVENESS, ECONOMY AND
16 EFFICIENCY OF THE AUTHORITY, INCLUDING, BUT NOT LIMITED TO, A
17 REVIEW OF BILLING SYSTEMS, ACQUISITIONS OF OTHER MUNICIPAL
18 AUTHORITIES, CONTRACT PROCESSES AND TRANSPARENCY, MANAGEMENT
19 PRACTICES, CONFLICTS OF INTEREST AND COMPLIANCE WITH RELEVANT
20 FEDERAL AND STATE STATUTES BY THE AUTHORITY, ITS BOARD MEMBERS
21 AND ITS CONTRACTORS. FOR THIS PURPOSE, THE AUDITOR GENERAL MAY
22 EMPLOY CONSULTANTS, EXPERTS, ACCOUNTANTS OR INVESTIGATORS AS THE
23 AUDITOR GENERAL MAY DEEM ADVISABLE AND CONDUCT THE AUDIT
24 INDEPENDENTLY OF ANY OTHER AUDITS. THE AUDIT SHALL BE CONCLUDED
25 BY DECEMBER 31, 2019, AND MAY INCLUDE RECOMMENDATIONS ON HOW TO
26 IMPROVE PROCEDURES AND ACTIVITIES TO ENHANCE ECONOMY, EFFICIENCY
27 AND EFFECTIVENESS IN ANY AREAS COVERED BY THE AUDIT.

28 SECTION 2. SECTION 5613(B) OF TITLE 53 IS AMENDED TO READ:
29 § 5613. Transfer of existing facilities to authority.

30 * * *

1 (b) Acquisition.--

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

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

23 (3) An authority may not acquire by a device or means,
24 including a consolidation, merger, purchase or lease or
25 through the purchase of stock, bonds or other security, title
26 to or possession or use of all or a substantial portion of a
27 facility constituting a project, unless the authority has
28 discussed the acquisition at a public meeting and the written
29 minutes of the meeting contain details relating to the
30 anticipated or projected public benefit that will be realized

1 by the acquisition. For purposes of this paragraph, a public
2 benefit may include rate reduction, improved service quality,
3 rate stabilization, improved service reliability, action
4 resulting from an agreement with a Federal or State
5 regulatory agency or other clearly defined benefit to a
6 ratepayer of the authority.

7 * * *

8 Section 2 3. Title 53 is amended by adding a section to <--
9 read:

10 § 5613.1. Sale or transfer of authority water or sewer
11 infrastructure.

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

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

24 Section 3 4. The addition of 53 Pa.C.S. § 5613(b) (3) shall <--
25 apply to title to or possession or use of all or a substantial
26 portion of a facility constituting a project which is acquired
27 on or after the effective date of this section.

28 Section 4 5. The addition of 53 Pa.C.S. § 5613.1 shall apply <--
29 to the sale or transfer of title to all or a portion of the
30 water or sewer infrastructure sold or transferred on or after

1 the effective date of this section.

2 Section 5 6. This act shall take effect in ~~60~~ 90 days.

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