

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2557 Session of 2018

INTRODUCED BY ROTHMAN, KIM, KLUNK, TOBASH, RYAN, MILLARD, HELM, A. HARRIS, DIAMOND, GROVE, COMITTA, DERMODY, FRANKEL, FREEMAN, SCHLOSSBERG, SCHWEYER, PHILLIPS-HILL, KAUFFMAN, BLOOM, NELSON AND KEEFER, OCTOBER 2, 2018

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 15, 2018

AN ACT

1 Establishing intergovernmental cooperation authorities for
2 certain cities of the third class; providing for powers and
3 duties; and making an appropriation.

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18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 CHAPTER 1

21 GENERAL PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the
24 Intergovernmental Cooperation Authorities Act for Cities of the
25 Third Class.

26 Section 102. Purpose and legislative intent.

27 (a) Policy.--It is hereby declared to be a public policy of
28 the Commonwealth to exercise its retained sovereign powers with
29 regard to taxation and matters of Statewide concern in a manner
30 calculated to foster the fiscal integrity of cities of the third

1 class to assure that they:

2 (1) provide for the health, safety and welfare of their
3 residents;

4 (2) pay principal and interest owed on their debt
5 obligations when due;

6 (3) meet financial obligations to their employees,
7 vendors and suppliers; and

8 (4) provide for proper financial planning procedures and
9 budgeting practices.

10 The inability of a city of the third class to provide essential
11 services to its residents as a result of a fiscal emergency is
12 determined to affect adversely the health, safety and welfare
13 not only of the residents of the city but also of other
14 residents of this Commonwealth.

15 (b) Legislative intent.--

16 (1) It is the intent of the General Assembly to:

17 (i) provide cities of the third class with the legal
18 tools with which they can perform essential municipal
19 services; and

20 (ii) foster sound financial planning and budgetary
21 practices for cities of the third class, which cities
22 will be charged with the responsibility to exercise
23 efficient and accountable fiscal practices, such as:

24 (A) increased managerial accountability;

25 (B) consolidation or elimination of inefficient
26 city programs and authorities;

27 (C) reevaluation of tax exemption policies with
28 regard to real property taxes;

29 (D) increased collection of existing tax
30 revenues;

1 (E) privatization or outsourcing of appropriate
2 city services;

3 (F) sale of city assets as appropriate;

4 (G) improvement of procurement practices,
5 including competitive bidding procedures; and

6 (H) review of compensation and benefits of city
7 employees.

8 (2) This act is intended to remedy the apparent fiscal
9 emergency confronting cities of the third class through the
10 implementation of sovereign powers of the Commonwealth. To
11 safeguard the rights of the residents of this Commonwealth to
12 the electoral process and home rule, the General Assembly
13 intends to exercise its power in an appropriate manner with
14 the elected officers of cities of the third class.

15 Section 103. Legislative findings.

16 It is hereby determined and declared as a matter of
17 legislative finding that:

18 (1) Some cities of the third class have encountered
19 recurring financial difficulties that may affect the
20 performance of necessary municipal services to the detriment
21 of the health, safety and general welfare of residents of
22 those cities.

23 (2) It is critically important that cities of the third
24 class maintain their creditworthiness.

25 (3) Due to the economic and social interrelationship
26 among all residents in our economy, the fiscal integrity of
27 cities of the third class is a matter of concern to all
28 residents of this Commonwealth, and the financial problems of
29 these cities have a direct and negative effect on the entire
30 Commonwealth.

1 (4) Because cities of the third class consume a
2 substantial proportion of the products of Pennsylvania's
3 farms, factories, manufacturing plants and service
4 enterprises, economic difficulties confronting cities of the
5 third class detrimentally affect the economy of the
6 Commonwealth as a whole and become a matter of Statewide
7 concern.

8 (5) Because residents of cities of the third class
9 contribute a substantial proportion of all Commonwealth tax
10 revenues, a disruption of the economic and social life of
11 these cities may have a significant detrimental effect on
12 Commonwealth revenues.

13 (6) The financial difficulties of cities of the third
14 class can best be addressed and resolved by cooperation
15 between governmental entities.

16 (7) The Constitution of Pennsylvania grants
17 municipalities authority to cooperate with other governmental
18 entities in the exercise of any function or responsibility.

19 (8) The Commonwealth retains certain sovereign powers
20 with respect to cities of the third class, among them the
21 powers to authorize and levy taxes, to authorize the
22 incurring of indebtedness and to provide financial assistance
23 that may be necessary to assist cities in solving their
24 financial problems.

25 (9) The Commonwealth may attach conditions to grants of
26 authority to incur indebtedness or assistance to cities of
27 the third class in order to ensure that deficits are
28 eliminated and access to capital markets is achieved and
29 maintained.

30 (10) The conditions must be incorporated into

1 intergovernmental cooperation agreements between the
2 Commonwealth or its instrumentalities and cities of the third
3 class.

4 (11) Cities of the third class and the Commonwealth will
5 benefit from the creation of an independent authority
6 composed of members experienced in finance and management
7 that advises the cities, the General Assembly and the
8 Governor concerning solutions to fiscal problems cities of
9 the third class may face.

10 (12) The creation of an authority will allow cities of
11 the third class to continue to provide the necessary
12 municipal services for their residents and to contribute to
13 the economy of this Commonwealth.

14 Section 104. Definitions.

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

18 "Assisted city." A city for which an authority has been
19 established under section 201. The term includes any municipal
20 authority, other authority or other corporate entity that
21 directly or indirectly performs a governmental function on
22 behalf of the city, is directly or indirectly controlled by the
23 city or to which a city has direct or indirect power of
24 appointment or has directly or indirectly pledged or designated
25 the city's revenues or the city's credit.

26 "Authority." An intergovernmental cooperation authority
27 established in section 201.

28 "Board." The governing board of an authority.

29 "Chief fiscal officer." A municipal official in an assisted
30 city designated as follows:

1 (1) In the case of a city where the mayor is responsible
2 for proposing the city's annual budget, the chief fiscal
3 officer shall be the mayor.

4 (2) In the case of a city where the budget is proposed
5 to the governing body by an employee or appointee of the
6 city, the chief fiscal officer shall be the presiding officer
7 of the governing body.

8 "City." A city of the third class or a home rule
9 municipality which was previously a city of the third class:

10 (1) with a population of at least 48,000 and not more
11 than 55,000 based on the most recent Federal decennial census
12 at the time receivership was terminated;

13 (2) for which a coordinator under Chapter 2 of the act
14 of July 10, 1987 (P.L.246, No.47), known as the
15 Municipalities Financial Recovery Act, is or has been
16 appointed; and

17 (3) for which receivership has been terminated.

18 "City account." A trust fund held for the exclusive benefit
19 of an assisted city.

20 "Controller." The elected controller of a city. In the case
21 of a city which does not elect a controller, the term shall
22 refer to a person designated by the intergovernmental
23 cooperation agreement to administer financial controls for the
24 city.

25 "Corporate entity." A municipal authority, other authority
26 or other corporate entity that performs a governmental function
27 on behalf of an assisted city or to which an assisted city has
28 power of appointment or has pledged or designated revenues.

29 "Deficit." A negative fund balance in any principal
30 operating fund or funds of an assisted city or corporate entity

1 existing at the beginning of a fiscal year of the assisted city
2 or projected to exist as of the close of a fiscal year of the
3 assisted city as may be more specifically identified, calculated
4 and specified in an intergovernmental cooperation agreement or
5 financial plan of an assisted city described in section 209.

6 "Federal agency." The United States, the President of the
7 United States and a department or corporation, agency or
8 instrumentality created, designated or established by the United
9 States.

10 "Governing body." The legislative body of a city.

11 "Governing law." The applicable statutes, home rule charter,
12 optional plan or optional charter that provides for the
13 officers, duties and powers of a city.

14 "Government agency." The Governor, department, board,
15 commission, authority and an officer or agency of State
16 government, including any that is not subject to the policy
17 supervision and control of the Governor, a political
18 subdivision, municipal or other local authority and an officer
19 or agency of a political subdivision or local authority. The
20 term does not include a court or other officer or agency of the
21 unified judicial system or the General Assembly or any of its
22 officers and agencies.

23 "Intergovernmental cooperation agreement." An agreement
24 between an authority and a city entered into under the
25 provisions of section 203(d).

26 "Party officer." The following members or officers of a
27 political party:

- 28 (1) a member of a national committee;
- 29 (2) a chairman, vice chairman, secretary, treasurer or
30 counsel of a State committee or member of the executive

1 committee of a State committee;

2 (3) a county chairman, vice chairman, counsel, secretary
3 or treasurer of a county committee; or

4 (4) a chairman, vice chairman, counsel, secretary,
5 treasurer or ward leader of a city or municipal committee.

6 "Public official." An elected or appointed official or
7 employee in the executive, legislative or judicial branch of the
8 Commonwealth or a political subdivision thereof. The term does
9 not include:

10 (1) A member of an advisory board that has no authority
11 to expend public funds other than reimbursement for personal
12 expense or to otherwise exercise the power of the
13 Commonwealth or a political subdivision thereof.

14 (2) An appointed official who receives no compensation
15 other than reimbursement for actual expenses.

16 "Termination date." December 31 of the fourth full calendar
17 year following the year in which an intergovernmental
18 cooperation agreement is entered into under section 203(d).

19 CHAPTER 2

20 INTERGOVERNMENTAL COOPERATION AUTHORITIES

21 FOR CITIES OF THE THIRD CLASS

22 Section 201. Authorities established.

23 (a) General rule.--A body corporate and politic to be known
24 as the Intergovernmental Cooperation Authority for (name of
25 city) is established as a public authority and instrumentality
26 of the Commonwealth for each city that shall exercise public
27 powers of the Commonwealth as an agency and instrumentality
28 thereof. The exercise by the authority of the powers conferred
29 by this act is declared to be and shall for all purposes be
30 deemed and held to be the performance of an essential public

1 function.

2 (b) Separate authorities.--A separate intergovernmental
3 cooperation authority shall be established for each city.

4 Section 202. Governing board.

5 (a) Composition of board.--

6 (1) The powers and duties of an authority shall be
7 exercised by a governing board composed of five members
8 appointed as follows:

9 (i) One member shall be appointed by the Governor.

10 (ii) One member shall be appointed by the President
11 pro tempore of the Senate.

12 (iii) One member shall be appointed by the Minority
13 Leader of the Senate.

14 (iv) One member shall be appointed by the Speaker of
15 the House of Representatives.

16 (v) One member shall be appointed by the Minority
17 Leader of the House of Representatives.

18 (vi) The Secretary of the Budget and the ~~controller~~ <--
19 DIRECTOR OF FINANCE of an assisted city shall serve as ex <--
20 officio members of the board. The ex officio members may
21 not vote and shall not be counted for purposes of
22 establishing a quorum. The Secretary of the Budget and
23 the ~~controller~~ DIRECTOR OF FINANCE of an assisted city <--
24 may designate in writing a representative of their
25 respective offices to attend meetings of the board on
26 their behalf.

27 (2) All members and designees must have substantial
28 experience in finance or management.

29 (3) All members of the board must be residents of this
30 Commonwealth and, except the Secretary of the Budget, must

1 either be residents of the assisted city or have their
2 primary places of business or employment in that city.

3 (b) Term.--

4 (1) Appointing authorities shall appoint the initial
5 members of the board within 30 days of the date of
6 termination of receivership or the effective date of this
7 section, whichever is later. The appointed members shall
8 select a chairperson from among themselves at the initial
9 organizational meeting of the board and for any subsequent
10 vacancy in the office of chairperson. The term of a board
11 member shall begin on the date of the appointment. Except as
12 provided in paragraph (3), a member's term shall be
13 coterminous with that of the appointing authority.

14 (2) The member selected as chairperson shall serve in
15 that capacity for two years from the date of selection or for
16 the duration of the member's term on the board, whichever is
17 a shorter period of time, and may be reelected as chairperson
18 to subsequent two-year terms.

19 (3) An appointed board member shall serve at the
20 pleasure of the member's appointing authority.

21 (4) Whenever a vacancy occurs among the appointed
22 members on the board, whether prior to or on the expiration
23 of a term, the appointing authority who originally appointed
24 the board member whose seat has become vacant shall appoint a
25 successor member within 30 days of the vacancy.

26 (5) A member appointed by an appointing authority to
27 fill a vacancy occurring prior to the expiration of a term
28 shall serve the unexpired term.

29 (c) Organization.--

30 (1) The appointees of the President pro tempore of the

1 Senate and the Speaker of the House of Representatives shall
2 set a date, time and place for the initial organizational
3 meeting of the board within 40 days of the date of
4 termination of receivership or the effective date of this
5 section, whichever is later. The initial organizational
6 meeting shall be held within 45 days of the date of
7 termination of receivership or the effective date of this
8 section, whichever is later.

9 (2) In addition to the chairperson, the members shall
10 elect other officers as they may determine.

11 (3) A member may hold more than one office of the board
12 at any time.

13 (d) Meetings.--

14 (1) After the initial organizational meeting, the board
15 shall meet as frequently as it deems appropriate but at least
16 once during each quarter of the fiscal year of the authority.

17 (2) A meeting of the board shall be called by the
18 chairperson if a request for a meeting is submitted to the
19 chairperson by at least two members of the board.

20 (d.1) Quorum and open meetings.--

21 (1) A majority of the board shall constitute a quorum
22 for the purpose of conducting the business of the board and
23 for all other purposes.

24 (2) All actions of the board shall be taken by a
25 majority of the board members present, except as otherwise
26 specifically provided in this act.

27 (3) The provisions of 65 Pa.C.S. Ch. 7 (relating to open
28 meetings) shall apply to the board.

29 (e) Expenses.--A member may not receive compensation or
30 remuneration but shall be entitled to reimbursement for all

1 reasonable and necessary actual expenses.

2 (f) Employees and agents.--

3 (1) The board shall fix and determine the number of
4 employees of the authority and their respective compensation
5 and duties.

6 (2) The board may contract for or receive the loan of
7 services of persons in the employ of other government
8 agencies, and other government agencies may make those
9 employees available.

10 (3) The board may retain an executive director.

11 (4) The board may hire an independent general counsel to
12 the authority and may engage consultants and contract for
13 other professional services.

14 (5) The board may delegate to the executive director
15 powers of the board as the board deems necessary to carry out
16 the purposes of the authority, subject in every case to the
17 supervision and control of the board.

18 (g) Public officials and party officers.--

19 (1) The following provisions apply to members of the
20 board and the executive director:

21 (i) Except for the Secretary of the Budget and the
22 director of finance of an assisted city, neither members
23 of the board nor the executive director shall seek or
24 hold a position as any other public official within this
25 Commonwealth or as a party officer while in the service
26 of the authority.

27 (ii) Members of the board and the executive director
28 may not seek election as public officials or party
29 officers for one year after their service with the
30 authority.

1 (iii) Members of the board and the executive
2 director may serve as appointed public officials any time
3 after their periods of service with the authority.

4 (2) The following provisions apply to employees and
5 agents of the authority, as indicated:

6 (i) Employees and agents of the authority may not
7 seek or hold other positions as public officials or party
8 officers while in the employ of the authority. The
9 authority may receive the loan of services of persons in
10 other government agencies in accordance with subsection
11 (f), notwithstanding that those persons are public
12 officials.

13 (ii) Employees of the authority may not seek
14 election as public officials or party officers for one
15 year after leaving the employ of the authority.

16 (3) No member of the board or employee of the authority
17 may:

18 (i) directly or indirectly be a party to or be
19 interested in any contract or agreement with the
20 authority or with the assisted city; or

21 (ii) use his office or employment or any
22 confidential information received through his office or
23 employment for the private pecuniary benefit of himself,
24 a member of his immediate family or a business with which
25 he or a member of his immediate family is associated.

26 (4) Any member or employee who shall willfully violate
27 paragraph (3) shall forfeit his office or employment and
28 shall be subject to other criminal and civil sanctions as may
29 be imposed by law.

30 (5) Any contract or agreement knowingly made in

1 contravention of paragraph (3) shall be void and
2 unenforceable.

3 (6) For purposes of this subsection, the term "immediate
4 family" shall mean a parent, spouse, child, brother or
5 sister.

6 (h) Statutes applicable to authority.--

7 (1) The provisions of the following acts shall apply to
8 the board:

9 (i) Except as specified in paragraph (3), the act of
10 July 19, 1957 (P.L.1017, No.451), known as the State
11 Adverse Interest Act.

12 (ii) The act of February 14, 2008 (P.L.6, No.3),
13 known as the Right-to-Know Law.

14 (iii) 62 Pa.C.S. (relating to procurement).

15 (iv) 65 Pa.C.S. Ch. 7.

16 (v) 65 Pa.C.S. Ch. 11 (relating to ethics standards
17 and financial disclosure).

18 (2) The provisions of the following acts shall apply to
19 the executive director of the authority:

20 (i) Except as set forth in paragraph (3), the State
21 Adverse Interest Act.

22 (ii) 65 Pa.C.S. Ch. 11.

23 (3) Notwithstanding the provisions of the State Adverse
24 Interest Act, the Secretary of the Budget and the director of
25 finance of an assisted city shall, while serving as ex
26 officio members of the board, also serve in their official
27 capacities with respect to the negotiation and execution of
28 intergovernmental cooperation agreements and other agreements
29 between the assisted city and the authority.

30 (i) Advisory committee.--

1 (1) The board may appoint one advisory committee
2 comprised of professionals engaged in municipal management
3 and finance or other experts as the board deems necessary.
4 The members of an advisory committee must reside within the
5 assisted city or a county within the statistical metropolitan
6 area in which the assisted city is located.

7 (2) The provisions of subsection (g) shall be applicable
8 to members of an advisory committee; however, the board may
9 allow the governing body to designate a liaison from the
10 governing body to serve on an advisory committee.

11 (3) An advisory committee shall consist of no more than
12 six members, excluding any liaison to the governing body.

13 (4) A member of the advisory committee shall not receive
14 compensation or remuneration but shall be entitled to
15 reimbursement for all reasonable and necessary actual
16 expenses.

17 Section 203. Powers and duties.

18 (a) General powers and duties.--Each authority is
19 established for the purposes, without limitation, by itself or
20 by agreement in cooperation with others, of assisting the
21 assisted city in solving its budgetary and financial problems.

22 (b) Specific duties.--Each authority shall have the
23 following powers and duties:

24 (1) To assist the assisted city in achieving financial
25 stability in any manner consistent with the purposes and
26 powers described by this act.

27 (2) To assist the assisted city in avoiding defaults,
28 eliminating and financing deficits and debts, maintaining
29 sound budgetary practices and avoiding the interruption of
30 municipal services.

1 (3) To negotiate intergovernmental cooperation
2 agreements with the assisted city containing terms and
3 conditions as will enable the assisted city to eliminate and
4 avoid deficits, maintain sound budgetary practices and avoid
5 interruption of municipal services.

6 (4) To prepare an annual report within 120 days after
7 the close of the assisted city's fiscal year to the Governor
8 and the General Assembly describing the assisted city's
9 financial condition and the authority's progress with respect
10 to restoring the financial stability of the assisted city and
11 achieving balanced budgets for the assisted city. An annual
12 report shall be signed by the chairperson of the board and
13 shall:

14 (i) Be submitted to the Governor, the presiding
15 officers of the Senate and the House of Representatives,
16 the chairperson and minority chairperson of the
17 Appropriations Committee of the Senate and the
18 chairperson and minority chairperson of the
19 Appropriations Committee of the House of Representatives
20 and the governing body, chief fiscal officer and
21 controller of the assisted city. The report shall be
22 publicly available in the assisted city during normal
23 business hours for public inspection, shall be posted on
24 the authority's publicly accessible Internet website and
25 may be provided to a member of the public upon request at
26 a cost not to exceed commercial costs of reproduction.

27 (ii) Clearly show by consistent category the last
28 five years of operating revenues and expenditures,
29 capital expenditures, gross and net indebtedness
30 transactions, including a schedule of principal and

1 interest, five-year projections of the assisted city's
2 operating and capital budgets, and the entire projected
3 indebtedness transactions, including a schedule of
4 principal and interest of the indebtedness until any and
5 all debt has been completely retired.

6 (iii) Contain a narrative explaining progress of the
7 assisted city in meeting its annual and five-year
8 budgetary objectives, an appraisal by the authority of
9 the progress the assisted city is making to achieve its
10 goals and an appraisal of the extent to which the
11 assisted city is making a good faith effort to achieve
12 its goals.

13 (iv) Disclose any violations of Federal and State
14 law that the authority may have discovered.

15 (v) Include as appendixes all historical loans or
16 other contracts entered into by the assisted city and its
17 corporate entities.

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

21 (i) Intergovernmental cooperation agreements entered
22 into under paragraph (3).

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

24 (iii) The authority's annual budget adopted under
25 section 206.

26 (iv) Annual reports and audits required under
27 section 207.

28 (v) Contracts that the authority has entered into
29 with third parties.

30 (6) To adopt and publish a records retention policy that

1 is consistent with the records retention policy of the Office
2 of Administration as published in Manual 210.9, The
3 Commonwealth's General Records Retention and Disposition
4 Schedule, adopted September 5, 2018. The policy shall be
5 updated annually to remain consistent with the policy of the
6 Office of Administration.

7 (c) Specific powers.--In addition to the powers and duties
8 otherwise provided in this act, each authority shall have the
9 specific powers:

10 (1) To obtain copies of all reports and documents
11 regarding the revenues, expenditures, budgets, deficits,
12 debts, costs, plans, operations, estimates and any other
13 financial or budgetary matters of the assisted city.

14 (2) To obtain additional reports and information on the
15 above matters in forms as are deemed necessary by the
16 authority.

17 (3) To make factual findings concerning the assisted
18 city's budgetary and fiscal affairs.

19 (4) To make recommendations to the assisted city and the
20 General Assembly concerning the budgetary and fiscal affairs
21 of the assisted city, including consideration of the
22 following issues and other issues at the discretion of the
23 authority:

24 (i) Consolidation or merger of services performed by
25 the assisted city and a school, county or other
26 municipality surrounding the assisted city.

27 (ii) Consolidation of public safety services.

28 (iii) Appropriate staffing levels of city
29 departments and corporate entities.

30 (iv) Cooperative agreements or contractual

1 arrangements between health care facilities licensed by
2 the Department of Health.

3 (v) Financial or contractual obligations of the
4 assisted city.

5 (vi) Pensions and other postemployment benefits
6 obligations of the assisted city.

7 (vii) Contributions of nonprofit or charitable
8 organizations that receive the benefit of municipal
9 services provided by the assisted city.

10 (viii) Reduction or restructuring of debt
11 obligations.

12 (ix) Cooperative agreements between the assisted
13 city and the county in which the assisted city is located
14 or municipalities that border the assisted city.

15 (x) Cooperative agreements between the assisted city
16 and school districts located in the assisted city.

17 (xi) Collective bargaining agreements and other
18 contracts of the assisted city.

19 (xii) Elimination, sale or transfer of assisted city
20 services or property.

21 (xiii) Implementation of cost-saving measures by the
22 assisted city.

23 (xiv) Increased managerial accountability.

24 (xv) Performance of government operations and
25 delivery of municipal services.

26 (xvi) Reevaluation of tax exemption policies and
27 practices with regard to real property taxation within
28 the assisted city.

29 (xvii) Improvements in procurement practices.

30 (xviii) Implementation of user fees for services,

1 including sewage, water treatment and refuse collection.

2 (xix) Privatization and outsourcing of appropriate
3 assisted city services.

4 (xx) Increased collection of fines and costs
5 relating to parking violations or violations of other
6 city ordinances.

7 (xxi) Competitive bidding of appropriate assisted
8 city services and competitive bidding practices.

9 (xxii) The use of technology to achieve cost
10 savings.

11 (xxiii) A study of health care and other benefits
12 offered by the assisted city to its employees.

13 (xxiv) The sale of the assisted city's workers'
14 compensation fund.

15 (xxv) The sale of unencumbered assets of the
16 assisted city or authorities of the assisted city.

17 (xxvi) The elimination or reorganization of
18 authorities or departments.

19 (xxvii) The use of budgetary practices and
20 principles as they relate to forecasting, public
21 openness, projections, estimates, tax policy, lending,
22 borrowing and strategic planning.

23 (xxviii) The transfers of employees and assets by
24 and between bureaus, departments, authorities and
25 corporate entities of the assisted city.

26 (xxix) Prior suggestions published by others prior
27 to the date that the city became an assisted city.

28 (xxx) A review of the taxing authority of the
29 assisted city.

30 (xxxii) A review of the ratio of debt service to

1 general fund outlays of the assisted city, the
2 appropriate ratio and the means to achieve the ratio.

3 (xxxii) A review of outstanding debt, debt payments
4 and the ability to prepay the debt.

5 (5) To make recommendations to the Governor and the
6 General Assembly regarding legislation or resolutions that
7 relate to the assisted city's fiscal stability. The authority
8 shall submit a preliminary report of the recommendations to
9 the Governor and the General Assembly within 180 days of the
10 initial organizational meeting of the board in section
11 202(c). The report shall include, but not be limited to,
12 recommendations as to whether or not an assisted city needs
13 additional revenues, the best sources of those revenues and
14 ways for the assisted city to reduce expenditures. Any
15 recommendations for new revenue, if warranted, shall state
16 whether the revenues should be earmarked for specific
17 expenditures, including, but not limited to, prepayment of
18 debt and whether the revenues should be subject to expiration
19 provisions.

20 (6) To exercise powers of review concerning the
21 budgetary and fiscal affairs of an assisted city consistent
22 with this act and the assisted city's governing law.

23 (7) To receive revenues from any source, directly or by
24 assignment, pledge or otherwise.

25 (8) To sue and be sued, implead and be impleaded,
26 interplead, complain and defend in all courts.

27 (9) To adopt, use and alter at will a corporate seal.

28 (10) To make bylaws for the management and regulation of
29 the authority's affairs and adopt rules, regulations and
30 policies in connection with the performance of the

1 authority's functions and duties that, notwithstanding any
2 other provision of law to the contrary, shall not be subject
3 to review under the act of June 25, 1982 (P.L.633, No.181),
4 known as the Regulatory Review Act.

5 (11) To make and enter into contracts and other
6 instruments necessary or convenient for the conduct of the
7 authority's business and the exercise of the powers of the
8 authority.

9 (12) To appoint such officers and hire such agents and
10 employees as the authority deems necessary.

11 (13) To retain counsel and auditors to render
12 professional services as the authority deems appropriate. The
13 authority shall not be considered either an executive agency
14 or an independent agency for the purpose of the act of
15 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
16 Attorneys Act, but shall possess the same status for that
17 purpose as the Auditor General, State Treasurer and the
18 Pennsylvania Public Utility Commission, except that the
19 provisions of section 204(b) and (f) of the Commonwealth
20 Attorneys Act shall not apply to the authority.

21 Notwithstanding 42 Pa.C.S. Ch. 85 (relating to matters
22 affecting government units), the authority shall defend
23 actions brought against the authority or its members,
24 officers, officials and employees when acting within the
25 scope of their official duties.

26 (14) To cooperate with any Federal agency or government
27 agency.

28 (15) To acquire, by gift or otherwise, purchase, hold,
29 receive, lease, sublease and use any franchise, license, or
30 property, real, personal or mixed, tangible or intangible, or

1 any interest therein. The authority shall be absolutely
2 limited in its power to acquire real property under this act
3 to real property that will be used only for the office space
4 in which the authority will conduct its daily business if
5 necessary. If possible, the assisted city shall provide
6 office space to the authority at no cost to the authority as
7 part of an intergovernmental cooperation agreement.

8 (16) To sell, transfer, convey and dispose of any
9 property, real, personal or mixed, tangible or intangible or
10 any interest therein.

11 (17) To enter into contracts for group insurance and to
12 contribute to retirement plans for the benefit of the
13 authority's employees and to enroll the authority's employees
14 in an existing retirement system of a government agency.

15 (18) To accept, purchase or borrow equipment, supplies,
16 services or other things necessary or convenient to the work
17 of the authority from other government agencies. All
18 government agencies are authorized to sell, lend or grant to
19 the authority equipment, supplies, services or other things
20 necessary or convenient to the work of the authority.

21 (19) To invest any funds held by the authority as
22 provided in section 211.

23 (20) To receive and hold assets, money and funds from
24 any source, including, but not limited to, appropriations,
25 grants and gifts.

26 (21) To procure insurance, guarantees and sureties the
27 authority determines necessary or desirable for its purposes.

28 (22) To pledge the credit of the authority as the
29 authority determines necessary or desirable for authority
30 purposes.

1 (23) To do all acts and things necessary or convenient
2 for the promotion of its purposes and the general welfare of
3 the authority and to carry out the powers granted to it by
4 this act or any other acts.

5 (d) Intergovernmental cooperation agreements.--

6 (1) The authority may enter into and implement an
7 intergovernmental cooperation agreement, as approved by the
8 board, with the assisted city.

9 (2) An assisted city may enter into an intergovernmental
10 cooperation agreement in which the city, consistent with this
11 act, covenants to cooperate or agree in the exercise of any
12 function, power or responsibility with, or delegate or
13 transfer any function, power or responsibility to, the
14 authority upon the adoption by the governing body of the city
15 of an ordinance authorizing and approving the
16 intergovernmental cooperation agreement.

17 (3) An ordinance that authorizes an assisted city to
18 enter into an intergovernmental cooperation agreement with
19 the authority shall specify:

20 (i) The purpose and objectives of the agreement.

21 (ii) The conditions of the agreement.

22 (iii) The term of the agreement, including
23 provisions relating to termination of the agreement.

24 (4) An intergovernmental cooperation agreement may not
25 be entered into earlier than 60 days following the initial
26 organizational meeting of the board under section 202(c).

27 (e) Limitation.--Notwithstanding any purpose or general or
28 specific power granted by this act or any other act, whether
29 express or implied, the authority shall have no power to pledge
30 the credit or taxing powers of the Commonwealth.

1 Section 204. Term of existence.

2 The following apply:

3 (1) The authority shall exist until the termination
4 date.

5 (2) Upon termination of the authority, records and
6 documents of the authority shall be transferred to the
7 assisted city.

8 (3) The authority shall submit a final report on its
9 activities and the assisted city's fiscal condition to the
10 Governor and the General Assembly within 60 days of the
11 termination of the authority.

12 Section 205. Fiscal year.

13 The fiscal year of each authority shall be the same as the
14 fiscal year of the Commonwealth.

15 Section 206. Annual budget of authority.

16 (a) Budget.--

17 (1) Within 60 days of the initial organizational meeting
18 of the board under section 202(c) and each October 15
19 thereafter, an authority shall adopt a budget as approved by
20 the board specifying in reasonable detail the projected
21 expenses of operation of the authority for the ensuing fiscal
22 year, including the salary and benefits of the executive
23 director and any other employees of the authority, and the
24 projected revenues of the authority to be derived from
25 investment earnings and any other money of the authority that
26 are estimated to be available to pay the operating expenses
27 specified in the budget.

28 (2) A copy of the authority's budget shall be submitted
29 to the Governor and to the General Assembly.

30 (3) The authority or its designated representatives may

1 be afforded an opportunity to appear before the Governor and
2 the Appropriations Committee of the Senate and the
3 Appropriations Committee of the House of Representatives
4 regarding the authority's budget.

5 (b) Limit on operating expenses.--

6 (1) Following the submission of the authority's budget
7 to the Governor and the General Assembly and any hearing held
8 by an appropriations committee under subsection (a), the
9 General Assembly, by concurrent resolution with presentment
10 to the Governor, in accordance with section 9 of Article III
11 of the Constitution of Pennsylvania, may limit the operating
12 expenses of the authority.

13 (2) In that event, it shall be unlawful for the
14 authority to spend more for operating expenses than the limit
15 established for the ensuing fiscal year by the concurrent
16 resolution.

17 (3) If the General Assembly does not adopt a concurrent
18 resolution prior to May 30, the authority's budget shall be
19 deemed approved for the ensuing fiscal year.

20 (c) Examination of books.--The chairperson and minority
21 chairperson of the Appropriations Committee of the Senate and
22 the chairperson and minority chairperson of the Appropriations
23 Committee of the House of Representatives may at any time
24 examine the books, accounts and records of the authority.

25 Section 207. Annual report to be filed and annual audits.

26 By December 31 following the end of each fiscal year of an
27 authority, the authority shall file an annual report with the
28 chairperson and minority chairperson of the Appropriations
29 Committee of the Senate and chairperson and minority chairperson
30 of the Appropriations Committee of the House of Representatives,

1 that makes provisions for the accounting of revenues and
2 expenses. The report shall be signed by the chairperson of the
3 board. The authority shall have its books, accounts and records
4 audited annually in accordance with generally accepted auditing
5 standards by an independent auditor who must be a certified
6 public accountant, and a copy of the audit report shall be
7 attached to and be made a part of the authority's annual report.
8 A concise financial statement shall be published annually in the
9 Pennsylvania Bulletin.

10 Section 208. Limit on city borrowing.

11 An assisted city and its corporate entities may not borrow or
12 receive funds for any lawful purpose unless the assisted city
13 has entered into an intergovernmental cooperation agreement with
14 the authority and there is an approved financial plan in effect.

15 Section 209. Financial plan of an assisted city.

16 (a) Requirement of a financial plan.--Each assisted city
17 shall develop, implement and periodically revise a financial
18 plan as described in this section.

19 (b) Elements of plan.--The financial plan shall include:

20 (1) Projected revenues and expenditures of the principal
21 operating fund or funds of the assisted city for five fiscal
22 years consisting of the current fiscal year and the next four
23 fiscal years.

24 (2) Plan components that will:

25 (i) Eliminate any projected deficit for the current
26 fiscal year and for subsequent fiscal years.

27 (ii) Restore to special fund accounts money from
28 those accounts used for purposes other than those
29 specifically authorized.

30 (iii) Balance the current fiscal year budget and

1 subsequent budgets in the financial plan through sound
2 budgetary practices, including, but not limited to,
3 reductions in expenditures, improvements in productivity,
4 increases in revenues or a combination of these steps.

5 (iv) Provide procedures to avoid a fiscal emergency
6 condition in the future.

7 (v) Enhance the ability of the assisted city to
8 access short-term and long-term credit markets.

9 (vi) If applicable, eliminate the levy of rate of
10 taxes authorized under section 707 on or prior to the
11 termination date.

12 (vii) If recommended by a coordinator's plan under
13 the act of July 10, 1987 (P.L.246, No.47), known as the
14 Municipalities Financial Recovery Act, and not previously
15 established, establish a trust to fund the benefit
16 obligations of other postemployment benefits of the
17 assisted city and engage an investment manager in
18 connection with the trust.

19 (c) Standards for formulation of plan.--

20 (1) All projections of revenues and expenditures in a
21 financial plan shall be based on prudent, reasonable and
22 appropriate assumptions and methods of estimation. All
23 assumptions and methods shall be consistently applied and
24 reported in the financial plan. The financial plan of an
25 assisted city may not include projected revenue that in order
26 to be collected requires the enactment by the General
27 Assembly of new taxing powers.

28 (2) All revenue and appropriation estimates shall be on
29 a modified accrual basis in accordance with generally
30 accepted standards agreed to by the authority, such as those

1 promulgated by the Governmental Accounting Standards Board,
2 and shall be subject to the following provisions:

3 (i) Revenue estimates shall recognize revenues in
4 the accounting period in which they become both
5 measurable and available.

6 (ii) Estimates of city-generated revenues shall be
7 based on current or proposed tax rates, historical
8 collection patterns and generally recognized econometric
9 models.

10 (iii) Estimates of revenues to be received from the
11 Commonwealth shall be based on historical patterns,
12 currently available levels or on levels proposed in a
13 budget by the Governor.

14 (iv) Estimates of revenues to be received from the
15 Federal Government shall be based on historical patterns,
16 currently available levels or on levels proposed in a
17 budget by the President or in a congressional budget
18 resolution.

19 (v) Nontax revenues shall be based on current or
20 proposed rates, charges or fees, historical patterns and
21 generally recognized econometric models.

22 (vi) Appropriation estimates shall include, at a
23 minimum, all obligations incurred during the fiscal year
24 and estimated to be payable during the fiscal year or in
25 the 24-month period following the close of the current
26 fiscal year and all obligations of prior fiscal years not
27 covered by encumbered funds from prior fiscal years.

28 (vii) Any deviations from these standards of
29 estimating revenues and appropriations proposed to be
30 used by an assisted city shall be specifically disclosed

1 and must be approved by a majority of the board.

2 (3) All cash flow projections shall be based on prudent,
3 reasonable and appropriate assumptions as to sources and uses
4 of cash, including, but not limited to, prudent, reasonable
5 and appropriate assumptions as to the timing of receipt and
6 expenditure thereof, and shall provide for operations of the
7 assisted city to be conducted within the resources so
8 projected. All estimates shall take due account of the past
9 and anticipated collection, expenditure and service demand
10 experience of the assisted city and of current and projected
11 economic conditions.

12 (d) Form of plan.--Each financial plan shall include,
13 consistent with the requirements of an assisted city's governing
14 law:

15 (1) For each of the first two fiscal years covered by
16 the financial plan, information that reflects an assisted
17 city's total expenditures by fund and by lump sum amount for
18 each board, commission, department or office of an assisted
19 city.

20 (2) For the remaining three fiscal years of the
21 financial plan, information that reflects an assisted city's
22 total expenditures by fund and by lump sum amount for major
23 object classification.

24 (3) Projections of all revenues and expenditures for
25 five fiscal years, including, but not limited to, projected
26 capital expenditures and short-term and long-term debt
27 incurrence and cash flow forecasts by fund for the first year
28 of the financial plan.

29 (4) A schedule of projected capital commitments of the
30 assisted city and proposed sources of funding for those

1 commitments.

2 (5) A statement describing in reasonable detail the
3 significant assumptions and methods of estimation used in
4 arriving at the projections contained in the plan.

5 (e) Annual submission of plan.--

6 (1) Within 90 days of the initial organizational meeting
7 of the board under section 202(c), the assisted city shall
8 develop and the authority shall review and act upon an
9 initial five-year financial plan that includes a report on
10 the status of implementation of prior published suggestions
11 regarding consolidation and cost savings.

12 (2) During each subsequent fiscal year, the chief fiscal
13 officer of the assisted city shall, at least 100 days prior
14 to the beginning of the assisted city's fiscal year or on
15 another date as the authority may approve upon the request of
16 the assisted city, prepare and submit its proposed five-year
17 plan.

18 (3) At the same time the plan is submitted, the chief
19 fiscal officer shall also submit to the authority:

20 (i) The chief fiscal officer's proposed annual
21 operating budget and capital budget, which budgets shall
22 be consistent with the first year of the financial plan
23 and prepared in accordance with the assisted city's
24 governing law.

25 (ii) A statement by the chief fiscal officer that
26 the budget:

27 (A) Is consistent with the financial plan.

28 (B) Contains funding adequate for debt service
29 payments, legally mandated services and lease
30 payments securing bonds of other government agencies.

1 (C) Is based upon prudent, reasonable and
2 appropriate assumptions and methods of estimation.

3 (D) Complies with any balanced budget
4 requirements contained in the governing law and
5 ordinances of the assisted city or State law.

6 (f) Balanced budget requirement.--

7 (1) The chief fiscal officer of the assisted city shall
8 submit, and the governing body of the city or assisted city
9 shall adopt, a balanced budget each year consistent with the
10 assisted city's governing law.

11 (2) A balanced budget of an assisted city may not
12 include projected revenues that in order to be collected
13 require the enactment by the General Assembly of new taxing
14 powers or the approval of a court of common pleas of the
15 county in which the assisted city is located.

16 (3) The failure of the assisted city to comply with this
17 subsection shall result in the withholding of Commonwealth
18 funds under section 210(e) and (f).

19 (g) Authority review and approval of plan.--

20 (1) The authority shall promptly review each financial
21 plan, proposed operating budget and capital budget submitted
22 by the assisted city. In conducting the review, the authority
23 shall request from the controller of the assisted city an
24 opinion or certification, prepared in accordance with
25 generally accepted auditing standards, with respect to the
26 reasonableness of the assumptions and estimates in the
27 financial plan.

28 (2) The controller and other elected officials of the
29 assisted city shall comply with a request under paragraph

30 (1).

1 (3) Not more than 30 days after submission of a
2 financial plan and proposed operating budget, the authority
3 shall determine whether:

4 (i) The financial plan projects balanced budgets,
5 based upon prudent, reasonable and appropriate
6 assumptions as described in this section, for each year
7 of the plan.

8 (ii) The proposed operating budget and capital
9 budget are consistent with the proposed financial plan.

10 (4) If the authority determines that the criteria under
11 paragraph (3) are satisfied, the authority shall approve the
12 financial plan.

13 (5) The authority shall not be bound by any opinion or
14 certification of the controller or other official of an
15 assisted city issued under this subsection.

16 (6) If the authority fails to take any action regarding
17 a financial plan within 30 days following submission of the
18 plan to the authority, the financial plan as submitted shall
19 be deemed approved. If, during the 30-day period, a written
20 request by two members of the board for a meeting and vote on
21 the question of approval of the financial plan has been
22 submitted to the chairperson and a meeting and vote do not
23 take place, the financial plan shall be deemed disapproved.

24 (h) Authority disapproval of plan.--

25 (1) If the authority disapproves the proposed financial
26 plan of the assisted city, the authority shall, when it
27 notifies the assisted city of the authority's decision, state
28 in writing in reasonable detail the reasons for the
29 disapproval, including the amount of any estimated budget
30 imbalance.

1 (2) The assisted city shall submit a revised financial
2 plan to the authority within 15 days of a disapproval under
3 paragraph (1), and the revised plan must eliminate the budget
4 imbalance.

5 (3) Not more than 15 days after the submission of the
6 revised financial plan, the authority shall determine whether
7 the revised plan satisfies the criteria under subsection (g)
8 (3).

9 (4) If the authority determines that the criteria are
10 satisfied, the authority shall approve the financial plan.

11 (5) If the authority fails to approve the financial
12 plan, the authority shall, in accordance with section 210(e),
13 certify the assisted city's noncompliance with the financial
14 plan to the Secretary of the Budget, the President pro
15 tempore of the Senate and the Speaker of the House of
16 Representatives.

17 (i) Revisions to plan.--

18 (1) The plan shall be revised on an annual basis to
19 include the operating budget for the next fiscal year and to
20 extend the plan for an additional fiscal year. The chief
21 fiscal officer of an assisted city shall, within 90 days of
22 assuming office, propose revisions to the financial plan or
23 certify to the authority that the chief fiscal officer adopts
24 the existing plan.

25 (2) An assisted city may, during the course of a fiscal
26 year, submit proposed revisions to the financial plan and
27 shall submit a proposed revision for any amendment to the
28 city's operating or capital budget.

29 (3) The authority shall review each proposed revision
30 within 20 days of its submission. The authority shall approve

1 the revision if it will not, based on prudent, reasonable and
2 appropriate assumptions, cause the plan to become imbalanced.

3 (4) Proposed revisions shall become part of the
4 financial plan upon the approval of the authority unless some
5 other method of approval is permitted by authority rules and
6 regulations approved by the board or pursuant to an agreement
7 with the assisted city contained in an intergovernmental
8 cooperation agreement.

9 (5) If the authority fails to take action within 20 days
10 on a proposed revision, the submission shall be deemed
11 approved unless a written request for a meeting and vote has
12 been made in accordance with subsection (g) (4), in which
13 event, if a meeting and vote do not take place, the proposed
14 revision shall be deemed disapproved.

15 (6) If the governing body of a city adopts a budget
16 inconsistent with an approved financial plan, the assisted
17 city shall submit the enacted budget to the authority as a
18 proposed revision to the plan. The authority shall review the
19 proposed revision within 30 days of its submission in
20 accordance with the criteria under subsection (g) and the
21 approval process under paragraph (3).

22 (j) Supplemental reports.--

23 (1) Within 45 days of the end of each fiscal quarter of
24 an assisted city, or monthly if a variation from the
25 financial plan has been determined in accordance with section
26 210(c), the chief fiscal officer of the assisted city shall
27 provide the authority with a report describing actual or
28 current estimates of revenues and expenditures compared to
29 budgeted revenues and expenditures for the period reflected
30 in the assisted city's cash flow forecast.

1 (2) A report required under this section shall indicate
2 any variance between actual or current estimates and budgeted
3 revenues, expenditures and cash for the period covered by the
4 report.

5 (3) An assisted city shall also provide periodic reports
6 on debt service requirements in conformity with section
7 210(b).

8 (k) Effect of plan upon contracts and collective bargaining
9 agreements.--

10 (1) A contract or collective bargaining agreement in
11 existence in an assisted city prior to the approval by the
12 authority of a financial plan submitted under this section
13 shall remain effective after approval of the plan until the
14 contract or agreement expires.

15 (2) After the approval by the authority of a financial
16 plan submitted pursuant to this section, an assisted city
17 shall execute contracts and collective bargaining agreements
18 in compliance with the plan. If an assisted city executes a
19 contract or a collective bargaining agreement which is not in
20 compliance with the plan, the contract or agreement shall not
21 be void or voidable solely by reason of the noncompliance,
22 but the assisted city shall submit to the authority a
23 proposed revision to the plan which demonstrates that
24 revenues sufficient to pay the costs of the contract or
25 collective bargaining agreement will be available in the
26 affected fiscal years of the plan.

27 (3) Nothing in this act shall be construed to in any
28 manner violate, expand or diminish the provisions of the
29 Municipalities Financial Recovery Act relating to collective
30 bargaining agreements.

1 (1) Effect of plan upon certain arbitration settlements.--

2 (1) After the approval by the authority of a financial
3 plan submitted pursuant to this section, any arbitration
4 settlement of a board of arbitration established pursuant to
5 the provisions of the act of June 24, 1968 (P.L.237, No.111),
6 referred to as the Policemen and Firemen Collective
7 Bargaining Act, providing for an increase in wages or fringe
8 benefits of an employee of an assisted city under the plan,
9 in addition to considering any standard or factor required to
10 be considered by applicable law, shall take into
11 consideration and accord substantial weight to:

12 (i) the approved financial plan; and

13 (ii) relevant market factors, such as the financial
14 situation of the assisted city, inflation, productivity,
15 size of workforce and pay and benefit levels in
16 economically and demographically comparable political
17 subdivisions.

18 (2) The arbitration settlement shall be in writing and a
19 copy thereof shall be forwarded to each party to the dispute
20 and the authority. Any arbitration settlement of the board of
21 arbitration which provides for an increase in wages or fringe
22 benefits of an employee of an assisted city shall be in
23 writing and shall state with specificity all factors which
24 the board of arbitration took into account in considering and
25 giving substantial weight to the factors referred to in
26 paragraph (1).

27 (3) Any party to a proceeding before a board of
28 arbitration may appeal to the court of common pleas to
29 review:

30 (i) consideration under paragraph (1); or

1 (ii) failure of the board of arbitration to issue an
2 arbitration settlement under paragraph (2).

3 (4) An appeal under paragraph (3) must be commenced not
4 later than 30 days after the issuance of a final arbitration
5 settlement by the board of arbitration.

6 (5) The decision of the board of arbitration shall be
7 vacated and remanded to the board of arbitration if the court
8 finds:

9 (i) that the board of arbitration failed to take
10 into consideration and accord substantial weight to the
11 factors referred to in paragraph (1); or

12 (ii) that the board of arbitration has failed to
13 issue an arbitration settlement under paragraph (2).

14 (6) If, after the exhaustion of all appeals, the final
15 arbitration settlement is not in compliance with the approved
16 financial plan, the arbitration settlement shall not be void
17 or voidable solely by reason of such noncompliance, but the
18 assisted city shall submit to the authority a proposed
19 revision to the plan which demonstrates that revenues
20 sufficient to pay the costs of the arbitration settlement
21 will be available in the affected fiscal years of the plan.

22 (7) As used in this subsection, the term "arbitration
23 settlement" shall mean an adjustment or settlement of a
24 collective bargaining agreement or dispute. The term includes
25 a final or binding arbitration award or other determination.

26 Section 210. Powers and duties of authority with respect to
27 financial plans.

28 (a) Formulation and approval of plan.--To advance the
29 financial recovery of an assisted city, the authority shall
30 require the assisted city to submit a five-year financial plan

1 in accordance with section 209. With regard to the formulation
2 of the financial plan, the authority shall:

3 (1) Consult with the assisted city as it prepares the
4 financial plan.

5 (2) Prescribe the form of the financial plan.

6 (3) Prescribe the supporting information required in
7 connection with the financial plan, which shall include, at a
8 minimum:

9 (i) Debt service payments due or projected to be due
10 during the relevant fiscal years.

11 (ii) Payments for legally mandated services included
12 in the financial plan and due or projected to be due
13 during the relevant fiscal years.

14 (iii) A statement in reasonable detail of the
15 significant assumptions and methods of estimation used in
16 arriving at the projections in the financial plan.

17 (4) Exercise any right of approval or disapproval and
18 issue any recommendation authorized by this act in accordance
19 with the standards for formulation of the financial plan
20 under section 209(c).

21 (b) Authority functions after plan is approved.--After a
22 financial plan of an assisted city has been approved, the
23 authority shall:

24 (1) Receive and review:

25 (i) The financial reports submitted by the chief
26 fiscal officer of the assisted city under section 209(j).

27 (ii) Reports concerning the debt service
28 requirements on all bonds, notes of the assisted city and
29 lease payments of the assisted city securing bonds or
30 other government agencies for the following quarter. The

1 reports shall be in a form and contain information as the
2 authority shall determine and shall be issued no later
3 than 60 days prior to the beginning of the quarter to
4 which they pertain. The reports shall be updated
5 immediately at each issuance of bonds or notes by the
6 assisted city or execution of a lease securing bonds of
7 another government agency after the date of the report to
8 reflect any change in debt service requirements as a
9 result of the issuance.

10 (iii) Any additional information provided by the
11 assisted city concerning changed conditions or unexpected
12 events that may affect the assisted city's adherence to
13 the financial plan. The reports described in subparagraph
14 (ii) shall be certified by the controller of the assisted
15 city.

16 (2) Determine, on the basis of information and reports
17 described in paragraph (1), whether the assisted city has
18 adhered to the financial plan.

19 (c) Variation from the plan.--

20 (1) If the authority determines, based upon reports
21 submitted by the assisted city under subsection (b) or
22 independent audits, examinations or studies of an assisted
23 city's finances obtained under subsection (i)(3), that the
24 assisted city's actual revenues and expenditures vary from
25 those estimated in the financial plan, the assisted city
26 shall provide additional information as the authority deems
27 necessary to explain the variation.

28 (2) The authority shall take no action with respect to
29 the assisted city for variations from the financial plan in a
30 fiscal quarter if:

1 (i) The assisted city provides a written explanation
2 for the variation that the authority deems reasonable.

3 (ii) The assisted city proposes remedial action that
4 the authority believes will restore the assisted city's
5 overall compliance with the financial plan.

6 (iii) Information provided by the assisted city in
7 the immediately succeeding quarterly financial report
8 demonstrates that the assisted city is taking remedial
9 action and otherwise is complying with the financial
10 plan.

11 (iv) The assisted city submits monthly supplemental
12 reports in accordance with section 209(j) until the
13 assisted city regains compliance with the financial plan.

14 (d) Authority may make recommendations.--The authority may
15 at any time issue recommendations as to how an assisted city may
16 achieve compliance with the financial plan and shall provide
17 copies of the recommendations to the chief fiscal officer and
18 the governing body of the city and to the officials specified in
19 section 203(b)(4).

20 (e) When Commonwealth shall withhold funds.--

21 (1) An authority shall certify to the Secretary of the
22 Budget the assisted city's noncompliance with the financial
23 plan during any period when the authority has determined that
24 the assisted city is not in compliance with the plan and has
25 not taken acceptable remedial action during the next quarter
26 following noncompliance with the plan.

27 (2) The authority shall certify to the Secretary of the
28 Budget that the assisted city is not in compliance with the
29 financial plan if the assisted city:

30 (i) has no financial plan approved by the authority,

1 has failed to provide requested documents or has failed
2 to file a plan with the authority; or

3 (ii) has failed to file mandatory revisions to the
4 financial plan or reports as required by section 209(i),
5 (j), (k) or (l).

6 (3) (i) If the authority certifies that an assisted
7 city is not in compliance with the financial plan under
8 paragraph (1) or (2), the Secretary of the Budget shall
9 notify the assisted city that the certification has been
10 made and that each grant, loan, entitlement or payment to
11 the assisted city by the Commonwealth shall be withheld
12 pending compliance with the plan.

13 (ii) Funds withheld shall be held in escrow by the
14 Commonwealth until compliance with the financial plan is
15 restored as specified in paragraph (4).

16 (iii) Funds held in escrow under this paragraph
17 shall not lapse under section 621 of the act of April 9,
18 1929 (P.L.177, No.175), known as The Administrative Code
19 of 1929, or any other law.

20 (4) The authority shall determine when the conditions
21 which caused the assisted city to be certified as
22 noncompliant with the financial plan have ceased to exist and
23 shall promptly notify the Secretary of the Budget of the
24 vote.

25 (5) After receipt of the notice, the Secretary of the
26 Budget shall release all funds held in escrow, together with
27 all interest and income earned on the funds during the period
28 held in escrow, and the disbursements of amounts in the city
29 account shall resume.

30 (f) Exemptions.--Notwithstanding the provisions of

1 subsection (e), the following shall not be withheld from an
2 assisted city:

3 (1) Funds granted or allocated to the assisted city
4 directly from an agency of the Commonwealth or from the
5 Federal Government for distribution by the Commonwealth after
6 the declaration of a disaster resulting from a catastrophe.

7 (2) Funds for capital projects under contract in
8 progress.

9 (3) Pension fund payments required by law.

10 (4) Funds the assisted city has pledged to repay bonds
11 or notes.

12 (g) Effect of Commonwealth's failure to disburse funds.--The
13 provisions of subsection (e) shall not apply and an assisted
14 city shall not be found to have departed from the financial plan
15 due to the Commonwealth's failure to pay any money, including
16 payment of Federal funds distributed by or through the
17 Commonwealth, due to the assisted city from money appropriated
18 by the General Assembly.

19 (h) Assisted city to determine expenditure of available
20 funds.--Nothing in this act shall be construed to limit the
21 power of an assisted city to determine from time to time, within
22 available funds of the assisted city, the purposes for which
23 expenditures will be made by the assisted city and the amounts
24 of the expenditures then permitted under the financial plan of
25 the assisted city.

26 (i) Documents and examinations to be reviewed or undertaken
27 by authority.--An authority shall:

28 (1) Receive from the assisted city and review the
29 reports, documents, budgetary and financial planning data and
30 other information prepared by or on behalf of the assisted

1 city and that are made available to the authority under this
2 act.

3 (2) Inspect and copy the books, records and information
4 of the assisted city as the authority deems necessary to
5 accomplish the purposes of this act.

6 (3) Conduct or cause to be conducted independent audits,
7 examinations or studies of the assisted city's finances as
8 the authority deems appropriate.

9 (j) Remedies of authority for failure of assisted city to
10 file financial plans and reports.--

11 (1) In the event that an assisted city fails to file
12 with the authority a financial plan, revision to a plan,
13 report or other information required to be filed with the
14 authority under this act, the authority, in addition to all
15 other rights that the authority may have at law or in equity,
16 may by mandamus compel the assisted city and the officers,
17 employees and agents of the assisted city to file with the
18 authority the financial plan, revision to a plan, report or
19 other information that the assisted city has failed to file.

20 (2) The authority shall provide the assisted city
21 written notice of the failure of the assisted city to file
22 and of the authority's intention to initiate an action under
23 this subsection and shall not initiate the action earlier
24 than 10 days after the giving of the notice.

25 Section 211. Investment of funds.

26 Funds of an authority that are not required for immediate use
27 may be invested in obligations of an assisted city or in
28 obligations of the Federal Government or of the Commonwealth or
29 obligations that are legal investments for Commonwealth funds.
30 No money may be invested in obligations issued by or obligations

1 guaranteed by the assisted city without the approval of the
2 board.

3 Section 212. Sovereign immunity.

4 No member of the board shall be liable personally for any
5 obligations of the authority. It is hereby declared to be the
6 intent of the General Assembly that each authority created by
7 this act and its members, officers, officials and employees
8 shall enjoy sovereign and official immunity as provided in 1
9 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed;
10 specific waiver) and shall remain immune from suit except as
11 provided by and subject to the provisions of 42 Pa.C.S. Ch. 85
12 (relating to matters affecting government units).

13 CHAPTER 7

14 MISCELLANEOUS PROVISIONS

15 Section 701. Appropriation.

16 The sum of \$100,000 is hereby appropriated from the General
17 Fund to an authority which holds its initial organizational
18 meeting under section 202(c) on or before May 1, 2019. The funds
19 appropriated shall be used to provide operating funds for the
20 authority. Any unencumbered sums then remaining shall lapse June
21 30, 2019.

22 Section 702. General rights and prohibitions.

23 Nothing in this act shall limit the rights or impair the
24 obligations of an assisted city to comply with the provisions of
25 a contract in effect on the date the city was deemed an assisted
26 city under this act or shall in any way impair the rights of the
27 obligees of any assisted city with respect to the contract.

28 Section 703. Nondiscrimination.

29 Each authority shall comply in all respects with the
30 nondiscrimination and contract compliance plans used by the

1 Department of General Services to assure that all persons are
2 accorded equality of opportunity in employment and contracting
3 by the authority and its contractors, subcontractors, assignees,
4 lessees, agents, vendors and suppliers.

5 Section 704. Construction of act.

6 (a) Liberal construction.--The provisions of this act
7 providing for security for and rights and remedies of obligees
8 of each authority shall be liberally construed to achieve the
9 purposes stated and provided by this act.

10 (b) Severability.--If any provision of the title or any
11 chapter, section or clause of this act or the application
12 thereof to any person, party or corporation, public or private,
13 shall be judged invalid by a court of competent jurisdiction,
14 the order or judgment shall be confined in its operation to the
15 controversy in which it was rendered and shall not affect or
16 invalidate the remainder of any provision of the title or any
17 chapter or any section or clause of this act or the application
18 of any part thereof to any other person, party or corporation,
19 public or private, or circumstance, and to this end the
20 provisions of the title or any chapter, section or clause of
21 this act hereby are declared to be severable. It is hereby
22 declared as the legislative intent that this act would have been
23 adopted had any provision declared unconstitutional not been
24 included in this act.

25 Section 705. Limitation of authority powers.

26 Except as provided in section 203(c)(4), nothing contained in
27 this act shall be construed to confer upon an authority any
28 powers with respect to a school district.

29 Section 706. Extension of plan.

30 The following shall apply:

1 (1) Notwithstanding the provisions of the act of July
2 10, 1987 (P.L.246, No.47), known as the Municipalities
3 Financial Recovery Act, to the contrary, a plan adopted for a
4 city under the Municipalities Financial Recovery Act shall
5 continue until an intergovernmental cooperation agreement is
6 entered into by the city and an authority under section
7 203(d).

8 (2) The distressed status of a city under the
9 Municipalities Financial Recovery Act shall terminate when an
10 intergovernmental cooperation agreement is entered into by
11 the city and an authority under section 203(d).

12 Section 707. Taxes.

13 (a) General rule.--Notwithstanding any law to the contrary,
14 a city which is or has been an assisted city that is levying or
15 has been authorized to levy within the previous three fiscal
16 years a local services tax in excess of \$52 and a tax on earned
17 income tax in excess of 1% on residents of the city shall be
18 authorized to levy until the termination date:

19 (1) a local services tax at a rate which does not exceed
20 \$156 per year; and

21 (2) an earned income tax on residents which does not
22 exceed 2%.

23 (b) Prohibition on commuter tax.--A city which is or has
24 been an assisted city shall not levy a tax or fee on the earned
25 income of nonresidents which is not levied on the date of
26 termination of receivership or on the effective date of this
27 section, whichever is later. Such tax or fee shall not be in
28 excess of the amount authorized in the act of December 31, 1965
29 (P.L.1257, No.511), known as The Local Tax Enabling Act.

30 Section 708. Repeal.

1 All acts and parts of acts are repealed insofar as they are
2 inconsistent with this act.
3 Section 709. Effective date.
4 This act shall take effect immediately.