

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR
CITIES OF THE FIRST CLASS - OMNIBUS AMENDMENTS AND REPEALS**

Act of Jul. 7, 2022, P.L. 440, No. 36

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HB 1935

AN ACT

Amending the act of June 5, 1991 (P.L.9, No.6), entitled "An act providing for the financial stability of cities of the first class; establishing an authority empowered to assist cities of the first class in their financial affairs and to issue findings and recommendations to cities of the first class and to the General Assembly; creating the authority and providing for its powers and duties; authorizing each city of the first class and the authority to enter into intergovernmental cooperation agreements and specifying certain terms of such agreements and ordinances whereby cities of the first class enter into such agreements; empowering the authority to incur indebtedness, receive revenues, acquire the obligations of assisted cities, make loans and offer other financial assistance to such cities subject to conditions; establishing procedures for the preparation and review of financial plans of cities of the first class while bonds of the authority are outstanding and providing remedies for failure to adhere to such plans; requiring certain contracts to be consistent with the financial plan; making certain provisions with respect to short-term borrowing by cities of the first class; establishing procedures for handling authority funds, and providing for certain payments to the authority; providing security for bonds and notes issued by the authority; authorizing the creation of a debt service reserve fund and providing for its maintenance; granting to the holders of the authority's indebtedness and to the authority certain remedies in the event of default by the authority or by an assisted city on authorized obligations; authorizing cities of the first class to receive financial assistance from the authority under certain terms and conditions; establishing the method for the appointment and composition of the authority board; prohibiting the authority and assisted cities from filing a petition under Federal bankruptcy statutes; authorizing an appropriation for authority operating expenses; authorizing cities of the first class to impose an optional sales and use tax; authorizing cities of the first class to impose certain taxes for the authority; authorizing emergency payment deferral; and providing jurisdiction for challenges to this act," in general provisions, further providing for purpose and legislative intent, for legislative findings and for definitions; in Pennsylvania Intergovernmental Cooperation Authority, further providing for powers and duties, for term of existence of authority, for financial plan of an assisted city, for powers and duties of authority with respect to financial plans and for limitation on authority and on assisted cities to file petition for relief under Federal bankruptcy law; in bonds and funds of authority, further providing for bonds, for final date for issuance of bonds and for city payment of authority bonds; in Pennsylvania Intergovernmental Cooperation Authority tax, further providing for duration of tax; in miscellaneous

provisions, providing for applicability of other law; and making related repeals.

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

Section 1. Section 102(b) of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class, is amended to read: Section 102. Purpose and legislative intent.

* * *

(b) Legislative intent.--

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

(i) provide cities of the first class with the legal tools with which such cities can eliminate budget deficits that render them unable to perform essential municipal services;

(ii) create an authority that will enable cities of the first class to access capital markets for deficit elimination and seasonal borrowings to avoid default on existing obligations and chronic cash shortages that will disrupt the delivery of municipal services[;] **and to maintain and enhance the sound financial planning and budgetary practices that the authority has fostered;**

(iii) foster sound financial planning and budgetary practices that will address the underlying problems which result in such deficits for cities of the first class[,]
and that will allow for the maintenance and enhancement of the sound fiscal status of such cities, which [city] **cities** shall be charged with the responsibility to exercise efficient and accountable fiscal practices, such as:

(A) increased managerial accountability;

(B) consolidation or elimination of inefficient city programs;

(C) recertification of tax-exempt properties;

(D) increased collection of existing tax revenues;

(E) privatization of appropriate city services;

(F) sale of city assets as appropriate;

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

(H) review of compensation and benefits of city employees; and

(iv) exercise its powers consistent with the rights of citizens to home rule and self-government.

(2) The General Assembly further declares that this legislation is intended to remedy the fiscal emergency confronting cities of the first class through the implementation of sovereign powers of the Commonwealth with respect to taxation, indebtedness and matters of Statewide concern **and to ensure that such an emergency does not repeat itself.** To safeguard the rights of the citizens to the electoral process and home rule, the General Assembly intends to exercise its power in an appropriate manner with the elected officers of cities of the first class.

(3) The General Assembly further declares that this legislation is intended to authorize the imposition of a tax or taxes to provide a source of funding for an intergovernmental cooperation authority to enable it to assist cities of the first class and to incur debt of such authority for such purposes; however, the General Assembly intends that such debt shall not be a debt or liability of the Commonwealth or a city of the first class nor shall debt of the authority payable from and secured by such source of funding create a charge directly

or indirectly against revenues of the Commonwealth or a city of the first class.

Section 2. Section 103 of the act is amended by adding paragraphs to read:

Section 103. Legislative findings.

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

* * *

(23) That the authority and each assisted city have demonstrated the soundness and effectiveness of the tools provided for by this act in maintaining and enhancing the fiscal soundness of cities of the first class and that the continued existence and use of such tools will allow each assisted city to further maintain and enhance fiscal soundness.

(24) That cities of the first class have ongoing critical infrastructure and other capital needs and the ability of cities of the first class to access the capital markets at favorable interest rates through bonds issued by the authority will maintain and enhance the ability of cities of the first class to meet the capital needs.

Section 3. The definition of "assisted city" in section 104 of the act is amended to read:

Section 104. Definitions.

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

"Assisted city." A city of the first class which receives assistance, **including oversight or consultation**, from the Pennsylvania Intergovernmental Cooperation Authority created by this act.

* * *

Section 4. Sections 203(c)(8), 204, 209(a), (b), (e) and (h)(1), 210(a), 211(a) and (d), 301(e), 319, 320 and 602 of the act are amended to read:

Section 203. Powers and duties.

* * *

(c) Specific powers.--In addition to the powers and duties set forth elsewhere in this act, the authority shall have the specific powers:

* * *

(8) To [exercise, while any bonds issued by the authority to assist the city remain outstanding,] **exercise** powers of review concerning the budgetary and fiscal affairs of [that] **the** city consistent with this act and the city's home rule charter or other optional plan of government.

* * *

Section 204. Term of existence of authority.

(a) **General rule.**--The authority shall have continuing existence and succession [for a term not exceeding one year after all of its liabilities, including, without limitation, its bonds, have been fully paid and discharged.] **until the later of:**

(1) **January 2, 2047; or**

(2) **one year after all of the authority's liabilities, including without limitation, its bonds, have been fully paid or discharged or, in the case of authority bonds, one year after provision for such payment shall have been made as provided for in the applicable bond indenture.**

(b) **Property at termination.**--Upon the termination of the existence of the authority, all of its rights and properties, including funds remaining in the debt service reserve fund, shall be paid to the Commonwealth to the extent the Commonwealth has contributed such rights or property; otherwise, such rights or property shall pass to and be vested in the assisted city.

Section 209. Financial plan of an assisted city.

(a) Requirement of a financial plan.--[While any bonds issued by the authority to assist a city remain outstanding,] **Until such time as the authority's existence is terminated as provided in section 204**, an assisted city shall develop, implement and periodically revise a financial plan as described in this section. The authority shall not provide the net proceeds of the initial bond issue described in section 317 and any subsequent bond issue, other than any amounts necessary to enable such city to pay principal of or interest on its outstanding bonds, or lease payments securing bonds of other government agencies, which payments, in the authority's discretion, may be made directly to the paying agents for such bonds, until the authority and the city have agreed upon such a plan.

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

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

(2) Plan components that will:

(i) eliminate any projected deficit for the current fiscal year and for subsequent fiscal years;

(ii) restore to special fund accounts money from those accounts used for purposes other than those specifically authorized;

(iii) balance the current fiscal year budget and subsequent budgets in the financial plan through sound budgetary practices, including, but not limited to, reductions in expenditures, improvements in productivity, increases in revenues or a combination of these steps;

(iv) provide procedures to avoid a fiscal emergency condition in the future; and

(v) enhance the ability of the city to regain, **improve or maximize** access to the short-term and long-term credit markets.

* * *

(e) Annual submission of plan.--An assisted city shall develop, and the authority shall review and act upon, an initial five-year financial plan for the city as soon as practicable after the effective date of this act. During each subsequent fiscal year while [bonds of the authority are outstanding,] **the requirements of subsection (a) are applicable**, the mayor or chief executive officer of each assisted city shall, at least 100 days prior to the beginning of its fiscal year or on such other date as the authority may approve upon the request of the assisted city, prepare and submit its proposed five-year plan. At the same time the plan is submitted, the mayor or chief executive officer shall also submit to the authority:

(1) the mayor's or chief executive officer's proposed annual operating budget and capital budget which shall be consistent with the first year of the financial plan and which shall be prepared in accordance with the assisted city's home rule charter or other optional plan of government; and

(2) a statement by the mayor or chief executive officer that such budget:

(i) is consistent with the financial plan;

(ii) contains funding adequate for debt service payments, legally mandated services and lease payments securing bonds of other government agencies; and

(iii) is based upon reasonable and appropriate assumptions and methods of estimation.

* * *

(h) Revisions to plan.--

(1) While [any bonds of the authority remain outstanding,] **the requirements of subsection (a) remain applicable**, the plan shall be revised on an annual basis to include the operating budget for the next fiscal year and to extend the plan for an additional fiscal year. In addition, the mayor or chief executive officer of an assisted city shall, within 90 days of assuming office, propose revisions to the financial plan or certify to the authority that he or she adopts the existing plan. A city may, during the course of a fiscal year, submit proposed revisions to the financial plan and shall submit a proposed revision for any amendment to the city's operating or capital budget.

* * *

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

(a) Formulation and approval of plan.--To enhance the security of bonds issued by the [authority, to minimize the need for future borrowing by the] authority and to advance the financial recovery **or fiscal health** of each assisted city, the authority shall require such city to submit a five-year financial plan in accordance with section 209. With regard to the formulation of such plan, the authority shall:

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

(2) Prescribe the form of the financial plan, insofar as that form is consistent with an assisted city's home rule charter or other optional plan of government and with this act.

(3) Prescribe the supporting information required in connection with such plan, such information to include at a minimum:

(i) debt service payments due or projected to be due during the relevant fiscal years;

(ii) payments for legally mandated services included in the plan and due or projected to be due during the relevant fiscal years; and

(iii) a statement in reasonable detail of the significant assumptions and methods of estimation used in arriving at the projections in the plan.

(4) Exercise any rights of approval or disapproval and issue such recommendations as are authorized by this act in accordance with the standards for formulation of the plan set forth in section 209(c).

* * *

Section 211. Limitation on authority and on assisted cities to file petition for relief under Federal bankruptcy law.

(a) Limitation on bankruptcy filing.--Notwithstanding any other provision of law, so long as the authority shall have [outstanding any bonds issued pursuant to this act,] **any power or duty under this act**, the authority and any assisted city shall not be authorized to file a petition for relief under 11 U.S.C. Ch. 9 (relating to bankruptcy) or any successor Federal bankruptcy law, and no government agency shall authorize the authority or such city to become a debtor under 11 U.S.C. Ch. 9 or any successor Federal bankruptcy law.

* * *

(d) Effective date.--Subsections (b) and (c) shall take effect on the effective date of this act and shall apply to an assisted city whenever the authority does not have any [outstanding bonds issued pursuant to] **power or duty under** this act.

Section 301. Bonds.

* * *

(e) Use of proceeds.--The proceeds of an issue of bonds may be used to pay the costs of issuance of such bonds, to pay costs of

administration of authority assistance to a city, to fund reserves for such bonds, to capitalize interest on such bonds for a period not to exceed 12 months, to fund an existing or projected deficit of a city or to provide for other financial assistance to a city, to finance any cash flow deficit of a city or of the authority or to purchase any obligations of a city issued to finance cash flow deficits or to pay the costs of capital projects; provided that the authority shall not issue bonds to finance the costs of a capital project in and for an assisted city unless it receives the request described in subsection (g). [accompanied by a certification that the assisted city cannot obtain financing for such capital projects at reasonable rates except through the issuance of authority bonds and that the construction or acquisition of such capital projects is a material element of such city's approved financial plan and the authority determines by a qualified majority of the board that the capital project is:

(1) an emergency capital project which must necessarily be undertaken as a direct result of an order by a court of competent jurisdiction or for the repair or replacement of an existing facility that had been placed in service prior to the effective date of this act and is owned or occupied by a city on the effective date of this act; or

(2) a capital project necessary to achieve savings and balanced budgets under an approved financial plan.

In addition to the requirement of a qualified majority of the board, the Governor and either the Auditor General or State Treasurer shall certify that a capital project under paragraph (2) is a capital project necessary to achieve savings and balanced budgets under an approved financial plan of an assisted city. Proceeds of the initial bond issue of the authority may be applied to reimburse the Commonwealth for the advance set forth in section 701 and to fund up to \$500,000 of initial operating expenses of the authority.]

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Section 319. [Final date] **Time** for issuance of bonds.

(a) General rule.--No bond shall be issued for the purpose of financing [a capital project or] a deficit, other than a cash flow deficit, on a date later than December 31, 1994. No bond shall be issued for the purpose of financing a cash flow deficit on a date later than December 31, 1996.

(b) Bonds issued after January 2, 2022.--Upon the initial issuance of any bond on or after January 2, 2022, for the purpose of financing a capital project, additional bonds for the purpose of financing a capital project may only be issued beginning on each successive 10-year anniversary of the date of the initial issuance; provided that one or more series of the bonds may be issued from time to time during the first three years after the initial issuance and during the first three years of each 10-year period that begins on each 10-year anniversary of the initial issuance.

(c) Applicability.--The limitations provided in this section shall not apply to any bond to be issued to refund an outstanding bond issued under this act.

Section 320. City payment of authority bonds.

An assisted city shall have the right at any time to deposit funds with the authority in an amount sufficient to pay for the defeasance of all or part of the authority's bonds. The assisted city depositing funds with the authority pursuant to this section shall have the right to designate to the authority the maturities of bonds or portions thereof subject to defeasance by such deposit. [If an assisted city pays to the authority an amount sufficient to pay for the defeasance of all of the authority's

bonds, the assisted city shall be deemed to have no further obligations under this act.]

Section 602. Duration of tax.

Any tax imposed under this chapter shall continue in effect until [all bonds of the authority which are secured by the authority's pledge of such tax revenues are no longer outstanding.] **such time as the authority's existence is terminated, as provided in section 204.** For as long as [any such bonds remain outstanding,] **the authority remains in existence,** no governing body of a city shall repeal any ordinance or reduce the rate of tax imposed for the authority under this act.

Section 5. The act is amended by adding a section to read:

Section 707.1. Applicability of other law.

The following laws shall not apply to a city of the first class that has entered into and remains subject to an intergovernmental cooperation agreement under this act:

(1) **Article XVI-C of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.**

(2) **The provisions of 62 Pa.C.S. Ch. 39 (relating to contracts for public works).**

Section 6. Repeals are as follows:

(1) The General Assembly finds that the repeals under paragraph (2) are necessary to effectuate this act.

(2) The following acts or parts of acts are repealed:

(i) Section 1610-C 4. of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(ii) 62 Pa.C.S. § 3938(b)(3).

Section 7. This act shall take effect in 60 days.

APPROVED--The 7th day of July, A.D. 2022.

TOM WOLF